

**CALIFORNIA COASTAL COMMISSION**

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SAN DIEGO, CA 92108-4402  
(619) 767-2370



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original staff report

# W10c

## Addendum

July 12, 2016

To: Commissioners and Interested Persons

From: California Coastal Commission  
San Diego Staff

Subject: Addendum to **Item 10c**, Coastal Commission Permit Application  
**#A-6-ENC-16-0060 (Martin)**, for the Commission Meeting of July 13,  
2016

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The purpose of this addendum is to make corrections and add new exhibits. The applicant has requested that a geotechnical report by GeoSoils, Inc. dated 6/15/16 be attached to the staff report. However, the full text of this report is included in the applicant's response to staff's recommendation, which has been attached to this staff report addendum as Exhibit #9.

Staff recommends the following changes be made to the above-referenced staff report. Deletions shall be marked by a ~~strike through~~ and additions shall be underlined:

1. On Page 12, the date in the in first sentence of the indented quote from the Commission's geologist shall be corrected from 15 June 2015 to 15 June 2016.
2. On Page 19, the following bullet shall be added to the list of Substantive File Documents:
  - Geotechnical Response to California Coastal Commission Appeals dated May 25, 2016, Proposed Single Family Residential Development, 444 Neptune Avenue, Encinitas, San Diego County, California prepared by GeoSoils, Inc. dated June 15, 2016
3. The attached response by Matt Peterson dated July 8, 2016 shall be added as Exhibit #9.
4. The attached letter from Surfrider dated July 7, 2016 shall be added as Exhibit #10.

# PETERSON & PRICE

A PROFESSIONAL CORPORATION

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SOL PRICE  
1916 – 2009

July 8, 2016

File No. 8161.001

Chairman Steven Kinsey and Members  
of the California Coastal Commission  
3501 Civic Center Drive, Suite 329  
San Rafael, CA 94903-4193

THIS WRITTEN MATERIAL IS SUBMITTED TO THE CALIFORNIA  
COASTAL COMMISSION IN ACCORDANCE WITH THE EXPARTE  
COMMUNICATION REQUIREMENTS OF PUBLIC RESOURCES  
CODE SECTIONS 30319-30324. THIS MATERIAL IS A  
MATTER OF PUBLIC RECORD.

Re: July 13<sup>th</sup>, 2016 Agenda Item # 10(c) **No Substantial Issue**  
Response to California Coastal Commission Staff (CCC) Appeal No. A-6-  
ENC-16-0060, City of Encinitas (City) Coastal Development Permit (CDP)  
Approval, Case No. 14-275 CDP/PMW, 444 Neptune Avenue, Encinitas,  
California 92024

Dear Chairman Kinsey and Members of the California Coastal Commission:

**The Appeals raise no substantial issue. The City of Encinitas unanimous approval complies with all applicable provision of the Certified LCP.**

There are about 200 homes along this stretch of ocean bluff from Moonlight Beach to Leucadia. Bluff top structural setbacks along this stretch of coastline vary greatly. A very few of the more recently developed homes have a 40 ft. setback from the bluff (as required by the LCP for new development projects). However the vast majority are much closer to the bluff. Please refer to Tab 1, Exhibit A, Sheets 1 and 2 aerial photos with the 40 foot LCP bluff top setback. Note that the Home immediately to the north was built in 1926.

EXHIBIT NO. 9

APPLICATION NO.

**A-6-ENC-16-0060**

Applicant's Response to

Staff Recommendation



California Coastal Commission

The Certified LCP provides for new development to be sited 40 feet landward of the coastal bluff top based upon a demonstration of potential bluff recession, bluff stability, and an appropriate FOS of not less than 1.5. The proposed Home was sited and designed to specifically comply with the anticipated Bluff retreat, the 1.5 FOS, and the required 40ft setback of the Certified LCP.

However, and without a geotechnical report to support its recommendation, the CCC Staff is suggesting a setback of 96.5 feet from the bluff! This CCC Staff recommendation is clearly inconsistent with the Certified LCP and sound Geotechnical Engineering practices.

Tab 2 provides a graphic representation of the CCC geologist recommended bluff setback of 96.5 ft. **As you can see, the 96.5 ft. bluff top setback recommended by the CCC Staff renders the property unbuildable, thereby resulting in a "taking".**

The Staff appeal also alleges concerns about the City's adherence to the Certified LCP. However, there was no shortage of analysis, scrutiny, and critical review of the proposed Home on the part of City Planning staff in enforcing its Certified LCP.

The CCC Staff is now trying to "interpret" the LCP and impose new policies, onerous regulations, and additional standards that are not contained within the Certified LCP. If Staff thinks that it missed something previously when it processed and recommended approval of the LCP, and/or Staff now wants to pursue changes to the Certified LCP, then the CCC Staff should pursue and process an amendment to the Certified LCP. Attempting to impose new policy on individual projects that are already complying with the existing rules in place is a violation of Due Process.

The following are direct responses to the allegations referenced in the CCC Staff prepared appeal;

- Concerns with Public Safety Policy 1.3 of the City's LUP: **Based upon the soils reports and the extensive geotechnical evaluations and recommendations by experts, the City determined that the proposed development represents no "hazard to its owner or occupants" and will not "require structural measures to prevent destructive erosion or collapse".**
- The CCC Staff reference to Section 30.34.020(B) 1a of the City's certified IP **is incomplete and quoted out of context. The basement will not encroach into the required 40 ft. setback. Further, the basement at its location and elevation could not, and would not ever, function as a shoreline erosion protective device. Staff's allegations are clearly refuted by the City Staff report, unanimous City approval, GeoSoils Inc. (GSI) original report, and the attached Addendum dated 6/15/16, see page 11. Addendum Tab 3.**
- Section 30.34.020(C) 1 of City's LCP states "The authorized decision-making authority for the proposal shall make the findings required based on the soils report and geotechnical review for any project approval." **The City diligently and thoroughly complied with the LCP by reviewing all soils and geotechnical reports. Staff then made the necessary and appropriate findings and the City approved the Martin home.**

The second paragraph up from the bottom of Page 3 of Attachment "A" to the Appeals states that "The City's decision appears inconsistent with several provisions of the City's LCP related to ..."

The CCC Staff's contention that the City did not ensure adherence to the Certified LCP regarding the 5 listed items are addressed as follows:

1. "Siting of new development in a geologically safe location" **Based upon the City and independent 3<sup>rd</sup> party geologist review of submitted geotechnical investigations and analysis, the City determined that the development of the subject site will be in a geologically safe location. In fact, the Martin home will be sited significantly landward of most of the other homes along this entire stretch of Coastal Bluff. (See Aerial photographs Tab 1) Staff's recent practice of "double dipping" on recession rates and FOS determinations, is not based upon sound science and is not supported by most experts in the industry.**
2. Staff's allegations of "analyzing historic, current and foreseeable bluff erosion" is already addressed in the GEI Report and is **clearly refuted in GSI Addendum report dated 6/15/16 (see page 7) attached as Tab 3.**
3. "Requiring property owners to assume current and future risks in the form of a deed restriction and waiver to rights to any future shoreline armoring to protect the new structure" **is not a part of the City's Certified LCP. If Staff wants to amend the LCP to include such a requirement, there is a separate legal process that Staff should pursue to amend the Certified LCP.**
4. "Designing new construction such that it could be removed in the event of endangerment" **is not a part of the City LCP. The basement is sited more than 40 ft. landward of the top of bluff and is landward of the 1.5 FOS and as such will not become "endangered". The excavation for the basement will actually reduce landing weight on the bluff by over 550 tons (1 million pounds) thereby increasing the stability of the coastal bluff on this site. If Staff now wants the LCP to contain a requirement of removal, then there is a separate legal process for CCC Staff to seek**

**an amendment to the Certified LCP. This item is also refuted in GSI Addendum report dated 6/15/16, (see page 11).**

- 5. The project was considered by site specific analysis and extensive Geotechnical evaluation to have no impact on bluff geology, present or future. As such, the project does not require any alternate analysis or alternative design solutions as Staff has suggested. This item is refuted in GSI Addendum report dated 6/15/16 (see page 12) as Tab 3.**

The balance of the "expanded" CCC appeal allegations in the Staff report relating to items 1 through 5 above, Geologic Stability, Future Shoreline Protection, Future Removal of Development and Alternative Analysis **are all addressed and refuted in the GSI reports and the Addendum dated 6/15/16 (see pages 12 and 13).**

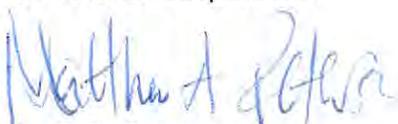
The proposed home is in full compliance with the Certified LCP (see attached Tab 4 Compliance Chart).

City Staff, its independent geologist, and the Planning Commission have all determined that the proposed home is in full compliance with all Zoning, General Plan, and LCP provisions.

The Staff generated Appeals raise no substantial issue and we would respectfully request the Coastal Commission to concur.

Sincerely,

PETERSON & PRICE  
A Professional Corporation

  
Matthew A. Peterson

Chairman Steve Kinsey and Members of the  
California Coastal Commission  
July 8, 2016  
Page 6 of 6

cc: Deborah Lee  
Gabe Buhr  
Sherilyn Sarb  
Gary Martin

**TAB 1**

# EXHIBIT A

444 Neptune Bluff Setback Study

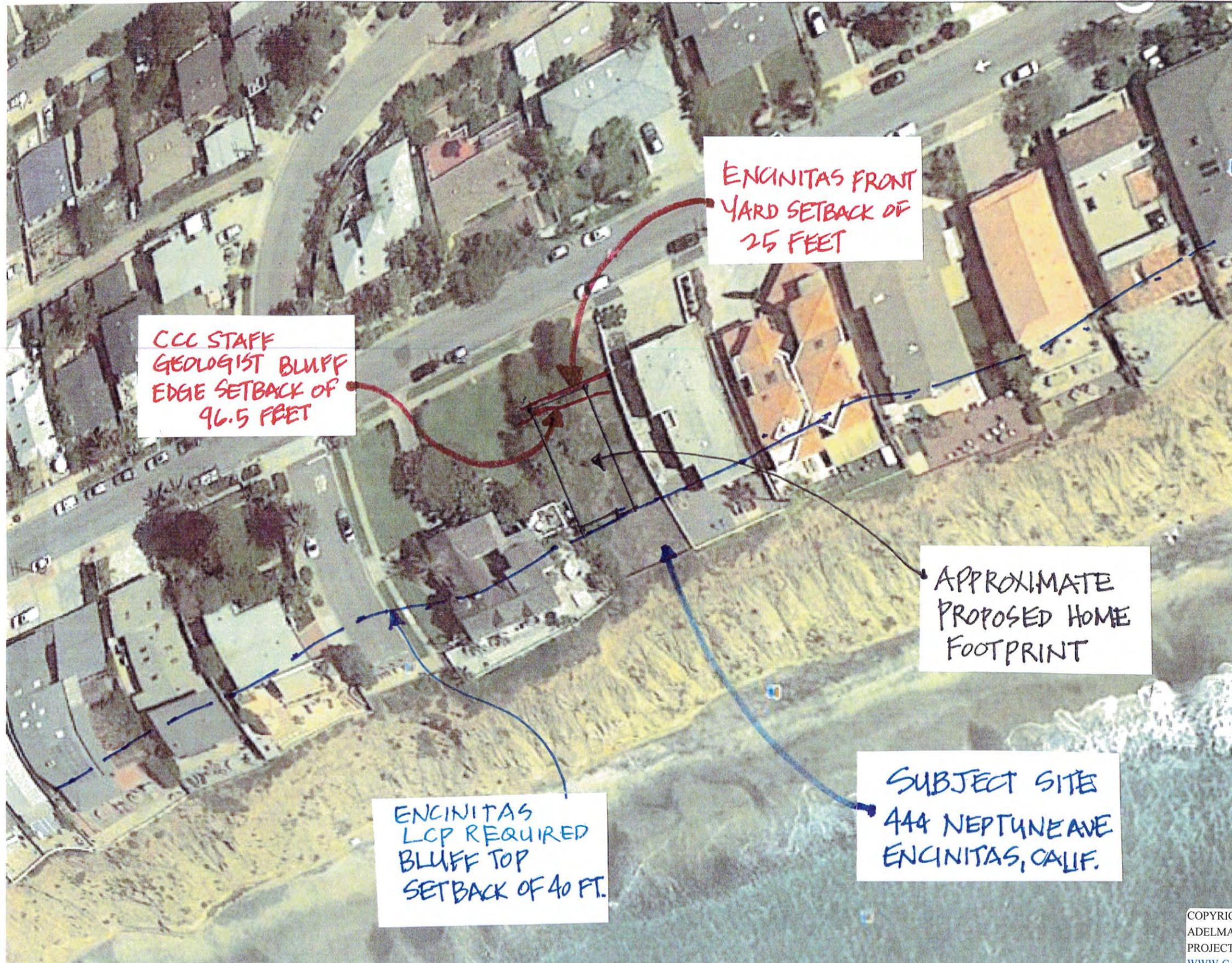
1" = 150'

SUBJECT SITE



LCP REQUIRED  
40' BLUFF TOP SETBACK

# EXHIBIT A



CCC STAFF  
GEOLOGIST BLUFF  
EDGE SETBACK OF  
96.5 FEET

ENCINITAS FRONT  
YARD SETBACK OF  
25 FEET

APPROXIMATE  
PROPOSED HOME  
FOOTPRINT

ENCINITAS  
LCP REQUIRED  
BLUFF TOP  
SETBACK OF 40 FT.

SUBJECT SITE  
444 NEPTUNE AVE  
ENCINITAS, CALIF.

**TAB 2**



**TAB 3**



Geotechnical • Geologic • Coastal • Environmental

5741 Palmer Way • Carlsbad, California 92010 • (760) 438-3155 • FAX (760) 931-0915 • www.geosoilsinc.com

June 15, 2016

W.O. 6047-A5-SC

**Mr. Gary Martin**  
c/o **Peterson & Price**  
530 B Street, Suite 1800  
San Diego, California 92101-4476

Attention: Mr. Matthew A. Peterson

Subject: Geotechnical Response to California Coastal Commission Appeals dated May 25, 2016, Proposed Single-Family Residential Development, 444 Neptune Avenue, Encinitas, San Diego County, California

Dear Mr. Peterson:

In accordance with your request and Mr. Gary Martin's authorization, GeoSoils, Inc. (GSI) is providing this geotechnical response to California Coastal Commission (CCC) appeal dated May 25, 2016 (CCC, 2016 [see the Appendix]). Based on our review of CCC (2016), GSI understands that the CCC is appealing the proposed single-family residential development at the subject site on the grounds that the geotechnical procedures, findings, conclusions, and recommendations previously provided in site-specific studies by this firm (GSI; 2010, 2014, 2015, 2016a, and 2016b), and determined by the City of Encinitas (local permitting agency) to fulfill the requirements of their Local Coastal Program (LCP), are not consistent with the CCC's "*general practice for ensuring stability of new development throughout the state.*" The services GSI performed for this response included a review of the documents referenced in the Appendix, analysis of data, and the preparation of this document. Unless specifically superseded herein, the conclusions and recommendations contained in GSI (2010, 2014, 2015, 2016a, and 2016b) are still valid and applicable, and should be appropriately implemented during project design and construction.

#### **RESPONSE TO CCC (2016)**

The arguments advanced by the CCC staff, which formulate the basis of their appeal, are repeated below in **bold**, followed by GSI's response.

## **CCC Argument No. 1**

### **Geologic Stability**

The proposed single-family residence would be located on a blufftop lot that is subject to erosion. Although the subject site does not currently have or propose shoreline armoring, the Commission previously approved a 13 ft. high, approximately 105 ft. long seawall to protect an existing home adjacent to the subject site to the north (452 Neptune Ave.; CDP #6-93-136) and a 9 ft. high, shotcrete seawall fronting six non-contiguous homes approximately 250 ft. south of the subject site (312, 354, 370, 378, 396, and 402 Neptune Ave.; CDP # 6-93-85). Over the years, there have been a number of coastal development permits and emergency permits for shoreline protection along this stretch of coastline, demonstrating the potential for significant bluff failure and erosion in this area.

### **GSI Response to CCC Argument No. 1**

Based on our review of Google Earth imagery and oblique aerial photographs available on the California Coastal Records website ([www.californiacoastline.org](http://www.californiacoastline.org)), it appears that the principal structures at the addresses listed above are generally setback less than 30 feet from the edge of the coastal bluff. GSI points out that the setback we recommended for the proposed residential structure at the subject site in GSI (2015) is 40 feet from the coastal bluff edge. This difference in setback distance likely justified the need for emergency shoreline protection. In addition, many of these properties listed by the Commission staff have concrete patios between the seaward side of the principal residence and the bluff edge, and the principal structures thereon, generally lack roof gutters and drainage features to direct water away from the site and the coastal bluff. In our experience, such conditions can lead to accelerated retreat of the bluff top by subaerial erosion, especially if prudent surface drainage controls are not present.

Since the proposed development will include a 40-foot development setback from the coastal bluff edge and implement proper surface and structure drainage conveyances, it is our professional opinion that the principal residence will be safe from coastal bluff retreat over its 75-year design life without the need for shoreline protection. GSI's procedures, findings, conclusions, and recommendations relative to the 40-foot setback for the proposed residential structure at the subject site have been reviewed and approved by the City of Encinitas Third-Party Geotechnical Reviewer and found to be consistent with the requirements of its certified LCP.

## **CCC Argument No. 2**

**The City's LCP as cited above, requires that new structures be located at least 40 ft. from the bluff edge and that a site-specific geotechnical report, which includes slope stability analysis, be prepared to demonstrate that development will be sited in a safe**

location for the life of the structure so as to not require shoreline protection in the future. Thus, in order to find the appropriate geologic setback, the LCP requires a factor of safety of 1.5 be maintained over 75 years. Section 30.34.020(D)11 of the City's IP requires that this setback be calculated by adding the bluff retreat expected over a time period of 75 years to the calculation of where the 1.5 factor of safety would be located today. In this case, preliminary geotechnical evaluation by David Skelly and John Franklin (GeoSoils, Inc.; GSI) dated Aug. 24, 2010 determined the 1.5 factor of safety would be 59.5 ft. from the bluff edge today and the long term erosion rate over 75 years would be 20.25 ft. (0.27 ft./year). In a response to third-party review by the City's geotechnical consultant (Geopacifica), GSI re-analyzed slope stability and found the 1.5 factor of safety would be located 40 ft. from the bluff edge today (response dated Oct. 19, 2015). The City interprets Section 30.34.020(D) to mean that the geologic setback should be the 1.5 factor of safety (40 ft.) or 75-year bluff retreat rate (20.25 ft.), whichever is greater but not less than the City's minimum 40 ft. bluff setback. Based on this interpretation, the City approved the home to be located 40 ft. from the bluff edge. However, a geologic setback of 40 ft. is the factor of safety only under present conditions. The home will not be stable (factor of safety of 1.5) over its economic lifetime since the City failed to determine where the factor of safety of 1.5 would be located after 75 years of erosion. Thus, the approved setback of 40 feet from the bluff edge is inadequate to achieve a 1.5 factor of safety and account for 75 years of erosion.

Indeed, as stated by the City's reviewer in GSI's response dated Oct. 19, 2015:

*The City of Encinitas does not recognize the California Coastal Commission policy of adding the Factor of Safety Setback and the 75-year erosion rate to determine the setback for the proposed residence. The greater of either the 75-year erosion rate or the Factor of Safety Setback shall be utilized. The City of Encinitas requires that the proposed residence be placed behind the setback. The City of Encinitas does not allow for the proposed residence to be placed closer to the bluff (but not beyond the 40-foot setback) by the use of caissons. Please revise plans and recommendation to reflect the City of Encinitas requirements.*

This clearly indicates that the proposed project is inconsistent with the Coastal Commission's general practice for ensuring stability of new development throughout the state.

#### GSI Response to CCC Argument No. 2

A slope is considered to be in equilibrium (i.e., driving forces for slope failure are equal to the forces resisting the slope from failure) when the static factor-of-safety (FOS) equals 1.0. Building codes for new development, including human-occupied structures, typically require that a slope achieve a static FOS equal to 1.5 when the development will either

increase the driving forces by added fill and/or structural loading, or will decrease the resisting forces by excavating on or in front of the slope. This prescribed safety factor is meant to keep the structure relatively safe over its typical design life since the stability of all slopes will inherently regress toward equilibrium since they are subject to erosion by marine, subareal, or fluvial processes, creep, weathering, spring sapping, etc. The Commission staff's suggestion of adding a 0.49 feet per year 75-year erosion rate on top of the static FOS setback distance is nearly a 200 percent redundancy in the FOS, severely and overly restrictive to coastal development, which would render the site non-developable with an estimated 96½-foot bluff edge setback. GSI's procedures, findings, conclusions, and recommendations relative to the 40-foot setback for the proposed residential structure at the subject site have been reviewed and approved by the City of Encinitas Third-Party Geotechnical Reviewer and found to be consistent with the requirements of its certified LCP.

Our review of CCC (2007) indicates that the CCC permitted a residential development project at 282 Neptune Avenue with a 42-foot setback for the residential structure. The CCC did not require the long-term erosion rate to be added to the recommended setback for gross stability because the geotechnical consultant working on the project stated that the 42-foot setback was sufficient to protect the structure from long-term retreat over its design life. That site has a bluff slope profile and geologic conditions similar to the subject site. In addition, the proposed development described in CCC (2007) is very similar to that proposed at the subject site.

### **CCC Argument No. 3**

**Furthermore, the long-term erosion rate (0.27 ft./year) used by the geotechnical report is lower than the long-term future erosion rate (0.49 ft./year) that has recently been required for new development in the City of Encinitas (e.g., A-6-ENC-09-002/Wellman & A-6-ENC-09-003/Wellman). According to the Coastal Commission's staff geologist, the best available scientific resource for establishing bluff retreat rates in this area is a FEMA-funded study done as part of a nationwide assessment of coastal erosion hazards (Benumof and Griggs, 1999). In that study, the maximum historic rate for this stretch of coastline is 0.49 ft./yr. The Commission's geologist recommends the use of the maximum historic rate, rather than the minimum or average historic rate, to account for future increases in the bluff retreat rate due to continued and accelerating sea level rise (see the Commission's Adopted Sea Level Rise Guidance Document). When applied over a period of 75 years, this translates into a bluff retreat of approximately 37 ft. In reviewing the proposed development, GSI relied on a 1996 USACE study that reported a long-term erosion rate for Encinitas of 0.3-0.9 ft./year and further advocated the use of an even lower long-term erosion rate of 0.27 ft./year based on absolutely no quantitative data. GSI claims that review of CA Coastal Records Project photographs from 1972-2013 show very little retreat of the bluff top and that a majority of the bluff retreat occurs as block failures within the sea cliff and friable terrace deposits near the contact with the underlying Torrey**

Sandstone, but such an analysis is totally qualitative in nature and only addressed past, not future, shoreline retreat. Moreover, GSI dismissed the need to evaluate any potential future accelerated erosion rates that may occur due to future sea level rise conditions by concluding that given the elevation of the top of the sea cliff relative to the amount of predicted sea level rise, the likelihood of accelerated bluff retreat in the future is considered low (response dated October 19, 2015).

GSI Response to CCC Argument No. 3

Benumof and Griggs (1999) present average erosion rates for coastal bluffs in different sections of the San Diego County coastline. Their published erosion rates were based on an evaluation of overall rock mass strengths through Schimdt Hammer testing and visual assessments of joint spacing and width, earth material weathering and fatigue, groundwater seepage, and wave impact at the seacliff. These data were compared to the bluff edge locations observed in soft-copy photogrammetric images of the coast for the years 1932, 1949, 1952, 1956, and 1994 as well as more recent bluff edge locations surveyed with global positioning instruments. For the Encinitas coast section, which reportedly occurs between 507 "A" Street and 410 Neptune Avenue (the subject site is not located within the study area), Benumof and Griggs (1999) report a mean recession rate of 7.70 ( $\pm 2.31$ ) centimeters per year (0.25 [ $\pm 0.08$ ] ft/yr). Thus, as theorized by Benumof and Griggs (1999), long-term bluff recession rates, within the studied area of Encinitas, range between 0.17 and 0.33 ft/yr. Table 1 shows the tabulated mean recession rates for the San Diego Coast provided in Benumof and Griggs (1999). For comparison purposes, GSI reported that the long-term erosion rate for the subject site is 0.27 ft/yr, which is at the upper end of the range reported by Benumof and Griggs (1999).

**Table 1. San Diego County coastal cliff site locations, mean erosion rates, and erosion rate / amount of erosion standard deviations.**

Site	Northern boundary	Southern boundary	Mean recession rate (cm/yr)	StDev recess. rate (cm/yr)	StDev recession (m)
Carlsbad	117 19 14.88 W 33 06 20.90 N	117 19 05.38 W 33 05 57.83 N	43.02	8.23	3.13
Encinitas	117 18 04.59 W 33 03 21.46 N	117 17 54.99 W 33 02 57.70 N	7.70	2.31	1.43
Cardiff	117 17 15.49 W 33 01 37.16 N	117 17 04.84 W 33 01 15.54 N	12.63	3.00	1.86
Solana Beach	117 16 30.96 W 32 59 42.23 N	117 16 25.06 W 32 59 15.53 N	8.24	2.37	1.47
Del Mar N/S	117 16 35.32 W 32 57 41.96 N	117 16 03.07 W 32 57 24.10 N	18.73 (N) 12.54 (S)	4.84	3.00
Torrey Pines	117 15 38.00 W 32 53 41.97 N	117 15 06.49 W 32 53 19.08 N	17.36	4.53	1.91
La Jolla	117 16 22.74 W 32 51 03.20 N	117 16 42.04 W 32 50 50.49 N	3.06	1.50	0.63
Sunset Cliffs	117 15 28.47 W 33 43 25.05 N	117 15 24.09 W 32 43 09.31 N	7.80	3.06	1.20

StDev = Standard deviation, Del Mar N/S = Del Mar North and South

It is our professional opinion that the CCC's staff suggested use of 0.49 ft/yr for the long-term erosion rate at the subject site is flawed based upon the following evidence:

1. The 0.49 ft/yr long-term erosion rate suggested by the CCC staff is higher than the upper-bound mean recession rate reported in Benumof and Griggs (1999) for the studied portion of the Encinitas coast. Thus, the long-term erosion rate the CCC staff suggested is not supported by the study referenced in the appeal.
2. The section of Encinitas coast studied by Benumof and Griggs (1999) includes at least 2 "hot spots," where it appears that coastal bluff recession is occurring at a higher rate than other areas within the section. These include the section of coast between 200 and 224 Neptune Avenue and 126 5<sup>th</sup> Street and 102 Neptune Avenue, or approximately 20 percent of the study area. Given the above, and since coastal bluff recession is dependant on numerous factors including geologic conditions, geologic structure, offshore bathymetry, beach profile, surface drainage, vegetation, exposure to predominant swell direction, in-coming wave energy, etc., it is not practical and is onerously over-conservative for staff to assign that long-term erosion rate to the subject site. In addition, GSI believes that even the upper-bound value reported in Benumof and Griggs (1999) is not applicable to the subject site since the subject site is not located within the reported study area, and our previous stated review of oblique aerial photographs demonstrates only approximately 5 to perhaps 8 feet of bluff edge recession over an approximately 41-year period. The empirical evidence obtained from our photograph review indicates a long-term recession rate of approximately 0.12 to a maximum of about 0.20 ft/yr.
3. As indicated in CCC (2007), the CCC's staff geologist concurred with a long-term erosion rate of 0.23 ft/yr estimated by another consultant working on a similar development project at 282 Neptune Ave.

In summary, since the long-term bluff erosion rate, provided by this office for the subject site, is near the upper-bound mean recession rate reported in Benumof and Griggs (1999), and greater than that previously accepted by the CCC on a similar development project in the same section of Encinitas Coast studied by Benumof and Griggs (1999), it is our professional opinion that assigning a 0.27 ft/yr long-term erosion rate to the coastal bluff at subject site is conservative and appropriate for the subject site, even in light of the theorized range of inherently uncertain sea level rise (SLR). GSI's procedures, findings, conclusions, and recommendations relative to the 40-foot setback for the proposed residential structure at the subject site have been reviewed and approved by the City of Encinitas Third-Party Geotechnical Reviewer and found to be consistent with the requirements of its certified LCP.

#### CCC Argument No. 4

Since Section 30.34.020(D) requires geotechnical reports analyze “[h]istoric, current, and foreseeable-cliff erosion”, the long-term erosion rate should be based on the most recent long-term study for erosion rates (Benumof and Griggs 1999) and factor in likely acceleration of bluff retreat rates in the future due to sea level rise and increased exposure of the bluffs to wave attack (NRC 2012). Accordingly, the 75-year bluff retreat should more appropriately be identified as 37 ft. over the life of the structure, and when added to the suggested 40 ft. setback from the bluff edge based on the factor of safety identified for the subject site, the cumulative bluff edge setback needs to be extended significantly landward in order for the structure to be safe for 75 years.

#### GSI Response to CCC Argument No. 4

Firstly, the 0.27 ft/yr long-term erosion rate, provided by GSI, considers the historic, current, and foreseeable-cliff erosion as well as the mean recession rate reported in Benumof and Griggs (1999), and is site-specific. For the reasons previously stated in our response to CCC Argument No. 3, 37 feet of recession over a 75-year design life is not supported by the findings in Benumof and Griggs (1999) and is too conservatively onerous for the subject site.

Secondly, as reported in GSI (2015), scientists have been measuring sea level for more than 100 years. Until about 1990, studies showed that the rate of SLR, averaged over the span of years, was about 15 centimeters (6 inches) per century. As such, erosion rate studies, based upon historical data, include the effects (if any) of SLR.

There is currently a wide range of predicted rates in sea level rise over the next century, ranging from a few inches to over 5 feet. A more recent 2011 report, prepared by Everest International Consultants, Inc. ([EICI], 2011), for the City of Newport Beach (see Exhibit 1) summarizes much of the current sea level predications. Everest’s report is useful in that it is based upon studies of sea level rise along the southern California coastline; and therefore, is more applicable to the site shoreline. Exhibit 1 is provided to illustrate the various prediction and prediction ranges for SLR from the period 2010 to 2100. The July 2015 CCC Draft Sea-Level Rise Policy Guidance has adopted the National Research Council (2012) SLR estimates of 16.56 inches to 65.76 inches over the time period from 2000 to 2100. It is clear that while there is some agreement over the next 30 years, beyond 30 years from now there is little agreement on SLR projections as evidenced by the large range of SLR in the year 2100.

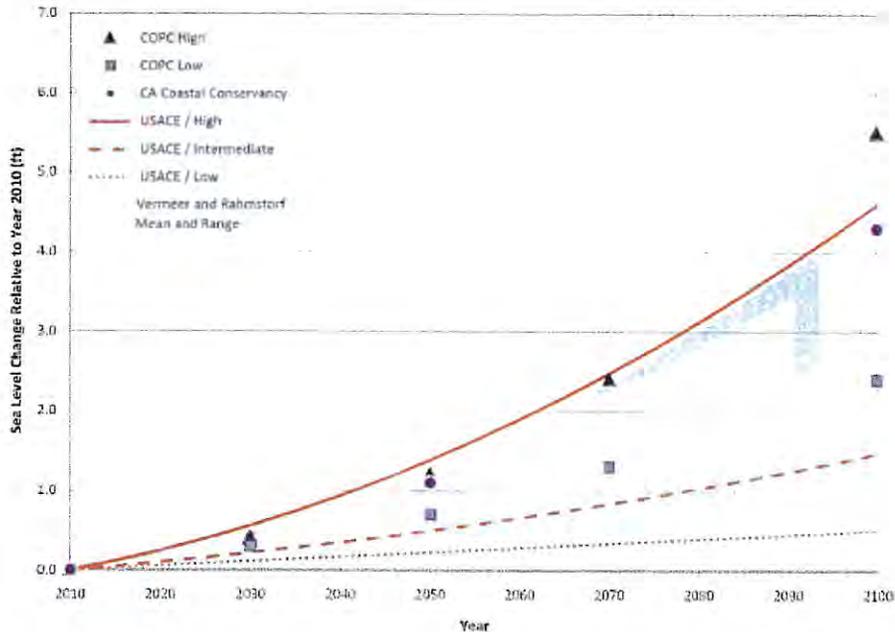


Exhibit 1: Comparison of USACE/High Projections of Sea Level Rise with the California Ocean Protection Council (COPC) and California State Coastal Conservancy Recommendations, and Vermeer and Rahmstorf (2009), (Adopted from Vermeer and Rahmstorf) in Everest International Consultants, Inc. (2011)

During the El Niño events of 1982-83 and 1997-98, sea level was elevated above mean sea level by more than 27 cm (10 inches) owing to the associated relaxation of trade winds, and remained elevated for a period approaching 1 year following each event. Using an average of the SLR predictions, more than 10 inches of SLR will occur at about the year 2050, or over 35 years from now. Therefore, in these two modern El Niño events, a rise in sea level equal to that projected from all causes over the next 35 years occurred within a few months. Although it is well documented that the 1982-83 winter produced significant coastal erosion in many locations, it also produced a large number of the most energetic wave events in the recorded history of this coast, as well as significant rainfall; all contributing to the reported bluff retreat.

The differences between maximum annual tide ranges varies by about 15 cm (6 inches) over a 17-year period, and this will occur at least 4 times during the 75-year project lifetime. Shoaling waves produce a combination of set-up and run-up that increases sea level at the beach, episodically, to a level of about 30 percent of the wave height outside the surf zone. Thus an increase of wave height by 100 cm (40 inches) results in higher water elevation on the shoreline of about 30 cm (12 inches). It is intuitively obvious from these comparisons that any potential effects on the shoreline by a gradual increase over 75 years of 30 cm (12 inches) caused by climate change must be a trivial factor, relative to other sea level change causes.

There is some current thought that “the wave attack time on the bluff will lengthen” and “the higher sea level will allow large waves to attack the bluff before they break.” Both of these assumptions are incorrect. They both are based on the erroneous assumption that the beach will remain in its current location as sea level increases. Rather than being inundated by sea level rise, the beach and the near-shore will readjust to the new level over time such that waves and tides will see the same profile that exists today. This is the principle of beach equilibrium and is the reason why we have beaches today even though sea level has risen over 200 feet in the last 10,000 years. Note that this process takes time. It does not occur during the relatively brief periods when El Niños or extreme tides exist, but the adjustment will have no problems to staying in step with sea level changes of less than an inch per year. The net effect is that the erosion rate on the cliff toe will be the same as it would have been with no increase in sea level due to climate change, although it will occur at an elevation several inches higher. Given the above and as indicated previously, it is our professional opinion that given the elevation of the top of the seacliff relative to the amount of predicted SLR, the likelihood of accelerated coastal bluff retreat at the site, as a result of SLR, is considered low.

In summary, it is our professional opinion that the 40-foot development setback recommended by this firm is justified for the proposed residential structure at the subject site. We further conclude that the proposed residential structure will be safe from coastal bluff retreat even with the postulated rate acceleration from SLR over its 75-year design life, without having to propose any shore protection or bluff stabilization. GSI's procedures, findings, conclusions, and recommendations relative to the 40-foot setback for the proposed residential structure at the subject site have been reviewed and approved by the City of Encinitas Third-Party Geotechnical Reviewer and found to be consistent with the requirements of its certified LCP.

### **CCC Argument No. 5**

**In addition, the Commission's geologist notes that the slope stability analysis that yielded a 40 foot setback necessary to achieve a factor of safety of 1.5 may not be conservative. The analysis made use of the Janbu method, which is generally recognized as less conservative than the Modified Bishops Method (used in the original study that yielded a necessary 59.5 foot setback to achieve the same factor of safety). As recommended in Johnsson (2005):**

***In general, methods that satisfy both force and moment equilibrium, such as Spencer's (Spencer 1967; 1973), Morgenstern-Price (Morganstern and Price 1965) and General Limit Equilibrium (Fredlund et al. 1981; Chugh 1986) are preferred. Methods based on moment equilibrium alone, such as Simplified Bishop's Method (Bishop 1955) also are acceptable. In general, methods that solve only for force equilibrium, such as Janbu's method (Janbu 1973) are discouraged due to their sensitivity to the ratio of normal to shear forces between slices (Abramson et al. 1995).***

## GSI Response to CCC Argument No. 5

It is our opinion that the failure surfaces obtained in our slope stability analyses using the Modified Bishop Method (GSI, 2010) are very low angle, generally mimicking the friction angle of the old paralic deposits; and therefore, predict unreasonably conservative crest retreat. The current upper bluff profile does not support the failure surfaces obtained from the analyses we previously performed using the Modified Bishop Method.

The failure surfaces obtained using the Simplified Janbu Method in GSI (2015) are considered more representative of the current bluff profile. As such, we believe they more accurately model the actual bluff failure kinematics at the subject site.

The City of Encinitas LCP requirements for geotechnical investigations of sites within their Coastal Overlay Zone do not stipulate the required methods when analyzing slope stability. Since the GSI (2015) analyses have been reviewed and accepted by the City of Encinitas Third-Party Geotechnical Reviewer, it is evident that analyzing slope stability using the Simplified Janbu Method conforms to the requirements of the City's certified LCP. GSI further points out that our review of the excerpt from Johnsson (2005) does not indicate an explicit requirement to use the staff "preferred" slope stability methods now suggested.

## CCC Argument No. 6

### **Future Shoreline Protection**

**The City did not require the property owners to assume the current and future risks in the form of a deed restriction and waiver of rights to any future shoreline armoring represents another inconsistency with the City's LCP. Section 30.34.02(D) states, in part: ". . . that any proposed structure or facility is expected to be reasonably safe from failure and erosion over its lifetime without having to propose any shore or bluff stabilization to protect the structure in the future . . .", thereby prohibiting new development from require future shoreline protection. The Commission typically requires applicants of new development to waive any rights to construct future shoreline protection. Only with this waive can the project be found to be consistent with Section 30.34.20(D). The uncertainty about future shoreline conditions in the face of anticipated sea level rise further emphasizes the importance of having new development not be allowed [reliant] on future shoreline protection.**

## GSI Response to CCC Argument No. 6

As referenced above, it is our professional opinion that the proposed home, with its recommended 40-foot setback, "will be reasonably safe from failure and erosion over its lifetime without have to propose any shore or bluff stabilization to protect the structure in the future..." In other words, the proposed home will not require future shoreline protection. Under these circumstances, Section 30.34.20(D) does not require any waiver. Also, see Response No. 7 below.

## CCC Argument No. 7

### Future Removal of Development

In order to avoid the need for shoreline armoring in the future, plans and specific triggers for removal or retreat of the proposed development should be included with any project submittal. Section 30.34.020(B)1a of the City's Implementation Plan states, in part: ". . . *Any new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment . . .*". Basements may be designed to support the proposed development in a hazardous location such that their construction would substantially alter the natural landform of the coastal bluff and would essentially serve, the same purpose as a shoreline protection device. Furthermore, constructing a basement in a potentially geologically unstable environment such as within a coastal bluff may create impacts on the integrity of the bluff itself if the basement structure were ever required to be removed. In this case, the basement is proposed to provide the foundation for the house, making it difficult to remove in the future and therefore inconsistent with Section 30.34.020(B)1a. The City did not require the applicant to develop a feasible plan to incrementally retreat from the bluff edge should erosion cause a reduction in the geologic setback or identify if there would be the potential to remove the basement along with other portions of the home in the future.

### GSI Response to CCC Argument No. 7

It appears that CCC staff has either misinterpreted or has not read the complete Section 30.34.020(B)1a of the City of Encinitas Municipal Code which pertains exceptions to required development standards within the City's Coastal Bluff Overlay Zone. Section 30.34.020(B)1a reads, "*Principal and accessory structures closer than 40 feet but not closer than 25 feet from the top edge of the coastal bluff, as reviewed and approved pursuant to subsection C, Development Processing and Approval, of this section. This exception to allow a minimum setback of no less than 25 feet shall be limited to additions or expansions to existing principal structures which are already located seaward of the 40-foot coastal blufftop setback, provided the proposed addition or expansion is located no further seaward than the existing principal structure, is set back a minimum of 25 feet from the coastal blufftop edge and the applicant agrees to remove the proposed addition or expansion, either in part or entirely, should it become threatened in the future. Any new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment and the property owner shall agree to participate in any comprehensive plan adopted by the City to address coastal bluff recession and shoreline erosion problems in the City.*"

Section 30.34.020(B)1a of the City of Encinitas Municipal Code states that principal and accessory structures located closer than 40 feet, but greater than 25 feet from the coastal bluff edge must be specifically designed and constructed such that they can be removed in the event of endangerment. Since the basement of the proposed residence will be

located at least 40 feet from the coastal bluff edge, the above requirement does not apply to this site or this development.

In addition, our studies have demonstrated that the proposed residence will be safe from bluff recession over its design life, and the excavation for the basement floor level will not occur within the coastal bluff. Rather, it will occur on the coastal terrace, 40 feet landward of the coastal bluff edge. This is no different than a basement excavation occurring on the easterly side of Neptune Avenue. Further, it is not outside the realm of engineering possibilities to remove and backfill a basement floor level while bracing the overlying floor levels. Moreover, GSI is not aware of a basement being used as a form of shoreline protection and negatively affecting geologic stability. The removal of earth to construct a basement floor level would in fact reduce the driving forces influencing bluff stability; thereby, enhancing overall bluff stability. Lastly, the CCC has approved residential development with a basement floor level at 282 Neptune Avenue as recently as 2007 (CCC, 2007). In addition, basements were also recently approved at 828 Neptune Avenue (Okun) by the CCC.

### **CCC Argument No. 8**

**Section 30.34.020(D) requires that geotechnical reports analyze “*alternative solutions for any potential impacts*”, such as siting or design options that would reduce encroachment into the geologic setback and mitigate bluff erosion impacts. The proposed development complies with all of the City’s applicable development standards, including a 25-ft. front-yard setback. While each project presents its own unique site characteristics, any new blufftop development must be sited in the way that is most protective of coastal resources. In this case, on balance, a front-yard setback variance and/or smaller home may be the most effective way to achieve this goal, but it remains unknown because the City did not require the applicant to evaluate alternative project designs or siting that would reduce potential impacts on bluff stability and allow for the structure to be located a safe distance from the bluff edge over the life of the structure.**

### **GSI Response to CCC Argument No. 8**

Again, it appears that Commission staff, in their appeal, may have misinterpreted the City’s LCP. Section 30.34.020(D)11 simply states that the geotechnical report shall consider, describe and analyze “*Mitigation measures and alternative solutions for potential impacts.*” There is no mention to provide such measures and alternatives study in the geotechnical report which concludes that there will be no adverse impact related to the coastal bluff nor recommends mitigation for bluff erosion impacts. Our interpretation is that the geotechnical report must provide mitigative measures and an alternatives study only if it is found that the proposed development would negatively impact bluff stability, would not achieve an FOS of 1.5, or that such development would be susceptible to bluff retreat. Since our studies show that the proposed residence will be safe from gross failure of the coastal bluff and long-term bluff erosion with a 40-foot setback from the coastal bluff edge,

no mitigation measures were proposed and no alternatives analysis was necessary. By approval of the discretionary permit, the City of Encinitas has accepted our findings, conclusions, and professional recommendation that the 40-foot development setback for the proposed residence is most protective of coastal resources. The City and its independent third-party geotechnical reviewer have found that our studies have conformed to the application submittal requirements of their certified LCP.

Siting the residence as proposed by CCC staff with a required 96½-foot setback from the coastal bluff edge would result in essentially no buildable area within the property. It is our professional opinion that the 96½-foot setback proposed by CCC staff is not justified; is overly conservative; is onerous; is not necessary; is far greater than they have previously approved for similar development projects; resulting in “taking” of private property.

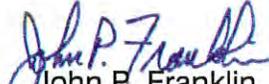
### **LIMITATIONS**

The conclusions and recommendations are professional opinions. These opinions have been derived in accordance with current standards of practice, and no warranty, either express or implied, is given. Standards of practice are subject to change with time. GSI assumes no responsibility or liability for work or testing performed by others, or their inaction; or work performed when GSI is not requested to be onsite, to evaluate if our recommendations have been properly implemented. Use of this report constitutes an agreement and consent by the user to all the limitations outlined above, notwithstanding any other agreements that may be in place. In addition, this report may be subject to review by the controlling authorities. Thus, this report brings to completion our scope of services for this portion of the project.

If you have any questions or comments regarding this letter, please do not hesitate to contact the undersigned.

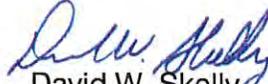
Respectfully submitted,

**GeoSoils, Inc.**

  
John P. Franklin

Engineering Geologist, CEG 1340



  
David W. Skelly

Civil Engineer, RCE 47857



  
Ryan B. Boehmer  
Project Geologist

RBB/JPF/DWS/jh

Attachment: Appendix - References

Distribution: (3) Addressee (wet signed and email)

## APPENDIX

### REFERENCES

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- Everest International Consultants, Inc., 2011, Assessment of seawall structure integrity and potential for seawall over-topping for Balboa Island and Little Balboa Island, main report, No Project No., dated April 21.
- GeoSoils, Inc., 2016a, Geotechnical response to City of Encinitas planning and building department review comments (Fifth Cycle Review), 444 Neptune Avenue, Encinitas, San Diego County, California, Case No. 14-275 CDP
- \_\_\_\_\_, 2016b, Geotechnical response to City of Encinitas Planning and Building Department review comments (fourth cycle review), 444 Neptune Avenue, Encinitas, San Diego County, California, Case No. 15-275 CDP, W.O. 6047-A3-SC, dated January 20.
- \_\_\_\_\_, 2015, Geotechnical response to third-party geotechnical review comments, 444 Neptune Avenue, Encinitas, San Diego County, California, Case No. 15-275 CDP, W.O. 6047-A2-SC, dated October 19.
- \_\_\_\_\_, 2014, Geotechnical update evaluation, APN 256-282-21, Encinitas, San Diego County, California, W.O. 6047-A1-SC, dated September 23.
- \_\_\_\_\_, 2010, Preliminary geotechnical evaluation and bluff study, 440 Neptune Avenue, Encinitas, San Diego County, California, W.O. 6047-A-SC, dated August 24.

**TAB 4**

Martin Residence  
 444 Neptune Ave.  
 Encinitas, California

**Exhibit C**

**LCP Compliance Analysis**

Rule/Regulation	Allowed/Required	Proposed Home	Conclusion
Net Lot Area	Min. Lot Size 5,400	10,304	Complies
Floor Area Ratio	0.60	0.29	Complies
Lot Coverage Ratio	0.40	0.16	Complies
Building Height	26 ft. max	25' - 10"	Complies
Setback:			
Rear/Bluff top	40 feet	40 feet	Complies
Front/Street Side	25 feet	25 feet	Complies
North Sideyard	5 feet	5 feet	Complies
South Sideyard	10 feet	10 feet	Complies



# Surfrider Foundation San Diego County Chapter

9883 Pacific Heights Blvd, Suite D  
San Diego, CA 92121  
Phone: (858) 622-9661 Fax: (858) 622-9961

July 7, 2016

## Delivered via email

To: Eric Stevens  
California Coastal Commission  
7575 Metropolitan Drive Ste 103  
San Diego, CA 92108-4402

## Re: Item W10c, Appeal Number: A-6-ENC-16-0060, Gary and Bella Martin

Dear Mr. Stevens,

The Surfrider Foundation San Diego County Chapter recognizes beaches as a public resource held in the public trust. Surfrider Foundation is an organization representing 250,000 surfers and beachgoers worldwide that value the protection and enjoyment of oceans, waves and beaches. For the past decade, San Diego Chapter has reviewed and commented on coastal construction projects and policy in San Diego County. We appreciate the opportunity to provide comments to the California Coastal Commission about these important issues.

We support the staff recommendation finding substantial issue for this appeal. The proposed house must be sited to be safe for its expected lifetime, which means a factor of safety of 1.5 for 75 years. The Coastal Act protects “existing” structures because they were built before we knew better – now we know better. These hazardous areas can only be developed very carefully, if at all. Approving this application would be opposite of the type of precedent we should be setting in light of Sea Level Rise and Climate Change. This exaggerated and unnecessary development in a hazardous location cannot be perpetuated.

One glaring omission by the applicant, is the lack of an alternatives analysis to analyze “alternative solutions for any potential impacts” as required by Section 30.34.020 (D) 11 of the LCP. Had such an analysis been conducted, the applicants and their representatives would have found that there are alternatives that could meet the needs of the applicant as well protect rights of the beach going public.

Surfrider also advocates that the proposed basement be removed to make the structure more moveable when threatened by anticipated erosion. Section 30.34.020 (B)1a of the City’s certified IP, states: “Any new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment...” As such, we believe the basement is an undue risk in this hazardous zone and should not be allowed. There are many unknowns associated with Climate Change and SLR, and we may see changes much more rapidly than we have in the past. As the

*The Surfrider Foundation is a non-profit grassroots organization dedicated to the protection and enjoyment of oceans, waves and beaches through a powerful activist network. Founded in 1984 by a handful of surfers in Malibu, California, the Surfrider Foundation now maintains over 250,000 supporters, activists and volunteers. For an overview of the Surfrider Foundation San Diego Chapter’s current campaigns, programs and projects visit [www.surfridersd.org](http://www.surfridersd.org) or contact us at [info@surfridersd.org](mailto:info@surfridersd.org) or (858) 622-9661.*

EXHIBIT NO. 10
APPLICATION NO.
<b>A-6-ENC-16-0060</b>
Letter of Opposition
California Coastal Commission



## Surfrider Foundation San Diego County Chapter

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San Diego, CA 92121  
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agency charged with protecting and maintaining the coastline, you should keep all available tools and options in the toolbox, in order to deal with unknown future conditions.

Section 30604 (c) of Coastal Act requires a finding that the development is in conformity with the public access and public recreation policies of Chapter 3. This development will conflict with those policies over its lifetime, therefore this application cannot move forward as proposed.

According to the LCP, the three elements listed below are all requirements of a geotechnical report. *"This slope failure analysis shall be performed according to geotechnical engineering standards, and shall:*

- Cover all types of slope failure.*
- Demonstrate a safety factor against slope failure of 1.5.*
- Address a time period of analysis of 75 years..."*

The list is clearly meant to be inclusive. It would not make sense to leave out the first item *"Cover all types of slope failure"*. So why would anyone let the applicant choose between the second and third items, when it is obvious that both need to be considered together? The either/or logic of choosing between the last two items is truly problematic. If the home is sited at a location to achieve a factor of safety of 1.5 today, and there is any erosion, the home will immediately be below the established industry standard for safety, let alone over the next 75 years! All three elements must be taken together. To do anything less would set a terrible precedent! More applications, one on this very agenda, and two in the immediate future raise this same question.

The good thing about this situation is that there is a reasonable path forward, the applicant can still enjoy a reasonably sized **new** home set further back from the bluff edge as your staff has suggested. This is not an all-or-nothing situation. We cannot perpetuate non-conforming bluff top development in areas we know to be hazardous and expect our coastline to be resilient to Sea Level Rise.

There is no substantiated risk of a "takings" here. First off, it is Surfrider's experience that public access and coastal habitat protection are often sacrificed over a fear of future takings claims even if those fears are not well founded. Second, in order for a "takings" claim to be successful, the agency would have to take a right the homeowner had in the first place. For instance, homeowners don't have a right to create a nuisance. To knowingly build on an eroding coastline, and then later require shoreline protection, which destroys the public beach, could be considered creating a nuisance.

The staff report highlights on page 13, how GeoSoil's responses to questions about sea level rise (SLR) and the beach's response to SLR are clearly based on faulty information and questionable reasoning. As avid users of the coast, we must protect these limited and irreplaceable resources. We cannot leave beach access up to chance, or wishful thinking.

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## Surfrider Foundation San Diego County Chapter

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If the applicant is so confident that no future armoring shall be required for their property over the next 75 years, then they should have no problem waiving the right to such armoring. They simply cannot have it both ways. Before any development can take place on this parcel, it must be conditioned to waive any future rights to seawalls.

We support this appeal and hope that the Commission will find substantial issue. The Commission must correct this wrongful permitting of new development before a terrible precedent is set that will further threaten our coastline and beaches. Thank you for your time and consideration of this important issue. Please let us know if you have any questions.

Sincerely,

Julia Chunn-Heer  
Policy Manager  
San Diego County Chapter of the Surfrider Foundation

Jennifer Savage  
California Policy Manager  
Surfrider Foundation

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*The Surfrider Foundation is a non-profit grassroots organization dedicated to the protection and enjoyment of our world's oceans, waves and beaches through a powerful activist network. Founded in 1984 by a handful of visionary surfers in Malibu, California, the Surfrider Foundation now maintains over 250,000 supporters, activists and members worldwide. For an overview of the Surfrider Foundation San Diego Chapter's current campaigns, programs and initiatives go to [www.surfridersd.org](http://www.surfridersd.org) or contact us at [info@surfridersd.org](mailto:info@surfridersd.org) or (858) 622-9661.*

**CALIFORNIA COASTAL COMMISSION**

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

**W10c**

Filed: 5/25/2016  
 49th Day: 7/13/2016  
 Staff: S. Richmond-SD  
 Staff Report: 06/30/2016  
 Hearing Date: 07/13/2016

**STAFF REPORT AND RECOMMENDATION ON APPEAL  
 SUBSTANTIAL ISSUE DETERMINATION**

**Local Government:** City of Encinitas

**Decision:** Approved with Conditions

**Appeal Number:** A-6-ENC-16-0060

**Applicant:** Gary and Bella Martin

**Location:** 444 Neptune Avenue, Encinitas, San Diego County  
 (APN #256-282-21)

**Project Description:** Construction of a new, 2-story, 3,110 sq. ft. home over a 969 sq. ft. basement with a 644 sq. ft. attached garage on a 11,394 sq. ft. vacant coastal bluff lot at 444 Neptune Ave., Encinitas, San Diego County.

**Appellants:** Vice Chair Commissioner Dayna Bochco and  
 Commissioner Mary Shallenberger

**Staff Recommendation:** Substantial Issue

**IMPORTANT HEARING PROCEDURE NOTE**

The Commission will not take testimony on this “substantial issue” recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing.

If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

## **SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

The proposed project consists of consolidation of two existing legal lots into one lot and the construction of a new, 2-story, 3,110 sq. ft. single-family home over a 969 sq. ft. basement with a 644 sq. ft. attached garage on a 11,394 sq. ft. vacant coastal bluff lot. The basement and first floor are proposed to be located approximately 40 ft. from the coastal bluff edge and the second floor is proposed to cantilever within 32 ft. of the bluff edge. The basement is proposed to provide the foundation for the house, where the finished floor elevation would be approximately 10 feet below existing grade. The subject site is located on the west side of Neptune Avenue, approximately 0.6 miles north of the Moonlight Beach Park and 0.6 miles south of Beacon's Beach, in the City of Encinitas. The existing property is vacant and no shoreline armoring fronts the site.

The City found that the subject single-family residence is consistent with the public access, public recreation, and blufftop development provisions of the certified Local Coastal Program (LCP). However, the development, as approved by the City, raises several LCP consistency issues with regard to geologic stability, future shoreline protection, the lack of an alternatives analysis, and future removal of development threatened by erosion.

The City's certified LCP requires that new development on bluff top lots be set back such that it will be safe from failure and erosion over its lifetime. In order to find the appropriate geologic setback, the certified LCP requires that a geotechnical analysis must demonstrate an adequate factor of safety of 1.5 be shown under present conditions, and that it must also identify that an adequate factor of safety of 1.5 will be maintained over 75 years, and cover all types of slope failure. In this case, the City approved a setback of 40 ft. from the bluff edge based on a geotechnical analysis that the Commission's geologist determined did not accurately calculate the factor of safety or the erosion rate. Furthermore, the City failed to determine where the factor of safety of 1.5 would be located after 75 years of erosion. Thus, the approved setback of 40 feet from the bluff edge is inadequate to achieve a 1.5 factor of safety and account for 75 years of erosion and therefore places the home as currently proposed to be sited at risk from erosion, raising a substantial issue.

After reviewing the project and the submitted geotechnical information, the Commission's geologist determined that a setback of 96.5 feet from the bluff is required to maintain a factor of safety of 1.5 for 75 years. The subject lot from the edge of the bluff to the street is approximately 120 feet in length, and 40 feet in width. Thus, a smaller size home than the proposed 4,723 sq.ft. home (including the proposed basement and garage), will likely be necessary. However, there was no alternatives analysis done, as required by the LCP, that examines revised project designs or the potential for reduced yard setbacks that would allow a new home to be sited safely on the site. The lack of information on alternatives to the proposed project raises a substantial issue.

Furthermore, because LCP policies prohibit development that could require structural measures to prevent collapse, the project must be conditioned to require that such future measures are prohibited to protect this new development. The permit should be conditioned to require the applicant to waive any rights to construct future shoreline protection to ensure consistency with the LCP. However, the City did not require the applicant to waive any such rights, which raises a substantial issue.

Although the proposed large basement area would initially be buried under the home, since siting the proposed residence 40 feet back from the bluff edge is likely to result in the structure being at risk from erosion and bluff instability, construction of a basement 40 feet from the bluff edge may result in the basement walls being exposed in the future as the bluff erodes. However, removing the 10-foot deep structure would likely require a great deal of alteration of the bluff and could be infeasible, and the excavation could threaten the overall stability of the bluff. Thus, construction of a basement in the proposed location raises a substantial issue.

The precedential value of the local government's decision for future interpretations of its LCP is also important with regard to this project. On the same agenda as the subject project, the Commission is reviewing an appeal for a new single-family residence located approximately ½ mile north of the subject site that similarly did not fully assess stability factors over 75 years (A-6-ENC-13-0210/Lindstrom), and as of the writing of this staff report, staff has received notice from the City of two additional projects approved with inadequate site stability analyses (6-ENC-16-0624 and 6-ENC-16-0600). If the potential for bluff erosion in Encinitas is not accurately and fully evaluated, new development along the shoreline will likely result in the need for shoreline protection in the future along significant stretches of the City's coastline.

Because of the above-described inconsistencies with the LCP, staff recommends that the Commission determine that the project raises a substantial issue regarding conformance with the certified LCP.

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### APPENDICES

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### EXHIBITS

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## **I. APPELLANTS CONTEND**

The project as approved by the City does not conform to the City of Encinitas' certified Local Coastal Program (LCP). The appellants contend that 1) the site-specific geotechnical report for the project is inadequate because it significantly underestimates the erosion potential of the bluff-top site, and thus, does not demonstrate the development will be sited in a safe location for the life of the structure so as to not require shoreline protection in the future; 2) the City did not prohibit future shoreline protection or require the applicant to waive their rights to any future shoreline protection for the proposed new development; 3) the City did not analyze alternative solutions to reduce potential impacts on bluff stability, and 4) the City should have required the applicant to develop a plan to remove the basement along with other portions of the home or incrementally retreat from the bluff edge should erosion cause a reduction in the geologic setback in the future.

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## **II. LOCAL GOVERNMENT ACTION**

The coastal development permit was approved by the City of Encinitas Planning Commission on May 10, 2016. Specific conditions were attached which, among other things, prohibit permanent irrigation and grading improvements (i.e. shoring) within 40 ft. of the coastal bluff edge setback, and require the use of Best Management Practices to control runoff and erosion during construction and after completion of the project to divert surface water away from the bluffs, the recordation of an open space easement over the coastal bluff face that does not preclude the exercise of emergency measures if authorized in the future, submission of an "as built geotechnical report" to verify recommendations of the Geotechnical Report are implemented and on final construction plans and structural calculations for the new residence, and that the property owner participate in any comprehensive plan adopted by the City to address coastal bluff recession and shoreline erosion problems in the City.

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## **III. APPEAL PROCEDURES**

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 30603(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 the de novo portion of the 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, those allowed to testify at the hearing 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, reviewing the project de novo in accordance with sections 13057-13096 of the Commission's regulations. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable standard of review for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program (LCP).

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 of the Coastal Act. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also applicable 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 as to conformity with the certified local coastal program" or, if applicable, the public access and public recreation policies of Chapter 3 of the Coastal Act (Cal. Code Regs., tit. 14 section 13115(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.

The City of Encinitas has a certified Local Coastal Program (LCP), and the subject site is located in an area where the Commission retains appeal jurisdiction because it is located between the first public road and the sea. Therefore, before the Commission considers the appeal de novo, the appeal must establish that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603. In this case, for the reasons discussed further below, the Commission exercises its discretion to determine that the development approved by the City raises substantial issue with regard to the appellant's contentions regarding coastal resources.

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#### **IV. SUBSTANTIAL ISSUE MOTION AND RESOLUTION**

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission determine that Appeal No. A-6-ENC-16-0060 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

#### **STAFF RECOMMENDATION:**

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

**RESOLUTION:**     *The Commission hereby finds that Appeal No. A-6-ENC-16-006060 presents 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.*

## V. SUBSTANTIAL ISSUE FINDINGS AND DECLARATION

The Commission finds and declares as follows:

### A. PROJECT DESCRIPTION/HISTORY

The project approved by the City of Encinitas on April 21, 2016 allows for the consolidation of two existing legal lots into one lot and the construction of a new, 2-story, 3,110 sq. ft. single-family home over a 969 sq. ft. basement with a 644 sq. ft. attached garage on a 11,394 sq. ft. vacant coastal bluff lot. The basement and first floor are proposed to be located approximately 40 ft. from the coastal bluff edge and the second floor is proposed to cantilever within 32 ft. of the bluff edge. The basement is proposed to provide the foundation for the house, where the finished floor elevation would be approximately 10 feet below existing grade.

The subject site is located on the west side of Neptune Avenue, approximately 0.6 miles north of the Moonlight Beach Park and 0.6 miles south of Beacon's Beach, in the City of Encinitas (**Exhibit #1**). The subject property is currently not protected by any shoreline armoring (**Exhibit #2**) and there is no Commission permit history on the site. However, the Commission previously approved a 13 ft. high, approximately 105 ft. long seawall to protect an existing home adjacent to the subject site to the north (452 Neptune Ave.; CDP #6-93-136) and a 9 ft. high, shotcrete seawall fronting six non-contiguous homes approximately 250 ft. south of the subject site (312, 354, 370, 378, 396, and 402 Neptune Ave.; CDP #6-93-85). The standard of review is the certified City of Encinitas Local Coastal Program and the public access policies of the Coastal Act.

### B. GEOLOGIC STABILITY

#### Bluff Stability and Erosion

The project approved by the City is located within the Coastal Bluff Overlay Zone. The appellants contend that the development is inconsistent with LCP provisions that require the site-specific geotechnical report to demonstrate that “*any proposed structure or facility is expected to be reasonably safe from failure and erosion over its lifetime without having to propose any shore or bluff stabilization to protect the structure in the future ...*” and to analyze “[*h*]istoric, current, and foreseeable-cliff erosion...” The pertinent LCP provisions are below:

Public Safety Policy 1.3 of the City's Land Use Plan (LUP) requires that:

*The City will rely on the Coastal Bluff and Hillside/Inland Bluff Overlay Zones to prevent future development or redevelopment that will represent a hazard to its owner or occupants, and which may require structural measures to prevent destructive erosion or collapse.*

Section 30.34.020(C) of the City's Certified Implementation Plan (IP), states in part:

*1. Development and improvement in compliance with the development standards in paragraph B "Development Standards," proposing no structure or facility on or within 40 feet of the top edge of the coastal bluff (except for minor accessory structures and improvements allowed pursuant to Section 30.34.02(B)1b), and proposing no preemptive measure as defined below, shall be subject to the following: submittal and acceptance of a site-specific soils report and geotechnical review described by paragraph D "Application Submittal Requirements" below. The authorized decision-making authority for the proposal shall make the findings required based on the soils report and geotechnical review for any project approval. A second story cantilevered portion of a structure which is demonstrated through standard engineering practices not to create an unnecessary surcharge load upon the bluff area may be permitted 20% beyond the top edge of bluff setback if a finding can be made by the authorized agency that no private or public views would be significantly impacted by the construction of the cantilevered portion of the structure.*

Section 30.34.020(D) of the City's Certified IP states, in part:

*APPLICATION SUBMITTAL REQUIREMENTS. Each application to the City for a permit or development approval for property under the Coastal Bluff Overlay Zone shall be accompanied by a soils report, and either a geotechnical review or geotechnical report as specified in paragraph C "Development Processing and Approval" above. Each review/report shall be prepared by a certified engineering geologist who has been pre-qualified as knowledgeable in City standards, coastal engineering and engineering geology. The review/report shall certify that the development proposed will have no adverse effect on the stability of the bluff, will not endanger life or property, and that any proposed structure or facility is expected to be reasonably safe from failure and erosion **over its lifetime** without having to propose any shore or bluff stabilization to protect the structure in the future [emphasis added]. Each review/report shall consider, describe and analyze the following:*

- 1. Cliff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site.*
- 2. Historic, current and foreseeable cliffs erosion, including investigation or recorded land surveys and tax assessment records in addition to land use of historic maps and photographs where available and possible changes in shore configuration and sand transport.*
- 3. Geologic conditions, including soil, sediment and rock types and characteristics in addition to structural features, such as bedding, joints and faults.*

4. *Evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity.*
5. *Impact of construction activity on the stability of the site and adjacent area.*
6. *Ground and surface water conditions and variations, including hydrologic changes caused by the development (e.g., introduction of irrigation water to the groundwater system; alterations in surface drainage).*
7. *Potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction (i.e., landscaping and drainage design).*
8. *Effects of marine erosion on seacliffs and estimated rate of erosion at the base of the bluff fronting the subject site based on current and historical data.*
9. *Potential effects of seismic forces resulting from a maximum credible earthquake.*
10. *Any other factors that might affect slope stability.*
11. *Mitigation measures and alternative solutions for any potential impacts.*

*The report shall also express a professional opinion as to whether the project can be designed or located so that it will neither be subject to nor contribute to significant geologic instability **throughout the life span of the project**. The report shall use a current acceptable engineering stability analysis method and shall also describe the degree of uncertainty of analytical results due to assumptions and unknowns. The degree of analysis required shall be appropriate to the degree of potential risk presented by the site and the proposed project [emphasis added].*

*In addition to the above, each geotechnical report shall include identification of the daylight line behind the top of the bluff established by a bluff slope failure plane analysis. This slope failure analysis shall be performed according to geotechnical engineering standards, and shall:*

- a. **Cover all types of slope failure.***
- b. **Demonstrate a safety factor against slope failure of 1.5.***
- c. **Address a time period of analysis of 75 years.***

The project approved by the City is located within the certified IP Coastal Bluff Overlay Zone and the foundation of the residence would be sited approximately 40 ft. from the edge of an approximately 65 ft.-high coastal bluff subject to marine erosion. An

appropriate safe setback must ensure that the residence is reasonably safe from failure and erosion over its lifetime without having to propose any shore or bluff stabilization to protect the structure in the future. Thus, in order to find the appropriate geologic setback, the Certified LCP requires that not only must an adequate factor of safety of 1.5 be shown under present conditions, but that it must also demonstrate that an adequate factor of safety of 1.5 will be maintained over 75 years, and cover all types of slope failure.

Assessing the stability of slopes against landsliding is undertaken through a quantitative slope stability analysis. In such an analysis, the forces resisting a potential landslide are first determined. These are essentially the strength of the rocks or soils making up the bluff. Next, the forces driving a potential landslide are determined. These forces are the weight of the rocks as projected along a potential slide surface. The resisting forces are divided by the driving forces to determine the “factor of safety.” A value below 1.0 is theoretically impossible, as the slope would have failed already. A value of 1.0 indicates that failure is imminent. Factors of safety at increasing values above 1.0 lend increasing confidence in the stability of the slope. The industry-standard for new development is a factor of safety of 1.5. A slope stability analysis is performed by testing hundreds of potential sliding surfaces. The surface with the minimum factor of safety will be the one on which failure is most likely to occur. Generally, as one moves back from the top edge of a slope, the factor of safety against landsliding increases. Therefore, to establish a safe setback for slope stability from the edge of a coastal bluff, one needs to find the distance from the bluff edge at which the factor of safety is at least equal to 1.5.

In this case, a preliminary geotechnical evaluation by David Skelly and John Franklin (GeoSoils, Inc.; GSI) dated Aug. 24, 2010 determined the 1.5 factor of safety under existing conditions would be 59.5 ft. from the bluff edge (**Exhibit #3**). In response to third-party review by the City’s geotechnical consultant (Geopacifica), GSI re-analyzed slope stability for the subject site and found the 1.5 factor of safety would be located 40 ft. from the current bluff edge (response dated Oct. 19, 2015). However, according to the Coastal Commission’s staff geologist, the slope stability analysis that yielded a 40-ft. setback necessary to achieve a factor of safety of 1.5 may not be appropriately conservative. That analysis made use of the Janbu method, which is generally recognized as less conservative than the Modified (or Simplified) Bishops Method (used in the original study that yielded a necessary 59.5-ft. setback to achieve the same factor of safety). As recommended in Johnsson (2005):

*In general, methods that satisfy both force and moment equilibrium, such as Spencer’s (Spencer 1967; 1973), Morgenstern-Price (Morgenstern and Price 1965), and General Limit Equilibrium (Fredlund et al. 1981; Chugh 1986) are preferred. Methods based on moment equilibrium alone, such as Simplified Bishop’s Method (Bishop 1955) also are acceptable. In general, methods that solve only for force equilibrium, such as Janbu’s method (Janbu 1973) are discouraged due to their sensitivity to the ratio of normal to shear forces between slices (Abramson et al. 1995).*

The June 15, 2016 GeoSoil report simply countered this argument by stating that GeoSoils feels that the Simplified Bishop Method is overly conservative, without providing evidence to that effect, and counter to industry practice.

In addition to problems with the way the factor of safety was determined, the preliminary geotechnical evaluation by GSI determined the long term erosion rate over 75 years would be 20.25 ft. (0.27 ft./year). To determine this rate, GSI relied on a 1996 USACE study that reported a long-term erosion rate for Encinitas of 0.3-0.9 ft./year and 2003 geotechnical investigations that reported long-term erosion rates for the adjacent property of 0-0.05 ft./year and 0-0.13 ft./year (response dated March 28, 2016). A review of neighboring bluff-top properties in the City of Encinitas that have conducted slope stability analysis in the last 15 years show that the accepted historic erosion rates vary between 0.23 ft./year and 0.49 ft./year (A-6-ENC-01-047/Conway & Associates; A-6-ENC-09-040/Okun). Thus, the erosion rate used by the applicant is on the lower end of any erosion rate accepted for a past project in the City of Encinitas, and is not well supported by any new data. GSI claims that review of California Coastal Records Project photographs from 1972-2013 show very little retreat of the bluff top and that a majority of the bluff retreat occurs as block failures within the sea cliff and friable terrace deposits near the contact with the underlying Torrey Sandstone, but such an analysis is qualitative in nature and only addresses past, not future, shoreline retreat.

The long-term erosion rate (0.27 ft./year) used by the geotechnical report is lower than the long-term future erosion rate (0.49 ft./year) that has been required for the four most recent new bluff top home approvals in Encinitas, all of which were approved on appeal by the Commission (Ref: CDP Nos. A-6-ENC-09-002/Wellman, A-6-ENC-09-003/Wellman, A-6-ENC-09-040/Okun, and A-6-ENC-09-041/Okun). According to the Coastal Commission's staff geologist, the current published state-of-the-art study for establishing bluff retreat rates in this area is a FEMA-funded study conducted as part of a nationwide assessment of coastal erosion hazards (Benumof and Griggs 1999). In that study, the maximum historic rate for this stretch of coastline is 0.49 ft./yr. The Commission's geologist recommends the use of the maximum historic rate, rather than the minimum or average historic rate, to account for likely acceleration of bluff retreat rates in the future due to sea level rise and increased exposure of the bluffs to wave attack (NRC 2012; see the Commission's Adopted Sea Level Rise Guidance Document<sup>1</sup>). When applied over a period of 75 years, this translates into a bluff retreat of approximately 37 ft.

The Commission's geologist analyzed the applicant's report, and made the following assessment:

The 15 June 2015 GeoSoil report counters that the 0.49 ft/yr value is higher than the upper bound of the Benumoff and Griggs (1999) data, citing that it is higher than the reported one-sigma standard deviation of the mean of those data. However, the one-sigma standard deviation does not represent an upper bound, but rather an approximate 67% confidence interval about the mean. Far from being an upper bound, it instead indicates that there is a 67% chance that the true

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<sup>1</sup> Available at <http://www.coastal.ca.gov/climate/slrguidance.html>.

population mean will lie within that confidence interval about the sampled mean. It says nothing about the upper bound. The report goes on to indicate that the transect examined by Benumoff and Griggs (1999) contained at least two local erosion hotspots. This is, in fact, fortunate if our goal is to use the upper bound historic erosion rate as a proxy for higher, future erosion rates. Finally, the report cites the Commission's acceptance of a lower (0.23 ft/yr) future erosion rate at 282 Neptune Avenue in a previous Commission Action (Zagara, A-6-ENC-06-100). In that case, compelling site-specific evidence was provided to the Commission that the lower rate was appropriate at that location; that is not the case for the subject site.

The Applicant's geotechnical consultants originally dismissed the need to evaluate any potential future accelerated erosion rates that may occur due to future sea level rise conditions by concluding that given the elevation of the top of the sea cliff relative to the amount of predicted sea level rise, the likelihood of accelerated bluff retreat in the future is considered low (response dated Oct. 19, 2015). This argument does not acknowledge any increase in bluff retreat rate that may accompany sea level rise due to bluff's being exposed to wave action for longer periods of time during each tidal cycle.

The June 15, 2016 GeoSoil report makes several arguments that run counter to the generally accepted belief that future bluff retreat rates will indeed increase as a result of future accelerated sea level rise. Citing the fact that diurnal tides, storm surges, and El Nino events have historically raised sea level greater than predicted amounts of sea level rise over the next 75 years, the report indicates that future sea level rise will have less effect than these phenomena, which are factored into the historic average bluff retreat rates. This argument is clearly specious, as these phenomena are *additive* to the effects of sea level rise; thus their occurrence in the future will have greater effects than in the past.

The report also states that, counter to generally accepted precepts, bluffs will *not* be subject to longer periods of wave attack at higher sea levels, because the beach will equilibrate to rising sea level and maintain the same buffer against wave attack that it provides today. Irrespective of the concern that beaches will not be able to equilibrate because they may either 1) not receive sufficient sediment supply to do so, or 2) not have sufficient time to do so given the accelerating rate of sea level rise, this argument begs the question: How can the beach equilibrate (move landward) without threatening the structure if it is set back only the distance necessary to achieve stability *today*?

Thus, the report does not accurately and adequately evaluate the stability of the site or the expected bluff retreat, which raises a substantial issue of conformity with the certified LCP.

Furthermore, City staff have indicated that they interpret Section 30.34.020(D) to mean that the geologic setback should be the 1.5 factor of safety (40 ft.) or 75-year bluff retreat

(20.25 ft.), whichever is greater but not less than the City's minimum 40 ft. bluff setback. Based on this interpretation, the City approved the home to be located approximately 40 ft. from the bluff edge. Similarly, in a June 15, 2016 geotechnical response to this appeal, GeoSoils indicated that the geologic setback should be the *greater* of the expected amount of bluff retreat over the 75-year assumed life of the structure *or* the setback necessary to achieve a 1.5 factor of safety *today*.

The Commission's position has long been that such an approach does not ensure that a 1.5 factor of safety (the industry-standard definition of geologic stability against landsliding) will be maintained over the economic life of the development. Indeed, if the development is set back at the distance necessary to achieve a 1.5 factor of safety today, *any* bluff retreat will immediately reduce its stability below the industry-standard factor of safety of 1.5. This has long been the Commission's practice in establishing setbacks from coastal bluffs throughout the state (Johnsson 2005), and is stated explicitly in the City's LCP, Section 30.34.020(D):

This slope failure analysis shall be performed according to geotechnical engineering standards, and shall:

- Cover all types of slope failure.
- Demonstrate a safety factor against slope failure of 1.5.
- Address a time period of analysis of 75 years.

The Commission has interpreted the City's LCP as requiring a geotechnical analysis for development to look at all of these elements, during at least the past 15 years (Ref: CDP A-6-ENC-02-003/Berg). The Commission Geologist, Dr. Mark Johnsson, provided a policy memorandum for a workshop to the Commission in 2003 with a more detailed explanation of this methodology. The memorandum was later published in 2005 (Exhibit #7). The Commission generally considers 75 years as the minimum economic life of new single family homes. Thus, a factor of safety of 1.5 must be maintained throughout the 75 year life of the home to be consistent with IP Section 30.34.020(D), and although not the standard of review, Coastal Act section 30253 as well. The easiest way to assure this is to find the distance from the bluff edge necessary to achieve a factor of safety of 1.5 today and add to that the expected bluff retreat over the next 75 years. The Encinitas LCP explicitly states that new development must achieve a factor of safety of 1.5 and that 75 years is the length of time to be considered. Any other interpretation of this policy would result in a significant underestimate of the setback necessary to ensure development will be safe from failure and erosion over its lifetime.

A geologic setback of 40 ft. is the factor of safety only under present conditions. The home will not be stable with a factor of safety of 1.5 over its economic lifetime since the City failed to determine where the factor of safety of 1.5 would be located after 75 years of erosion. Thus, the approved setback of 40 feet from the bluff edge is inadequate to achieve a 1.5 factor of safety and account for 75 years of erosion.

Accordingly, the 75-year bluff retreat should more appropriately be identified as 37 ft. over the life of the structure, and when added to the suggested 40 ft. setback from the bluff edge based on the factor of safety identified for the subject site, the bluff edge setback needs to be approximately 77 feet in order for the structure to have a factor of safety of 1.5 for 75 years. If the more conservative slope stability analysis performed by the Simplified Bishop Method is used, a 59.5 foot setback is needed to achieve a factor of safety of 1.5. Adding that distance to the expected future bluff retreat (37 feet), a setback of 96.5 feet would be required to maintain a factor of safety of 1.5 for 75 years.

The City declined to ensure a factor of safety of 1.5 for the entire life of the home. As stated by the City's reviewer (quoted in GSI's response dated Oct. 19, 2015):

*The City of Encinitas does not recognize the California Coastal Commission policy of adding the Factor of Safety Setback and the 75-year erosion rate to determine the setback for the proposed residence. The greater of either the 75-year erosion rate or the Factor of Safety Setback shall be utilized. The City of Encinitas requires that the proposed residence be placed behind the setback. The City of Encinitas does not allow for the proposed residence to be placed closer to the bluff (but not beyond the 40-foot setback) by the use of caissons. Please revise plans and recommendation to reflect the City of Encinitas requirements.*

Thus, the plans approved by the City incorporate only a 40 foot setback. The proposed project remains inconsistent with the certified LCP requirements to ensure a factor of safety of 1.5 for the entire life of the home, and as such, the home has not been sited so that it would not require shoreline protection over its lifetime. Thus, a substantial issue has been raised.

#### Future Shoreline Protection

Applicants of new development must waive any rights to construct future shoreline protection to be consistent with Section 30.34.020(D). The June 15, 2016 GeoSoils letter indicated that since they believe that the development will never require shoreline protection, no condition prohibiting shoreline protection is necessary. This circular argument does not acknowledge the many instances known to the Commission where new development was thought to have been sited so as to never require shoreline protection, but later to have been found to have been endangered from coastal erosion. The waiver of future shoreline protection is intended to ensure that if there are deficiencies in the predictions made in geotechnical studies, no shoreline protection will ever be constructed at the site.

The uncertainty about future shoreline conditions in the face of anticipated sea level rise further emphasizes the importance of having new development not be allowed to rely on future shoreline protection. Since the City did not require the property owners to assume the current and future risks in the form of a deed restriction and waiver of rights to any

future shoreline armoring, the development raises a substantial issue regarding conformity with the LCP.

### **C. ALTERNATIVE ANALYSIS**

Section 30.34.020(D)11, which requires geotechnical reports to analyze “*alternative solutions for any potential impacts,*” such as siting or design options that would reduce encroachment into the geologic setback and mitigate bluff erosion impacts. As previously described, a setback of 96.5 feet from the bluff is required to maintain a factor of safety of 1.5 for 75 years. The subject lot from the edge of the bluff to the street is approximately 120 feet in length, and 40 feet in width. This will likely necessitate a smaller size home than the proposed 4,723 sq.ft. home, including the proposed basement and garage. However, there are options that would create a larger development envelope on the site.

As approved, the proposed development complies with all of the City’s applicable yard setback standards, including a 25-ft. front-yard setback. A smaller front-yard setback, in combination with a smaller home, could potentially allow a new home to be sited safely on the site. However, no alternative project designs or siting that would reduce potential impacts on bluff stability have been evaluated.

The June 15, 2016 GeoSoil report states, in contrast, that an alternatives analysis is not needed if the development meets the stability requirements of the LCP. First, this is not correct; the LCP requires an alternatives analysis to find solutions for all impacts. Second, as detailed above, the proposed development does not meet the stability requirements of the LCP. Thus, the lack of an alternatives analysis raises a substantial issue.

### **D. FUTURE REMOVAL OF DEVELOPMENT**

The proposed development includes a 969 sq. ft. basement to provide the foundation for the house located 40 ft. from the bluff edge. The appellants contend that since the basement is proposed to provide the foundation for the house, the basement is difficult to remove in the future and therefore inconsistent with Section 30.34.020(B)1a of the City’s certified IP, which states, in part:

*a. ... Any new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment ...*

It is unlikely that the basement could be specifically designed and constructed such that it could be removed in case of endangerment. It would essentially serve the same purpose as a shoreline protection device in the same manner that caissons and deepened foundations do once exposed. Furthermore, constructing a basement in a potentially geologically unstable environment such as within a coastal bluff may create impacts on the integrity of the bluff itself if the basement structure were ever required to be removed. The City did not require the applicant to develop a feasible plan to remove the basement along with other portions of the home, or incrementally retreat from the bluff edge should erosion cause a reduction in the geologic setback in the future. Therefore, this inconsistency also raises a substantial issue.

The June 15, 2016 GeoSoil report states that the Appellants have misinterpreted the LCP; that only development between 25 and 40 feet from the bluff edge must be designed to be removed, not structures greater than 40 feet from the bluff edge. However, the intent of the LCP policy is to ensure that any structures that could potentially be threatened by erosion within the lifetime of the structure are able to be removed. As detailed above, siting the proposed residence 40 feet back from the bluff edge is likely to result in the structure being at risk from erosion and bluff instability. Construction of a basement 40 feet from the bluff edge may result in the basement walls being exposed. However, removing the 10-foot deep structure would likely require a great deal of alteration of the bluff and could be infeasible if the excavation would threaten the overall stability of the bluff. Thus, construction of a basement in the proposed location raises a substantial issue.

## **E. PRECEDENT**

The precedential value of the local government's decision for future interpretations of its LCP is also important with regard to this project. On the same agenda as the subject project, the Commission is reviewing an appeal for a new single-family residence located approximately ½ mile north of the subject site that similarly did not fully assess stability factors over 75 years (A-6-ENC-13-0210/Lindstrom), and as of the writing of this staff report, staff has received notice from the City of two additional projects approved with inadequate site stability analyses (6-ENC-16-0619/Hurst and 6-ENC-16-0624/Meardon). If the potential for bluff erosion in Encinitas is not accurately and fully evaluated, new development along the shoreline will likely result in the need for shoreline protection in the future.

As part of early coordination efforts by Commission staff, on January 11, 2016, Commission staff provided City staff and the applicant with a comment letter on the subject project and two other similar projects in Encinitas that identified the LCP and Coastal Act inconsistencies that are raised in this appeal.

## **F. CONCLUSION**

Based on the information cited above, the City's approval of the construction of a new home is inconsistent with various sections of the City's certified Implementation Plan (IP) relating to siting of new development on a coastal blufftop so as to assure it will be safe from failure and erosion over its lifetime without requiring shoreline protection, protection of the natural scenic qualities of the bluffs, and grading within 40 ft. of the coastal bluff. Therefore, the Commission finds that a substantial issue exists with respect to the consistency of the local government action with the City's certified Local Coastal Program.

## **G. SUBSTANTIAL ISSUE FACTORS**

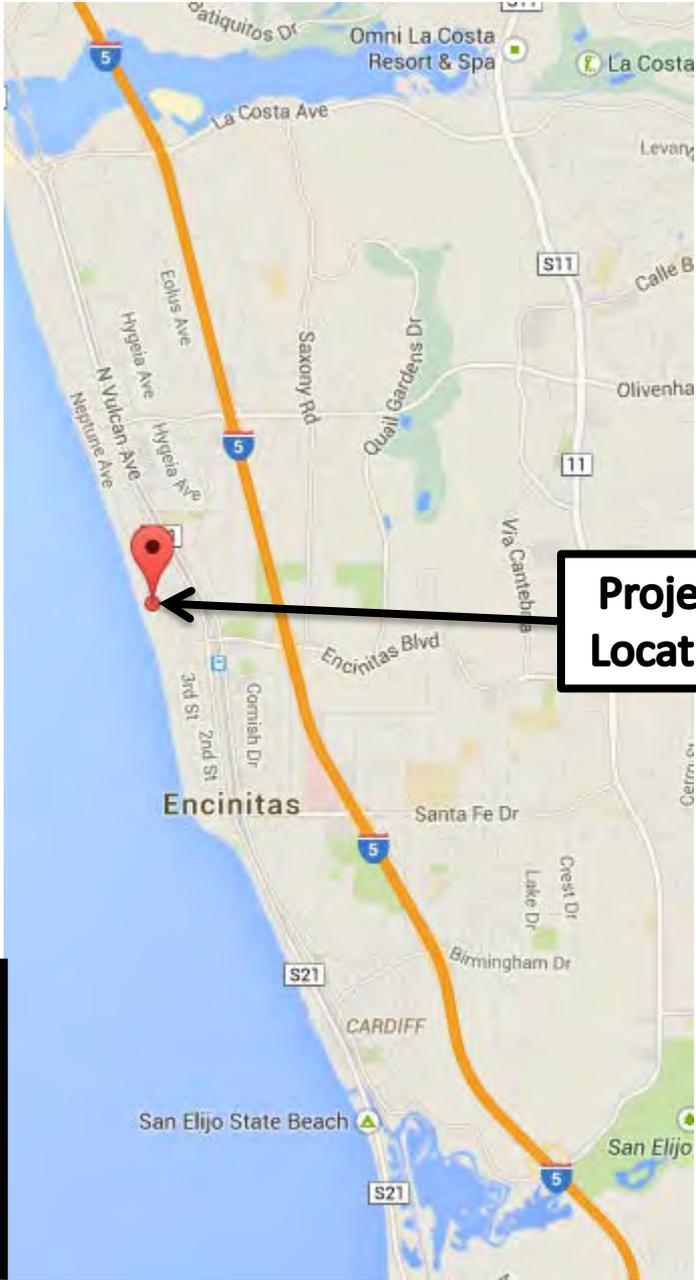
As discussed above, there is inadequate factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission usually considers when evaluating whether a local government's action raises a substantial issue also support a finding of substantial issue. While the extent and scope of the particular development is a single home, the objections to the project suggested by the appellants, including geologic stability, future shoreline protection, the lack of an alternatives analysis, and future removal of development threatened by erosion, raise substantial issues of regional and statewide significance due to the frequency of development on the state's hazardous bluffs. The decision creates a poor precedent with respect to the proper interpretation of the City's LCP, as the City's failure to require an adequate geotechnical analysis are not only incorrect interpretations of the LCP, but they could also set an adverse precedent elsewhere along the coast. In addition, the coastal resources affected by the decision are significant.

As discussed above, there is inadequate 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 usually considers when evaluating whether a local government's action raises a substantial issue also support a finding of substantial issue. While the extent and scope of the particular development is a single home, the objections to the project suggested by the appellants raise substantial issues of regional and statewide significance due to the frequency of development on the state's hazardous bluffs. The decision creates a poor precedent with respect to the proper interpretation of the City's LCP, as the City's failure to require an adequate geotechnical analysis are not only incorrect interpretations of the LCP, but they could also set an adverse precedent elsewhere along the coast. In addition, the coastal resources affected by the decision are significant.

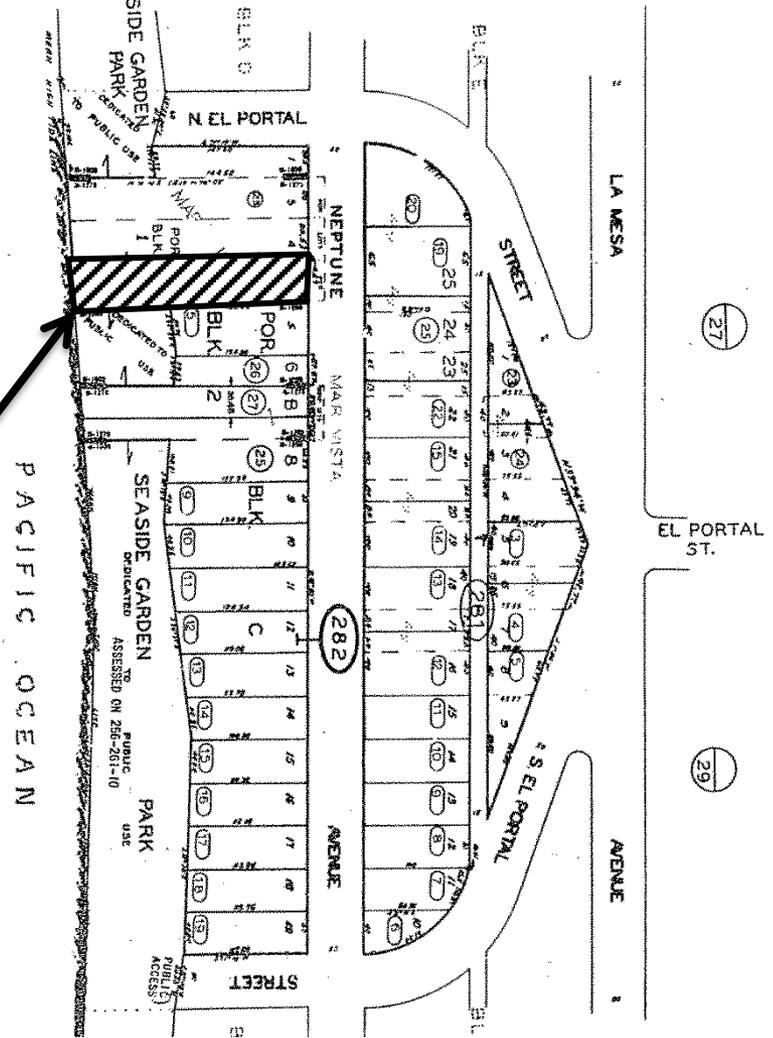
## **APPENDIX A: SUBSTANTIVE FILE DOCUMENTS**

- Certified City of Encinitas Local Coastal Program
- City of Encinitas 14-275 CDP/PMW dated April 21, 2016/Planning Commission Resolution PC 2016-15 dated May 10, 2016
- Geotechnical Investigation, 440 Neptune Ave., Encinitas, California prepared by Anthony Taylor Consultants dated March 31 21, 2003
- Preliminary Geotechnical Investigation, 440 Neptune Ave., Encinitas, California prepared by Vinje & Middleton Engineering, Inc. dated April 21, 2003
- Preliminary Geotechnical Evaluation and Bluff Study, 440 Neptune Ave., Encinitas, San Diego County, California prepared by GeoSoils, Inc. dated Aug. 24, 2010.
- Geotechnical Update Evaluation, 444 Neptune Ave., Encinitas, San Diego County, California prepared by GeoSoils, Inc. dated Sept. 23, 2014
- Geotechnical Response to Third-Party Geotechnical Review Comments, 444 Neptune Ave., Encinitas, San Diego County, California prepared by GeoSoils, Inc. dated Oct. 19, 2015
- Geotechnical Response to City of Encinitas Planning and Building Department Review Comments, 444 Neptune Ave., Encinitas, San Diego County, California prepared by GeoSoils, Inc. dated Jan. 20, 2016
- Geotechnical Response to City of Encinitas Planning and Building Department Review Comments, 444 Neptune Ave., Encinitas, San Diego County, California prepared by GeoSoils, Inc. dated March 28, 2016

# PROJECT LOCATION



**Project Location**



Google Maps

 California Coastal Commission	<b>EXHIBIT NO. 1</b>
	APPLICATION NO. <b>A-6-ENC-16-0060</b>
	Project Location

**SITE PHOTO 1**

**2013**

**Project  
Location**



California Coastal Commission

**EXHIBIT NO. 2**  
APPLICATION NO.  
**A-6-ENC-16-0060**  
Site Photo 1

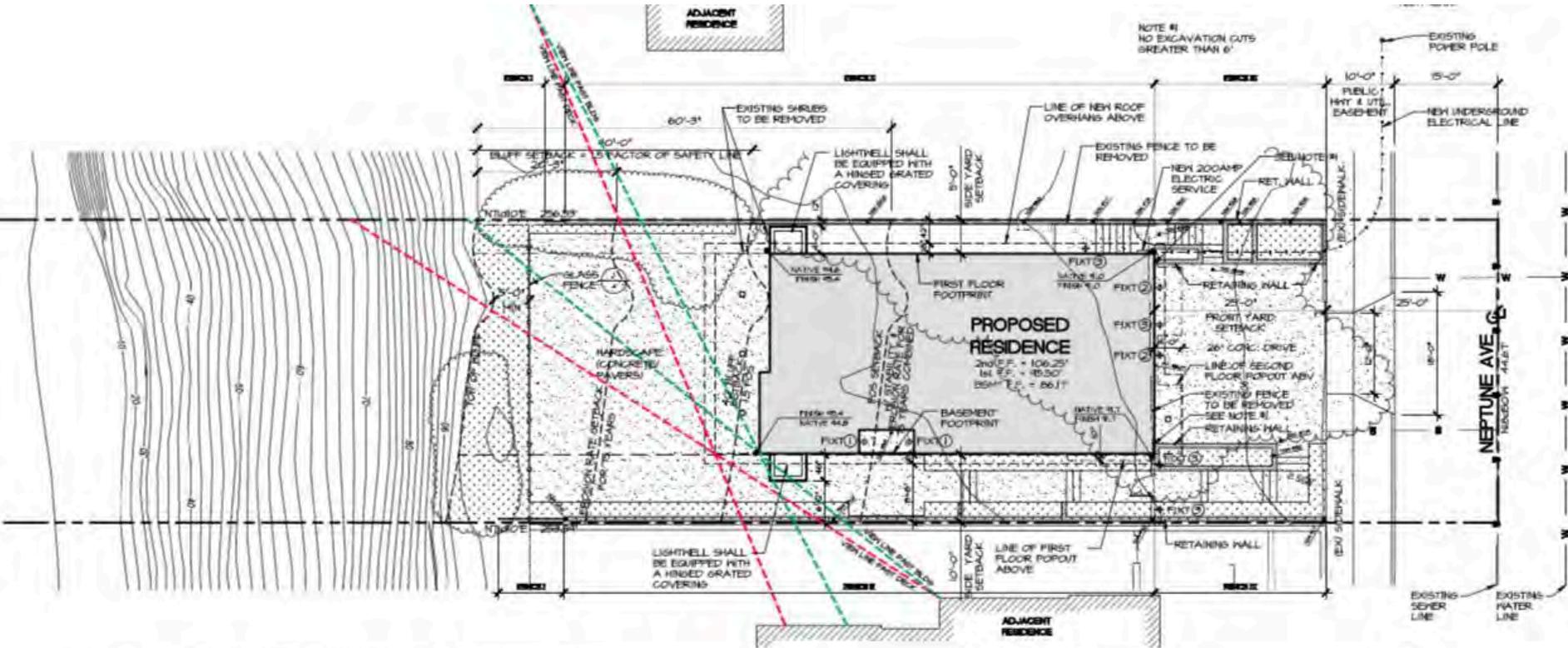
**SITE PHOTO 2**

**Project  
Location**

**2013**



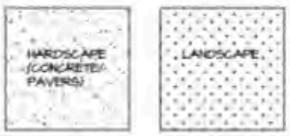
 California Coastal Commission	<b>EXHIBIT NO. 3</b> APPLICATION NO. <b>A-6-ENC-16-0060</b> Site Photo 2
---	---



NOTE #1  
NO EXCAVATION CUTS  
GREATER THAN 6"

**BMP NOTE**  
SEE GRADING PLANS ATTACHED AT THE BACK OF THIS SET OF PLANS FOR REFERENCE REGARDING ALL TEMPORARY AND PERMANENT BMP'S

CDP 14-275



- RECESSED CAN LIGHTS
- 1 4' HIGH GLASS FENCE
- 2 6' HIGH MASONRY FENCE
- 3 4' HIGH MASONRY FENCE

NO PERMANENT IRRIGATION SHALL BE PERMITTED WITHIN 40' OF THE BLUFF EDGE

  
 California Coastal Commission  
**EXHIBIT NO. 4**  
 APPLICATION NO.  
**A-6-ENC-16-0060**  
**Proposed Site Plan**

## CALIFORNIA COASTAL COMMISSION

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

FILE COPY



APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Vice-Chair Bochco  
Mailing Address: 45 Fremont St., Suite 2000  
San Francisco, CA 94105

Phone Number: (415) 904-5202

RECEIVED

MAY 25 2016

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Encinitas
2. Brief description of development being appealed: Consolidation of two existing legal lots into one lot and construction of a new, 2-story, 3,110 sq. ft. single-family home over a 969 sq. ft. basement with a 644 sq. ft. attached garage on a 11,394 sq. ft. vacant coastal bluff lot; basement and first floor proposed to be approx. 40 ft. from the coastal bluff edge and the second floor proposed to cantilever within 32 ft. of the bluff edge; basement proposed to provide house foundation, with finished floor elevation approx. 10 ft. below existing grade.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 444 Neptune Avenue, Encinitas, CA 92024, APN 256-282-21

## 4. Description of decision being appealed:

- a. Approval; no special conditions:       b. Approval with special conditions:   
c. Denial:       d. Other:  \_\_\_\_\_

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-16-0060

DATE FILED: 5/25/2016

DISTRICT: San Diego

EXHIBIT NO. 5
APPLICATION NO.
<b>A-6-ENC-16-0060</b>
Appeal Forms
California Coastal Commission

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: 4/21/16

Local government's file number (if any): 14-275 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:

Gary and Bella Martin  
576 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.

\_\_\_\_\_

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 5/23/2016

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: Dayna Becker  
Appellant or Agent

Dated: 5/23/16

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

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

Dated: \_\_\_\_\_

Attachment A  
Martin Residence Appeal  
05/23/2016

The project approved by the City of Encinitas (“City”) on April 21, 2016 consists of consolidation of two existing legal lots into one lot and construction of a new, 2-story, 3,110 sq. ft. single-family home over a 969 sq. ft. basement with a 644 sq. ft. attached garage on a 11,394 sq. ft. vacant coastal bluff lot. The basement and first floor are proposed to be located approximately 40 ft. from the coastal bluff edge and the second floor is proposed to cantilever within 32 ft. of the bluff edge. The basement is proposed to provide the foundation for the house, where the finished floor elevation would be approximately 10 feet below existing grade.

The City found that the subject single-family residence is consistent with the bluff top and shoreline development provisions of the certified Local Coastal Program (LCP). However, the development as approved by the City raises several LCP consistency issues with regard to geologic stability analysis, future shoreline protection, and alternatives analysis. The pertinent LCP provisions are as follows:

Public Safety Policy 1.3 of the City’s LUP requires that:

*The City will rely on the Coastal Bluff and Hillside/Inland Bluff Overlay Zones to prevent future development or redevelopment that will represent a hazard to its owner or occupants, and which may require structural measures to prevent destructive erosion or collapse.*

Section 30.34.020(B)1a of the City’s certified IP states, in part:

- 1. With the following exceptions, no principal structure, accessory structure, facility or improvement shall be constructed, placed or installed within 40 feet of the top edge of the coastal bluff ...*
  - a. ... Any new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment ...*

Section 30.34.020(C) of the City’s Certified Implementation Plan (IP), states in part:

- 1. Development and improvement in compliance with the development standards in paragraph B “Development Standards”, proposing no structure or facility on or within 40 feet of the top edge of the coastal bluff (except for minor accessory structures and improvements allowed pursuant to Section 30.34.02(B)1b, and proposing no preemptive measure as defined below, shall be subject to the following: submittal and acceptance of a site-specific soils report and geotechnical review described by paragraph D “Application Submittal Requirements” below. The authorized decision-making authority for the proposal shall make the findings required based on the soils report and geotechnical review for any project approval. A second story cantilevered portion of a structure which is demonstrated through standard*

*engineering practices not to create an unnecessary surcharge load upon the bluff area may be permitted 20% beyond the top edge of bluff setback if a finding can be made by the authorized agency that no private or public views would be significantly impacted by the construction of the cantilevered portion of the structure.*

Section 30.34.020(D) of the City's Certified IP states, in part:

*APPLICATION SUBMITTAL REQUIREMENTS. Each application to the City for a permit or development approval for property under the Coastal Bluff Overlay Zone shall be accompanied by a soils report, and either a geotechnical review or geotechnical report as specified in paragraph C "Development Processing and Approval" above. Each review/report shall be prepared by a certified engineering geologist who has been pre-qualified as knowledgeable in City standards, coastal engineering and engineering geology. The review/report shall certify that the development proposed will have no adverse effect on the stability of the bluff, will not endanger life or property, and that any proposed structure or facility is expected to be reasonably safe from failure and erosion over its lifetime without having to propose any shore or bluff stabilization to protect the structure in the future. Each review/report shall consider, describe and analyze the following:*

- 1. Cliff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site.*
- 2. Historic, current and foreseeable cliffs erosion, including investigation or recorded land surveys and tax assessment records in addition to land use of historic maps and photographs where available and possible changes in shore configuration and sand transport.*
- 3. Geologic conditions, including soil, sediment and rock types and characteristics in addition to structural features, such as bedding, joints and faults.*
- 4. Evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity.*
- 5. Impact of construction activity on the stability of the site and adjacent area.*
- 6. Ground and surface water conditions and variations, including hydrologic changes caused by the development (e.g., introduction of irrigation water to the groundwater system; alterations in surface drainage).*

7. *Potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction (i.e., landscaping and drainage design).*
8. *Effects of marine erosion on seacliffs and estimated rate of erosion at the base of the bluff fronting the subject site based on current and historical data.*
9. *Potential effects of seismic forces resulting from a maximum credible earthquake.*
10. *Any other factors that might affect slope stability.*
11. *Mitigation measures and alternative solutions for any potential impacts.*

*The report shall also express a professional opinion as to whether the project can be designed or located so that it will neither be subject to nor contribute to significant geologic instability throughout the life span of the project. The report shall use a current acceptable engineering stability analysis method and shall also describe the degree of uncertainty of analytical results due to assumptions and unknowns. The degree of analysis required shall be appropriate to the degree of potential risk presented by the site and the proposed project.*

*In addition to the above, each geotechnical report shall include identification of the daylight line behind the top of the bluff established by a bluff slope failure plane analysis. This slope failure analysis shall be performed according to geotechnical engineering stands, and shall:*

- a. *Cover all types of slope failure.*
- b. *Demonstrate a safety factor against slope failure of 1.5.*
- c. *Address a time period of analysis of 75 years.*

*[...]*

The City's decision appears inconsistent with several provisions of the City's LCP related to (1) siting of new development in a geologically safe location, (2) analyzing historic, current and foreseeable bluff erosion, (3) requiring property owners to assume current and future risks in the form of a deed restriction and waiver of rights to any future shoreline armoring to protect the new structure, (4) designing new construction such that it could be removed in the event of endangerment, and (5) analyzing alternative solutions to reduce potential impacts on bluff stability.

At the City's request, Commission staff reviewed the proposed development early in the project design phase and raised similar issues in a letter dated Jan. 11, 2016. The

applicant was made aware that the Commission may appeal the project due to these issues, if left unresolved.

### Geologic Stability

The proposed single-family residence would be located on a blufftop lot that is subject to erosion. Although the subject site does not currently have or propose shoreline armoring, the Commission previously approved a 13 ft. high, approximately 105 ft. long seawall to protect an existing home adjacent to the subject site to the north (452 Neptune Ave.; CDP # 6-93-136) and a 9 ft. high, shotcrete seawall fronting six non-contiguous homes approximately 250 ft. south of the subject site (312, 354, 370, 378, 396, and 402 Neptune Ave.; CDP # 6-93-85). Over the years, there have been a number of coastal development permits and emergency permits for shoreline protection along this stretch of coastline, demonstrating the potential for significant bluff failure and erosion in this area.

The City's LCP, as cited above, requires that new structures be located at least 40 ft. from the bluff edge and that a site-specific geotechnical report, which includes slope stability analysis, be prepared to demonstrate the development will be sited in a safe location for the life of the structure so as to not require shoreline protection in the future. Thus, in order to find the appropriate geologic setback, the LCP requires a factor of safety of 1.5 be maintained over 75 years. Section 30.34.020(D)11 of the City's IP requires that this setback be calculated by adding the bluff retreat expected over a time period of 75 years to the calculation of where the 1.5 factor of safety would be located today. In this case, preliminary geotechnical evaluation by David Skelly and John Franklin (Geosoils, Inc.; GSI) dated Aug. 24, 2010 determined the 1.5 factor of safety would be 59.5 ft. from the bluff edge today and the long term erosion rate over 75 years would be 20.25 ft. (0.27 ft./year). In response to third-party review by the City's geotechnical consultant (Geopacifica), GSI re-analyzed slope stability for the subject site and found the 1.5 factor of safety would be located 40 ft. from the bluff edge today (response dated Oct. 19, 2015). The City interprets Section 30.34.020(D) to mean that the geologic setback should be the 1.5 factor of safety (40 ft.) or 75-year bluff retreat (20.25 ft.), whichever is greater but not less than the City's minimum 40 ft. bluff setback. Based on this interpretation, the City approved the home to be located approximately 40 ft. from the bluff edge. However, a geologic setback of 40 ft. is the factor of safety only under present conditions. The home will not be stable (factor of safety of 1.5) over its economic lifetime since the City failed to determine where the factor of safety of 1.5 would be located after 75 years of erosion. Thus, the approved setback of 40 feet from the bluff edge is inadequate to achieve a 1.5 factor of safety and account for 75 years of erosion.

Indeed, as stated by the City's reviewer in GSI's response dated Oct. 19, 2015:

*The City of Encinitas does not recognize the California Coastal Commission policy of adding the Factor of Safety Setback and the 75-year erosion rate to determine the setback for the proposed residence. The greater of either the 75-year erosion rate or the Factor of Safety Setback shall be utilized. The City of Encinitas requires that the proposed*

*residence be placed behind the setback. The City of Encinitas does not allow for the proposed residence to be placed closer to the bluff (but not beyond the 40-foot setback) by the use of caissons. Please revise plans and recommendation to reflect the City of Encinitas requirements.*

This clearly indicates that the proposed project is inconsistent with the Coastal Commission's general practice for ensuring stability of new development throughout the state.

Furthermore, the long-term erosion rate (0.27 ft./year) used by the geotechnical report is lower than the long-term future erosion rate (0.49 ft./year) that has recently been required for new development in the City of Encinitas (e.g., A-6-ENC-09-002/Wellman & A-6-ENC-09-003/Wellman). According to the Coastal Commission's staff geologist, the best available scientific resource for establishing bluff retreat rates in this area is a FEMA-funded study done as part of a nationwide assessment of coastal erosion hazards (Benumof and Griggs 1999). In that study, the maximum historic rate for this stretch of coastline is 0.49 ft./yr. The Commission's geologist recommends the use of the maximum historic rate, rather than the minimum or average historic rate, to account for future increases in the bluff retreat rate due to continued and accelerating sea level rise (see the Commission's Adopted Sea Level Rise Guidance Document). When applied over a period of 75 years, this translates into a bluff retreat of approximately 37 ft. In reviewing the proposed development, GSI relied on a 1996 USACE study that reported a long-term erosion rate for Encinitas of 0.3-0.9 ft./year and further advocated the use of an even lower long-term erosion rate of 0.27 ft./year based on absolutely no quantitative data. GSI claims that review of CA Coastal Records Project photographs from 1972-2013 show very little retreat of the bluff top and that a majority of the bluff retreat occurs as block failures within the sea cliff and friable terrace deposits near the contact with the underlying Torrey Sandstone, but such an analysis is totally qualitative in nature and only addresses past, not future, shoreline retreat. Moreover, GSI dismissed the need to evaluate any potential future accelerated erosion rates that may occur due to future sea level rise conditions by concluding that given the elevation of the top of the sea cliff relative to the amount of predicted sea level rise, the likelihood of accelerated bluff retreat in the future is considered low (response dated Oct. 19, 2015).

Since Section 30.34.020(D) requires that geotechnical reports analyze "[h]istoric, current, and foreseeable-cliff erosion", the long-term erosion rate should be based on the most recent long-term study for erosion rates (Benumof and Griggs 1999) and factor in likely acceleration of bluff retreat rates in the future due to sea level rise and increased exposure of the bluffs to wave attack (NRC 2012). Accordingly, the 75-year bluff retreat should more approximately be identified as 37 ft. over the life of the structure, and when added to the suggested 40 ft. setback from the bluff edge based on the factor of safety identified for the subject site, the cumulative bluff edge setback needs to be extended significantly landward in order for the structure to be safe for 75 years.

In addition, the Commission's geologist notes that the slope stability analysis that yielded a 40 foot setback necessary to achieve a factor of safety of 1.5 may not be conservative.

That analysis made use of the Janbu method, which is generally recognized as less conservative than the Modified Bishops Method (used in the original study that yielded a necessary 59.5 foot setback to achieve the same factor of safety). As recommended in Johnsson (2005):

*In general, methods that satisfy both force and moment equilibrium, such as Spencer's (Spencer 1967; 1973), Morgenstern-Price (Morgenstern and Price 1965), and General Limit Equilibrium (Fredlund et al. 1981; Chugh 1986) are preferred. Methods based on moment equilibrium alone, such as Simplified Bishop's Method (Bishop 1955) also are acceptable. In general, methods that solve only for force equilibrium, such as Janbu's method (Janbu 1973) are discouraged due to their sensitivity to the ratio of normal to shear forces between slices (Abramson et al. 1995).*

### **Future Shoreline Protection**

The City did not require the property owners to assume the current and future risks in the form of a deed restriction and waiver of rights to any future shoreline armoring represents another inconsistency with the City's LCP. Section 30.34.020(D) states, in part: "... that any proposed structure or facility is expected to be reasonably safe from failure and erosion over its lifetime without having to propose any shore or bluff stabilization to protect the structure in the future ...", thereby prohibiting new development from requiring future shoreline protection. The Commission typically requires applicants of new development to waive any rights to construct future shoreline protection. Only with this waiver can the project be found to be consistent with Section 30.34.020(D). The uncertainty about future shoreline conditions in the face of anticipated sea level rise further emphasizes the importance of having new development not be allowed reliance on future shoreline protection.

### **Future Removal of Development**

In order to avoid the need for shoreline armoring in the future, plans and specific triggers for removal or retreat of the proposed development should be included with any project submittal. Section 30.34.020(B)1a of the City's Implementation Plan states, in part: "...Any new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment...". Basements may be designed to support the proposed development in a hazardous location, such that their construction would substantially alter the natural landform of the coastal bluff and would essentially serve the same purpose as a shoreline protection device. Furthermore, constructing a basement in a potentially geologically unstable environment such as within a coastal bluff may create impacts on the integrity of the bluff itself if the basement structure were ever required to be removed. In this case, the basement is proposed to provide the foundation for the house, making it difficult to remove in the future and therefore inconsistent with Section 30.34.020(B)1a. The City did not require the applicant to develop a feasible plan to incrementally retreat from the bluff edge should erosion cause a reduction in the

geologic setback or identify if there would be the potential to remove the basement along with other portions of the home in the future.

**Alternatives Analysis**

Section 30.34.020(D) requires that geotechnical reports analyze “*alternative solutions for any potential impacts*”, such as siting or design options that would reduce encroachment into the geologic setback and mitigate bluff erosion impacts. The proposed development complies with all of the City’s applicable development standards, including a 25-ft. front-yard setback. While each project presents its own unique site characteristics, any new blufftop development must be sited in the way that is most protective of coastal resources. In this case, on balance, a front-yard setback variance and/or smaller home may be the most effective way to achieve this goal, but it remains unknown because the City did not require that the applicant to evaluate alternative project designs or siting that would reduce potential impacts on bluff stability and allow for the structure to be located a safe distance from the bluff edge over the life of the structure.

## CALIFORNIA COASTAL COMMISSION

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

FILE COPY



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 Shallenberger  
Mailing Address: P.O. Box 354  
Clements, CA 95227-0354  
Phone Number: (415) 904-5202

RECEIVED

MAY 25 2016

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Encinitas
2. Brief description of development being appealed: Consolidation of two existing legal lots into one lot and construction of a new, 2-story, 3,110 sq. ft. single-family home over a 969 sq. ft. basement with a 644 sq. ft. attached garage on a 11,394 sq. ft. vacant coastal bluff lot; basement and first floor proposed to be approx. 40 ft. from the coastal bluff edge and the second floor proposed to cantilever within 32 ft. of the bluff edge; basement proposed to provide house foundation, with finished floor elevation approx. 10 ft. below existing grade.
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4. Description of decision being appealed:
  - a. Approval; no special conditions:
  - b. Approval with special conditions:
  - c. Denial:
  - d. Other:  \_\_\_\_\_

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-16-0060DATE FILED: 5/25/2016DISTRICT: San Diego

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: 4/21/16

Local government's file number (if any): 14-275 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:

Gary and Bella Martin  
576 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.

\_\_\_\_\_

**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 5/23/2016

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: Mary K. Shallenberger  
Appellant or Agent

Date: 5/25/16

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  
Martin Residence Appeal  
05/23/2016

The project approved by the City of Encinitas (“City”) on April 21, 2016 consists of consolidation of two existing legal lots into one lot and construction of a new, 2-story, 3,110 sq. ft. single-family home over a 969 sq. ft. basement with a 644 sq. ft. attached garage on a 11,394 sq. ft. vacant coastal bluff lot. The basement and first floor are proposed to be located approximately 40 ft. from the coastal bluff edge and the second floor is proposed to cantilever within 32 ft. of the bluff edge. The basement is proposed to provide the foundation for the house, where the finished floor elevation would be approximately 10 feet below existing grade.

The City found that the subject single-family residence is consistent with the bluff top and shoreline development provisions of the certified Local Coastal Program (LCP). However, the development as approved by the City raises several LCP consistency issues with regard to geologic stability analysis, future shoreline protection, and alternatives analysis. The pertinent LCP provisions are as follows:

Public Safety Policy 1.3 of the City’s LUP requires that:

*The City will rely on the Coastal Bluff and Hillside/Inland Bluff Overlay Zones to prevent future development or redevelopment that will represent a hazard to its owner or occupants, and which may require structural measures to prevent destructive erosion or collapse.*

Section 30.34.020(B)1a of the City’s certified IP states, in part:

- 1. With the following exceptions, no principal structure, accessory structure, facility or improvement shall be constructed, placed or installed within 40 feet of the top edge of the coastal bluff...*
  - a. ... Any new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment ...*

Section 30.34.020(C) of the City’s Certified Implementation Plan (IP), states in part:

- 1. Development and improvement in compliance with the development standards in paragraph B “Development Standards”, proposing no structure or facility on or within 40 feet of the top edge of the coastal bluff (except for minor accessory structures and improvements allowed pursuant to Section 30.34.02(B)1b, and proposing no preemptive measure as defined below, shall be subject to the following: submittal and acceptance of a site-specific soils report and geotechnical review described by paragraph D “Application Submittal Requirements” below. The authorized decision-making authority for the proposal shall make the findings required based on the soils report and geotechnical review for any project approval. A second story cantilevered portion of a structure which is demonstrated through standard*

*engineering practices not to create an unnecessary surcharge load upon the bluff area may be permitted 20% beyond the top edge of bluff setback if a finding can be made by the authorized agency that no private or public views would be significantly impacted by the construction of the cantilevered portion of the structure.*

Section 30.34.020(D) of the City's Certified IP states, in part:

*APPLICATION SUBMITTAL REQUIREMENTS. Each application to the City for a permit or development approval for property under the Coastal Bluff Overlay Zone shall be accompanied by a soils report, and either a geotechnical review or geotechnical report as specified in paragraph C "Development Processing and Approval" above. Each review/report shall be prepared by a certified engineering geologist who has been pre-qualified as knowledgeable in City standards, coastal engineering and engineering geology. The review/report shall certify that the development proposed will have no adverse effect on the stability of the bluff, will not endanger life or property, and that any proposed structure or facility is expected to be reasonably safe from failure and erosion over its lifetime without having to propose any shore or bluff stabilization to protect the structure in the future. Each review/report shall consider, describe and analyze the following:*

- 1. Cliff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site.*
- 2. Historic, current and foreseeable cliffs erosion, including investigation or recorded land surveys and tax assessment records in addition to land use of historic maps and photographs where available and possible changes in shore configuration and sand transport.*
- 3. Geologic conditions, including soil, sediment and rock types and characteristics in addition to structural features, such as bedding, joints and faults.*
- 4. Evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity.*
- 5. Impact of construction activity on the stability of the site and adjacent area.*
- 6. Ground and surface water conditions and variations, including hydrologic changes caused by the development (e.g., introduction of irrigation water to the groundwater system; alterations in surface drainage).*

7. *Potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction (i.e., landscaping and drainage design).*
8. *Effects of marine erosion on seacliffs and estimated rate of erosion at the base of the bluff fronting the subject site based on current and historical data.*
9. *Potential effects of seismic forces resulting from a maximum credible earthquake.*
10. *Any other factors that might affect slope stability.*
11. *Mitigation measures and alternative solutions for any potential impacts.*

*The report shall also express a professional opinion as to whether the project can be designed or located so that it will neither be subject to nor contribute to significant geologic instability throughout the life span of the project. The report shall use a current acceptable engineering stability analysis method and shall also describe the degree of uncertainty of analytical results due to assumptions and unknowns. The degree of analysis required shall be appropriate to the degree of potential risk presented by the site and the proposed project.*

*In addition to the above, each geotechnical report shall include identification of the daylight line behind the top of the bluff established by a bluff slope failure plane analysis. This slope failure analysis shall be performed according to geotechnical engineering stands, and shall:*

- a. *Cover all types of slope failure.*
- b. *Demonstrate a safety factor against slope failure of 1.5.*
- c. *Address a time period of analysis of 75 years.*

*[...]*

The City's decision appears inconsistent with several provisions of the City's LCP related to (1) siting of new development in a geologically safe location, (2) analyzing historic, current and foreseeable bluff erosion, (3) requiring property owners to assume current and future risks in the form of a deed restriction and waiver of rights to any future shoreline armoring to protect the new structure, (4) designing new construction such that it could be removed in the event of endangerment, and (5) analyzing alternative solutions to reduce potential impacts on bluff stability.

At the City's request, Commission staff reviewed the proposed development early in the project design phase and raised similar issues in a letter dated Jan. 11, 2016. The

applicant was made aware that the Commission may appeal the project due to these issues, if left unresolved.

### **Geologic Stability**

The proposed single-family residence would be located on a blufftop lot that is subject to erosion. Although the subject site does not currently have or propose shoreline armoring, the Commission previously approved a 13 ft. high, approximately 105 ft. long seawall to protect an existing home adjacent to the subject site to the north (452 Neptune Ave.; CDP # 6-93-136) and a 9 ft. high, shotcrete seawall fronting six non-contiguous homes approximately 250 ft. south of the subject site (312, 354, 370, 378, 396, and 402 Neptune Ave.; CDP # 6-93-85). Over the years, there have been a number of coastal development permits and emergency permits for shoreline protection along this stretch of coastline, demonstrating the potential for significant bluff failure and erosion in this area.

The City's LCP, as cited above, requires that new structures be located at least 40 ft. from the bluff edge and that a site-specific geotechnical report, which includes slope stability analysis, be prepared to demonstrate the development will be sited in a safe location for the life of the structure so as to not require shoreline protection in the future. Thus, in order to find the appropriate geologic setback, the LCP requires a factor of safety of 1.5 be maintained over 75 years. Section 30.34.020(D)11 of the City's IP requires that this setback be calculated by adding the bluff retreat expected over a time period of 75 years to the calculation of where the 1.5 factor of safety would be located today. In this case, preliminary geotechnical evaluation by David Skelly and John Franklin (Geosoils, Inc.; GSI) dated Aug. 24, 2010 determined the 1.5 factor of safety would be 59.5 ft. from the bluff edge today and the long term erosion rate over 75 years would be 20.25 ft. (0.27 ft./year). In response to third-party review by the City's geotechnical consultant (Geopacifica), GSI re-analyzed slope stability for the subject site and found the 1.5 factor of safety would be located 40 ft. from the bluff edge today (response dated Oct. 19, 2015). The City interprets Section 30.34.020(D) to mean that the geologic setback should be the 1.5 factor of safety (40 ft.) or 75-year bluff retreat (20.25 ft.), whichever is greater but not less than the City's minimum 40 ft. bluff setback. Based on this interpretation, the City approved the home to be located approximately 40 ft. from the bluff edge. However, a geologic setback of 40 ft. is the factor of safety only under present conditions. The home will not be stable (factor of safety of 1.5) over its economic lifetime since the City failed to determine where the factor of safety of 1.5 would be located after 75 years of erosion. Thus, the approved setback of 40 feet from the bluff edge is inadequate to achieve a 1.5 factor of safety and account for 75 years of erosion.

Indeed, as stated by the City's reviewer in GSI's response dated Oct. 19, 2015:

*The City of Encinitas does not recognize the California Coastal Commission policy of adding the Factor of Safety Setback and the 75-year erosion rate to determine the setback for the proposed residence. The greater of either the 75-year erosion rate or the Factor of Safety Setback shall be utilized. The City of Encinitas requires that the proposed*

*residence be placed behind the setback. The City of Encinitas does not allow for the proposed residence to be placed closer to the bluff (but not beyond the 40-foot setback) by the use of caissons. Please revise plans and recommendation to reflect the City of Encinitas requirements.*

This clearly indicates that the proposed project is inconsistent with the Coastal Commission's general practice for ensuring stability of new development throughout the state.

Furthermore, the long-term erosion rate (0.27 ft./year) used by the geotechnical report is lower than the long-term future erosion rate (0.49 ft./year) that has recently been required for new development in the City of Encinitas (e.g., A-6-ENC-09-002/Wellman & A-6-ENC-09-003/Wellman). According to the Coastal Commission's staff geologist, the best available scientific resource for establishing bluff retreat rates in this area is a FEMA-funded study done as part of a nationwide assessment of coastal erosion hazards (Benumof and Griggs 1999). In that study, the maximum historic rate for this stretch of coastline is 0.49 ft./yr. The Commission's geologist recommends the use of the maximum historic rate, rather than the minimum or average historic rate, to account for future increases in the bluff retreat rate due to continued and accelerating sea level rise (see the Commission's Adopted Sea Level Rise Guidance Document). When applied over a period of 75 years, this translates into a bluff retreat of approximately 37 ft. In reviewing the proposed development, GSI relied on a 1996 USACE study that reported a long-term erosion rate for Encinitas of 0.3-0.9 ft./year and further advocated the use of an even lower long-term erosion rate of 0.27 ft./year based on absolutely no quantitative data. GSI claims that review of CA Coastal Records Project photographs from 1972-2013 show very little retreat of the bluff top and that a majority of the bluff retreat occurs as block failures within the sea cliff and friable terrace deposits near the contact with the underlying Torrey Sandstone, but such an analysis is totally qualitative in nature and only addresses past, not future, shoreline retreat. Moreover, GSI dismissed the need to evaluate any potential future accelerated erosion rates that may occur due to future sea level rise conditions by concluding that given the elevation of the top of the sea cliff relative to the amount of predicted sea level rise, the likelihood of accelerated bluff retreat in the future is considered low (response dated Oct. 19, 2015).

Since Section 30.34.020(D) requires that geotechnical reports analyze "[h]istoric, current, and foreseeable-cliff erosion", the long-term erosion rate should be based on the most recent long-term study for erosion rates (Benumof and Griggs 1999) and factor in likely acceleration of bluff retreat rates in the future due to sea level rise and increased exposure of the bluffs to wave attack (NRC 2012). Accordingly, the 75-year bluff retreat should more approximately be identified as 37 ft. over the life of the structure, and when added to the suggested 40 ft. setback from the bluff edge based on the factor of safety identified for the subject site, the cumulative bluff edge setback needs to be extended significantly landward in order for the structure to be safe for 75 years.

In addition, the Commission's geologist notes that the slope stability analysis that yielded a 40 foot setback necessary to achieve a factor of safety of 1.5 may not be conservative.

That analysis made use of the Janbu method, which is generally recognized as less conservative than the Modified Bishops Method (used in the original study that yielded a necessary 59.5 foot setback to achieve the same factor of safety). As recommended in Johnsson (2005):

*In general, methods that satisfy both force and moment equilibrium, such as Spencer's (Spencer 1967; 1973), Morgenstern-Price (Morgenstern and Price 1965), and General Limit Equilibrium (Fredlund et al. 1981; Chugh 1986) are preferred. Methods based on moment equilibrium alone, such as Simplified Bishop's Method (Bishop 1955) also are acceptable. In general, methods that solve only for force equilibrium, such as Janbu's method (Janbu 1973) are discouraged due to their sensitivity to the ratio of normal to shear forces between slices (Abramson et al. 1995).*

### **Future Shoreline Protection**

The City did not require the property owners to assume the current and future risks in the form of a deed restriction and waiver of rights to any future shoreline armoring represents another inconsistency with the City's LCP. Section 30.34.020(D) states, in part: "... *that any proposed structure or facility is expected to be reasonably safe from failure and erosion over its lifetime without having to propose any shore or bluff stabilization to protect the structure in the future ...*", thereby prohibiting new development from requiring future shoreline protection. The Commission typically requires applicants of new development to waive any rights to construct future shoreline protection. Only with this waiver can the project be found to be consistent with Section 30.34.020(D). The uncertainty about future shoreline conditions in the face of anticipated sea level rise further emphasizes the importance of having new development not be allowed reliance on future shoreline protection.

### **Future Removal of Development**

In order to avoid the need for shoreline armoring in the future, plans and specific triggers for removal or retreat of the proposed development should be included with any project submittal. Section 30.34.020(B)1a of the City's Implementation Plan states, in part: "...*Any new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment...*". Basements may be designed to support the proposed development in a hazardous location, such that their construction would substantially alter the natural landform of the coastal bluff and would essentially serve the same purpose as a shoreline protection device. Furthermore, constructing a basement in a potentially geologically unstable environment such as within a coastal bluff may create impacts on the integrity of the bluff itself if the basement structure were ever required to be removed. In this case, the basement is proposed to provide the foundation for the house, making it difficult to remove in the future and therefore inconsistent with Section 30.34.020(B)1a. The City did not require the applicant to develop a feasible plan to incrementally retreat from the bluff edge should erosion cause a reduction in the

geologic setback or identify if there would be the potential to remove the basement along with other portions of the home in the future.

### **Alternatives Analysis**

Section 30.34.020(D) requires that geotechnical reports analyze “*alternative solutions for any potential impacts*”, such as siting or design options that would reduce encroachment into the geologic setback and mitigate bluff erosion impacts. The proposed development complies with all of the City’s applicable development standards, including a 25-ft. front-yard setback. While each project presents its own unique site characteristics, any new blufftop development must be sited in the way that is most protective of coastal resources. In this case, on balance, a front-yard setback variance and/or smaller home may be the most effective way to achieve this goal, but it remains unknown because the City did not require that the applicant to evaluate alternative project designs or siting that would reduce potential impacts on bluff stability and allow for the structure to be located a safe distance from the bluff edge over the life of the structure.

RESOLUTION NO. PC 2016-16

A RESOLUTION OF THE CITY OF ENCINITAS PLANNING COMMISSION APPROVING A PARCEL MAP WAIVER AND COASTAL DEVELOPMENT PERMIT TO CONSOLIDATE TWO EXISTING LOTS INTO ONE LOT AND TO AUTHORIZE THE CONSTRUCTION OF A NEW SINGLE FAMILY HOME WITH ASSOCIATED SITE IMPROVEMENTS AT THE PROPERTY LOCATED AT 444 NEPTUNE AVENUE

(CASE NO. 14-275 CDP/PMW; APN: 256-282-21)

WHEREAS, Gary G. Martin and Bella R. Martin submitted an application for a Parcel Map Waiver (PMW) and Coastal Development Permit (CDP) to authorize the consolidation of two existing lots into one lot and the construction of a new single-family residence with associated site improvements located at 444 Neptune Avenue, legally described in Exhibit A;

WHEREAS, the Planning Commission conducted a duly noticed public hearing on April 21, 2016;

NOW, THEREFORE, BE IT RESOLVED that the Encinitas Planning Commission hereby APPROVES Case No. 14-275 CDP/PMW based on the following Environmental Determination and Findings:

Section 1. California Environmental Quality Act Determination

The project proposes the construction of a new single-family residence with a basement totaling 4,079 square feet, and an attached garage totaling 644 square feet on a vacant lot. The project has been determined to be exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15303 (a) and 15061 (b) (3) (General Rule). Section 15303(a) exempts the construction of a single-family residence, and associated garage, from environmental review. The project meets the criteria of the exemption.

Section 15061 (b) (3) (General Rule) exempts the lot consolidation for this project. This section exempts projects from CEQA when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. In this case, it can be determined with certainty that the consolidation of the two legal lots into one lot will not have a significant effect on the environment. Therefore, the lot consolidation meets the criteria of this exemption. None of the exceptions in CEQA Guidelines Section 15300.2 exists and no historic resources will be impacted by the proposed project.

Section 2. Discretionary Action(s) Findings

Based on Encinitas Municipal Code Section 24.60.50 (Parcel Map Waiver), findings for a Parcel Map Waiver and the aforementioned analysis, Planning Commission has made the following findings to support the recommendation of approval, with conditions:

Finding for Parcel Map Waiver	Explanation of Finding
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EXHIBIT NO. 6
APPLICATION NO. <b>A-6-ENC-16-0060</b>
City Approval
 California Coastal Commission

Finding for Parcel Map Waiver	Explanation of Finding
<p>The proposed subdivision and each of the lots proposed to be created comply with requirements as to area, on-site improvements, design, access, floodwater drainage control, adequate boundary monumentation, dedications of right-of-way, payment of development fees, appropriate improved public streets and other off-site improvements, sanitary disposal facilities, water supply availability, fire protection facilities, environmental review and protection, grading, and any and all other requirements of this title and the state Subdivision Map Act which would be applicable to review and approval of a tentative final parcel map.</p>	<p>The proposed project includes a request to consolidate two existing lots into one legal lot. The proposed consolidated lot complies with the standards of the Residential 8 (R-8) zone including area, depth, on-site and public improvements and available services to serve the site. However, the width of the resulting parcel is legal non-conforming. According to EMC Section 30.76.050 (Limit on Utilizing Legal Non-conformity), it is unlawful to enlarge, extend, expand or in any other manner change the nonconformity so as to increase its inconsistency with the zoning regulations. In this case, since the existing lot width is legal non-conforming and the lot consolidation will result in decreasing the legal non-conformity for lot width, the requested lot consolidation is in compliance with the requirements in EMC Section 30.76.050.</p> <p>No new lots will result from the consolidation. The project will dedicate the required right-of-way along Neptune Avenue and will construct the required public street improvements. All utilities and services are in place for the proposed project.</p>

**Based on Encinitas Municipal Code Section 30.80.090 (Coastal Development Permit), findings for a Coastal Development Permit and the aforementioned analysis, Planning Commission has made the following findings to support the recommendation of approval, with conditions:**

Finding for Coastal Development Permit	Explanation of Finding
<p>1. The proposed project is consistent with the certified Local Coastal Program of the City of Encinitas.</p>	<p>The proposed project includes the construction of a new 4,079 square foot single-family residence with basement and a 644 square foot attached garage. The project site is located within the R-8 Zone, in the California Coastal Commission's appeal jurisdiction of the Coastal Zone, and the Coastal Bluff Overlay Zone.</p> <p>The applicant is proposing several improvements within the 40-foot bluff setback including a 42-inch tall glass fence, which is proposed to be erected 5-feet landward of the bluff edge. Section 30.34.020.1.b. allows for minor accessory structures and improvements to be located within five feet of the top edge of the coastal bluff.</p>

ENCINITAS  
PLANNING COMMISSION  
APPROVED AND RECOMMENDED  
FOR THE CITY COUNCIL

Finding for Coastal Development Permit	Explanation of Finding
	<p>Additionally, a second story cantilevered deck is proposed to be constructed 8 feet (20%) into the required 40-foot bluff setback. EMC Section 30.34.020.C.1 states that in order to allow a 20% encroachment into the required 40-foot blufftop setback, standard engineering practices must also demonstrate that the second-story cantilevered portions of the structure will not create an unnecessary surcharge on the bluff. Based upon the information contained on the site-specific geotechnical analysis, the applicant has demonstrated that the structure will not create an unnecessary surcharge load on the bluff.</p> <p>Additionally, no private or public views would be significantly impacted by the construction of the cantilevered portion of the structure. The cantilevered deck is located on the west elevation facing the Pacific Ocean. A line-of-sight analysis has been provided on the plans to demonstrate that the proposed second-story deck will not affect any private views from the properties located to the north and south of the project site. No public viewsheds exist within the proximity of the project site. Therefore, the proposed cantilevered deck will not affect public or private views.</p> <p>The site-specific geotechnical analysis that has been completed for this project has determined that the construction of a new single-family home on the subject property will have no adverse effect on the stability of the coastal bluff. It has also concluded that the project will not endanger life and property. Further, it indicates that any proposed structure or facility constructed on the site is expected to be reasonably safe from failure and erosion over its lifetime, without having to propose any shore or bluff protection to protect the structure in the future, provided that the recommendations contained in the geotechnical study are properly incorporated into the project design.</p> <p>The City's third party geotechnical consultant (Geopacifica) concluded that the geotechnical reports and letter addendums provided as a</p>

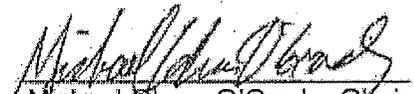
Finding for Coastal Development Permit	Explanation of Finding
	<p>part of the project review, have addressed all site conditions and have provided all the necessary information to satisfy the requirements of the Encinitas Municipal Code.</p> <p>Additionally, the project as proposed and conditioned conforms to the R-8 Zone development standards.</p>
<p>2. The proposed project is consistent with the certified Local Coastal Program of the City of Encinitas. The proposed development conforms with Public Resources Code Section 21000 et al. (CEQA) and 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.</p>	<p>The project conforms with Public resources Code Section 21000 (CEQA). The project has been determined to be exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15303 (a) and 15061 (b) (3) (General Rule). Section 15303(a) exempts the construction of a single-family residence, and associated garage, from environmental review. The project meets the criteria of the exemption.</p> <p>Section 15061 (b) (3) (General Rule) exempts the lot consolidation for this project. This section exempts projects from CEQA when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. In this case, it can be determined with certainty that the consolidation of the two legal lots into one lot will not have a significant effect on the environment. Therefore, the lot consolidation meets the criteria of this exemption. None of the exceptions in CEQA Guidelines Section 15300.2 exists and no historic resources will be impacted by the proposed project.</p>

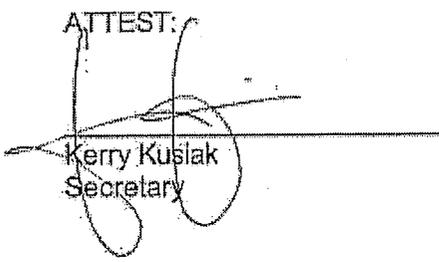
Finding for Coastal Development Permit	Explanation of Finding
<p>3. For projects involving development between the sea or other body of water and the nearest public road, approval shall include a specific finding that such development is in conformity with the public access and public recreation policies of Section 30200 et seq. of the Coastal Act.</p>	<p>Public access is not available or feasible on the site because it is a steep bluff top property located on the west side of Neptune Avenue.</p> <p>In accordance with Section 30212 of the Coastal Act, public beach access already exists and is available north of the site at Stonesteps Beach. Stonesteps Beach has public access and is located approximately 600 feet south of the project. Pursuant to the requirements in Section 30212 of the Coastal Act, recreational opportunities are already adequately available at Stonesteps Beach to allow the public to access the beach and shore.</p>

BE IT FURTHER RESOLVED that based on the Environmental Determination and Findings hereinbefore adopted by the Planning Commission, Case No. 15-275 CDP/PMW is hereby approved subject to the conditions in Exhibit B.

**PASSED AND ADOPTED** this 21<sup>st</sup> day of April, 2016 by the following vote, to wit:

AYES: 5  
 NOES: 0  
 ABSTAIN: 0  
 ABSENT: 0

  
 Michael Glenn O'Grady, Chair

ATTEST:  
  
 Kerry Kuslak  
 Secretary

**EXHIBIT "A"**  
**Resolution No. PC 2016-16**  
**Case No. 14-275 CDP/PMW**

**LEGAL DESCRIPTION**

That certain real property located in the City of Encinitas, County of San Diego, State of California, more particularly described as follows:

LOT 3 AND 4 OF BLOCK 1 OF SEA BLUFF IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1276, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON AUGUST 4, 1910, TOGETHER WITH THAT PORTION OF THE WESTERLY HALF OF NEPTUNE AVENUE (FORMERLY OCEAN AVENUE) ADJOINING SAID LOTS 3 AND 4 OF THE EAST AS VACATED AND CLOSED TO PUBLIC USE ON MARCH 8, 1924 BY ORDER OF THE BOARD OF SUPERVISORS OF SAN DIEGO COUNTY, A COPY OF SAID ORDER BEING RECORDED ON BOOK 751, PAGE 367 OF DEEDS.

EXCEPTING FROM SAID LOT 4 AND SAID VACATED OCEAN AVENUE (NOW NEPTUNE AVENUE) THE NORTHERLY 35.33 FEET THEREOF.

ALSO EXCEPTING THEREFROM THAT PORTION HERETOFORE OR NOW LYING BELOW THE MEAN HIGH TIDE LINE OF THE PACIFIC OCEAN.

APN: 256-282-21

**EXHIBIT "B"**  
**Resolution No. PC 2016-16**  
**Case No. 14-275 CDP/PMW**

Applicant: Gary G. Martin and Bella R. Martin  
Location: 444 Neptune Avenue (APN: 256-282-21)

**SC1 SPECIFIC CONDITIONS:**

SC2 At any time after two years from the date of this approval, on April 21, 2018 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 10 days of the date of the determination.

M1 This approval may be appealed to the City Council within 10 calendar days from the date of this approval pursuant to Chapter 1.12 of the Municipal Code.

SC5 This project is conditionally approved as set forth on the application and project drawings stamped received by the City on March 28, 2016, consisting of eight sheets including Sheet A-1 (Site Plan), A-2 (Floor Plans), A-3 (Roof Plan), A-4 (Exterior Elevations), L-1 (Landscape Plan), EX-1 (Basement/Lot Slope Exhibit), Preliminary Grading Plan and Preliminary Best Management Practices, all designated as approved by the Planning Commission on April 21, 2016, and shall not be altered without express authorization by the Planning and Building Department.

SCA The following Planning Department conditions shall be completed to the satisfaction of the Director of the Planning and Building Department:

1. The applicant shall participate in any comprehensive plan adopted by the City to address coastal bluff recession and shoreline erosion problems in the City.
2. The bluff face shall be permanently preserved in an open space easement.
3. No irrigation shall be permitted within the 40-foot bluff setback.
4. No improvements shall be permitted within 5 feet of the coastal bluff edge except for landscaping.
5. No grading improvements (i.e. shoring) associated with the construction of the single-family structure including the basement shall be permitted within the 40-foot bluff setback except as specifically permitted herein.
6. 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 removal/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 as directed and authorized by the City of Encinitas Planning and Building Department and California Coastal Commission in accordance with Section 30.34.0202B2 of the Encinitas Municipal Code. Said open space easement shall be clearly depicted on the plans submitted for building and 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 building and grading permits.

7. The type of landscaping/irrigation installed on the site shall be subject to the review and approval of the Planning and Building Department.
8. Construction vehicles shall not park or stage in beach parking lots.

SCB The following conditions shall be completed to the satisfaction of the Engineering Division:

1. The applicant shall remove and replace any and all public improvements that are damaged during construction to the satisfaction of the City Engineering Inspector.
2. The applicant shall provide permanent post construction BMP/IMP facilities to collect and treat all runoff generated by all impervious surfaces prior to discharge from the property. Because of the proximity to the bluff, infiltration in these facilities shall be minimized by use of an impermeable liner. The basins shall have a perforated pipe at the bottom of the section to collect the treated runoff and discharge it to Neptune Ave. The final design and sizing of these facilities shall be reviewed and permitted on the grading plan.
3. As shown on the CDP site plan, the applicant shall install a sidewalk under drain to discharge site runoff. The owner shall record an Encroachment Maintenance and Removal Covenant for this under drain to ensure private maintenance by the property owner in perpetuity.
4. Per SDRSD G-14 though G-16 and City of Encinitas policy, driveway apron curb cuts shall be limited to 40% of the property frontage to maximize on-street parking. The driveway curb cut width shall be 40% maximum at 18 ft. This represents a 12-foot wide driveway with two 3-foot flairs. The location of the driveway shall be pushed to the north to ensure a minimum of 18 ft. between the curb cut to the south and the proposed curb cut to allow one parking space.
5. The existing survey monuments shall be referenced on the site plan and shall be protected in-place. If any monument is disturbed or destroyed it shall be replaced by a licensed land surveyor and a Corner Record or Record of Survey shall be filed with the County prior to Certificate of Occupancy.
6. A shoring system shall be included with the first submittal of the grading permit application and shall be reviewed by the City's structural review consultant.
7. Because the proposed bioretention basins are lined with an impervious liner, there shall be a perforated pipe placed at the bottom of the gravel section to collect the

treated water and discharge it through the curb outlet. Final design shall be reviewed and approved by the Engineering Division as part of the project's grading plan.

SCC The following conditions shall be completed to the satisfaction of the San Dieguito Water District (SDWD):

1. The developer shall install the water system according to Water Agencies' (WAS) standards, and dedicate to SDWD the portion of the water system which is to be public.
2. The developer shall show all existing and proposed water facilities on improvement or grading plans for SDWD Approval.

G1 **STANDARD CONDITIONS:**

**CONTACT THE PLANNING AND BUILDING DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION(S):**

- 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 working 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 **building 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.
- G7 Prior to issuing a final inspection on framing, the applicant shall provide a survey from a licensed surveyor or a registered civil engineer verifying that the building height is in compliance with the approved plans. The height certification/survey shall be supplemented with a reduced (8 1/2 in. x 11 in.) copy of the site plan and elevations depicting the exact point(s) of certification. The engineer/surveyor shall contact the Planning and Building Department to identify and finalize the exact point(s) to be certified prior to conducting the survey.
- G10 All retaining and other freestanding walls, fences, and enclosures shall be architecturally designed in a manner similar to, and consistent with, the primary structures (e.g. stucco-coated masonry, split-face block or slump stone). These items shall be approved by the Planning and Building Department prior to the issuance of building and/or grading permits.

- G11 All roof-mounted equipment and appurtenances, including air conditioners and their associated vents, conduits and other mechanical and electrical equipment, shall be architecturally integrated, and shall be shielded from view and sound buffered to the satisfaction of the Planning and Building Department. **Note: All rooftop equipment shall be assumed visible unless demonstrated otherwise to the satisfaction of the Planning and Building Department, and adequate structural support shall be incorporated into building design.** Rooftop vent pipes shall be combined below the roof, and shall utilize decorative caps where visible from any point. Ground-mounted mechanical and electrical equipment shall also be screened through use of a wall, fence, landscaping, berm, or combination thereof to the satisfaction of the Planning and Building Department. All exterior accessory structures shall be designed to be compatible with the primary building's exterior to the satisfaction of the Planning and Building Department.
- 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 **Final Map approval/building permit issuance/initiating use in reliance on this permit** 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.
- G19 Garages enclosing required parking spaces shall be kept available and usable for the parking of owner/tenant vehicles at all times, and may not be rented or conveyed separately from the appurtenant dwelling unit.
- G21 All utility connections shall be designed to coordinate with the architectural elements of the site so as not to be exposed except where necessary. Locations of pad mounted transformers, meter boxes, and other utility related items shall be included in the site plan submitted with the building permit application with an appropriate screening treatment. Transformers, terminal boxes, meter cabinets, pedestals, ducts and other facilities may be placed above ground provided they are screened with landscaping.
- G22 Building plans for the new dwelling unit shall include installation of wiring for current or conduits for future installation of photovoltaic energy generation system(s) and an electric vehicle charging station.

- G23 Any wall, fence or combination thereof exceeding 6 ft. in height and facing any neighboring property or visible from the public right-of-way shall be subject to design review pursuant to Section 23.08.040.A.1 of the Encinitas Municipal Code. Where a minimum 2 ft. horizontal offset is provided, within which screening vegetation is provided to the satisfaction of the Planning and Building Department, the fence/wall may not be considered one continuous structure for purpose of measuring height and may be exempted from design review provided none of the offset fences or walls exceed 6 ft. in height pursuant to Section 23.08.030.B.1.

**BLUFFTOP DEVELOPMENT:**

- 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 building 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.
- 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 the foundation inspection. The report shall outline all field test locations and results, and observations performed by the consultant during construction of the proposed structure(s), and especially relative to the depths and actual location of the foundations. 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.

**LOT CONSOLIDATION/CERTIFICATES OF COMPLIANCE**

- BA1 Completion of this lot consolidation shall require the recordation of a Certificate of Compliance. New legal descriptions reflecting the adjusted parcels shall be prepared to the satisfaction of the Planning and Building Department. Pursuant to Municipal Code Section 24.70.110, a subdivision map of record reflecting the boundaries resulting from this action may serve as a substitute for a Certificate of Compliance.
- BA2 In accordance with Section 66412(d) of the California Subdivision Map Act, deeds reflecting this Parcel Map Waiver shall be recorded in the Office of the County Recorder. Conformed copies of the deeds shall be presented to the Planning and Building Department prior to the preparation of the Certificate of Compliance referenced in Condition BA1, above.

B1 BUILDING CONDITION(S):

**CONTACT THE ENCINITAS BUILDING DIVISION REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION(S):**

B2R The applicant shall submit a complete set of construction plans to the Building Division for plancheck processing. The submittal shall include a Soils/Geotechnical Report, structural calculations, and State Energy compliance documentation (Title 24). Construction plans shall include a site plan, a foundation plan, floor and roof framing plans, floor plan(s), section details, exterior elevations, and materials specifications. Submitted plans must show compliance with the latest adopted editions of the California Building Code (The Uniform Building Code with California Amendments, the California Mechanical, Electrical and Plumbing Codes). These comments are preliminary only. A comprehensive plancheck will be completed prior to permit issuance and additional technical code requirements may be identified and changes to the originally submitted plans may be required.

F1 FIRE CONDITIONS:

**CONTACT THE ENCINITAS FIRE DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION(S):**

F2 **ACCESS ROAD MINIMUM DIMENSIONS:** Fire apparatus access roads shall have an unobstructed improved width of not less than 24 feet; curb line to curb line, and an unobstructed vertical clearance of not less than 13 feet 6 inches. Exception: Single-Family residential driveways; serving no more than two single-family dwellings, shall have minimum of 16 feet, curb line to curb line, of unobstructed improved width. Access roads shall be designed and maintained to support the imposed loads of not less than 75,000 pounds and shall be provided with an approved paved surface to provide all-weather driving capabilities.

F10 **OBSTRUCTION OF ROADWAYS DURING CONSTRUCTION:** All roadways shall be a minimum of 24 feet in width during construction and maintained free and clear, including the parking of vehicles, in accordance with the California Fire Code and the Encinitas Fire Department.

F13 **ADDRESS NUMBERS: STREET NUMBERS:** Approved numbers and/or addresses shall be placed on all new and existing buildings and at appropriate additional locations as to be plainly visible and legible from the street or roadway fronting the property from either direction of approach. Said numbers shall contrast with their background, and shall meet the following minimum standards as to size: 4 inches high with a ½-inch stroke width for residential buildings, 8 inches high with a ½-inch stroke for commercial and multi-family residential buildings, 12 inches high with a 1-inch stroke for industrial buildings. Additional numbers shall be required where deemed necessary by the Fire Marshal, such as rear access doors, building corners, and entrances to commercial centers.

F15A **AUTOMATIC FIRE SPRINKLER SYSTEM-ONE AND TWO FAMILY DWELLINGS:** Structures shall be protected by an automatic fire sprinkler system designed and installed to the satisfaction of the Fire Department. Plans for the automatic fire sprinkler system shall be approved by the Fire Department prior to installation.

F18 **CLASS "A" ROOF:** All structures shall be provided with a Class "A" Roof covering to the satisfaction of the Encinitas Fire Department.

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 developer 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 the city limits.

EG7 All newly created slopes within this project shall be no steeper than 2:1.

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 developer shall submit to and receive approval from the Engineering Services Director for the proposed haul route. The developer 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.

ED5 The owner shall pay the current local drainage area fee prior to issuance of the building permit for this project or shall construct drainage systems in conformance with the Master Drainage Plan and City of Encinitas Standards as required by the Engineering Services Director.

**ES1 Street Conditions**

ES3 The owner shall make an offer of dedication to the City for all public streets and easements required by these conditions or shown on the site development plan. The offer shall be made by execution of a grant deed prior to issuance of any building permit for this project. All land so offered shall be granted to the City free and clear of all liens and encumbrances and without cost to the City. Streets that are already public are not required to be rededicated.

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.

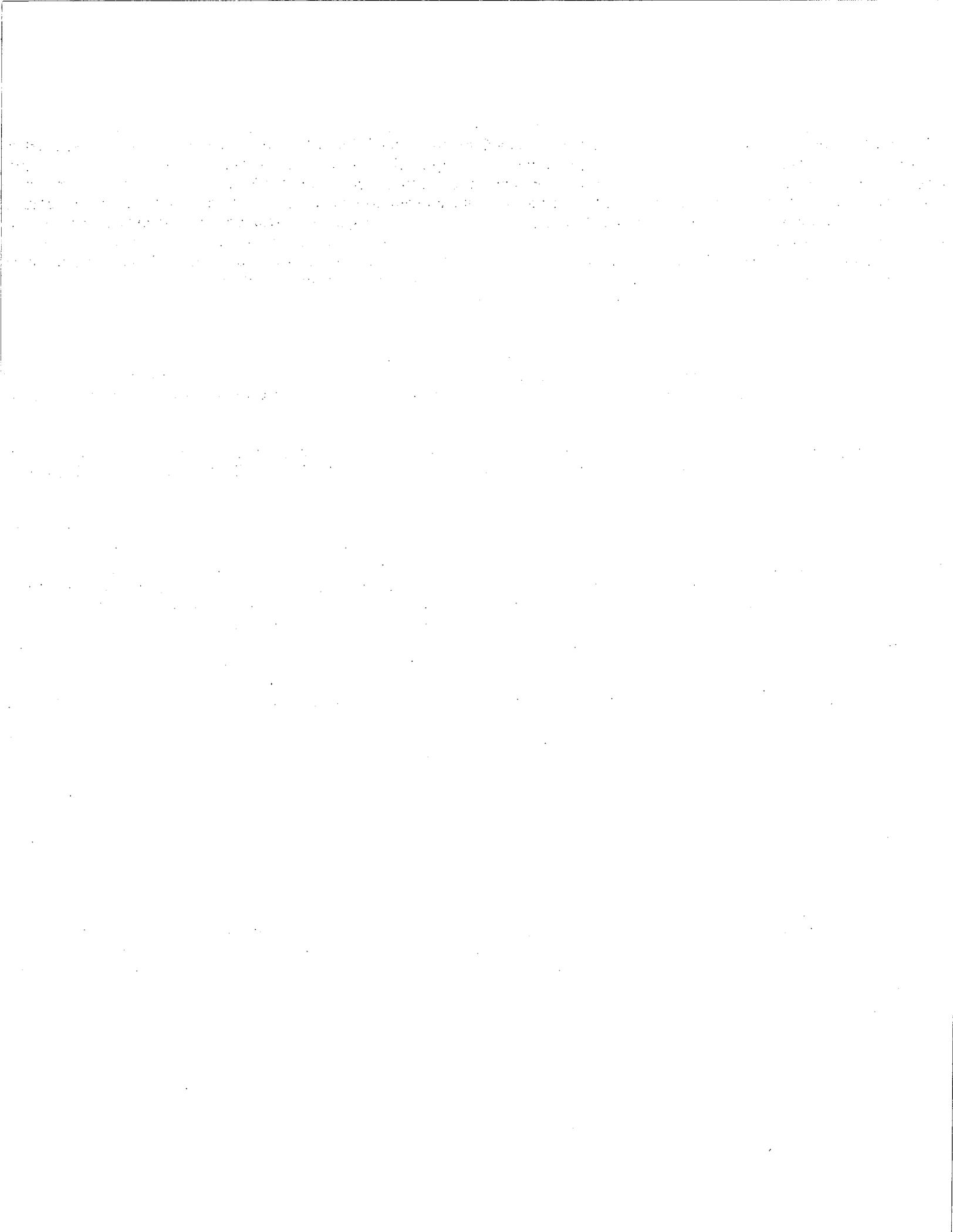
**EU1 Utilities Conditions**

EU4 All proposed utilities within the project shall be installed underground including existing utilities unless exempt by the Municipal Code.

**ESW1 Storm Water Pollution Control Conditions**

ESW5 The project must meet storm water quality and pollution control requirements. The applicant shall design and construct landscape and/or turf areas and ensure that all flows from impervious surfaces are directed across these areas prior to discharging onto the street. A Grading Plan identifying all landscape areas designed for storm water pollution control (SWPC) and Best Management Practice shall be submitted to the City for Engineering Services Department approval. A note shall be placed on the plans indicating that the modification or removal of the SWPC facilities without a permit from the City is prohibited.

ESW9 For storm water pollution control purposes, all runoff from all roof drains shall discharge onto grass and landscape areas prior to collection and discharge onto the street and/or into the public storm drain system. Grass and landscape areas designated for storm water pollution control shall not be modified without a permit from the City. A note to this effect shall be placed on the Grading plan



**CALIFORNIA COASTAL COMMISSION**

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



January 11, 2016

Manjeet Ranu  
Planning Director  
Planning and Building Department  
505 South Vulcan Avenue  
Encinitas, CA 92024

Re: Bluff Top Development/Basements/Caisson Foundations/Shoreline Armoring

Dear Mr. Ranu:

Commission staff has been asked by the City to review two proposed bluff top development projects (444 Neptune Avenue and 808 Neptune Avenue) and Commission staff has received a neighborhood meeting notice for an additional proposed bluff top development project (438 Neptune Avenue). These projects raise various concerns related to retention of existing shoreline armoring, new shoreline armoring in the form of caissons and fortified basement retaining walls, and the potential need for future shoreline armoring to protect the proposed new homes.

The proposed homes at 438 and 444 Neptune Avenue raise similar issues. No existing shoreline armoring fronts either site, but a seawall has been constructed directly to the north and just south of the two properties. The home at 438 Neptune will require demolition of the existing bluff top home and the home at 444 Neptune is proposed to be constructed on a vacant bluff top lot. Both homes are proposed to be relatively large (approximately 5,000 sq. ft. including garage and basement area), and would occupy almost the entire developable area of each lot. Both homes are proposed to be sited 40 ft. from the bluff edge with a caisson foundation to allow the structures to meet the stability requirements of the City's certified Local Coastal Program (LCP).

The proposed home at 808 Neptune Avenue will require demolition of an existing bluff top home. The new home is proposed to be approximately 4,100 sq. ft. including the basement and garage, and would be located as close as 40 feet from the bluff edge with a cantilevered second story within 32 feet of the bluff edge. The plans submitted for review show that foundation piers are proposed to be located on the western and eastern sides of the basement. Armoring previously approved and constructed to protect the existing home on the site consists of a seawall and buried caissons near the bluff edge.

As evidenced by the proliferation of shoreline armoring throughout the City of Encinitas, the proposed bluff top homes are all located in hazardous areas that are subject to bluff erosion. The Coastal Act and the policies of the certified LCP prohibit new development that will require shoreline protection. Thus, new homes in hazardous areas must be set

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back far enough inland from the bluff edge such that they will not be endangered by erosion (including sea level rise induced erosion) over the life of the structure, without the use of a shoreline protective device. The Commission geologist recommends that an estimated long term erosion rate of 0.49 ft./yr. be used in Encinitas to account for future increased erosion as a result of sea level rise and increased storm surges. As required by the City's LCP, 75 years of estimated long term erosion must be added to the 1.5 Factor of Safety bluff edge setback for bluff top sites to determine a location that will be safe for the life of the development. If an adequate setback is not feasible due to lot depth, project alternatives such as a smaller development footprint must be considered. If such alternatives are infeasible or still cannot achieve the adequate setback, the bluff setback must be maximized to the greatest extent feasible that will still allow the construction of a new home.

The Commission considers caissons a form of shoreline protection. Caissons require landform alteration and typically become exposed over time in the same manner as upper bluff protection structures. Thus, new development must not rely on caissons to assure structural stability nor to determine a safe bluff setback that would achieve the minimum required factor of safety of 1.5. Rather, homes should be sited as far back as necessary to be safe over the life of the structure, even if that means redesigning the footprint of the house, and/or reducing the required front and side yard setbacks.

Additionally, in order to avoid the need for shoreline armoring in the future, plans and specific triggers for removal or retreat of the proposed development should be included with any project submittal. Caissons or basements may be difficult to remove in the future and alternative design options should be considered. The Commission recently denied the construction of a caisson foundation to support an addition to a home in Solana Beach based on a finding that a caisson foundation that was being designed to support the proposed development in a hazardous location would substantially alter the natural landform of the coastal bluff and that it would essentially serve the same purpose as a bluff retention device (Ref: CDP 6-14-0679/WJK Trust). In addition, Section 30.34.020.B.a of the City's LCP implementation plan states, in part: "*...Any new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment...*" Staff recommends that the City require applicants to develop a feasible plan to incrementally retreat from the bluff edge should erosion cause a reduction in the setback and factor of safety.

Furthermore, the Commission typically requires that current and future risks be assumed by the property owners in the form of a deed restriction and a waiver of rights to any future shoreline armoring to protect the new structures. Section 30.31.020(D) of the City's LCP implementation plan also states, in part: "*...that any proposed structure or facility is expected to be reasonably safe from failure and erosion over its lifetime without having to propose any shore or bluff stabilization to protect the structure in the future...*" The applicant must waive any rights to construct shoreline protection under 30235 of the Coastal Act. Only with this waiver can the project be found to be consistent with Section 30.34.020(D) which prohibits new development from requiring future shoreline protection.

The safe building envelope for new development must be determined using the assumption that the existing armoring (including the seawall and buried upper bluff caissons at 808 Neptune Avenue) is not present; this is true even on intensely developed, urbanized shorelines. In the case of 808 Neptune, CDP 6-03-048 authorized shoreline protection at the toe of the bluff for 22 years, and requires the property owner to apply for a permit amendment 21 years after date of the issuance of the permit to either remove the shoreline protection or propose additional mitigation beyond the initial 22-year period. The applicant should be reminded of these requirements, and made aware that the existing shoreline armoring was approved only to protect the currently existing home. If the currently existing home is demolished, then the required amendment to 6-03-048 may result in a requirement to remove the shoreline protection, because the structure it was intended to protect will no longer exist.

In summary, in regard to the proposed development under consideration, Coastal Commission staff recommends that:

- Development must be set back a sufficient distance to account for erosion at the rate of 0.49 feet/ year for at least 75 years, and achieve an additional factor of safety of 1.5 without relying upon caissons or other protective devices, including the existing shoreline protection at 808 Neptune.
  - If a safe building envelope of an adequate size to support the proposed development does not exist, options to redesign the development, including proposing a more moderately sized structure, should be analyzed.
  - If the lot does not provide an envelope that would allow for safe development for 75-years, a shorter time period may be allowable provided that the development can be removed when it is no longer safe, and that there are clearly identifiable triggers for either incremental or full removal of the development when it is no longer safe.
- Caissons at this location constitute shoreline protection devices and are therefore prohibited. Large foundations, basements, and other features that would negatively impact bluffs and/or could not be easily removed should be avoided.
- The proposed projects, if recommended for approval, must be conditioned to require that current and future risks be assumed by the property owners, that rights to any future shoreline armoring to protect the new structures is waived, and that new structures must be removed if they are threatened by coastal hazards.
- For the proposed development at 808 Neptune, if recommended for approval, the property owner must not rely on the existing protective device. Mitigation for the adverse impacts of the existing protective devices shall continue to be required in conformance with the existing CDP that authorized the armoring.

Staff notes that the issues raised in this letter have not been addressed in a comprehensive manner in the LCP for the City's blufftop and shoreline properties. The City of Encinitas has shoreline areas with differing conditions which should be evaluated regarding existing patterns of development, property ownership, geologic formations, and known

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hazards and risks. Commission staff is aware of recent funding received by the City to support vulnerability assessments of the City's coastline, and encourage that the information generated from these efforts be utilized to design a future Shoreline Management Plan that could then be incorporated into the City's LCP to address these, as well as other important coastal issues.

The Commission recently adopted a Sea Level Rise policy guidance document which addresses many of the issues raised by these proposed bluff top homes, and outlines the process that should be followed when evaluating new development subject to hazard from erosion, as well as the assessment and potential removal of existing shoreline armoring when the structure it was permitted or constructed to protect no longer exists. This guidance document is designed in part to aid cities in developing updates to the LCP to address these issues. Staff would like to continue to coordinate with City staff in review of these development proposals individually, but also encourage the City to pursue an LCP update that includes a bluff and shoreline management plan and concerns related to sea level rise in a comprehensive manner.

Sincerely,



Eric Stevens  
Coastal Program Analyst II

## Establishing Development Setbacks from Coastal Bluffs

Mark J. Johnsson<sup>1</sup>

### Abstract

Responsible development, and California law, requires that coastal development be sited a sufficient distance landward of coastal bluffs that it will neither be endangered by erosion nor lead to the construction of protective coastal armoring. In order to assure that this is the case, a development setback line must be established that places the proposed structures a sufficient distance from unstable or marginally stable bluffs to assure their safety, and that takes into account bluff retreat over the life of the structures, thus assuring the stability of the structures over their design life. The goal is to assure that by the time the bluff retreats sufficiently to threaten the development, the structures themselves are obsolete. Replacement development can then be appropriately sited behind a new setback line. Uncertainty in the analysis should be considered, as should potential changes in the rate of bluff retreat and in slope stability. The deterministic approach presented here is based on established geologic and engineering principals, and similar approaches have been used to establish development setbacks from slope edges throughout the world for some time. Alternative approaches based on probabilistic methods may allow, however, for better quantification of uncertainties in the analysis. Although probabilistic coastal hazard assessment is in its infancy and data needs are large, the approach shows great promise. Developing probabilistic methods for establishing development setbacks should be a goal for future coastal zone management in California.

### Introduction

In an era of sea-level rise such as has persisted on Earth for the past ~20,000 years (Curry 1965; Emery and Garrison 1967; Milliman and Emery 1968), the landward recession of coastal bluffs is an inevitable natural process wherever tectonic or isostatic uplift rates are lower than the rate of sea-level rise. New structures should be sited a sufficient distance landward of coastal bluffs that they will neither be endangered by erosion nor require the construction of coastal armoring to protect them from erosion over their design life. Because coastal bluffs are dynamic, evolving landforms, establishing responsible development setbacks from coastal bluffs is far more challenging than it is for manufactured or natural slopes not subject to erosion at the base of slope. Although internationally agreed-upon methods for establishing setbacks from static slopes have been developed, and codified in the International Building Code, no such consensus has emerged with respect to setbacks from dynamic slopes such as coastal bluffs. This paper presents a methodology for establishing such setbacks given the types of data generally available through relatively inexpensive geologic studies.

Relatively little work has been undertaken towards developing rational methodologies for establishing development setbacks from bluffs and cliffs. Coastal development setbacks have generally focused primarily on beach erosion, rather than on coastal bluff recession (*e.g.*, Healy 2002). Generally, the approach has been to simply

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Staff Geology Paper



California Coastal Commission

extrapolate historic long-term erosion rates into the future, and establish setbacks at a particular predicted future shoreline position. This approach does not work well for shorelines with coastal bluffs, where the setback also must consider the possibility of bluff collapse (see Priest 1999 for a discussion of these issues). Komar and others (2002) presented a methodology for establishing setbacks for use on coasts where the principal hazards are wave runup and storm surge. They showed how their method could be extended to use on coasts with sea cliffs by determining the average number of hours that a sea cliff would be subject to wave attack. Their method does not, however, include a quantitative assessment of bluff stability. Given the significance of the coastal erosion threat in California, where public safety, financial investments, and environmental resources are at stake, and given the call for action urged by such recent national studies as the Heinz Center's FEMA-sponsored studies (The Heinz Center 2000a; 2000b), it is critical that a rational method be established for establishing development setbacks on coastal bluff tops.

The California Coastal Act (California Public Resource Code Sections 30000 *et seq.*) regulates coastal development in California. Section 30253 states, in part, that:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

...

This law requires that new development be sited in such a way that it will not be subject to erosion or stability hazard over the course of its design life. Further, the last clause requires the finding that no seawall, revetment, jetty, groin, retaining wall, or other shoreline protective structure will be needed to protect the development over the course of its design life.

The principal challenge in meeting these requirements is predicting the amount and timing of coastal erosion to be expected at a particular site. The landward retreat of coastal bluffs is far from uniform in space or time (Komar 2000). Marine erosion tends to be concentrated at points and headlands due to wave refraction, occurs more quickly in weak rocks, and may vary along a coastline as these and other factors vary (Honeycutt et al. 2002). Further, coastal bluff retreat tends to be temporally episodic due to a variety of external and internal factors.

The mechanisms of coastal bluff retreat are complex (Emery and Kuhn 1982; Sunamura 1983; Vallejo 2002), but can be grouped into two broad categories. Bluff retreat may occur suddenly and catastrophically through slope failure involving the entire bluff, or more gradually through grain-by-grain erosion by marine, subaerial, and ground water processes. The distinction between the two categories may be blurred in

some cases—“grains” may consist of relatively large blocks of rock or shallow slumps, for example. Nevertheless, in establishing structural setbacks it is important to evaluate the susceptibility of the bluff to both catastrophic collapse and to more gradual erosion and retreat.

For both slope stability and long-term bluff retreat by “grain-by-grain” erosion, the setback must be adequate to assure safety over the design life of the development. For this reason, it is necessary to specify the design life of the structure. Many Local Coastal Programs (the implementation of the California Coastal Act at the local government level) specify a particular value, although the Coastal Act itself does not. The most commonly assumed design lives for new development range from 50 to 100 years; the most common value is 75 years. The reasoning behind establishing a setback based on the design life is that by the time the bluff retreats sufficiently to threaten the structure, the structure is obsolete and is ready to be demolished for reasons other than encroaching erosion. Replacement development can then be appropriately sited at a new setback, appropriate for conditions at the time of its construction. This process may be thwarted by limitations imposed by parcel size, and Constitutional takings issues may complicate land use decisions. Nevertheless, the only alternative to an armored coast—with all of its attendant impacts—is to continually site, and reposition, development in harmony with coastal erosion as it inevitably moves the shoreline landward.

What follows is the methodology employed by the staff of the California Coastal Commission in evaluating setbacks for bluff top development. I would suggest that this methodology is useful on other coasts with coastal bluffs, as well. This methodology does not represent a formal policy or position of the Coastal Commission. In fact, there may be other appropriate methodologies to establish development setbacks, and the Commission has the discretion to base a decision on any method that it finds technically and legally valid. Any such alternative methods should, however, be at least as protective of coastal zone resources as those outlined here. Further, as new techniques and information become available, these methodologies may change. Nevertheless, the type of analysis outlined here represents the current analytical process carried out by Coastal Commission staff in evaluating proposals for new development on the California coast, and in recommending action upon those proposals to the Commission. The Commission then makes its decisions on a case-by-case basis, based upon the site-specific evidence related to the particular development proposal.

### **Definition of “Bluff Edge”**

Development setbacks normally are measured from the upper edge of the bluff top. Accordingly, a great deal of effort often is focused on defining that “bluff edge.” The bluff edge is simply the line of intersection between the steeply sloping bluff face and the flat or more gently sloping bluff top. Defining this line can be complicated, however, by the presence of irregularities in the bluff edge, a rounded or

stepped bluff edge, a sloping bluff top, or previous grading or development near the bluff edge. Accordingly, a set of standards for defining the bluff edge is necessary.

Under the California Coastal Act, the bluff edge is defined as:

... the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge..." (California Code of Regulations, Title 14, §13577 (h) (2).

This definition is largely qualitative, and the interpretation of the topographic profile to yield a bluff edge determination at any given coastal bluff may be subject to various interpretations. Accordingly, it may be useful to use more quantitative means to define "bluff edge." One approach, adopted, for example, by the City of Laguna Beach, is to define the bluff edge as that point at which the coastal bluff attains a certain specified steepness. This steepness is equivalent to the first derivative of the topographic profile. Such a definition may, however, be inconsistent with the legal definition above. Further, ambiguous results may be obtained when the upper portion of the bluff fluctuates around the specified steepness value. Better results may be obtained by finding the point at which the second derivative, the rate of change in steepness, of the topographic profile increases sharply. This approach may be amenable to computer analysis, although such analysis is rarely employed.

The position of the bluff edge may be changed by a variety of processes, natural and anthropogenic. Most obvious is the landward retreat of the bluff edge through coastal erosion. A bluff edge also may move seaward, through tectonic processes, but such movement is rare and usually small on human time scales. More significant is the anthropogenic modification of the bluff edge by grading or the construction of structures. A landward shift of the bluff edge commonly occurs through cutting into and removing natural materials during grading operations or the construction of seawalls. Conversely, placing artificial fill on or near the bluff edge generally does not alter the position of the natural bluff edge; the natural bluff edge still exists, buried beneath fill, and the natural bluff edge is used for purposes of defining development setbacks.

### **Slope Stability**

Once the bluff edge is located, the first aspect to consider in establishing development setbacks from the bluff edge is to determine whether the existing coastal bluff meets minimum requirements for slope stability. If the answer to this question is "yes," then no setback is necessary for slope stability considerations. If the answer is "no," then the distance from the bluff edge to a position where sufficient stability exists to assure safety must be found. In other words, we must determine how far back from the unstable or marginally slope must development be sited to assure its safety.

We are guided in this analysis by the industry-accepted standards for artificial slopes (codified in many local grading ordinances), which require that a particular minimum “factor of safety” against landsliding be attained. A more difficult situation is the case of overhanging or notched coastal bluffs, or bluffs undermined by sea caves.

***Landslides.*** Assessing the stability of slopes against landsliding is undertaken through a quantitative slope stability analysis. In such an analysis, the forces resisting a potential landslide are first determined. These are essentially the strength of the rocks or soils making up the bluff. Next, the forces driving a potential landslide are determined. These forces are the weight of the rocks as projected along a potential slide surface. The resisting forces are divided by the driving forces to determine the “factor of safety.” A value below 1.0 is theoretically impossible, as the slope would have failed already. A value of 1.0 indicates that failure is imminent. Factors of safety at increasing values above 1.0 lend increasing confidence in the stability of the slope. The industry-standard for new development is a factor of safety of 1.5, and many local grading ordinances in California and elsewhere (including the County of Los Angeles, and the Cities of Irvine, Malibu, and Saratoga, among others) require that artificial slopes meet this factor of safety.

A slope stability analysis is performed by testing hundreds of potential sliding surfaces. The surface with the minimum factor of safety will be the one on which failure is most likely to occur. Generally, as one moves back from the top edge of a slope, the factor of safety against landsliding increases. Therefore, to establish a safe setback for slope stability from the edge of a coastal bluff, one needs to find the distance from the bluff edge at which the factor of safety is equal to 1.5.

Inherent in the calculation of a slope stability analysis is the shape (topographic profile) and geologic makeup of the coastal bluff. There are many ways to calculate the forces involved in slope stability analyses. All methods must consider such factors as rock or soil strength, variations in rock and soil strength values due to different types of materials making up the slope, anisotropy in these values, and any weak planes or surfaces that may exist in the slope (Abramson et al. 1995). More subtly, other factors that must be considered include: pore water pressure, which produces a buoyant force that reduces the resisting forces, the particular failure mechanism that is most likely (*e.g.*, a block slide mechanism vs a circular failure mechanism), and seismic forces. Seismic forces normally are considered through a separate analysis, in which a force equal to 15% of the force of gravity is added to the driving forces. Because seismic driving forces are of short duration, a factor of safety of 1.1 generally is considered adequate to assure stability during an earthquake. This type of analysis is fairly crude, and other methods for evaluating slope stability based on maximum permanent displacement experienced during earthquakes do exist, but the pseudo-static method represents the current standard of practice for most development in California (Geotechnical Group of the Los Angeles Section of the American Society of Civil Engineers 2002). Guidelines for conducting slope stability analyses for review by the California Coastal Commission are presented in Table 1.

Table 1. Guidelines for performing quantitative slope stability analyses

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- 1) The analyses should demonstrate a factor of safety greater than or equal to 1.5 for the static condition and greater than or equal to 1.1 for the seismic condition. Seismic analyses may be performed by the pseudostatic method or by displacement methods, but in any case should demonstrate a permanent displacement of less than 50 mm.
  - 2) Slope stability analyses should be undertaken through cross-sections modeling worst case geologic and slope gradient conditions. Analyses should include postulated failure surfaces such that both the overall stability of the slope and the stability of the surficial units is examined.
  - 3) The effects of earthquakes on slope stability (seismic stability) may be addressed through pseudostatic slope analyses assuming a horizontal seismic coefficient of 0.15g. Alternative (displacement) methods may be useful, but should be in conformance with the guidelines published by the Geotechnical Group, American Society of Civil Engineers, Los Angeles Section (2002).
  - 4) All slope analyses should ideally be performed using shear strength parameters (friction angle and cohesion), and unit weights determined from relatively undisturbed samples collected at the site. The choice of shear strength parameters should be supported by direct shear tests, triaxial shear test, or literature references, and should be in conformance with the guidelines published by the Geotechnical Group, American Society of Civil Engineers, Los Angeles Section (2002).
  - 5) All slope stability analyses should be undertaken with water table or potentiometric surfaces for the highest potential ground water conditions.
  - 6) If anisotropic conditions are assumed for any geologic unit, strike and dip of weakness planes should be provided, and shear strength parameters for each orientation should be supported by reference to pertinent direct shear tests, triaxial shear test, or literature references.
  - 7) When planes of weakness are oriented normal to the slope or dip into the slope, or when the strength of materials is considered homogenous, circular failure surfaces should be sought through a search routine to analyze the factor of safety along postulated critical failure surfaces. In general, methods that satisfy both force and moment equilibrium, such as Spencer's (Spencer 1967; 1973), Morgenstern-Price (Morgenstern and Price 1965), and General Limit Equilibrium (Fredlund et al. 1981; Chugh 1986) are preferred. Methods based on moment equilibrium alone, such as Simplified Bishop's Method (Bishop 1955) also are acceptable. In general, methods that solve only for force equilibrium, such as Janbu's method (Janbu 1973) are discouraged due to their sensitivity to the ratio of normal to shear forces between slices (Abramson et al. 1995).
  - 8) If anisotropic conditions are assumed for units containing critical failure surfaces determined above, and when planes of weakness are inclined at angles ranging from nearly parallel to the slope to dipping out of slope, factors of safety for translational failure surfaces should also be calculated. The use of a block failure model should be supported by geologic evidence for anisotropy in rock or soil strength. Shear strength parameters for such weak surfaces should be supported through direct shear tests, triaxial shear test, or literature references.
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**Establishing a safe setback line.** Once the stability of the coastal bluff has been assessed, the development setback line to assure safety from marginally stable slopes is simply the line corresponding to a factor of safety of 1.5 (static) or 1.1 (pseudostatic), whichever is further landward. In establishing this line one can either use a single cross section and specify a single distance from the bluff edge at which the factor of safety rises to 1.5 (or 1.1 for the pseudostatic case), or use several cross sections and contour the factors of safety on the bluff top. Then, by choosing the 1.5 contour (or 1.1 for the pseudostatic case, if it lies further landward), a setback line is established. The latter method generally is necessary for large or complicated sites.

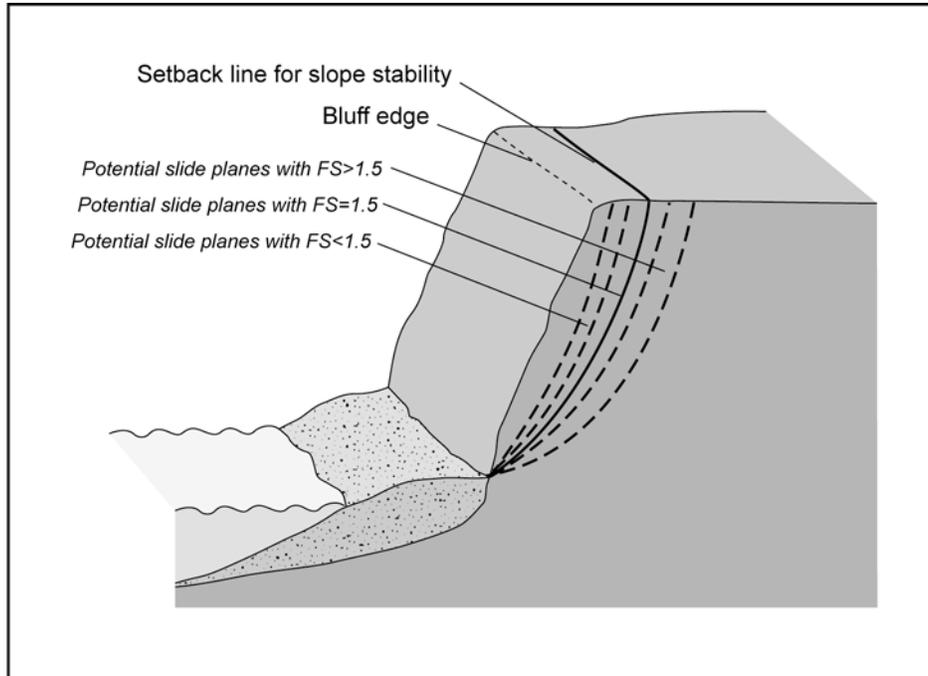


Figure 1. Establishing a development setback for slope stability. The potential slide plane possessing a defined minimum standard of stability is identified, and its intersection with the bluff edge is taken as a minimum development setback. The minimum standard for stability is usually defined as a factor of safety (FS) against sliding of 1.5 for the static case, or 1.1 for a pseudostatic (seismic) case, whichever is further landward.

**Block failure of overhanging bluffs and sea caves.** Assessing the factor of safety against block failure for overhanging or notched coastal bluffs, or bluffs undermined by sea caves, is far more difficult than conducting a slope stability analysis against landsliding. This is due to several factors, the most important of which are: 1) uncertainty as to the presence of local heterogeneities or planes of weakness, hidden in the bluff, that commonly control block failures, 2) difficulty in assigning shear strength values to such heterogeneities even if they can be identified, and 3) greater complexity in modeling the stress field within a bluff in terms of heterogeneities or planes of weakness as compared to a modeling a homogenous slope. The current state of the science does not allow for the calculation of a factor of safety against block failure

for such overhanging or notched coastal bluffs, or bluffs undermined by sea caves, and even makes any form of quantitative assessment of the risk of failure extremely difficult. Promise is shown in mathematical models such as that of Belov and others (1999), but translating such process-oriented models into setback methodologies has not yet been attempted.

Accordingly, establishing appropriate setbacks from overhanging or undermined coastal bluffs is problematic at best. An appropriate conservative approach is to project a vertical plane upward from the rear wall of the overhang, notch, or sea cave, and establish this as the minimum setback line. This approach has been adopted by the City of San Diego, and codified in the City's Local Coastal Program. Although it is certainly possible that failure could occur along a line inclined either seaward or landward from the rear wall of the overhang, notch, or sea cave, a vertical plane would seem to be a good default configuration to assume in the absence of more compelling evidence for another configuration. Further, vertical, bluff-parallel fractures—perhaps related to stress-relief at the free face represented by the bluff face—are a common feature of otherwise homogenous coastal bluffs. In many cases, such a plane will intersect the sloping bluff face seaward of the bluff edge, and no setback from the bluff edge would be necessary to assure stability from block collapse. In cases where the plane intersects the bluff top seaward of a setback line established for landsliding, as discussed above, no additional setback would be necessary to assure stability from block collapse. In the rather rare case, however, in which the plane intersects the bluff top landward of both the bluff edge and any setback line for landsliding, the line of intersection of the plane and the bluff top would be an appropriate setback line for slope stability considerations.

### **Long Term Bluff Retreat**

The second aspect to be considered in the establishment of a development setback line from the edge of a coastal bluff is the issue of more gradual, or “grain by grain” erosion. In order to develop appropriate setbacks for bluff top development, we need to predict the position of the bluff edge into the future. In other words, at what distance from the bluff edge will bluff top development be safe from long-term coastal erosion?

The long-term bluff retreat rate can be defined as the average value of bluff retreat as measured over a sufficient time interval that increasing the time interval has negligible effect on the average value (a statistical basis could be applied to the term “negligible,” but this is rarely done). This definition implies that the long-term bluff retreat rate is linear, an assumption that certainly is not valid over time scales of more than a few centuries, or in periods of rapid sea-level change such as the late Pleistocene/early Holocene (Curry 1965; Emery and Garrison 1967; Milliman and Emery 1968). There is some overlap between slope stability issues and long-term bluff retreat issues, in that the “grains” may be fairly large rocks, and in that shallow slump

ing is a common mechanism for gradual bluff retreat. In addition even gradual bluff retreat tends to be highly episodic due to a host of internal and external factors.

The rate at which gradual bluff retreat occurs generally is measured by examining historic data. This is somewhat problematic in that the historic bluff retreat rate may not accurately predict the future bluff retreat rate (Watson 2002). This is a particularly issue in light of the likelihood of an acceleration in the rate of sea level rise as a result of global warming (Intergovernmental Panel on Climate Change 2001) and the resulting likely increase in bluff retreat rate (Bray and Hooke 1997; Watson 2002).

Nevertheless, historic data currently are our best indicators of future erosion at any given site. Such data may include surveys that identify the bluff edge, in which case the criteria used to identify the bluff edge must be the same in the surveys that are compared. Sufficiently detailed surveys are rare, however, and vertical aerial photography is more commonly used to assess changes in bluff position through time. The best data are those compiled photogrammetrically, whereby distortions inherent to aerial photography (due, for example, to tilting of the camera, variations in the distance from the camera to various parts of the photograph, and differences in elevation across the photograph) are corrected (see, for example, Moore 2000). Sometimes such data have been gathered as parts of specific studies of coastal bluff retreat, but more commonly they are collected as part of other work, and must be sought out for coastal erosion studies.

Coastal bluff retreat tends to be temporally episodic due to a variety of external and internal factors. External factors include tides, episodic wave events (spurred by either local or distant storms), episodic rainfall events (Kuhn 2000), El Niño-Southern Oscillation events (Griggs and Johnson 1983; Griggs 1998; Griggs and Brown 1998; Lajoie and Mathieson 1998; Storlazzi and Griggs 2000), major earthquakes (Plant and Griggs 1990; Griggs and Scholar 1997) and long-term climate change on a multidecadal to century scale (Inman and Jenkins 1999). Internal factors include the autocyclicality inherent to many bluff failure mechanisms (Leighton and Associates Inc. 1979; Hampton and Dingler 1998) and bluff response to continued toe erosion (Sunamura 1992).

Despite the episodic nature of coastal bluff retreat, it is necessary to identify the future long-term bluff retreat rate in order to establish appropriate development setbacks. The episodic nature of bluff retreat makes any calculated rate highly dependent on sampling interval. To illustrate the dependence of calculated long-term bluff retreat rates on sampling interval, it is useful to perform a sensitivity analysis from real data. Unfortunately, there are insufficient data to perform a meaningful analysis for any one site in California. Accordingly, a synthetic data set was created as part of this study.

***A Synthetic Data Set.*** Creating and examining a synthetic data set allows for testing the effects of sampling on the determination of long-term bluff retreat rates. The long-term retreat rate is, by definition, known for the synthetic data set. Further, a

synthetic data set can be created that is both longer and more complete than any such data set available from nature. The data set considered here (available upon request from the author) was created for a hypothetical 200-year period, assigned the dates 1800-2000. Figure 2 is a graphical representation of the data set, and charts the progressive retreat of the hypothetical bluff edge through that time period. Although the data are fictitious, they roughly correlate with well-known periods of episodic erosion in coastal California, at least for the second half of the data set.

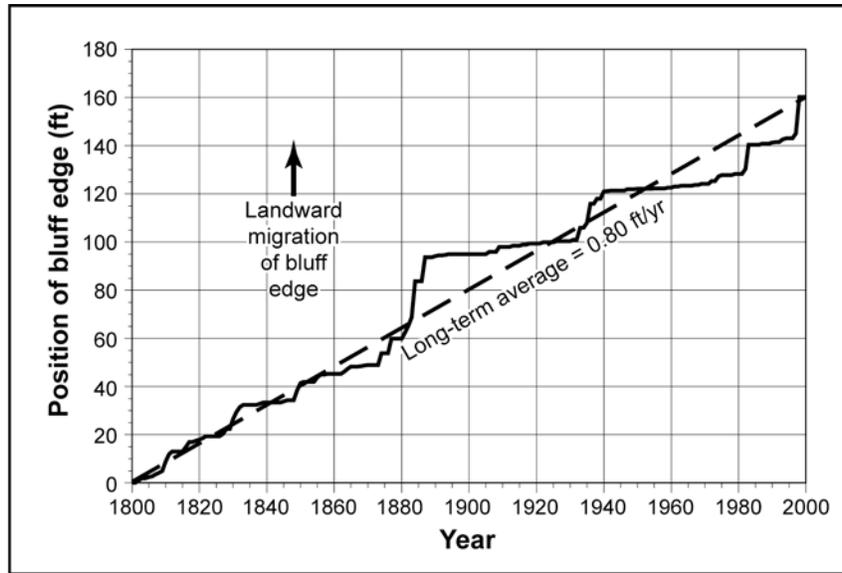


Figure 2. Plot of the position of the top edge of a hypothetical coastal bluff over time. These data represent a synthetic data set that is meant to roughly mimic typical episodic bluff retreat. Although fictitious, the data correlate well with what is known of temporal variations in erosion rate for a typical California bluff experiencing moderate erosion. The data set is far more complete than actual data available at any given site, however, making possible a sensitivity analysis of sampling interval on the calculation of the long-term bluff retreat rate.

**Moving averages.** A standard statistical method to smooth spikes in data is to average the data over a window of some width, while moving that window through the data set. Figure 3 shows the effect of applying this technique to the synthetic data set, using averaging windows of various widths. The first derivative of the curve representing bluff edge position through time (Figure 2) is the “instantaneous” bluff-retreat rate, and varies from 0 to 15 ft/yr for the synthetic data set (Figure 3). As the averaging window increases in width, the maximum retreat rate values decrease and the minimum values increase, effectively smoothing and broadening the “peaks” representing episodic erosion events. Depending on how the window is centered on the point representing the window average, peaks may be offset in time as well. With the widest sampling windows, peaks are essentially eliminated, and the retreat rate calculated approaches the average long-term retreat rate for the entire data set (0.80

ft/yr). Note that it is only when the window width approaches (and exceeds) 50 years in width that the calculated bluff retreat rate approaches the long-term average rate.

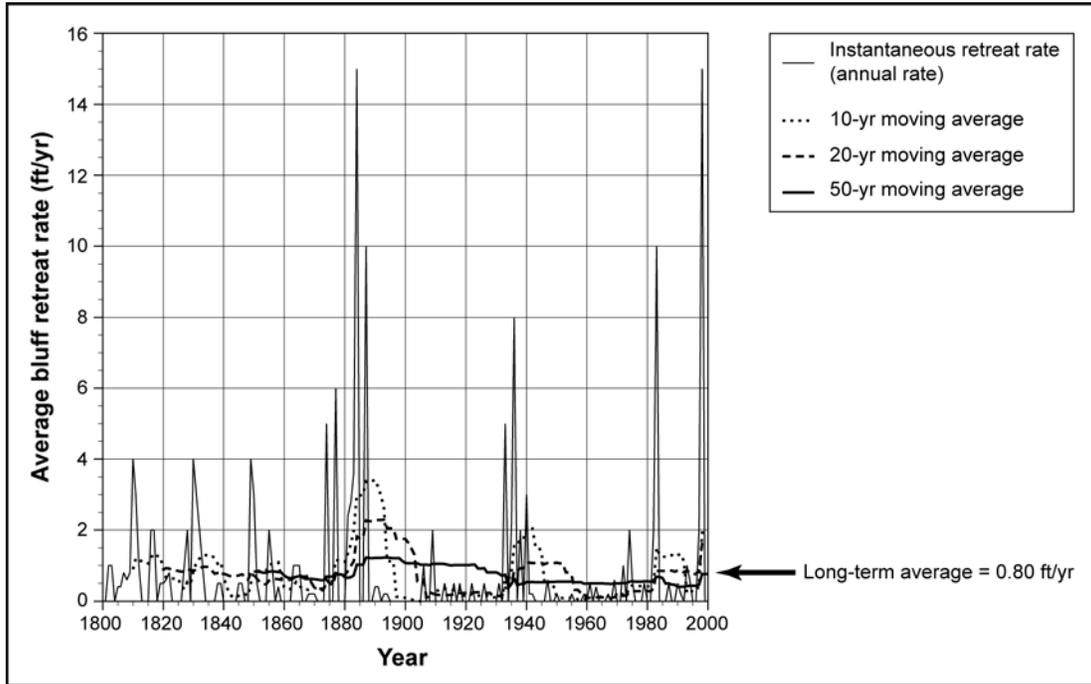


Figure 3. Average annual bluff retreat rate calculated from the synthetic data set using moving averages with various averaging window sizes. Only when data are averaged over ~50 years or more does the calculated annual bluff retreat rate approach the known long-term average for the data set.

**Data gathered at intervals.** Data regarding bluff edge position are almost always gathered at widely spaced intervals, corresponding to the dates of surveys or photographs. This precludes the use of a moving average technique, which depends on continuous data. Figure 4 shows the calculated bluff retreat rates at regularly spaced intervals of 10, 20, and 50 years. A wide range of values for the bluff retreat rate are obtained at the shorter sampling intervals. Although short sampling intervals give the most information on the variability of bluff retreat, the best estimate of the long-term bluff retreat rate is provided by sampling at long time intervals. Even at these long time intervals, if a statistically greater- or lesser-than-average number of "episodic events" are included in the sample, then the bluff retreat rate calculated for that interval will seriously over- or underestimate actual the long-term average bluff retreat rate.

**Principal observations from the synthetic data set.** A few simple generalities can be made from this limited analysis. First, instantaneous bluff retreat rates can exceed the long term average rate by a factor of many times. This is also true for data collected at short ( $\leq \sim 10$  years for the synthetic data set) time intervals. Second, data collected at relatively short time intervals give useful information on the episodic nature of bluff retreat, but do not provide accurate estimates of long-term average

bluff retreat rates. Third, the best estimate of long-term average bluff retreat rate is obtained by sampling over long ( $\geq \sim 50$  years for the synthetic data set) time intervals. Finally, in order to accurately estimate the long-term bluff retreat rate, a stochastically appropriate number of episodic events must be included in the sampling interval. These observations, as well as similar observations from real data, lead to the general guidelines for estimating the long-term average bluff retreat rate at a site that are presented in Table 2.

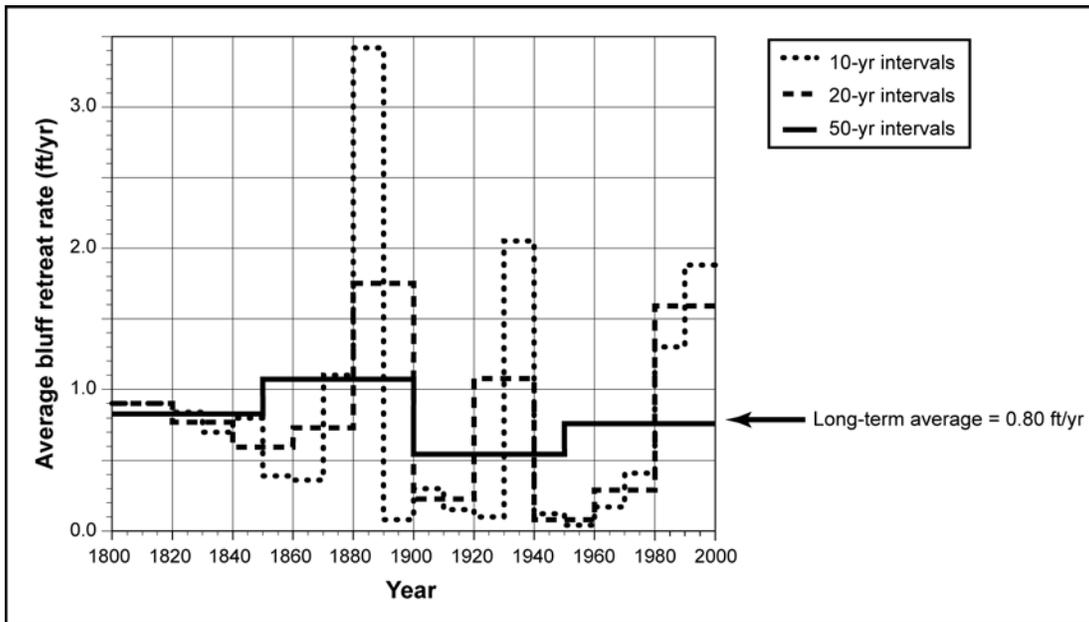


Figure 4. Average annual bluff retreat rate calculated from the synthetic data set using discrete sampling intervals of various sizes. Only when data are sampled at intervals of  $\sim 50$  years or more does the calculated annual bluff retreat rate approach the known long-term average for the data set.

***Establishing setbacks for long-term bluff retreat.*** Once an historic long-term bluff retreat rate has been estimated, establishing a setback for long-term bluff retreat rate is a simple matter of multiplying that rate,  $B$ , by the design life of the development,  $t$ . This is equivalent to predicting the position of the coastal bluff edge at the end of the design life of the structure (Figure 5).

Although this is the usual method of establishing setbacks for long-term bluff retreat in California, inherent assumptions and difficulties must be born in mind. Foremost among these is the necessity of defining the design life of the development. Because the landward retreat of an unarmored shoreline is inevitable and ongoing during a period of relative sea level rise, it is impossible to assure the safety of development from coastal erosion unless a time frame is assigned at the onset. But assigning a design life is difficult, and there is nothing in land use law that requires the abandonment of development at the end of its assigned design life.

Other problems associated with this type of analysis revolve around its inherently historic approach. There is no *a priori* reason to believe that bluff retreat rates are, or will continue to be, linear. This is especially relevant in light of expected acceleration of the historic rate of sea level rise as a result of global warming (Intergovernmental Panel on Climate Change 2001). Further, there is good evidence that erosion rates can be highly variable through time (Jones and Rogers 2002). For all of these reasons it is important to adopt a conservative approach to estimating long-term bluff retreat rates.

Table 2. Guidelines for establishing long-term bluff retreat rates

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- 1) Determine bluff edge positions at as many times as possible, but covering a minimum of about 50 years and extending to the present. Common data sets include vertical aerial photographs, surveys that identify the bluff edge, and detailed topographic maps. These sources must be of sufficient scale or precision to locate accurately the position of the bluff edge to within a few feet.
  - 2) If aerial photographs are used, the best results are obtained through photogrammetric methods, whereby distortions inherent to aerial photography are corrected (orthorectified). Even if photogrammetric methods are not used, the scale of the photographs must be carefully determined by comparison of the image size of known features to their actual size.
  - 3) When comparing bluff edge positions on aerial photographs or unanchored surveys, a "shoreline reference feature" must be identified that has been static through time and is identifiable in each data set. Bluff positions throughout the area of reference can be measured relative to this feature. Common shoreline reference features are road centerlines, structures, large rock outcrops, or trees.
  - 4) When comparing bluff edge positions on surveys, it is critical that the same criteria for the identification of the bluff edge was used in each survey. The Coastal Act definition of a bluff edge can be found in California Code of Regulations, Title 14, § 13577 (h) (2).
  - 5) Although the short-term erosion rate for each time interval between data points provides valuable information regarding the nature of bluff retreat at the site, the long-term erosion rate should be determined from the extreme end-points of the time series examined. This time series should exceed 50 years in length, and should include both relatively quiet periods, such as the 1950's-1960's; and the more erosive subsequent time periods (especially the 1982-1983 and 1997-1998 El Niño winters).
  - 6) In larger study areas, the bluff retreat rate should be determined at intervals along the bluff edge, paying special attention to potential differences in retreat rate between headlands and coves, and amongst areas underlain by differing geologic materials.
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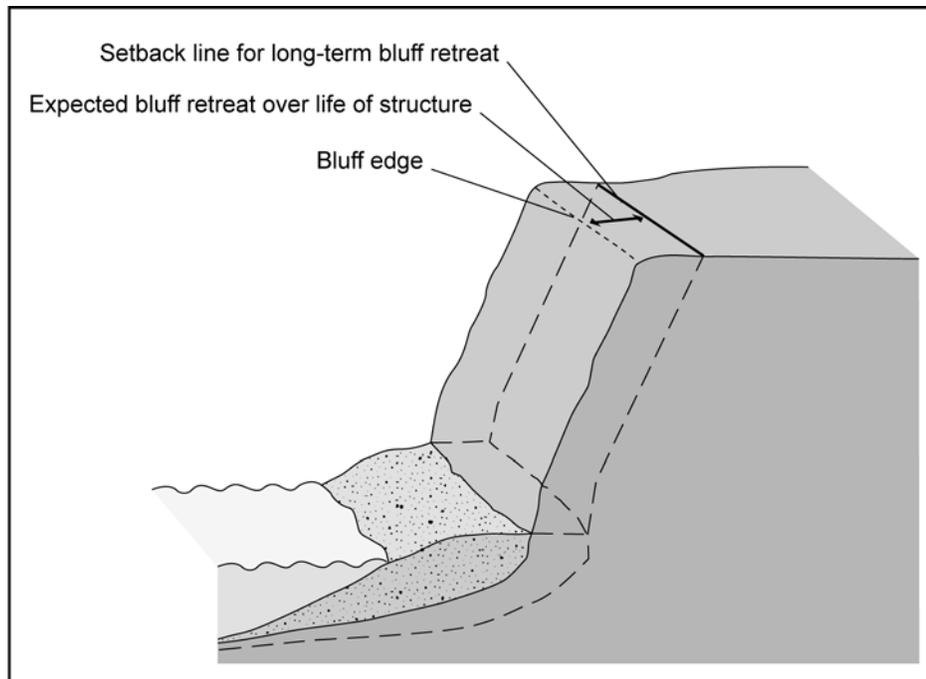


Figure 5. Establishing a development setback for long term bluff retreat. The expected bluff position at the end of the development's useful life is found by multiplying the average annual bluff retreat rate by the design life of the development; this line is taken to represent the minimum setback for long-term bluff retreat.

## Uncertainty

There is a great deal of uncertainty in many parts of the analysis discussed above. The deterministic approach outlined here does not deal well with such uncertainty. Various methods have been used to build in some margin for error in establishing safe building setbacks. One approach, commonly used by geologists working in northern California, is to multiply the long-term bluff retreat rate by a factor of safety (used in a different sense than for slope stability), generally ranging from 1.5 to 4.0. More commonly, a simple "buffer" is added to the setback generated by multiplying the long-term bluff retreat rate by the design life of the structure. This buffer, generally on the order of ten feet, serves several functions: 1) it allows for uncertainty in all aspects of the analysis; 2) it allows for any future increase in bluff retreat rate due, for example, to an increase in the rate of sea level rise (Bray and Hooke 1997; Watson 2002); 3) it assures that at the end of the design life of the structure the foundations are not actually being undermined (if that were to be the case the structure would actually be imperiled well before the end of its design life); and 4) it allows access so that remedial measures, such as relocation of the structure, can be taken as erosion approaches the foundations. If a slope stability setback is required (*i.e.*, if the bluff does not meet minimum slope stability standards), that setback can do double duty as this buffer.

## Summary: Defining the Total Setbacks for Bluff-Top Development

To define the total development setback, one must combine the two aspects of the setback considered above: the setback to assure safety from landsliding or block failure, and the setback for long-term bluff retreat. The resulting setback assures that minimal slope stability standards are maintained for the design life of the structure.

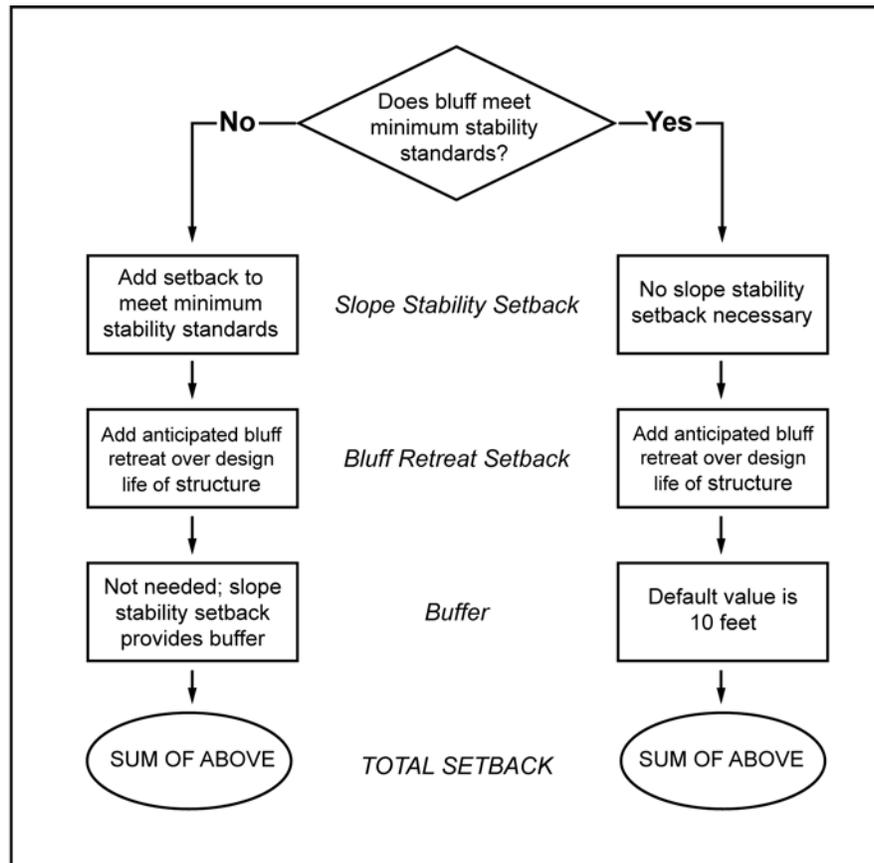


Figure 6. Flowchart for establishing bluff edge setback for development, taking into account stability of the bluff, long-term bluff retreat, and uncertainty in the analysis.

A methodology for combining these setbacks is outlined in Figure 6. First, it must be determined whether the coastal bluff meets minimum slope stability standards. Normally, this will be a factor of safety of 1.5 (static) or 1.1 (pseudostatic). If the answer to this question is “yes,” then no setback is necessary to assure slope stability. If the answer is “no,” then it is necessary to determine the position on the bluff top where the minimum slope stability standards are attained. This position, as measured relative to the bluff edge, is the setback necessary for slope stability determined as described above. In the case of block failure of an overhanging bluff or collapse of a sea cave, the setback necessary to assure stability from this type of collapse is equivalent to the slope stability setback. Although the current state of the science makes it impossible to quantitatively assess stability relative to this type of failure, a conservative, yet realistic, setback line is the projection of a vertical plane from the rear wall

of the overhang or sea cave on the bluff top. If the plane does not intersect the bluff top (*i.e.*, intersects the inclined bluff face seaward of the bluff edge), then no setback for this type of collapse is necessary.

The next step is to determine the expected bluff retreat over the design life of the structure, as described above. This setback is added to the slope stability setback, if any.

Finally, a buffer, generally a minimum of 10 feet, should be added to address uncertainty in the analysis, to allow for any future increase in the long-term bluff retreat rate, to assure that the foundation elements aren't actually undermined at the end of the design life of the development, and to allow access for remedial measures. A buffer is not necessary if the slope stability setback equals or exceeds about ten feet, as it can do "double duty" as both a setback to assure slope stability and a buffer for the purposes listed above.

The total setback is meant to assure that minimum slope stability standards are maintained for the design life of the development. Inherent in this analysis is the assumption that factors affecting slope stability (steepness and shape of the slope, ground water conditions, geometry of rock types exposed in the bluff) will remain constant through the design life of the development, that the future bluff-retreat rate will be linear and of comparable magnitude to the historic rate, and that the nature of erosion processes at the site will remain unchanged. All of these assumptions are potentially flawed, but in the absence of convincing evidence to the contrary, are a means of establishing reasonable development setbacks.

### **Towards Probabilistic Coastal Erosion Hazard Assessment**

The deterministic approach presented above is based on established geologic and engineering principals, and similar approaches have been used to establish development setbacks from slope edges throughout the world for some time. However, the approach suffers from its limited ability to consider uncertainties in the analysis. Probabilistic approaches, on the other hand, inherently consider analytical uncertainties, and allow for a better definition of risk. This type of risk assessment has been routine for decades in the field of hydrology, where design basis and land use priorities are based on the magnitude of the "100-year flood," for example. Probabilistic coastal hazard assessment similarly can be used to quantify the likelihood that the bluff edge will erode to any particular point on a bluff top in a given time. Then, by establishing an acceptable level of risk (for example, a probability of <5% that the bluff edge will reach a certain point over the design life of the development) a setback line can be established that inherently includes uncertainties in the analysis. Just as the seismological community has moved away from deterministic methods towards probabilistic ones, such an approach allows for better consideration of the uncertainties in estimating future coastal erosion.

Probabilistic coastal hazard assessment is in its infancy, and no standardized methods have won acceptance—or even much discussion. The failure of coastal bluffs along Lake Michigan through landsliding has been assessed probabilistically by Chapman and others (2002), through the use of probabilistic slope stability analyses. Lee and others (2001) applied a variety of probabilistic methods to questions of coastal bluff retreat in England. Methods that they evaluated include the simulation of recession of episodically eroding cliffs through Monte Carlo techniques, the use of historical records and statistical experiments to model the behavior of cliffs affected by episodic landslide events, event-tree approaches, and the evaluation of the likelihood of the reactivation of ancient landslides. All of these techniques show promise, but the authors restricted themselves to specific cases. What is needed is the development of probabilistic methods that will work in more general cases, and combine both slope stability and long-term bluff retreat considerations. One way to approach this problem is to consider separately the two aspects of defining a development setback as outlined above.

Probabilistic slope stability analyses already are routine (Mostyn and Li 1993; Yang et al. 1993). In addition to quantifying the probability of slope failure (something not done in a deterministic slope stability analysis, which only establishes whether or not failure will occur), probabilistic slope stability analysis allows for consideration of variability or uncertainty in soil or rock strength parameters (Lumb 1970). Uncertainties in these input parameters are quantified by the standard deviation of each parameter. Then, using Monte Carlo techniques, a probability distribution for the factor of safety associated with any given failure plane is produced. From this, the probability of failure along the chosen potential failure plane can be calculated. The probability of failure is the probability that the factor of safety will be less than 1.0, and can be calculated for any given potential failure surface. By performing such analyses on a variety of potential failure surfaces intersecting different portions of the bluff top, a probability could be assigned to any position on the bluff top quantifying the likelihood that a failure will occur landward of that point.

Although not routine, several possibilities present themselves for developing probabilistic models for gradual, episodic, bluff retreat. Perhaps the simplest method of quantifying uncertainty is the application of a confidence interval to the estimate of the long-term average bluff retreat rate. Each time interval examined in estimating this rate is one sample of the mean value. For normally distributed data (or data that can be transformed to a normal distribution by, for example, a log transform), the sample standard deviation is a traditional estimate of uncertainty. There is a ~68.26% probability that the true mean value will lie within  $\pm 1$  standard deviation of the sample mean. Different probabilities apply to different multiples of the standard deviation. Thus, uncertainties in the product ( $B \times t$ ), above, can be quantified and contoured on the bluff top. For populations that cannot be shown to be normally distributed (likely the case with the small sample sizes available for bluff retreat rates), a better estimate of uncertainty may be a confidence interval based on Student's  $t$  distribution, or on nonparametric statistics.

A second approach to probabilistic assessment of coastal bluff recession is to treat annual bluff retreat in a manner analogous to river floods. Thus, the recurrence interval of a particular amount of annual bluff retreat can be calculated by the formula

$$R = \frac{N + 1}{M}$$

where  $R$  is the recurrence interval,  $N$  is the number of years of record, and  $M$  is the rank of the annual bluff retreat in the total data set. For the synthetic data set considered above, there are many duplicate values due to the limited precision with which bluff retreat data are generally reported. Eliminating duplicates, and ranking the annual bluff retreat rates, recurrence intervals can be calculated. These data can be graphed in order to arrive at the expected amount of bluff retreat for any particular recurrence interval (Figure 7). The inverse of the recurrence interval is the annual probability that a given amount of bluff retreat will be exceeded. Such data may be especially valuable in assessing the risk of occurrence of an episodic event sufficient to threaten an existing structure.

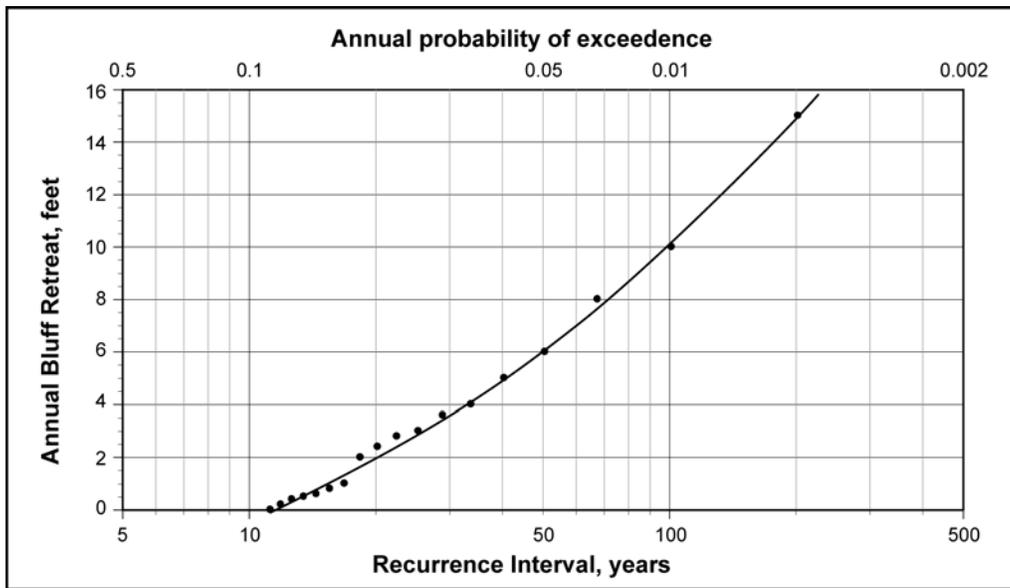


Figure 7. Recurrence interval for annual bluff retreat, calculated for the synthetic data set. The recurrence interval, calculated in a manner analogous to flood recurrence interval, gives the average time between years with a given amount of bluff retreat. The inverse of the recurrence interval is the statistical probability that a given amount of bluff retreat will occur (or be exceeded) in any given year.

The total risk to bluff-top development, which includes both long-term bluff retreat and slope failure, can be calculated by multiplying the probability of slope failure at a given position by the probability that bluff retreat will reach that point by a given time. The geotechnical and planning communities will need to establish what is an acceptable probability, or risk, that the bluff will reach a given point in order to de

velop setback criteria. Once that probability is established, the setback line can be defined as the locus of points on the bluff top at that probability.

A prime difficulty in applying probabilistic methods to assessing coastal erosion risk will be the difficulty in acquiring sufficiently rich data sets with which to work. More effort is needed at acquiring long, precise data sets on coastal erosion in a variety of geologic conditions throughout the state.

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