

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

767-2370

RECORD PACKET COPY**Tue 9a**

Filed: 12/18/00
49th Day: 2/5/01
180th Day: 6/10/01
Staff: GDC-SD
Staff Report: 1/25/01
Hearing Date: 2/13-16/01

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Encinitas

DECISION: Approved with Conditions

APPEAL NO.: A-6-ENC-00-193

APPLICANT: John D. Robinson

PROJECT DESCRIPTION: Construction of an approximately 249 sq. ft. addition to an existing approximately 1,700 sq. ft. single family residence on an approximately 7,500 sq. ft. blufftop lot.

PROJECT LOCATION: 507 A Street, Encinitas, San Diego County. APN # 258-042-20

APPELLANTS: Commissioners Patricia McCoy and Patrick Kruer.

STAFF NOTES: Because the City file for the subject development had not been received in time for review for the Commission's January meeting, the Commission opened the hearing and continued it to a subsequent meeting.

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.

SUBSTANTIVE FILE DOCUMENTS: Certified City of Encinitas Local Coastal Program (LCP); City of Encinitas Planning Commission Resolution No. PC 2000-11, Case No. 00-215 ADR/CDP; Notice of Final Action Case No. 00-215 CDP; "Engineering Geologic Update Letter" by Coast Geotechnical dated August 3, 2000; Appeal Applications dated December 18, 2000.

I. Appellants Contend That: The City's decision is inconsistent with several provisions of the City's LCP which restrict residential additions on bluff top lots to only minor additions of 250 sq. ft. or 10% of the existing floor area until a comprehensive plan that addresses bluff recession and shoreline erosion problems is approved by the City and the Coastal Commission, and requires that an addition only be permitted if it will be safe from failure and erosion over its lifetime. Specifically, the appellants contend that the applicant's proposal, which is represented as only 249 sq. ft. of "livable area", actually involves a substantial addition to an existing structure which exceeds the limitations of the LCP. In addition, the appellants contend that the geotechnical report which identified the site as suitable for development was substantially flawed since its findings were based on an existing unpermitted rip-rap structure located at the base of the bluff below the subject residence.

II. Local Government Action. The coastal development permit was approved by the City of Encinitas Planning Commission on November 16, 2000. Specific conditions were attached which required submission of building and site plans that indicate the addition will not be utilized as a separate dwelling unit and notifies the applicant that floor space beyond 249 sq. ft. cannot be increased until after a Comprehensive Plan is adopted by the City and the Coastal Commission.

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. Projects within cities and counties may be appealed if they are located within mapped appealable areas. The grounds for appeal are limited to the assertion that "development does not conform to the certified local coastal program." Where the project is located between the first public road and the sea or within 300 ft. of the mean high tide line, the grounds of appeal are limited to those contained in Section 30603(b) of the Coastal Act. Those grounds are that the development does not conform to the standards set forth in the certified local coastal program or the access policies set forth in the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless it determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit

application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

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

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

Staff Recommendation On Substantial Issue.

MOTION: *I move that the Commission determine that Appeal No. A-6-ENC-00-193 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 TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-6-ENC-00-193 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.

Findings and Declarations.

1. Project Description/Permit History. The project as approved by the City involves the construction of an approximately 249 sq. ft., 25 foot-high bedroom addition to an approximately 1,700 sq. ft. one-story single family residence located on an

approximately 7,500 sq. ft. blufftop lot. In addition to the 249 sq. ft., two-story high bedroom addition, the proposal includes an approximately 250 sq. ft. second-story attic addition above the existing residence and an approximately 250 sq. ft. basement foundation for the proposed bedroom addition. All improvements will be located more than 40 feet landward of the existing edge of the bluff.

According to the applicant, the existing single family residence was constructed prior to the Coastal Act of 1972 and is located as close as 16 feet from the edge of an approximately 65 foot-high coastal bluff. In March of 1992, the Executive Director authorized an emergency permit for the temporary placement of rip-rap at the base of the bluff below the existing residence and the recontouring of the bluff top to direct drainage away from the edge of the bluff. The emergency permit was issued in response to a bluff failure which the applicant documented placed the residence at the top of the bluff in danger from erosion. In April of 1993, the Commission approved a follow-up regular coastal development permit for the subject site which required the removal of the rip-rap by no later than April 13, 1995, and required the applicant to file an application for permanent shoreline protection or removal of the threatened portions of the residence. The applicant did not satisfy the conditions of the permit and the permit subsequently expired. Thus, the existing rip-rap at the toe of the bluff is unpermitted and is the subject to separate enforcement action.

The project is located at the southwest corner of 5th Street and A Street approximately 7 lots north of Moonlight Beach in Encinitas. The surrounding residential neighborhood consists of homes that vary from one to three stories in height.

2. Limits to Blufftop Additions. Public Safety Element (PS) Policy 1.7 of the City's Land Use Plan (LUP) states, in part:

The City shall develop and adopt a comprehensive plan, based on the Beach Bluff Erosion Technical Report (prepared by Zeiser Kling Consultants Inc., dated January 24, 1994), to address the coastal bluff recession and shoreline erosion problems in the City. . . .

If a comprehensive plan is not submitted to, reviewed and approved by the Coastal Commission as an amendment to this land use plan by November 17, 1996, then thereafter, no additions or expansions to existing structures shall be permitted on coastal blufftop lots except for minor additions or expansions that comprise no greater than a 10% increase over the existing gross floor area of the structure or 250 sq. ft., whichever is greater, provided such additions/expansions are located at least 40 ft. or more from the bluff edge, the addition/expansion is constructed in a manner so that it could be removed in its entirety, and the applicants agrees, in writing, 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)(9) of the City's Certified Implementation Plan (IP) contains similar language.

The comprehensive plan to address bluff recession and erosion along the City's shoreline, although required by the LCP, has not yet been developed or adopted by the City or the Commission. As such, additions to structures on the bluffs are limited to minor additions and expansions which do not exceed 10% of the existing gross floor area or 250 sq. ft., whichever is greater. The proposed development does not represent a minor addition or expansion. The applicant proposes to construct a 25 foot-high, 249 sq. ft. bedroom addition to an existing approximately 1,700 sq. ft. residence. The proposed 249 sq. ft. bedroom addition on its own may appear to be consistent with the LCP limit as a minor addition. However, the existing home is single-story and the bedroom addition is proposed to be two stories high. The concern is that the applicant could simply add a floor to this two-story addition. Thus, while the proposed livable area is 249 sq. ft., the proposed addition will accommodate much more livable area. The City was concerned enough with the proposal that it placed a special condition on the approval which prohibits increasing the floor space of the residence beyond 249 sq. ft. until approval and adoption of the comprehensive plan. Therefore, it appears this is not a typical minor addition.

In addition to the bedroom addition, the applicant proposes to construct an approximately 249 sq. ft. basement area beneath the bedroom and an approximately 250 sq. ft. attic area above a portion of the existing residence, adjacent to the proposed bedroom addition. Therefore, while the proposed "livable area" is less than 250 sq. ft., the overall size of the addition is very substantial. Again, the intent of the LCP policies and restrictions was to assure that until the City addresses the problems facing its shoreline in a comprehensive basis, blufftop development be limited so as to not exacerbate the problem before adoption of the comprehensive plan. The proposed residential addition would result in a substantial addition that would be inconsistent with the intent of the cited LCP policies. Therefore, the City's approval raises substantial issue regarding its consistency with the intent of PS Policy 1.7 and Section 30.34.020(B)(9) of the City LCP to limit development on the bluff until approval of the comprehensive plan.

3. Geologic Stability. Section 30.34.020(D) of the City's Certified IP states, in part, that:

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 affect 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.

PS Policy 1.3 states 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 owners or occupants, and which may require structural measures to prevent destructive erosion or collapse.

In addition, PS Policy 1.6 states, in part, that:

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

f. Requiring new structures and improvements to existing structures to be set back 25 feet from the inland blufftop edge, and 40 feet from the coastal blufftop edge with exceptions to allow a minimum coastal blufftop setback of no less than 25 feet. For all development proposed on coastal blufftops, a site-specific geotechnical report indicating that the coastal blufftop setback will not result in risk of foundation damage resulting from bluff erosion or retreat to the principal structure within its economic life and with other engineering evidence to justify the coastal blufftop setback shall be required. . . .

In all cases, all new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment and the applicant agree to participate in any comprehensive plan adopted by the City to address coastal bluff recession and shoreline erosion problems in the City.

The City's approval of the subject development included review of a geotechnical report submitted by applicant which described current site conditions ("Engineering Geologic Update Letter" by Coast Geotechnical dated August 3, 2000). The report identified that two or more slope failures occurred on the bluff below the existing residence in March of 1991. In response to the instability of the slope, the report documents that rip-rap was placed at the toe of bluff, the blufftop lot was regraded so that site drainage would no longer flow over the bluff and the bluff was landscaped. The report concluded and stated, in part, that:

(1) Control of site drainage, establishment of proper vegetation along the bluff face and the placement of rip-rap along the sea cliff has significantly reduced slope erosion and basal retreat.

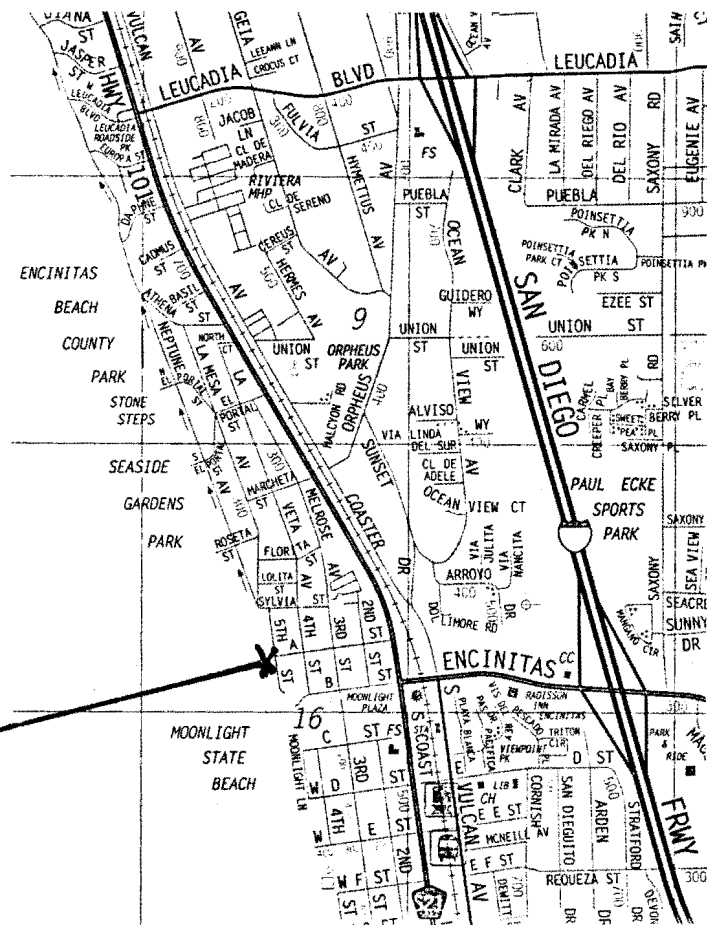
(2) The rip-rap reduces wave erosion and abrasion by cobble along the base of the sea cliff. In our opinion, the rip-rap should remain. The extension of the rip-rap to the south (approximately 50 feet) should be considered, such that a more uniform shore protection may be achieved rather than a single lot. . . .

(5) . . . In our opinion, the construction of the proposed residential addition will have no adverse effect on the stability of the bluff for a usable life of 75 years,

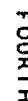
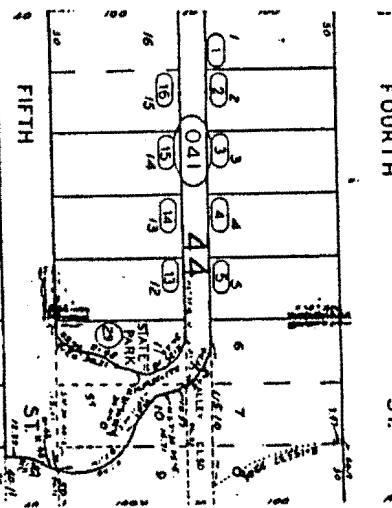
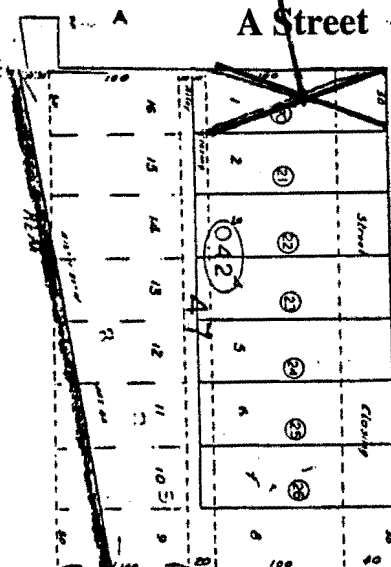
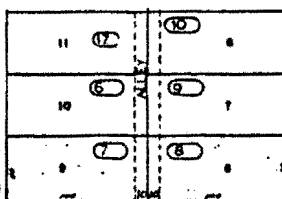
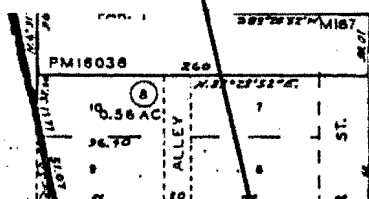
provided the recommendations of this report are implemented during the design and construction phases.

As previously described, the applicant received an emergency permit in 1992 to place rip-rap at the toe of the bluff. The geotechnical report prepared for this emergency identified that erosion "poses an immediate threat to the property improvements and residential structure" (Letter from Artim & Associates to Coastal Commission, dated November 15, 1991). However, subsequently the Commission required the applicant to remove the rip-rap and apply for a coastal permit to construct an alternative shoreline protection device or remove the threatened portions of the residence. Because the applicant has not complied with the requirements of the coastal development permit, the rip-rap remains in place and is unpermitted. Because the geotechnical report based its findings of site stability on the existence of this rip-rap, the proposed residential addition is not consistent with the LCP policies related to hazards. It appears the existing residence would be threatened by erosion if this unpermitted rip-rap were to be removed, however, the report does not address potential of the rip-rap's removal. The report does suggest additional protection is warranted. However, if the rip-rap is removed and the residence becomes threatened, it is unclear as to why the proposed connected additions would not also be threatened. The concern is that the City based its findings that the home and proposed addition would be safe based on the presence of the unpermitted rip rap. Because the geotechnical report states the rip rap should remain, the site is considered subject to hazards and the addition does not appear to be consistent with LCP policies and goals. Therefore, the City's approval raises substantial issue regarding its consistency with the requirements of the LCP that the addition "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".

In summary, the City's approval of the additions to the existing single family residence appears inconsistent with several policies of the LCP that relate to the limitation placed on the size of additions to bluff top structures in advance of a comprehensive plan and relating to the requirement that the site support the proposed addition without necessitating bluff or shoreline protection in the future. For these reasons, the City's action raises a substantial issue with respect to the grounds on which the appeal was filed.



SITE

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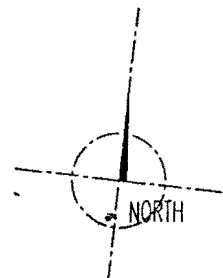
Pacific Ocean

EXHIBIT NO. 1
APPLICATION NO.
A-6-ENC-00-193
Location Map



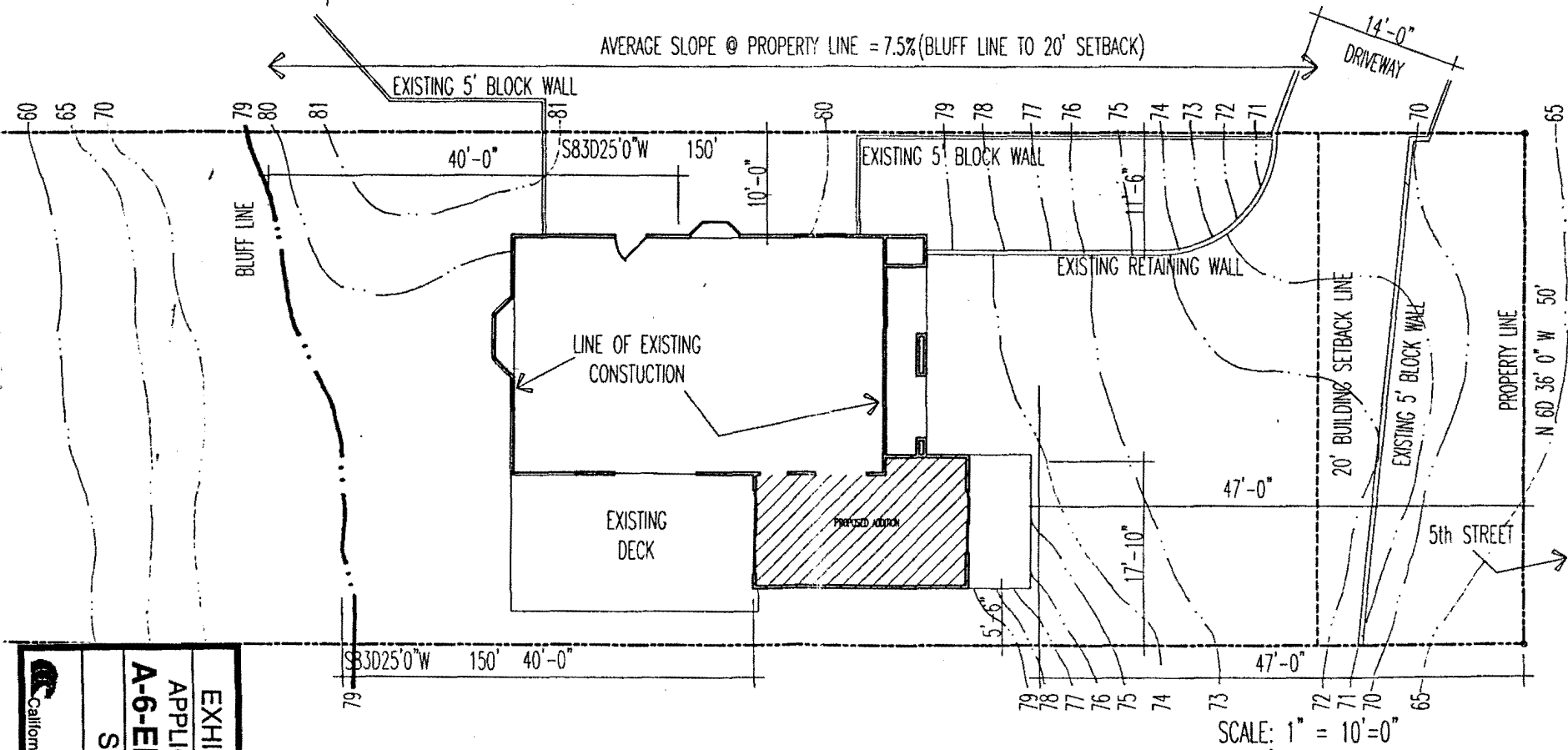
00-215 ADR/CDP
Robinson Addition
SITE PLAN

ROBINSON ADDITION
507 WEST "A" STREET
ENCINITAS, CALIFORNIA
SITE PLAN



"A" STREET TURNAROUND
ADJACENT

AVERAGE SLOPE @ PROPERTY LINE = 7.5% (BLUFF LINE TO 20' SETBACK)



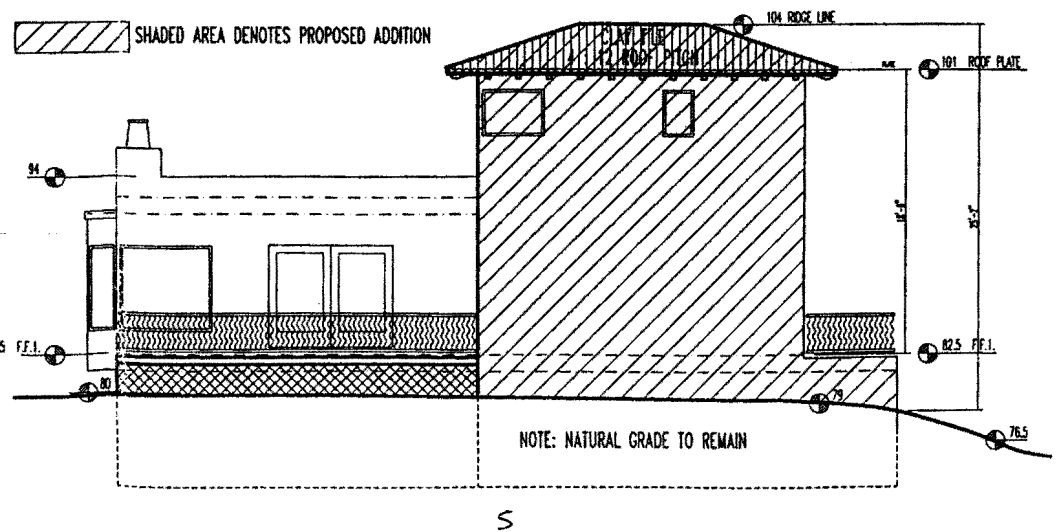
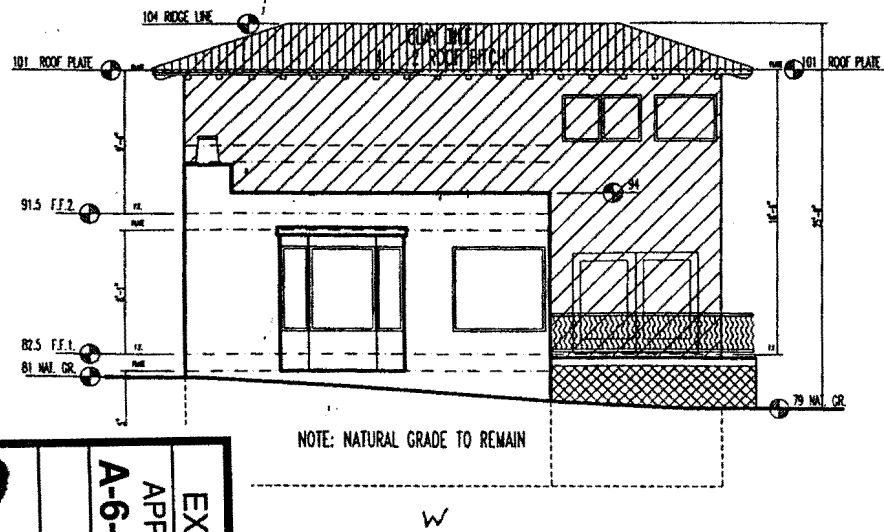
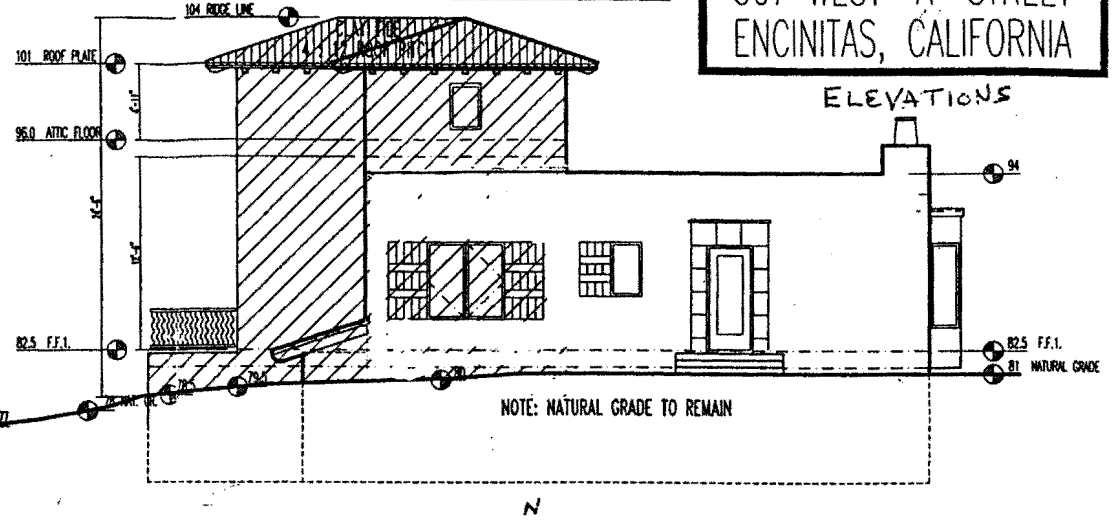
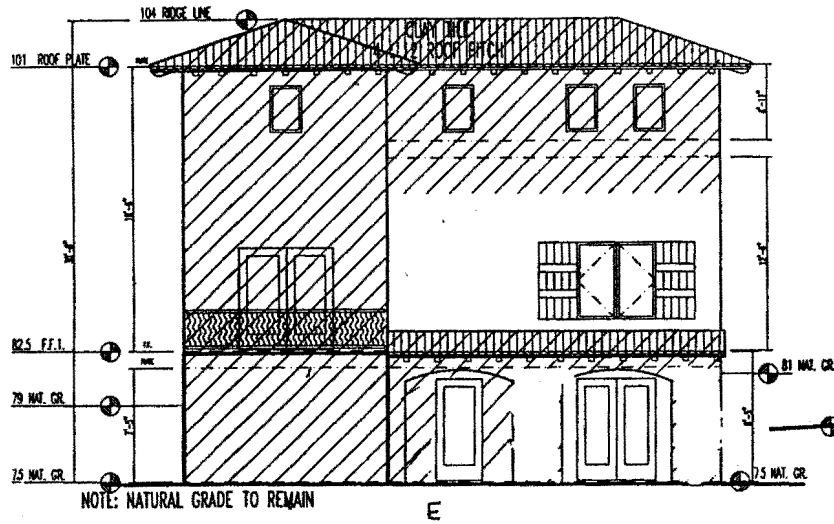
00-215 ADR/CDP

Robinson Addition

ELEVATIONS

ROBINSON ADDITION
507 WEST "A" STREET
ENCINITAS, CALIFORNIA

ELEVATIONS



SHADED AREA DENOTES PROPOSED ADDITION

EXHIBIT NO. 3
APPLICATION NO.
A-6-ENC-00-1
Elevations
California Coastal Commission

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JAN 16 2001

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

January 15, 2001

Gary Cannon, Coastal Program Analyst
California Coastal Commission
San Diego Coast Area
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

RE: A-6-ENC-00-193

Dear Mr. Cannon,

Please review the attached project summary and site observations. The proposed 249 sq.ft. addition conforms to the California Coastal Commission and City of Encinitas guidelines.

The summary includes comments and analysis from the City of Encinitas, the geotechnical report, and architect's submittals.


Please note the proposed addition does not impact public view or access and is compatible with the neighborhood and community character.

We would appreciate a meeting at your earliest convenience to discuss our addition and to review pictures of the property and neighborhood.

Sincerely,

John and Bernadette Robinson
John & Bernadette Robinson
507 A St.
Encinitas, Ca 92024
Tel: 760 436 7462

Cc: Lee McEachern

EXHIBIT NO. 4
APPLICATION NO.
A-6-ENC-00-193
Letter from Applicant
Page 1 of 2
 California Coastal Commission

A-6-ENC-00-193 Robinson: 249-sq. ft. Addition

Project Description: A 249-sq. ft. 25-ft. high bedroom addition to an existing approx. 1,700 sq.ft. single- family residence on a 7,500 sq.ft. blufftop lot.

Proposed addition is located at the SE corner of the existing structure. Western-most portion is approx. 41 ft from the blufftop edge.

The geo-technical report by Coast Geotechnical dated Oct 1, 1996 concluded that the proposed addition will have no adverse affect on the stability of the bluff and is expected to be reasonably safe from failure and erosion over its lifetime (75 years) without having to propose any shore or bluff stabilization to protect the addition in the future.

In addition, the Eastern most portion of the existing structure will be raised approximately seven feet with a three-foot pitched roof to accommodate an attic area for storage. Our current residence lacks adequate storage space for our growing family.

According to the Uniform Building Code, floor area does not include areas that have less than five feet of headroom between floor and ceiling. The attic space is 4'11".

The proposed addition would result in a lot coverage of 26%, which is well within the 40% parameter for R-11 districts. The proposed height of 25 ft is below the 30 ft allowed in the City of Encinitas regulations.

Our architect has provided information regarding the foundation for the proposed addition. Due to a 13 ft high retaining wall on the property line of neighbor's to the South, both the structural engineer and architect recommend that the foundation walls extend to the existing basement floor.

Project complies with City of Encinitas LCP and current draft of proposed Comprehensive Plan.

The proposed addition, in scale and bulk, is compatible with the neighborhood and community character. Our neighbors are in support of the addition and several have provided written correspondence in agreement as well.

Public access will not be impacted by the proposed addition. Due to the hilltop location of property, no public views will be impacted by the proposed addition.

CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Patrick Kruer
Mailing Address: 2445 5th Avenue, Suite 400
San Diego, Ca 92101
Phone Number: (619) 231-3637

RECEIVED

DEC 18 2000

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICTSECTION II. Decision Being Appealed

1. Name of local/port government: City of Encinitas
2. Brief description of development being appealed: Construction of approximately
25 foot-high, 249 sq. ft. bedroom addition, approximately 250 sq. ft. floored
"attic" space and approximately 249 sq. ft. basement space to an existing
approximately 1,700 sq. ft. single family home on an approximately 7,500 sq. ft.
blufftop lot.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
507 A Street, Encinitas (APN No. 258-042-20)
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐

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

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-6-ENC-00-193DATE FILED: 12/18/00DISTRICT: San Diego

EXHIBIT NO. 5
APPLICATION NO.
A-6-ENC-00-193
Appeals
Page 1 of 10
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

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: November 16, 2000

Local government's file number (if any): 00-215 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:

John D. Robinson
507 A Street
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".

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: _____

Appellant or Agent

Date: _____

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

Signed: _____

Date: _____

John Robinson Appeal
Attachment A

The coastal permit approved by the City of Encinitas allows for the construction of an approximately 25 foot-high, 249 sq. ft. bedroom addition, an approximately 250 sq. ft. floored "attic" area and an approximately 249 sq. ft. underground basement area to an existing approximately 1,700 sq. ft. blufftop single family residence.

As approved by the City, the development appears to be inconsistent with policies contained in the certified Local Coastal Program (LCP) pertaining to the limits placed on additions to blufftop structures and the requirement that such additions only be permitted if it can be demonstrated they will be safe from failure and erosion over its lifetime.

Public Safety Element (PS) Policy 1.7 of the City's Land Use Plan (LUP) states, in part, the following:

The City shall develop and adopt a comprehensive plan, based on the Beach Bluff Erosion Technical Report (prepared by Zeiser Kling Consultants Inc., dated January 24, 1994), to address the coastal bluff recession and shoreline erosion problems in the City. [. . .]

If a comprehensive plan is not submitted to, reviewed and approved by the Coastal Commission as an amendment to the City's Local Coastal Program by November 17, 1995, then no additions or expansions to existing structures shall be permitted on coastal blufftop lots except for minor additions or expansions that comprise no greater than a 10 percent increase above the existing gross floor area or 250 square feet, whichever is greater . . .

Section 30.34.020(B)(9) of the City's Certified Implementation Plan (IP) contains identical language.

The comprehensive plan, although required by the LCP, has not yet been adopted by the City or the Commission. As such, additions to structures on the bluffs are limited to minor additions and expansions which do not exceed 10% of the existing gross floor area or 250 sq. ft., whichever is greater. The proposed development does not represent a minor addition or expansion. While only 249 sq. ft. of actual "living area" is proposed, the development involves a substantial two-story addition plus basement to an existing single-story house. The development, as approved by the City, will result in an increase of "gross floor area" of much more than 250 sq. ft. by the addition of an approximately 250 sq. ft. floored attic and an approximately 249 sq. ft. basement. The purpose of the development restrictions on blufftop lots as prescribed in PS Policy 1.7 and Section 30.34.020(B)(9) of the LCP was to make sure the City did not approve substantial additions to blufftop homes until a comprehensive plan is adopted that addresses the concerns facing the City's shoreline in a comprehensive manner. The substantial residential blufftop additions approved by City are inconsistent with the intent of the LCP.

Therefore, the City's approval is inconsistent with the intent of PS Policy 1.7 and Section 30.34.020(B)(9) of the City LCP to limit development on the bluff until approval of the comprehensive plan.

In addition, the proposed development appears to be inconsistent with Section 30.34.020(D) of the City's Certified IP which requires, in part, that:

. . .the development proposed will have no adverse affect 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.

In review of the geotechnical report submitted for the subject development, the City accepted the applicant's contention that the site met the standard as cited above. However, the geotechnical analysis concerning stability and the need for future shoreline protection appears to be substantially flawed. As cited in the geotechnical report:

The rip-rap protection was placed in 1992 along the base of the bluff. No appreciable movement or loss of rip-rap has occurred to date.

The rip-rap on the beach at the toe of the bluff cited in the geotechnical report is unpermitted development which the Coastal Commission has previously required to be removed. In 1991 the current property owner provided geotechnical information which described his property as being in immediate threat from accelerated erosion which "poses an immediate threat to the property improvements and residential structure" (Letter from Artim & Associates to Coastal Commission, dated November 15, 1991). As a result, he received an emergency permit to place rip-rap at the toe of the bluff to address "upper bluff sloughening and soil loss". (6-92-73-G/Robinson). In 1993 the property owner received a follow-up regular coastal development permit which required the removal of the rip-rap by no later than October 10, 1994 and the construction of an alternative structure to protect the existing residence (6-93-73/Robinson). The applicant failed to comply with the requirements of the permit such that an engineered shoreline structure was not constructed and the rip-rap was not removed. Based on geotechnical information supplied by the applicant in 1991 and 1993, the Coastal Commission believed that the existing residence was in danger from bluff erosion and required an appropriately engineered solution. If the geotechnical information was correct at that time, then the City has erred in its determination that the additions to the residence will be reasonably safe over its lifetime and will not require shore or bluff structures in the future for its protection. Therefore, the City's approval is inconsistent with Section 30.34.020(D) of the City's Certified IP.

In summary, the City's approved permit for substantial expansion of the existing approximately 1,700 sq. ft. single family blufftop residence is inconsistent with several policies of the certified LCP relating to the limits placed on additions to blufftop structures and the requirement that such additions only be permitted if it can be demonstrated it will be safe from failure and erosion over its lifetime without requiring shoreline protection.

CALIFORNIA COASTAL COMMISSION

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



**APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT**

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

SECTION I. Appellant(s)

Name: Patricia McCoy
Mailing Address: 132 Citrus Avenue
Imperial Beach, Ca 91932
Phone Number: (619) 423-0495

RECEIVED

DEC 18 2000

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: Construction of approximately 25 foot-high, 249 sq. ft. bedroom addition, approximately 250 sq. ft. floored "attic" space and approximately 249 sq. ft. basement space to an existing approximately 1,700 sq. ft. single family home on an approximately 7,500 sq. ft. blufftop lot.
3. Development's location (street address, assessor's parcel no., cross street, etc:)
507 A Street, Encinitas (APN No. 258-042-20)
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-ENC-00-193

DATE FILED: 12/18/00

DISTRICT: San Diego

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

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: November 16, 2000

Local government's file number (if any): 00-215 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:

John D. Robinson
507 A Street
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

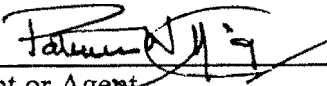
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A"

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: 
Appellant or Agent

Date: 12/18/00

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

Signed: _____

Date: _____

John Robinson Appeal
Attachment A

The coastal permit approved by the City of Encinitas allows for the construction of an approximately 25 foot-high, 249 sq. ft. bedroom addition, an approximately 250 sq. ft. floored "attic" area and an approximately 249 sq. ft. underground basement area to an existing approximately 1,700 sq. ft. blufftop single family residence.

As approved by the City, the development appears to be inconsistent with policies contained in the certified Local Coastal Program (LCP) pertaining to the limits placed on additions to blufftop structures and the requirement that such additions only be permitted if it can be demonstrated they will be safe from failure and erosion over its lifetime.

Public Safety Element (PS) Policy 1.7 of the City's Land Use Plan (LUP) states, in part, the following:

The City shall develop and adopt a comprehensive plan, based on the Beach Bluff Erosion Technical Report (prepared by Zeiser Kling Consultants Inc., dated January 24, 1994), to address the coastal bluff recession and shoreline erosion problems in the City. [. . .]

If a comprehensive plan is not submitted to, reviewed and approved by the Coastal Commission as an amendment to the City's Local Coastal Program by November 17, 1995, then no additions or expansions to existing structures shall be permitted on coastal blufftop lots except for minor additions or expansions that comprise no greater than a 10 percent increase above the existing gross floor area or 250 square feet, whichever is greater . . .

Section 30.34.020(B)(9) of the City's Certified Implementation Plan (IP) contains identical language.

The comprehensive plan, although required by the LCP, has not yet been adopted by the City or the Commission. As such, additions to structures on the bluffs are limited to minor additions and expansions which do not exceed 10% of the existing gross floor area or 250 sq. ft., whichever is greater. The proposed development does not represent a minor addition or expansion. While only 249 sq. ft. of actual "living area" is proposed, the development involves a substantial two-story addition plus basement to an existing single-story house. The development, as approved by the City, will result in an increase of "gross floor area" of much more than 250 sq. ft. by the addition of an approximately 250 sq. ft floored attic and an approximately 249 sq. ft. basement. The purpose of the development restrictions on blufftop lots as prescribed in PS Policy 1.7 and Section 30.34.020(B)(9) of the LCP was to make sure the City did not approve substantial additions to blufftop homes until a comprehensive plan is adopted that addresses the concerns facing the City's shoreline in a comprehensive manner. The substantial residential blufftop additions approved by City are inconsistent with the intent of the LCP.

Therefore, the City's approval is inconsistent with the intent of PS Policy 1.7 and Section 30.34.020(B)(9) of the City LCP to limit development on the bluff until approval of the comprehensive plan.

In addition, the proposed development appears to be inconsistent with Section 30.34.020(D) of the City's Certified IP which requires, in part, that:

...the development proposed will have no adverse affect 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.

In review of the geotechnical report submitted for the subject development, the City accepted the applicant's contention that the site met the standard as cited above. However, the geotechnical analysis concerning stability and the need for future shoreline protection appears to be substantially flawed. As cited in the geotechnical report:

The rip-rap protection was placed in 1992 along the base of the bluff. No appreciable movement or loss of rip-rap has occurred to date.

The rip-rap on the beach at the toe of the bluff cited in the geotechnical report is unpermitted development which the Coastal Commission has previously required to be removed. In 1991 the current property owner provided geotechnical information which described his property as being in immediate threat from accelerated erosion which "poses an immediate threat to the property improvements and residential structure" (Letter from Artim & Associates to Coastal Commission, dated November 15, 1991). As a result, he received an emergency permit to place rip-rap at the toe of the bluff to address "upper bluff sloughening and soil loss". (6-92-73-G/Robinson). In 1993 the property owner received a follow-up regular coastal development permit which required the removal of the rip-rap by no later than October 10, 1994 and the construction of an alternative structure to protect the existing residence (6-93-73/Robinson). The applicant failed to comply with the requirements of the permit such that an engineered shoreline structure was not constructed and the rip-rap was not removed. Based on geotechnical information supplied by the applicant in 1991 and 1993, the Coastal Commission believed that the existing residence was in danger from bluff erosion and required an appropriately engineered solution. If the geotechnical information was correct at that time, then the City has erred in its determination that the additions to the residence will be reasonably safe over its lifetime and will not require shore or bluff structures in the future for its protection. Therefore, the City's approval is inconsistent with Section 30.34.020(D) of the City's Certified IP.

In summary, the City's approved permit for substantial expansion of the existing approximately 1,700 sq. ft. single family blufftop residence is inconsistent with several policies of the certified LCP relating to the limits placed on additions to blufftop structures and the requirement that such additions only be permitted if it can be demonstrated it will be safe from failure and erosion over its lifetime without requiring shoreline protection.