

CALIFORNIA COASTAL COMMISSION

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POSTPONEMENT REQUEST

By signature below, I (as the Applicant or the Applicant's designated representative) am making the following postponement request (check only one):

I am exercising the Applicant's one right to postpone the Coastal Commission hearing on this application pursuant to California Code of Regulations (CCR) Section 13073(a). I acknowledge that the Applicant has only one such right and that use of it here will extinguish that right in regard to future hearings regarding this application.

The Applicant's one right of postponement pursuant to CCR 13073(a) has already been exercised, and I am requesting that the hearing on this application be postponed pursuant to CCR 13073(b). I understand that this request may or may not be granted by the Executive Director or the Commission, at their discretion, pursuant to CCR 13073(b).

In making this request, the Applicant hereby waives any and all applicable time limits for Coastal Commission action on this application (as required by CCR 13073(c)). If the request is granted, then the Applicant agrees to submit additional stamped and addressed envelopes for future noticing as detailed in CCR 13054 (as required by CCR 13073(c)).

Application Number: A-3-CNAL-16-0057 Date: 8/11/2016

W.S.H. Henderson Jr.
Signature of Applicant or Applicant's Designated Representative (identify which one)

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W16d

Appeal Filed: 5/19/2016
49th Day: Waived
Staff: Mike Watson - SC
Staff Report: 7/22/2016
Hearing Date: 8/10/2016

APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

Appeal Number: A-3-CML-16-0057

Applicant: Wellington S. Henderson, Jr.

Appellants: Commissioners Mary Shallenberger and Erik Howell

Local Decision: Approved by the City of Carmel-by-the-Sea Planning Commission on April 13, 2016 (City application number DS 15-158).

Project Location: On the bluffs at the south end of Carmel Beach fronting 26336 Scenic Road, Carmel-by-the-Sea, Monterey County (APNs 009-423-001 and 002).

Project Description: Construction of shoreline protective device designed as an eight-foot tall and 63-foot long upper bluff retaining wall with faux bluff facing and related drainage and landscaping improvements.

Staff Recommendation: Substantial Issue Exists; Denial

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 three 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. (14 CCR § 13117.) Others may submit comments in writing. (*Id.*) If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony. (*Id.* § 13115(b).)

SUMMARY OF STAFF RECOMMENDATION

The City of Carmel-by-the-Sea approved a coastal development permit (CDP) to construct a shoreline protective device designed as an eight-foot tall and 63-foot long upper bluff retaining wall with faux bluff facing and related development (i.e., drainage and landscaping improvements) on the bluffs fronting a residential site at the south end of Carmel Beach. The site is the location of a circa 1948 Frank Lloyd Wright-designed house, which is a notable historical residence in the City of Carmel. The residence is sited on a bedrock outcrop at the south end of Carmel Beach and is highly visible from most vantages along the beach and the Scenic Road recreation trail. The City's CDP decision was appealed to the Commission based on questions regarding potential inconsistencies with the LCP's policies and standards for shoreline protective devices.

Staff recommends that the Commission find that the appeal raises a substantial issue and that the Commission take jurisdiction over the CDP application. Staff further recommends that the Commission deny a CDP for the proposed seawall at the site.

The LCP requires a three-step process to allow for shoreline protective devices: 1) identify an existing structure in danger from erosion; 2) identify a range of alternatives and select the least environmentally damaging alternative to abate the identified threat; and 3) mitigate for all coastal resource impacts caused by the selected shoreline protective device. However, the City's approval did not adequately identify an existing structure in danger from erosion, did not analyze any alternatives, and did not identify and mitigate for all resultant coastal resource impacts caused by the approved project. For all these reasons, the City's approval raises substantial LCP conformance issues.

On de novo review, the Applicant's stated purpose of the project is to protect the residence's driveway and driveway gate from potential bluff failure due to future erosion and storm events. The proposed upper bluff retaining wall would extend along the upper bluff face fronting the existing driveway and driveway entrance gate, which are both located roughly six-and-a-half feet from the bluff edge. The project's own technical reports indicate that the underlying bedrock bluffs are eroding very slowly at this location, approximately 0.1 feet annually. At this rate, it would be roughly 65 years before the driveway and gate are undercut by erosion. Accordingly, an existing structure in danger from erosion has not been established in such a way as to allow for a shoreline protective device at this location,¹ and thus the proposed project is inconsistent with LCP requirements in this regard and must be denied.

Furthermore, even if the existing driveway and gate were shown to be in danger from erosion,

¹ For comparison, in past projects the Commission has deemed a structure to be "in danger" from erosion if it would become unfit for use within the next two or three storm season cycles or generally within the next few years.

the LCP requires a thorough analysis of alternatives designed to address the identified erosion danger, including but not limited to relocation or partial removal of the driveway and gate, both options which appear feasible at this location. The Applicant did not provide and the City did not analyze any other alternatives to the upper bluff retaining wall, inconsistent with the LCP.

Finally, even if danger were conclusively established, and even if the upper bluff retaining wall were conclusively shown to be the least environmentally damaging feasible alternative to address and abate the danger, the LCP requires that all attendant coastal resource impacts, including impacts to shoreline sand supply, be eliminated and, if the impacts are not able to be eliminated, mitigated. The City did not evaluate sand supply impacts that are likely to result from the upper bluff retaining wall, and did not identify any mitigation for impacts associated with the project. Thus, the proposed shoreline protective device is inconsistent with the LCP.

In short, the proposed project is inconsistent with LCP shoreline protective device policies and standards, primarily because there is no identified erosion threat to an existing structure that would warrant and allow for such shoreline protective device. Furthermore, even if danger were established, there has been no evaluation of alternatives, such as driveway relocation (which appears to be feasible at this location). And finally, even if the proposed development satisfied those first two LCP requirements, the project lacks avoidance and mitigation measures for attendant coastal resource impacts. For all of these reasons, the proposed project fails to ensure LCP conformance with LUP Policies P5-5 and P5-6, as well as with IP Sections 17.20.190(C) and (F), and therefore must be denied.

For these reasons, staff recommends that the Commission deny a CDP for the proposed project. **The motions are found on page 5 below.**

TABLE OF CONTENTS

| | |
|--|----------|
| I. MOTIONS AND RESOLUTIONS..... | 5 |
| II. FINDINGS AND DECLARATIONS | 6 |
| A. PROJECT LOCATION AND DESCRIPTION..... | 6 |
| B. PROJECT BACKGROUND | 6 |
| C. CITY OF CARMEL-BY-THE-SEA APPROVAL | 7 |
| D. APPEAL PROCEDURES | 7 |
| E. SUMMARY OF APPEAL CONTENTIONS | 8 |
| F. SUBSTANTIAL ISSUE DETERMINATION | 8 |
| G. COASTAL DEVELOPMENT PERMIT DETERMINATION | 10 |
| 1. Shoreline Protective Devices | 10 |
| 2. Visual and Scenic Resource Protection | 14 |
| 3. California Environmental Quality Act (CEQA) | 15 |

APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location Maps

Exhibit 2 – Site Photos

Exhibit 3 – Project Plans

Exhibit 4 – Early Correspondence

Exhibit 5 – City’s Final Local Action Notice

Exhibit 6 – Appeal of City CDP Action

Exhibit 7 – Computer Rendering of the Proposed Upper Bluff Retaining Wall

I. MOTIONS AND RESOLUTIONS

A. Substantial Issue Determination

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the CDP application for the proposed project under the jurisdiction of the Commission for de novo hearing and action. To implement this recommendation, staff recommends a **NO** vote on the following motion. Failure of this motion will result in a de novo hearing on the CDP 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 affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission determine that Appeal Number A-3-CML-16-0057 raises NO substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and I recommend a no vote.*

***Resolution to Find Substantial Issue:** The Commission hereby finds that Appeal Number A-3-CML-16-0057 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.*

B. CDP Determination

Staff recommends that the Commission, after public hearing, **deny** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **NO** vote on the following motion. Failure of this motion will result in denial of the CDP and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission approve Coastal Development Permit Number A-3-CML-16-0057 pursuant to the staff recommendation, and I recommend a no vote.*

***Resolution to Deny CDP:** The Commission hereby denies Coastal Development Permit Number A-3-CML-16-0057 and adopts the findings set forth below on grounds that the development will not be in conformity with the policies of the certified Local Coastal Program and the public access and recreation policies of Chapter 3 of the Coastal Act.*

II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT LOCATION AND DESCRIPTION

The proposed project is located on the bluffs fronting a residentially developed parcel at 26336 Scenic Road, in the City of Carmel-by-the-Sea, Monterey County (APNs 009-423-001 and -002). The site is situated on a bedrock outcrop at the south end of Carmel Beach and is highly visible from the beach and the Scenic Road public recreation trail. The City-approved project is a shoreline protective device designed as an eight-foot tall and 63-foot long upper bluff retaining wall with faux bluff facing and related development fronting Carmel Beach along the northeast property line. The device would be located above the mean high tide line, on the upper portion of a coastal bluff (roughly 16 feet above the beach) that defines the downcoast edge of Carmel Beach. Finally, the site is the location of a circa 1948 Frank Lloyd Wright-designed house, which is a notable historical residence in the City of Carmel.

The Applicant's stated purpose for the device is to protect the residence's driveway and driveway gate from potential future bluff failure due to erosion and storm events. The device would be tied to the existing bedrock outcrop beneath and would extend from roughly the southeast corner of the residence to a point near the southeast property line. The device would include rock fascia designed to blend with the surrounding bluff.

See **Exhibit 1** for project location maps, and **Exhibit 2** for site photos. See **Exhibit 3** for the approved project plans.

B. PROJECT BACKGROUND

In early 2015, the Applicant requested a preliminary review from Commission staff of a proposed upper bluff retaining wall/shoreline protective device at the location of the project site. On February 17, 2015, Commission staff provided a response to the Applicant and to City of Carmel staff regarding questions about permit jurisdiction and also identified the relevant LCP policies related to shoreline armoring and hazards avoidance. See **Exhibit 4** for this early correspondence. Staff further indicated that the geotechnical investigation provided by the Applicant was deficient in terms of identifying the nature of the threat (if any). Specifically, the geotechnical investigation failed to provide a rate of annual erosion needed to establish the degree of threat, and further did not identify precisely what structure or structures were in danger from erosion, which is the LCP's primary threshold to determine whether a structure is potentially allowed some type of armoring for coastal hazards protection. Lastly, staff noted that the materials did not provide an analysis of potential impacts to local sand supply or an assessment of a reasonable range of feasible alternatives to the proposed upper bluff retaining wall, as further required by the LCP. Staff concluded that adequate technical support did not exist for the proposed upper bluff retaining wall/shoreline protective device consistent with LCP and Coastal Act requirements and that more rigorous analysis of shoreline processes were needed to consider a project at this location.

Nevertheless, on April 13, 2016, the City of Carmel Planning Commission approved CDP DS 15-158 with conditions for an upper bluff retaining wall approximately 63-feet in length and roughly eight feet in height. The City concluded in its findings that, although the exposed volcanic bedrock surrounding the house is relatively hard, it has been weakened by naturally occurring weathering, joints, and fractures. Therefore, construction of the upper bluff retaining wall would stabilize the bluff and preserve the driveway and gate. The approval included a condition to require the upper bluff retaining wall to mimic the surrounding bedrock formations in color, texture, and undulation. The conditions further require that the appearance of the wall be reviewed by the City's historical consultant to ensure consistency with existing character of the residence and setting, and also to require an archaeological reconnaissance report to determine the presence of any archaeological resources on the site and to develop a plan of action should archaeological resources be uncovered. See **Exhibit 5** for the City's final local approval.

C. CITY OF CARMEL-BY-THE-SEA APPROVAL

On April 13, 2016, the City of Carmel approved a CDP authorizing construction of an eight-foot tall, 63-foot long upper bluff retaining wall/shoreline protective device on the Applicant's property (see **Exhibit 5**). The Coastal Commission received notice of the City's approval on May 5, 2016. The Commission's ten-working-day appeal period for this action began on May 6, 2016 and concluded at 5 p.m. on May 19, 2016. One timely appeal was received on May 19, 2016 (**Exhibit 6**).

D. APPEAL PROCEDURES

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP (see Coastal Act Sections 30603(a)(1)-(4)). In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission (Coastal Act Section 30603(a)(5)). This project is appealable because it involves development that is located between the sea and the first public road paralleling the sea, and it is located within 300 feet of the inland extent of the mean high tide, within 300 feet of the inland extent of the beach, and within 300 feet of the top of the seaward face of the coastal bluff.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. (Coastal Act Section 30603(b).) Coastal Act Section 30625(b) requires the Commission to conduct the de novo portion of the hearing on an appealed project unless a majority of the Commission finds

that “no substantial issue” is raised by such allegations. Under Section 30604(b), if the Commission considers the CDP de novo and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is located between the nearest public road and the sea, and thus this additional finding would need to be made if the Commission were to approve a project at this location following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicants (or their representatives), persons who opposed the project and made their views known before the local government (or their representatives), and the local government (Title 14 of the California Code of Regulations (CCR) Section 13117). Testimony from other persons regarding substantial issue must be submitted in writing. (*Id.*) Any person may testify during the de novo CDP determination stage of an appeal.

E. SUMMARY OF APPEAL CONTENTIONS

The Appellants contend that the City-approved project raises LCP consistency issues with respect to allowances for shoreline protection devices, including a lack of: 1) evidence establishing a bona fide erosion threat to an existing structure; 2) an analysis and selection of the least environmentally damaging feasible alternative to address any identified threat; 3) an assessment of project impacts on sand supply and public access and recreation; and 4) full mitigation for all project related impacts. In short, the Appellants contend that the supporting documentation does not establish a clear erosion threat to an existing structure, that there are feasible alternatives to the proposed armoring, and that project impacts have not been appropriately evaluated and fully mitigated. See **Exhibit 6** for the full text of the appeal contentions.

F. SUBSTANTIAL ISSUE DETERMINATION

1. Substantial Issue Background

The term substantial issue is not defined in the Coastal Act. The Commission's regulations indicate that the Commission will hear an appeal unless it “finds that the appeal raises no significant question” (CCR Section 13115(b)). In previous decisions on appeals, the Commission has used the following factors in making such determinations: (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 and with the public access policies of the Coastal Act; (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 interpretation of its LCP; and (5) whether the appeal raises only local issues, or those of regional or statewide significance. Even where the Commission chooses not to hear an appeal (by finding no substantial issue), 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 Code of Civil Procedure, Section 1094.5 (see Coastal Act Section 30801).

In this case, for the reasons discussed further below, the Commission determines that the development as approved by the City presents a substantial issue.

2. Substantial Issue Analysis

Shoreline Protective Devices

The Appellants contend that the City-approved project raises questions regarding whether it is consistent with LCP policies and standards for shoreline protective devices, which include bluff retaining walls, seawalls, revetments, and other structures that serve as protection against coastal erosion. The LCP prohibits shoreline protective devices unless they are necessary to protect existing structures, coastal-dependent uses, or public recreational facilities and beaches in danger of erosion (including LCP Land Use Plan (LUP) Policy P5-6 and Implementation Plan (IP) Section 17.20.190(C)(1)).² The LCP further prescribes that a shoreline protective device may only be permitted when it is determined that such device is the least environmentally damaging feasible alternative to address the identified danger, and where it is designed to eliminate or mitigate adverse impacts on the shoreline, sand supply, public beach access, and scenic resources (LUP Policy P5-5 and IP Sections 17.20.19 C.2 – C.6). Applications for shoreline protection are required to include a complete evaluation of a reasonable range of alternatives including the “no project” alternative, relocation of threatened structures, various armoring solutions, and “soft” options (LUP Policy P5-5 and IP Section 17.20.190(F)). Synthesizing these various requirements together, the LCP requires a basic three step process to allow for shoreline protective devices: 1) identify an existing structure in danger from erosion; 2) identify a range of alternatives and select the least environmentally damaging alternative to abate the identified threat; and 3) mitigate for all coastal resource impacts caused by the project.

The Appellants contend that it does not appear that the residence’s driveway and driveway gate are threatened by coastal erosion or bluff retreat. The Applicant’s own consultants determined the bedrock bluffs underneath the City-approved upper bluff retaining wall to be eroding at a very slow annual rate (i.e., 0.1 feet per year). At this rate of erosion, it would take approximately 65 years for the driveway and the gate of the residence to be undercut by erosion. By contrast, in past projects the Commission has deemed a structure to be “in danger” of erosion if it would become unfit for use within the next two or three storm season cycles or generally within the next few years. The project’s technical reports do not provide an erosion rate for the upper bluff marine terrace deposits located immediately adjacent to the driveway where the proposed device would be installed. However, the Commission’s Senior Geologist independently determined the upper bluff marine terrace deposits to be stable at roughly 12 to 14 feet above the elevation of the sea, including as evidenced by the vegetation at this location (see site photos in **Exhibit 2**). As such, the project’s technical information does not adequately establish a clear erosion/coastal hazards threat to an existing structure, and thus raises substantial LCP conformance issues in this regard (see also further discussion on this point in the shoreline protective device section of the CDP determination section that follows).

² See LCP policies listed below in the CDP Determination section.

Even if the existing driveway and gate were shown to be in danger from erosion, then the LCP requires a thorough analysis of alternatives designed to address the identified danger, including but not limited to relocation or partial removal of the endangered existing structures. The City did not analyze any other alternatives to the upper bluff retaining wall, such as modifications to or relocation of the driveway and gate, which appear to be feasible alternatives at this site that would warrant consideration if an existing structure were to be deemed to be in danger. Thus, the City-approved project raises substantial LCP conformance issues in this respect as well.

Finally, even if an erosion danger to the driveway was conclusively established, and even if the upper bluff retaining wall was conclusively shown to be the least environmentally damaging alternative to address the danger, the LCP still requires that all impacts be eliminated, and, if they are not able to be eliminated, mitigated. The City's approval did not include an evaluation of sand supply impacts that are likely to result from the upper bluff retaining wall, including via fixing the bluff face and preventing sand-generating materials from entering into the shoreline sand supply system. Such an impact would require mitigation per the LCP. While the City partially addressed visual impacts by requiring the wall to be camouflaged as a bluff, the approval did not include any actual performance standards to ensure that scenic views and the natural rock character of the bluffs are preserved. The lack of performance standards could result in an unnaturally-looking back beach area whereas this viewshed is protected by the LCP as a key policy matter. The City's approval therefore raises substantial LCP conformance issues in this regard as well.

In short, the City-approved project raises substantial conformance issues with respect to the LCP's shoreline protective device policies and standards. The City's approval did not identify an existing structure in danger from erosion, did not identify the least environmentally damaging feasible alternative, and did not identify and mitigate all resultant coastal resource impacts caused by the approved upper bluff retaining wall. For all of these reasons, the City's approval raises a substantial issue.

3. Substantial Issue Conclusion

The City-approved project raises substantial LCP conformance issues with respect to allowances for shoreline protection devices and hazards avoidance at this location. Therefore, the Commission finds that **a substantial issue** exists with respect to the City-approved project, and takes jurisdiction over the CDP application for the proposed project.

G. COASTAL DEVELOPMENT PERMIT DETERMINATION

The standard of review for this CDP determination is the City of Carmel-by-the-Sea certified LCP and, because it is located between the first public road and the sea, the access and recreation policies of the Coastal Act. All Substantial Issue Determination findings above are incorporated herein by reference.

1. Shoreline Protective Devices

Applicable Policies

The policies of the City of Carmel-by-the-Sea LCP ensure that development in areas of coastal hazards minimize risks to life and property. Applicable LCP policies include:

LUP Policy P5-5. *Protect public access, Scenic Road, and the aesthetic character of the coast by maintaining existing seawalls and engineered revetments. When any existing seawalls or revetments need to be replaced or substantially reconstructed, review seawall and revetment design alternatives, as well as other beach management strategies and determine the best balance among objectives for access, aesthetics and protection of coastal resources (biological, geological, and recreational). Protect the natural character and features of the Del Mar and North Dunes by prohibiting the construction of any new shoreline protective structures unless required to protect existing structures in danger of erosion. For the beach and shoreline area, only consider the installation of new protective structures after careful review of alternatives and when required to protect existing structures in danger of erosion. Mitigate the impacts of shoreline protective structures on visual quality and beach dynamics using landscaping, sand management and prudent engineering. (Emphasis added)*

LUP Policy P5-6. *Construct new shoreline armoring in areas previously unprotected only when required to protect existing structures in danger of erosion and when designed to eliminate or mitigate adverse impacts on local sand supply. Require any approved structures to include native landscaping (screening), be visually compatible with existing seawall designs, address drainage, incorporate visual mitigation, sand coverage for revetments, and golden granite facing for seawalls. (Emphasis added)*

IP Section 17.20.190(C). Shoreline Protective Structures. *Shoreline protective structures may be permitted only when the review authority determines that the structure is:*

- 1. Necessary to protect existing structures, coastal-dependent uses, public beaches, public access and beach facilities in danger of erosion;*
- 2. The least environmentally damaging feasible alternative;*
- 3. Designed to successfully eliminate or mitigate adverse impacts on local shoreline and sand supply;*
- 4. Designed to avoid significant intertidal and subtidal areas;*
- 5. Designed to avoid, or mitigate if avoidance is infeasible, impacts on beach access; and*
- 6. Designed to respect natural landforms and minimize visual impact to the extent possible, through means including the use of structures, colors and materials that are visually compatible to those already established;*

IP Section 17.20.190(F). Shoreline Armoring Alternatives Analysis. *Applicants shall submit a complete evaluation of a reasonable range of potential alternatives including (1) project alternatives that will avoid the need for armoring, including but not limited to, relocation of the threatened (infra)structure(s) away from danger, (2) various armor solutions (e.g., vertical seawalls), (3) “soft” options, and (4) the “no project” alternative. The evaluation shall identify the environmentally least damaging feasible alternative that*

provides effective protection of existing development and minimizes impacts on public access, recreation, scenic resources, and sand supply.

Shoreline structures can have a variety of negative impacts on coastal resources including adverse effects on beaches and sand supply, which ultimately result in the loss of the beach with associated impacts to public recreational access, as well as impacts to visual resources, and to water quality during construction. Accordingly, as previously described, the LCP requires at minimum a three step evaluation to allow for shoreline protective devices: 1) identify an existing structure in danger from erosion; 2) identify a range of alternatives and select the least environmentally damaging alternative to abate the identified threat; and 3) mitigate for all coastal resource impacts caused by the selected project.

Analysis

Degree of Threat

The proposed project is for the construction of a shoreline protective device designed as an eight-foot tall and 63-foot long upper bluff retaining wall with faux bluff facing fronting a residential property at the south end of Carmel Beach. The site is the location of a circa 1948 Frank Lloyd Wright-designed house, which is a notable historical residence in the City of Carmel. The Applicant asserts that the residence is not threatened, but that the shoreline protective device is necessary to protect the driveway access, entry gate, and entry gate pillar from erosion.

The first LCP test to allow for the device is to identify whether there is an existing structure in danger from erosion. While the LCP does not define the term “in danger,” for other projects seeking approval of shoreline protective devices, the Commission has in the past defined “in danger” from erosion to mean the existing structure would become unfit for use within the next two or three storm season cycles or generally within the next few years. Two geotechnical reports (dated September 30, 2014 and August 12, 2015) were prepared by Haro, Kasunich, and Associates, Inc. (HKA), evaluating erosion and hazards at the site. In the August 12, 2015 report, HKA determined that the driveway and gate could be threatened by erosion *if* two-feet of bedrock material were lost to a sudden or unforeseen erosion event. If such an event occurred, *then* the upper bluff materials could be expected to recede by as much as five to nine feet, threatening the driveway features. The HKA report pointed to the then upcoming 2015-16 El Nino winter as having the potential to produce greater than normal rates of erosion, and thus concluded that the bluff could erode in such a manner as to subject the driveway to erosion danger.

These reports were evaluated by the Commission’s Senior Geologist, Dr. Mark Johnsson. Dr. Johnsson concurs with the geotechnical reports’ bluff erosion rate of 0.1 feet per year, a fairly slow rate of erosion due their composition as strong underlying volcanic bedrock. He also observes that the reports did not establish an annual erosion rate for the marine terrace deposits on the upper part of the bluff where the proposed device would be built, but rather relied on qualitative analysis and assumption. Of note, Dr. Johnsson disagrees with the report’s assumptions used to establish a potential erosion threat to the driveway and entry gate, which he deemed overly conservative and unwarranted. Dr. Johnsson indicates that such assumptions (i.e., a sudden two-foot erosion event of the stable volcanic lower bluff base and a five- to nine-foot erosion event of the upper bluff) were not supported by any evidence of their probability or likelihood, and were in conflict with the report’s previous findings that the bluffs were stable and

eroding at only 0.1 feet per year. Dr. Johnsson subsequently performed a site evaluation in April 2016. Dr. Johnsson's site visit confirmed the findings of the geotechnical reports that the underlying bedrock bluffs were comprised of competent bedrock material consistent with an annual erosion rate of 0.1 feet per year. Dr. Johnsson also observed that the upper bluff marine terrace deposits were stable at roughly 12-14 feet above the elevation of the sea. Of note, the 2015-2016 winter El Nino conditions did scour the sand down to the sandstone at the south end of Carmel Beach and in the vicinity of the project site. However, there was little evidence of greater than normal erosion of the bedrock material or upper marine terrace deposits directly fronting the project site, and thus no evidence to substantiate the Applicant's report's assumptions of the probability of such an extreme erosion event. Based on the findings in the HKA reports and the firsthand observations of his site visit, Dr. Johnsson concluded that there is no threat from erosion to any structure at this location. The project's own technical reports indicate that the underlying bedrock bluffs are eroding very slowly at this location, approximately 0.1 feet annually. At this rate, it would take roughly 65 years before the driveway and gate were undercut by erosion. Accordingly, an existing structure in danger from erosion has not been established in such a way as to allow for a shoreline protective device at this location, and thus the proposed project is inconsistent with LCP requirements in this regard and must be denied.

Least Environmentally Damaging Feasible Alternative and Mitigation

Because the proposed upper bluff retaining wall fails the first LCP test due to no existing structure in danger from erosion, consideration of subsequent LCP requirements, including evaluation of a range of alternatives (e.g., relocation of the structure to avoid identified hazard threats) as well as mitigation for resultant impacts caused by the selected shoreline protective device, are moot. However, it should be noted that the geotechnical reports prepared for the project only evaluated the proposed upper bluff retaining wall and did not include possible alternatives to said wall,³ such as relocation of portions of the driveway, which appear to be feasible based on staff site visits.⁴ Additionally, while the LCP requires full avoidance or mitigation of all resultant coastal resource impacts, including impacts to shoreline sand supply caused by the shoreline protective device, the Applicant has not included any evaluation of project-related impacts, nor proposed mitigation for those impacts, and neither did the City. Finally, shoreline protective devices may only be permitted if the structure is designed to respect natural landforms and minimize visual impacts. The large 63-foot long and eight-foot tall upper bluff retaining wall does not respect the natural landform in part because it will eliminate the natural undulating bluff features and replace it with a monolithic structure with faux facing. However, as described above, because the device cannot meet the LCP's first test and must be denied, further consideration of project inadequacies related to project alternatives and proposed mitigation is not necessary.

Shoreline Armoring Conclusion

In short, the proposed project is inconsistent with LCP shoreline protective device policies and standards, primarily because there is no identified erosion threat to an existing structure that

³ Deficiencies noted by Commission staff in February 17, 2015 correspondence to the City and the Applicant (see **Exhibit 4**).

⁴ The Commission finds that a robust alternatives analysis, including an evaluation of the feasibility associated with driveway relocation, will be a necessary component of any subsequent shoreline protective device application in the future, per LCP requirements, should the driveway be determined to be in danger from erosion.

would warrant and allow for such shoreline protective device. Furthermore, even if danger were established, there has been no evaluation of alternatives, such as driveway relocation, which appears to be feasible at this location. And even if those first two LCP tests were met, the project lacks avoidance and mitigation of attendant coastal resource impacts. For all of these reasons, the proposed project fails to ensure LCP conformance with LUP Policies P5-5 and P5-6, as well as IP Sections 17.20.190(C) and (F), and therefore must be denied.

2. Visual and Scenic Resource Protection

Applicable Policies

Carmel's shoreline is generally regarded as a highly scenic location, with white sand, dune back beach, and a backdrop of Monterey pine and cypress trees. The LCP contains a number of policies designed to protect these significant scenic and visual resources:

LUP Policy O4-6. Limit development along the Carmel shoreline to facilities that support passive and active recreational activities, beach access, bluff protection and protection of infrastructure. Bluff protection and protection of infrastructure shall be permitted only when existing facilities are in danger from erosion. Ensure that any new structure or development is visually compatible with the nature beach environs, is consistent with the established design of existing facilities, minimizes coverage, and does not impeded access. Avoid to the maximum extent feasible the seaward encroachment of new structures.

LUP Policy O1-6. Recognize the natural resources and scenic quality of Carmel as a coastal community and allow uses in the community that are consistent with local needs, the Carmel Local Coastal Plan, and the California Coastal Act.

LUP Policy G5-3. Protect, conserve and enhance the unique natural beauty and irreplaceable natural resources of Carmel and its Sphere of Influence, including its biological resources, water resources, and scenic routes and corridors.

LUP Policy O5-8. Protect, conserve and enhance designated open space, the urban Monterey pine forest, beach and shoreline, the sensitive habitats and the hillside areas, and acquire additional open space as deemed appropriate.

LUP Policy P5-48. New development shall protect areas of unique scenic quality (e.g., Scenic Road, Junipero Avenue, Torres & 3rd, etc.). Development in these areas shall be sited to protect public views to and along the coast, minimize impacts via landform alteration, and be visually compatible with the character of surrounding areas.

Thus, the LCP has multiple provisions that require new development to be sited and designed to ensure protection of significant visual resources, including views within public viewsheds. Such policies specifically protect areas having regional public importance for their natural beauty by ensuring that new development is appropriately designed and constructed to minimize adverse impact upon identified visual resources. Views from beaches and the shoreline are protected visual resources under the LCP.

Analysis

As currently proposed, the project would result in a 63-foot long and eight-foot tall faux rock wall atop the existing rocky bedrock outcrop at the south end of Carmel Beach. The residence is one of very few residences located on the seaward side of Scenic Road, and is prominent in the view from Scenic Road, Carmel Beach, and the Scenic Road recreational path, which are all very popular recreational use areas, and thus the site is located within a significant public viewshed. See **Exhibit 2** for photographs of the project site.

As proposed, the project will establish a new and prominently visible unnatural concrete wall within the viewshed from these vistas, resulting in a significant adverse coastal resource impact (see **Exhibit 7** for a computer rendering of the proposed upper bluff wall). The project will also result in a significant landform alteration as the natural bluff is replaced by an eight-foot tall and 63-foot long artificial structure with faux concrete facing. Although the Applicant's proposal reduces the visual impacts of the wall by using an artificial rock fascia design that would be colored and texturized to mimic adjacent bluff color and texture, the wall would nevertheless introduce an unnatural element into this natural setting, eliminating the natural bluff and its landscape in favor of a concrete wall just above the beach. If the project were otherwise approvable, it could be conditioned to include performance standards to help offset visual impacts (e.g., faux bluff surface treatment, cascading and integral landscaping, etc.). However, in this case it is unnecessary to consider conditioning of the permit because the project must be denied based on the proposed project's inconsistencies with the LCP's shoreline protective device policies and standards.

Visual and Scenic Resource Protection Conclusion

The proposed upper bluff retaining wall is inconsistent with the Carmel-by-the-Sea LCP visual resource policies because it would: introduce an artificial structure into an important scenic area, diminishing the scenic values of this area; result in significant landform alternation; and not be visually compatible with the natural setting. Thus, the proposed project must be denied.

3. California Environmental Quality Act (CEQA)

The City of Carmel-by-the-Sea, acting as lead agency, adopted an Initial Study/Mitigated Negative Declaration ("IS/MND") for this project. The document analyzed the impacts of a 63-foot long upper bluff retaining wall/shoreline protective device along the northern property boundary. The IS/MND identified eight potentially significant effects on the environment. Key significant impacts and mitigation measures were identified for aesthetic resources and cultural resources. However, the City's review did not include an evaluation of alternatives nor a finding that the project represents the least environmentally damaging feasible alternative.

Section 13096(a) of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This report has discussed the relevant coastal resource issues with the proposal. All above findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is defined in the CEQA context.

Pursuant to CEQA Guidelines (14 CCR) Section 15042 "a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed." Furthermore, Section 21080(b)(5) of the CEQA, as implemented by Section 15270(a) of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. The Commission finds that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the project was approved as proposed. Accordingly, the Commission's denial of the project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, does not apply (see CCR Section 13096(a)).

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

- 1) Bluff Stabilization Blufftop Retaining Wall, 26336 Scenic Road Oceanfront Home, Carmel, Monterey County, California. Prepared for Wellington S. Henderson, Jr. Prepared By Haro, Kasunich and Associates, Inc. Geotechnical & Coastal Engineers. Project No. M10666, September 2014.
- 2) Evaluation of Coastal Bluff Instability; Geologic and Geotechnical Evaluation of Bluff Top Protection. Haro, Kasunich and Associates, Inc. Geotechnical & Coastal Engineers. Project No. M10666, August 12, 2015.

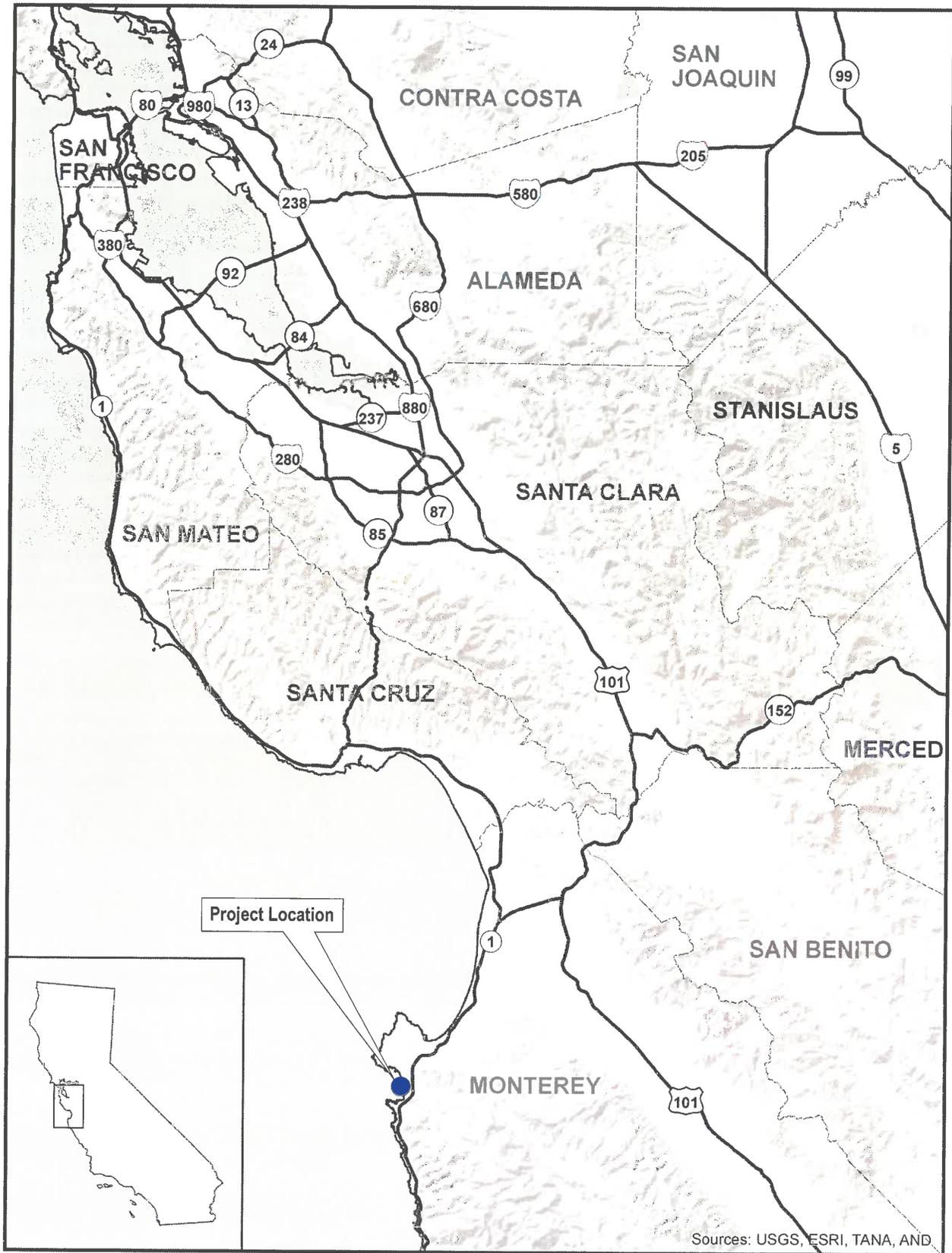


Figure 1: General Project Location

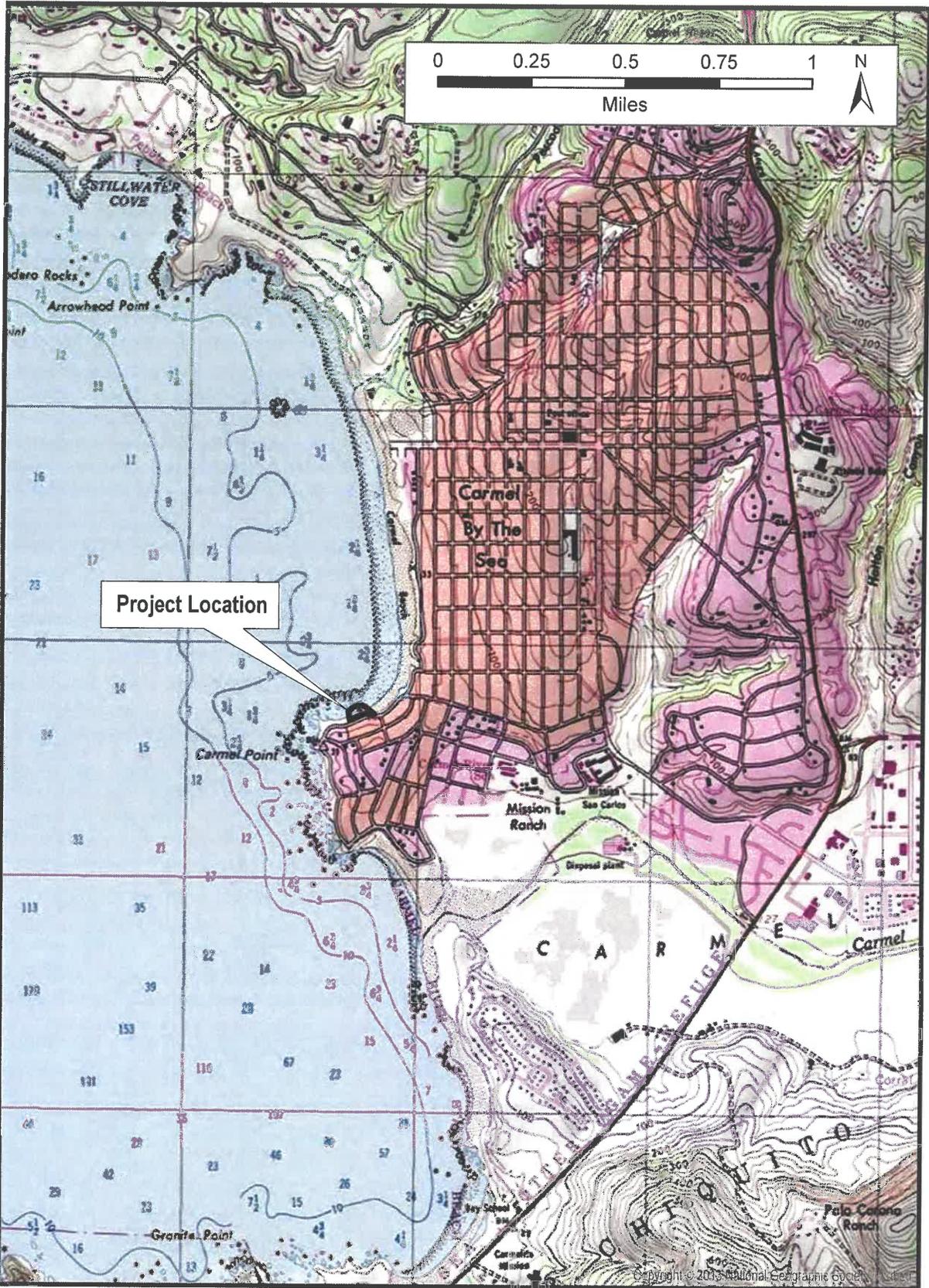


Figure 2: Project Location (USGS Monterey, Calif 1983)

Attachment B – Site Photographs



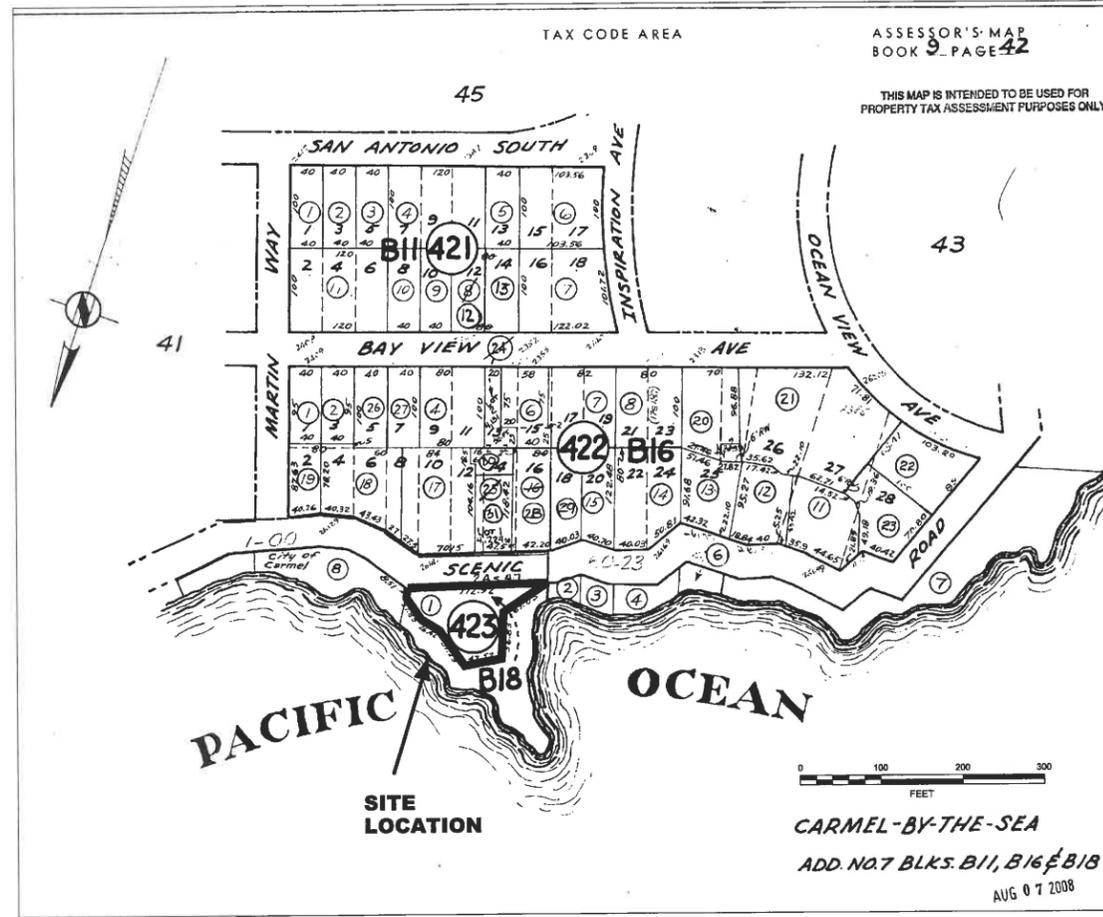


Figure 4: View southeast along proposed alignment of 63 foot long bluff-top retaining wall



Figure 5: View southwest towards proposed 63 foot long bluff-top retaining wall

CONCEPTUAL BLUFFTOP RETAINING WALL PLANS UPCOAST SIDE OF THE HENDERSON PROPERTY SCENIC ROAD, CARMEL, CA MONTEREY COUNTY APN 009-423-001



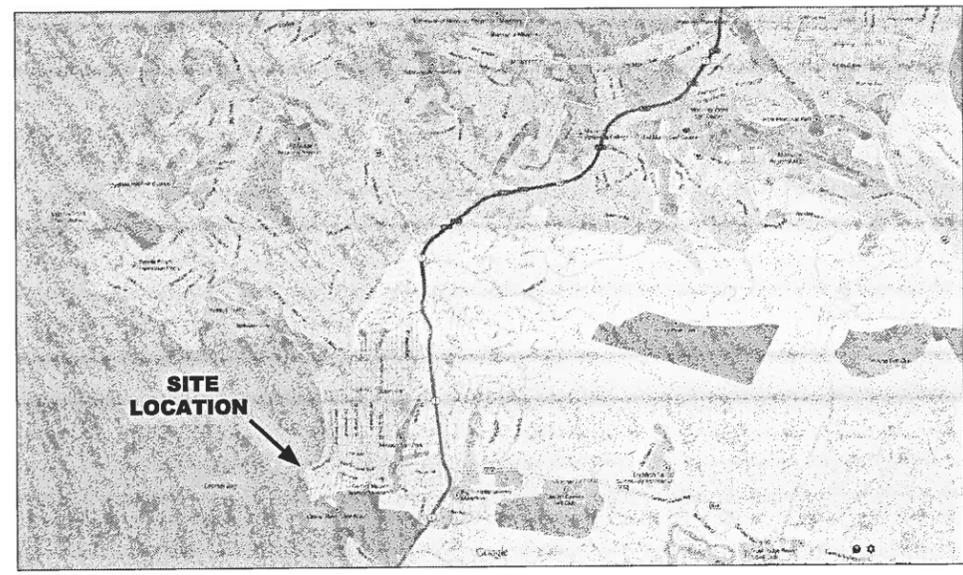
MONTEREY COUNTY A.P.N. 009-423-001

PROJECT DATA

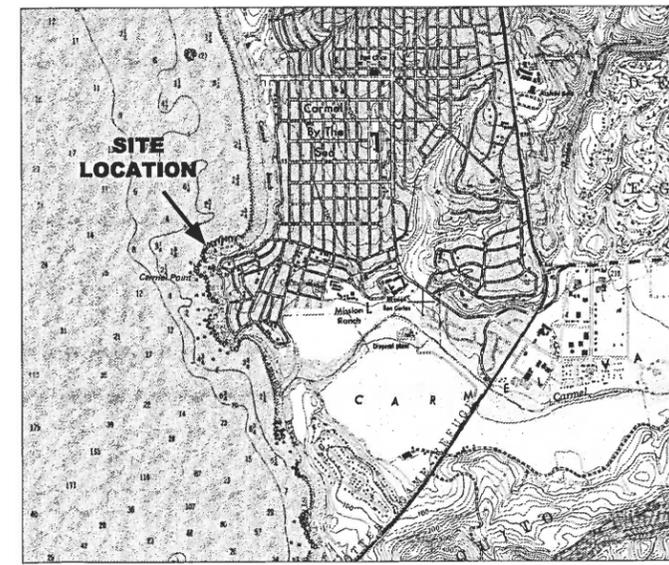
A.P.N. : 009-423-001
 OWNER : WELLINGTON S. HENDERSON JR.
 1325 HOWARD AVENUE, #940
 BURLINGAME, CA

SHEET INDEX

- SHEET 1 - TITLE SHEET
- SHEET 2 - CONCEPTUAL BLUFFTOP RETAINING WALL PLAN
- SHEET 3 - CONCEPTUAL BLUFFTOP RETAINING WALL CROSS SECTIONS



VICINITY MAP



TOPOGRAPHIC MAP

PLAN PREPARERS:

John Kasunich, G.E. 455
 Mark Foxx, C.E.G. 1493
HARO, KASUNICH & ASSOCIATES, INC.
 116 East Lake
 Watsonville, CA 95076
 (831)722-4175 (831)722-3202 FAX

SURVEYOR:
MONTEREY BAY ENGINEERS, INC.
 607 Charles Ave Suite B
 Seaside, California 93955
 (831) 899-7899 (831)899-7879 FAX



TITLE SHEET
 CONCEPTUAL BLUFFTOP RETAINING WALL PLANS
 UPCOAST SIDE OF THE HENDERSON PROPERTY, SCENIC ROAD, CARMEL, CA
 MONTEREY COUNTY APN 009-423-001

HARO, KASUNICH AND ASSOCIATES, INC.
 CONSULTING CIVIL, GEOTECHNICAL & COASTAL ENGINEERS
 116 EAST LAKE AVE., WATSONVILLE, CA 95076 (831) 722-4175

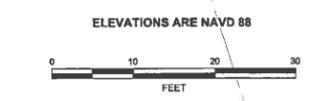
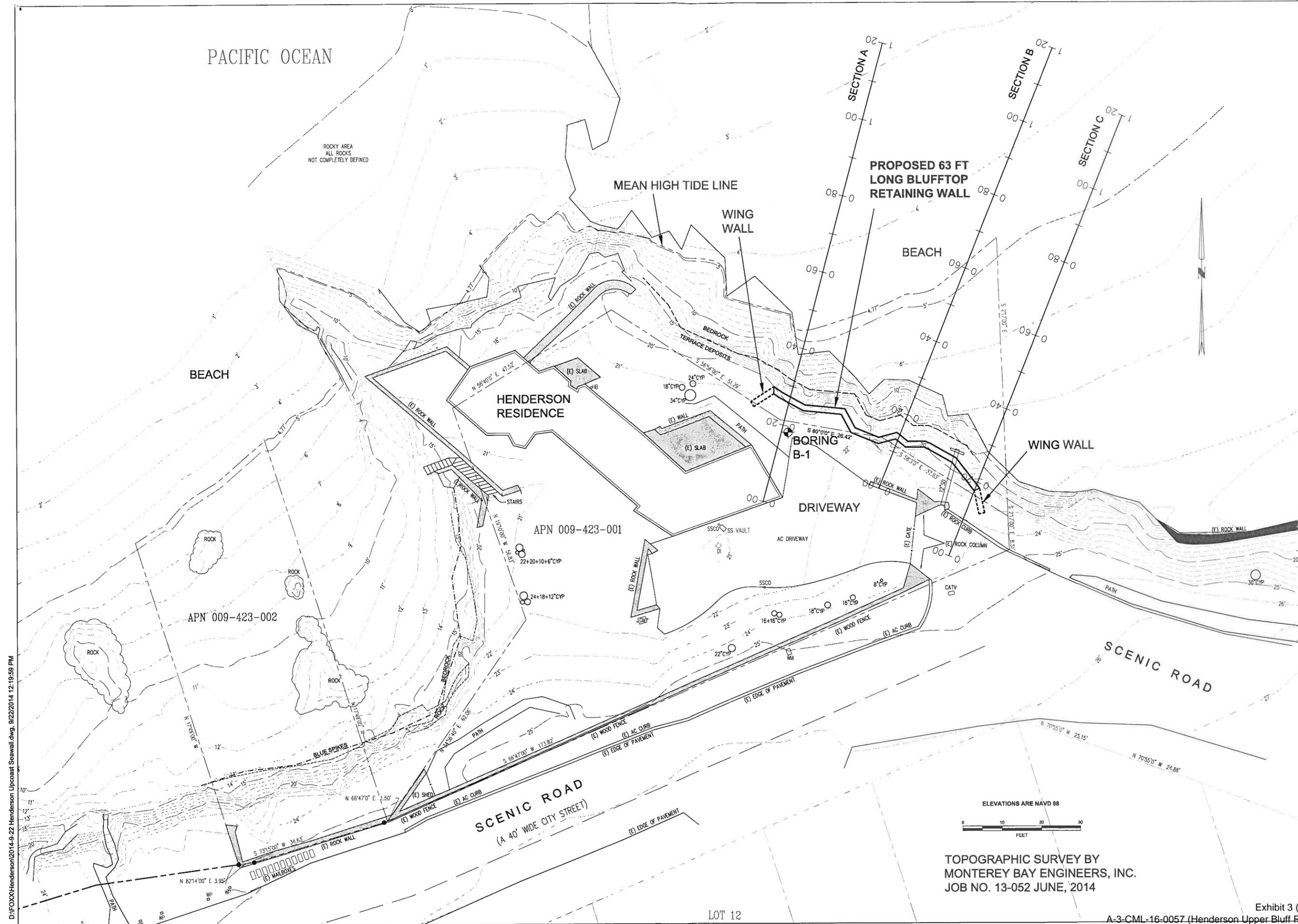
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CONCEPTUAL BLUFFTOP RETAINING WALL PLAN
UPCOAST SIDE OF THE HENDERSON PROPERTY, SCENIC ROAD, CARMEL, CA
MONTEREY COUNTY APN 009-423-001

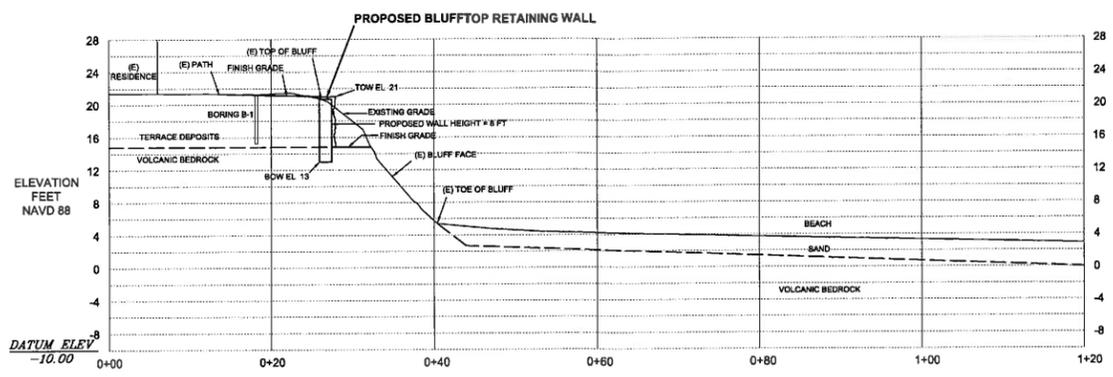
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 CONSULTING CIVIL, GEOTECHNICAL & COASTAL ENGINEERS
 116 EAST LAKE AVE., WATSONVILLE, CA 95076 (831) 722-4175

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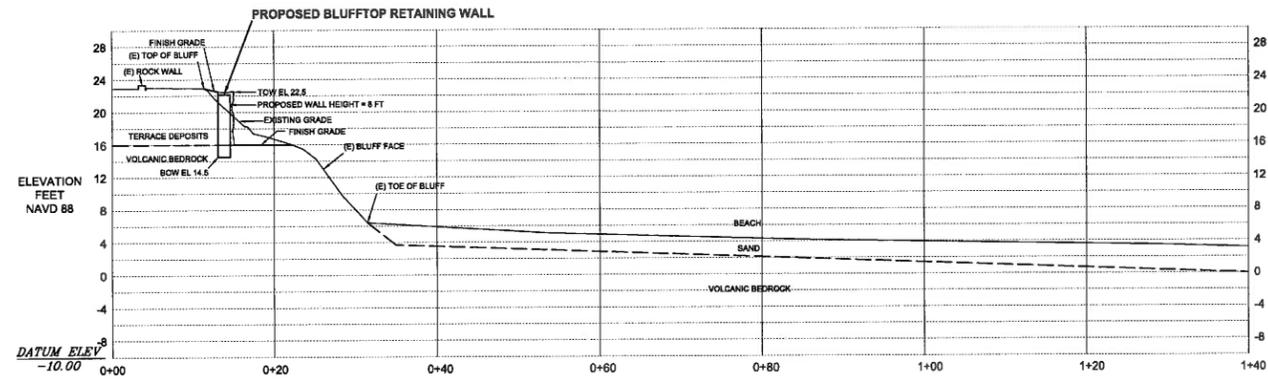


TOPOGRAPHIC SURVEY BY
 MONTEREY BAY ENGINEERS, INC.
 JOB NO. 13-052 JUNE, 2014

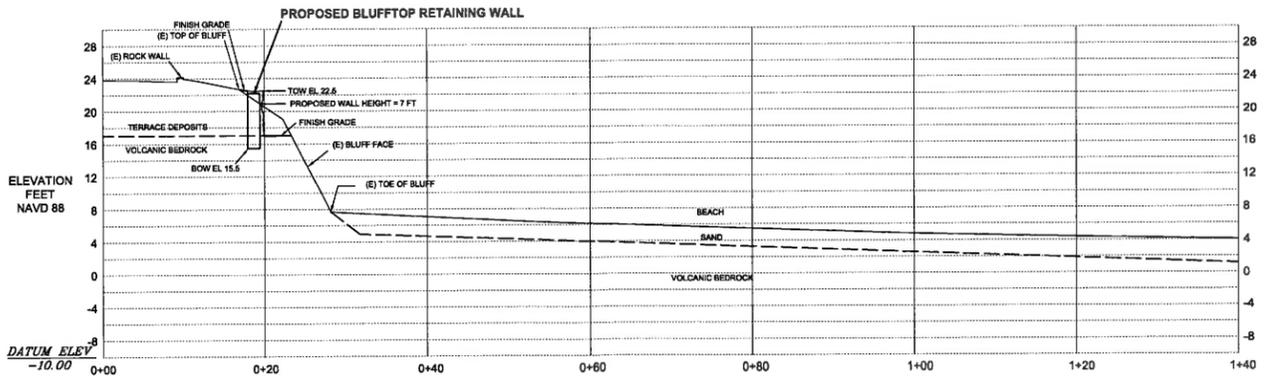
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A CROSS SECTION A
SCALE: HORIZONTAL: 1" = 10', VERTICAL: 1" = 10'



B CROSS SECTION B
SCALE: HORIZONTAL: 1" = 10', VERTICAL: 1" = 10'



C CROSS SECTION C
SCALE: HORIZONTAL: 1" = 10', VERTICAL: 1" = 10'



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CONCEPTUAL BLUFFTOP RETAINING WALL CROSS SECTIONS
 UP COAST SIDE OF THE HENDERSON PROPERTY, SCENIC ROAD, CARMEL, CA
 MONTEREY COUNTY APN 009-423-001

HARO, KASUNICH AND ASSOCIATES, INC.
 CONSULTING CIVIL, GEOTECHNICAL & COASTAL ENGINEERS
 118 EAST LAKE AVE., WATSONVILLE, CA 95076 (831) 722-4175

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| Job | |
| Sheet | 3 |

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CONSTRUCTION NOTES

HARDSCAPE AREA

EXISTING HARDSCAPE = 4935.00 SQ. FT.
 PROPOSED HARDSCAPE = 93.00 SQ. FT.
 TOTAL HARDSCAPE = 5028.00 SQ. FT.

CUT / FILL

CUT = 56.0 CUBIC YARDS
 FILL = 5.0 CUBIC YARDS
 EXPORT TO APPROVED DUMPSITE = 51.0 CUBIC YARDS

CONSTRUCTION METHODS / TOOLS

VARIOUS HANDTOOLS (SHOVELS, PICKS, ETC.), A JACKHAMMER, A BOBBAT COMPACT TRACK LOADER, A MINI EXCAVATOR, A PORTABLE DRILL RIG FOR TIEBACK INSTALLATION, LADDER, SCAFFOLDING AND REQUIRED SAFETY EQUIPMENT. ALL WORK WILL BE DONE FROM THE BLUFF-TOP. NO WORK WILL TAKE PLACE ON THE BEACH. THE WORK AREA IS WELL LANDWARD OF THE MEAN HIGH TIDE LINE AND FAR ABOVE THE MEAN HIGH WATER ELEVATION.

PROPOSED WALL

THE PROPOSED WALL WILL BE CONSTRUCTED FROM REINFORCED SHOTCRETE THAT IS SCULPTED, TEXTURED AND COLORED TO RESEMBLE THE IMMEDIATELY ADJACENT NATURAL BEDROCK EXPOSED ALONG THE COASTAL BLUFF. A PHOTO SIMULATION WILL BE INCLUDED WITH SUBMITTED PLANS.

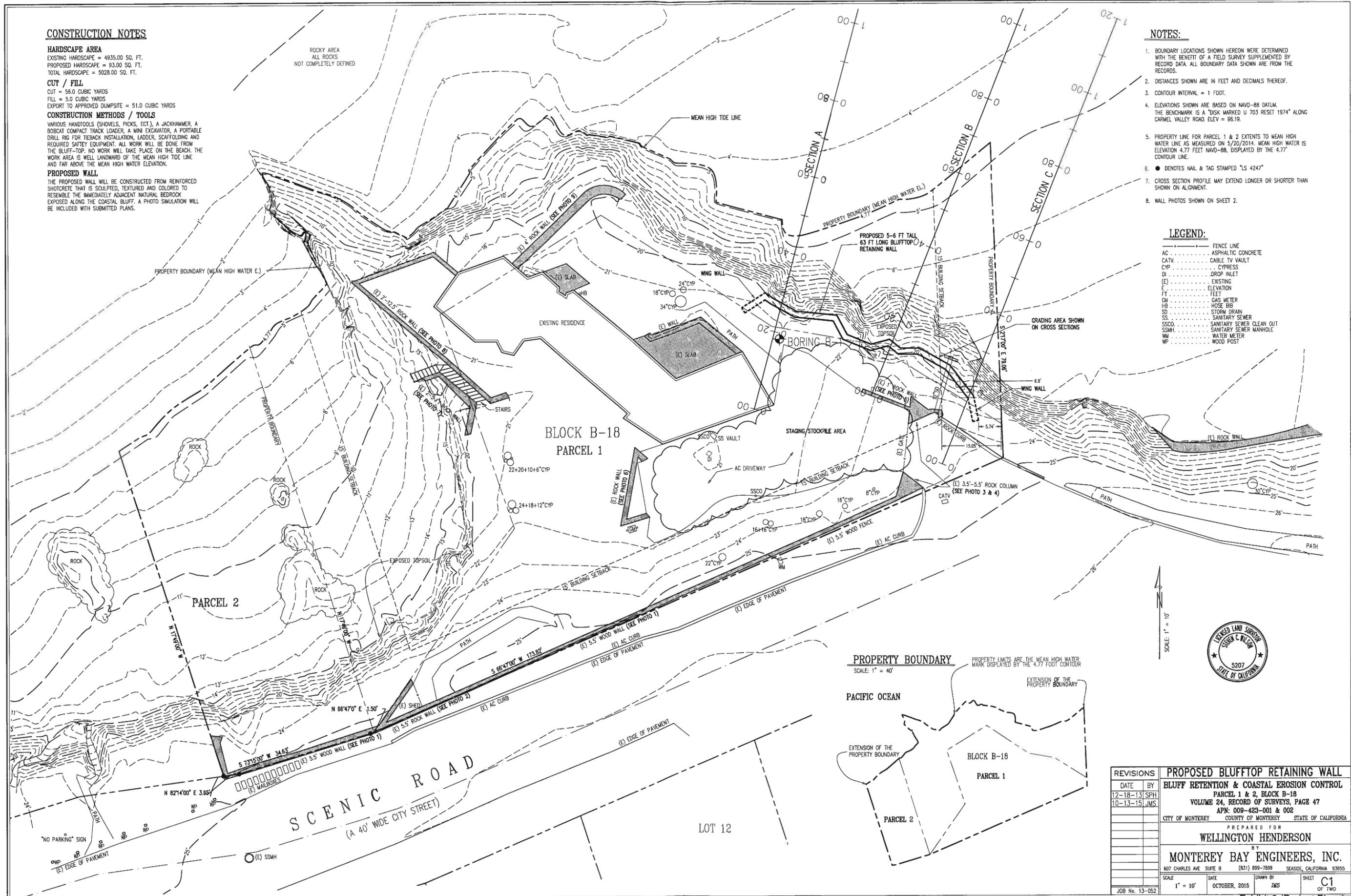
ROCKY AREA
 ALL ROCKS
 NOT COMPLETELY DEFINED

NOTES:

- BOUNDARY LOCATIONS SHOWN HEREON WERE DETERMINED WITH THE BENEFIT OF A FIELD SURVEY SUPPLEMENTED BY RECORD DATA. ALL BOUNDARY DATA SHOWN ARE FROM THE RECORDS.
- DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.
- CONTOUR INTERVAL = 1 FOOT.
- ELEVATIONS SHOWN ARE BASED ON NAVD-88 DATUM. THE BENCHMARK IS A "DISK MARKED U 703 RESET 1974" ALONG CARMEL VALLEY ROAD. ELEV = 96.19.
- PROPERTY LINE FOR PARCEL 1 & 2 EXTENTS TO MEAN HIGH WATER LINE AS MEASURED ON 5/20/2014. MEAN HIGH WATER IS ELEVATION 4.77 FEET NAVD-88, DISPLAYED BY THE 4.77' CONTOUR LINE.
- DENOTES NAIL & TAG STAMPED "LS 4247"
- CROSS SECTION PROFILE MAY EXTEND LONGER OR SHORTER THAN SHOWN ON ALIGNMENT.
- WALL PHOTOS SHOWN ON SHEET 2.

LEGEND:

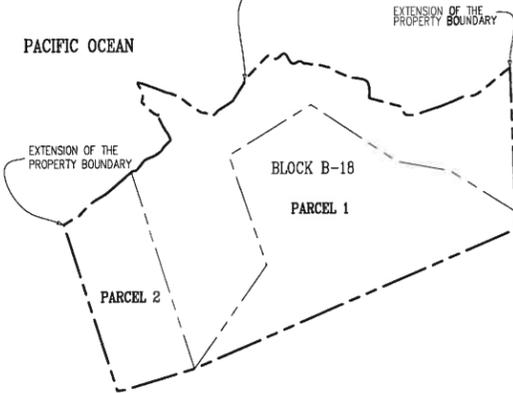
- FENCE LINE
- AC ASPHALTIC CONCRETE
- CATV CABLE TV VAULT
- CYP CYPRESS
- DI DROP INLET
- (E) EXISTING
- FT FEET
- GM GAS METER
- HB HOSE BIB
- SD STORM DRAIN
- SS SANITARY SEWER
- SSCO SANITARY SEWER CLEAN OUT
- SSMH SANITARY SEWER MANHOLE
- WM WATER METER
- WP WOOD POST



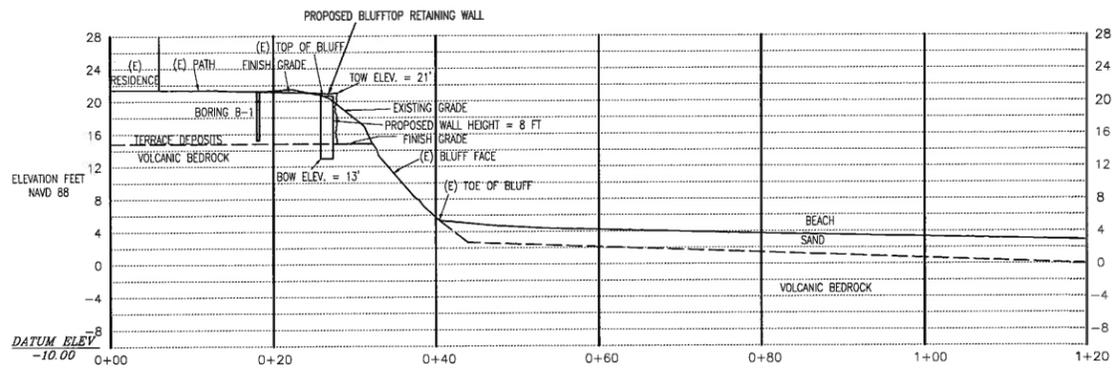
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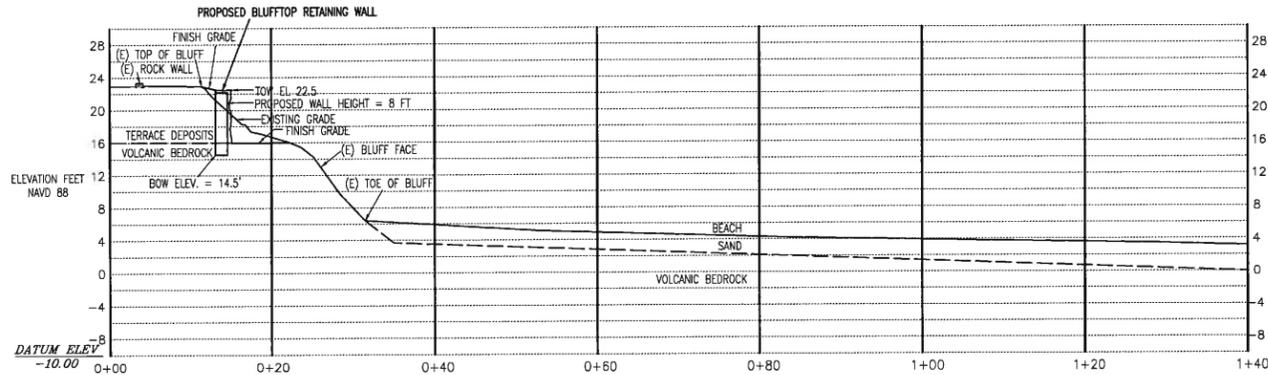
PROPERTY BOUNDARY
 SCALE: 1" = 40'
 PROPERTY LIMITS ARE THE MEAN HIGH WATER MARK DISPLAYED BY THE 4.77 FOOT CONTOUR



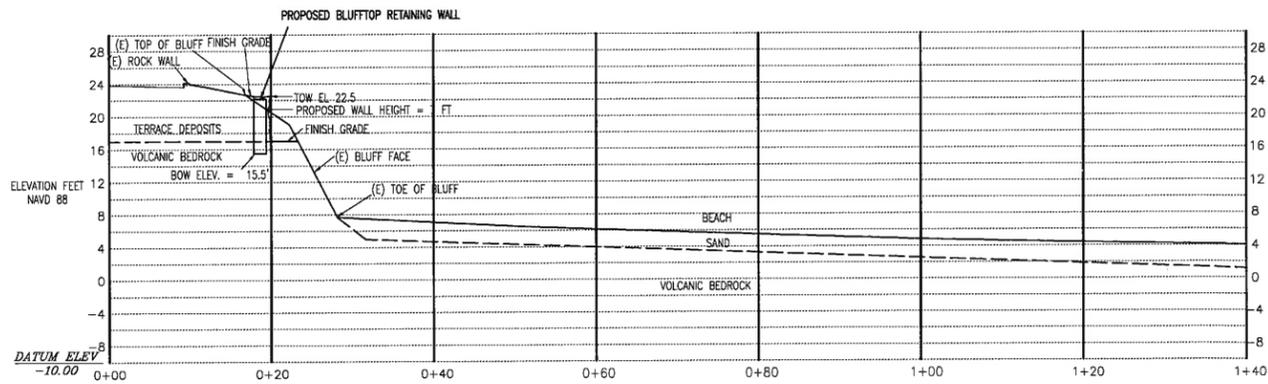
| REVISIONS | | PROPOSED BLUFFTOP RETAINING WALL | |
|----------------|---------------|--|--------|
| DATE | BY | BLUFF RETENTION & COASTAL EROSION CONTROL | |
| 12-18-13 | JMS | PARCEL 1 & 2, BLOCK B-18 | |
| 10-13-15 | JMS | VOLUME 24, RECORD OF SURVEYS, PAGE 47 | |
| | | APN: 009-423-001 & 002 | |
| | | CITY OF MONTEREY COUNTY OF MONTEREY STATE OF CALIFORNIA | |
| | | PREPARED FOR | |
| | | WELLINGTON HENDERSON | |
| | | BY | |
| | | MONTEREY BAY ENGINEERS, INC. | |
| | | 607 CHARLES AVE SUITE B (831) 899-7899 SEASIDE, CALIFORNIA 93955 | |
| SCALE | DATE | DRAWN BY | SHEET |
| 1" = 10' | OCTOBER, 2015 | JMS | C1 |
| JOB No. 13-052 | | | OF TWO |



CROSS SECTION A
SCALE: HORIZONTAL: 1" = 10', VERTICAL: 1" = 10'



CROSS SECTION B
SCALE: HORIZONTAL: 1" = 10', VERTICAL: 1" = 10'



CROSS SECTION C
SCALE: HORIZONTAL: 1" = 10', VERTICAL: 1" = 10'

WALL PHOTOS



PHOTO 1



PHOTO 2



PHOTO 3



PHOTO 4



PHOTO 5



PHOTO 6



PHOTO 7



PHOTO 8



PHOTO 9



| REVISIONS | | PROPOSED BLUFFTOP RETAINING WALL | |
|----------------|---------------|--|--------|
| DATE | BY | BLUFF RETENTION & COASTAL EROSION CONTROL | |
| 12-18-13 | SPH | PARCEL 1 & 2, BLOCK B-18 | |
| 10-13-15 | JMS | VOLUME 24, RECORD OF SURVEYS, PAGE 47 | |
| | | APN: 009-423-001 & 002 | |
| | | CITY OF MONTEREY COUNTY OF MONTEREY STATE OF CALIFORNIA | |
| | | PREPARED FOR | |
| | | WELLINGTON HENDERSON | |
| | | BY | |
| | | MONTEREY BAY ENGINEERS, INC. | |
| | | 807 CHARLES AVE SUITE B (831) 899-7899 SEASIDE, CALIFORNIA 93955 | |
| SCALE | DATE | DRAWN BY | SHEET |
| 1" = 10' | OCTOBER, 2015 | JMS | C2 |
| JOB No. 13-052 | | | OF TWO |

Watson, Michael@Coastal

From: Watson, Michael@Coastal
Sent: Tuesday, February 17, 2015 11:41 AM
To: 'Andrew Runnoe'; Chuck Henderson
Cc: Marc Wiener (mwiener@ci.carmel.ca.us); Watson, Michael@Coastal
Subject: RE: Henderson Project

Gentlemen,

I apologize for the delay. I located the materials prepared by HKA Associates for the proposed upper bluff armoring project. From the plans it appears the proposed wall is located within the City of Carmel's permit jurisdiction and the CCC's appeal jurisdiction. As a result, the standard of review is the Carmel Local Coastal Program including the Land Use Plan and Implementation Plan (LUP and IP). One of the key policies relevant to this project is LUP policy P5-6 which states in part:

Construct new shoreline armoring in areas previously unprotected only when required to protect existing structures in danger of erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 17.20.19.F of the IP further requires a complete assessment of a reasonable range of alternatives to armoring and states in relevant part:

Applicant's shall submit a complete evaluation of a reasonable range of potential alternatives including 1) project alt's that avoid the need for armoring including but not limited to relocation of development; 2) various armoring alt's; 3) "soft" options; and 4) the "no project" alternative. ...

Section 17.20.19.F further requires section of the environmentally least damaging feasible alternative:

The evaluation shall identify the environmentally least damaging feasible alternative that provides effective protection of existing development and minimizes impacts on public access, recreation, scenic resources, and sand supply.

Based on a quick review of the materials, the HKA geotechnical investigation does not appear to establish the threat from erosion. Although they indicate infrequent overtopping may occur with extreme events, the report states the residence is founded on weathered bedrock that is resistant to erosion and a layer of much less resistant terrace deposits. The report does not state the nature of the threat (e.g, the terrace deposits are eroding beneath the foundation of the house and is causing it to collapse). The report further does not include average annual shoreline erosion rates which are needed to establish the degree of threat. And the report does not establish what precisely is threatened (e.g., house, garage, driveway, etc). Finally, we did not see an analysis of the potential impacts to local sand supply or an assessment of a reasonable range of alternatives to the proposed upper bluff armoring.

What this amounts to is that there isn't adequate technical support at this time for the upper bluff armoring consistent with the LCP. Perhaps with additional detail and more rigorous analysis of the shoreline processes in the vicinity of the residence, the necessary criteria will be met to establish a threat. A similarly detailed analysis of sand supply and feasible alternative would also be critical in choosing the appropriate response and ensuring all impacts are fully mitigated. Let me know if you have any further questions.

Mike

From: Andrew Runnoe [mailto:arunnoe@sbcglobal.net]

Sent: Tuesday, February 17, 2015 9:44 AM

To: Watson, Michael@Coastal; Chuck Henderson
Subject: Re: Henderson Project

The address is 26336 Scenic Dr. Carmel. The project is a Bluff Stabilization and Blufftop Retaining Wall. The owners name is Wellington Henderson Jr. The packet was prepared by Haro, Kasunich and Associates. I personally hand delivered the packet almost two months ago, with a cover letter explaining the project. I have attempted contacting you before this with no response. Please let me know if you have the information or not so I can schedule a meeting with you (if need be), or if you believe it already conforms to Carmels Coastal Plan so I can commence with the permitting process with them. I will be waiting for your response. Thank you. Andy Runnoe

Andy Runnoe
Runnoe Construction
689 Francis Ave
Seaside, CA 93955
CA License #450809
(831)917-5237, (831)394-1800
From: "Watson, Michael@Coastal" <Michael.Watson@coastal.ca.gov>
To: Andrew Runnoe <arunnoe@sbcglobal.net>
Sent: Tuesday, February 17, 2015 9:30 AM
Subject: RE: Henderson Project

Andrew,

Can you remind me what the project involves (description) and the project address. Mike

From: Andrew Runnoe [<mailto:arunnoe@sbcglobal.net>]
Sent: Thursday, February 12, 2015 3:12 PM
To: Watson, Michael@Coastal
Subject: Henderson Project

Mr. Watson, approx. two months ago I contacted you concerning a project we are proposing in Carmel. At the time your earliest available appointment was in Feb. of this year but you informed me that if I dropped a project packet off at your office, you would take a quick look at it when you had the chance. That was over 50 days ago and I still have not heard from you. Have you had a chance to look at the project? did your office staff even get it to you and if so, what has happened to it. Please let me know ASAP as my client wants to move this along. Your attention would be greatly appreciated. Andy Runnoe.

Andy Runnoe
Runnoe Construction
689 Francis Ave
Seaside, CA 93955
CA License #450809
(831)917-5237, (831)394-1800

FINAL LOCAL ACTION NOTICE ON COASTAL PERMIT

City of Carmel-by-the-Sea

Date of Notice: May 3, 2016

Submitted By: Ashley Hobson, Contract Planner

Notice Sent to (via first-class mail):

Applicant & Applicant's Rep (if any)
California Coastal Commission Central Coast District Office

RECEIVED
MAY 05 2016
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

| |
|---------------------------------|
| For Coastal Commission Use Only |
| Reference #: |
| Appeal Period: |

Please note the following **Final City of Carmel-by-the-Sea Action** on an application for a Coastal Permit, emergency Coastal Permit, Coastal Permit amendment or Coastal Permit extension. All local appeal periods have been exhausted for this matter:

Project Information

Application #: DS 15-158 (Henderson)
Project Applicant: Wellington S. Henderson, Jr.
Applicant's Rep: Runnoe Construction, Contractor
Project Location: 26336 Scenic Road, Carmel-by-the-Sea
APN: 009-423-001 and 009-423-002

| |
|--------------------------------------|
| FINAL LOCAL ACTION NOTICE |
| REFERENCE # <u>3-CML-16-0403</u> |
| APPEAL PERIOD <u>5/16/16-5/19/16</u> |

Project Description: Consideration of a Design Study (DS 15-158) and associated Coastal Development Permit and adoption of a Mitigated Negative Declaration for the construction of a new bluff top retaining wall at an existing residence located in the Single-Family Residential (R-1) Zoning District and the Beach Overlay District, and listed on the Historic Resources Inventory

Final Action Information

Final Action Date: April 13, 2016
Final Local Action: Approved with Conditions Denied
Final Action Body: Design Review Board Planning Commission City Council
 Historic Resources Board Director/Staff /Other (explain) _____

| Required Materials Supporting the Final Action | Enclosed | Previously Sent (date) |
|--|----------|------------------------|
| Adopted Staff Report | X | |
| Adopted Findings | X | |
| Adopted Conditions | X | |
| Site Plans | X | |
| Elevations | X | |

| Additional Materials Supporting the Final Action | Enclosed | Previously Sent (date) |
|--|----------|------------------------|
| CEQA Document(s) | X | |
| Historic Evaluation | X | |
| Biotic Report (s) | | |
| Other _____ | | |
| Other _____ | | |

Coastal Commission Appeal Information

This Final City of Carmel-by-the-Sea Action is:

- NOT appealable** to the California Coastal Commission. The Final City Action is now effective.
- Appealable** to the California Coastal Commission. The Coastal Commission's 10-working day appeal period begins the first working day after the Coastal Commission receives adequate notice of this Final City Action. The Final City of Carmel-by-the-Sea Action is not effective until after the Coastal Commission's appeal period has expired and no appeal has been filed. Any such appeal must be made directly to the California Coastal Commission Central Coast District Office in Santa Cruz; there is no fee for such an appeal. Should you have any questions regarding the Coastal Commission appeal period or process, please contact the Central Coast District Office at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 425-4863.



CITY OF CARMEL-BY-THE-SEA

Historic Resources Board

April 13, 2016

To: Chair Goodhue and Board Members

From: Marc Wiener, Interim Community Planning and Building Director

Submitted by: Ashley Hobson, Contract Planner

Subject: Consideration of a Design Study (DS 15-158) and associated Coastal Development Permit and adoption of a Mitigated Negative Declaration for the construction of a new bluff top retaining wall at an existing residence located in the Single-Family Residential (R-1) Zoning District and the Beach Overlay District, and listed on the Historic Resources Inventory

Recommendation:

Adopt the Mitigated Negative Declaration and approve the associated Design Study (DS 15-138) and Coastal Development Permit.

Application: DS 15-158 (Henderson) **APN:** 009-423-001 and 009-423-002
Block: B-18 **Lots:** 1 & 2
Location: NW Corner of Scenic and Martin Way
Applicant: Runnoe Construction **Property Owner:** Wellington S. Henderson Jr.

Background:

The existing residence, known as the "Cabin on the Rocks", is a low one-story concrete and Carmel Stone house that projects out on a granite outcropping over the Carmel Bay. The house was designed by Architect Frank Lloyd Wright in 1948 and is listed in the Carmel Historic Resource Inventory. The residence is also eligible as both a California State Historical Resources and a National Historic Resource under Criteria #3 as the only house designed and constructed by Frank Lloyd Wright in Carmel that relates directly to its seaside location and environment.

Because of the property's close proximity to the ocean, the movement of water has eroded the bluff face under the house to the extent that it appears to be an eminent threat to the entry gate and driveway of the residence. Recent erosion on the lower portions of the bluff has resulted in focused ocean spray on specific areas supporting the bluff top driveway. The applicant is proposing to construct a 63-foot long bluff-top retaining wall along the northern boundary of the property, overlooking the southern edge of Carmel Beach. The wall is proposed to range between 7 feet and 8 feet in height, with the top of the wall approximately 16 feet above the existing grade of the beach. The wall is proposed to match, to the extent feasible, the existing bluff face, and would be constructed with the appearance of natural stone. The purpose of the wall is to prevent further erosion of the bluff caused by ocean spray and rain.

Staff Analysis:

Zoning Compliance: Pursuant to CMC Section 17.20.190 (Shoreline Protection); Shoreline protective structures may be permitted only when the review authority determines that the structure is:

1. Necessary to protect existing structures, coastal-dependent uses, public beaches, public access and beach facilities in danger of erosion;
2. The least environmentally damaging feasible alternative;
3. Designed to successfully eliminate or mitigate adverse impacts on local shoreline and sand supply;
4. Designed to avoid significant intertidal or subtidal areas;
5. Designed to avoid, or minimize if avoidance is infeasible, impacts on beach access; and
6. Designed to respect natural landforms and minimize visual impact to the extent possible, through means including the use of structures, colors and materials that are visually compatible to those already established.

Additionally, CMC Section 17.20.190 includes requirements to ensure proper maintenance and inspection of any shoreline protection. Staff has included recommended conditions (#26-#30) to address these requirements.

In staff's opinion, the proposed retaining wall is necessary to protect the subject historic property and is designed to minimize visual and environmental impacts to the surrounding areas. A Geological and Geotechnical Engineering Investigation was completed for the project by Haro, Kasunich and Associates, Inc in September 2014 and found that although the exposed

volcanic bedrock surrounding the house is relatively hard, it has been weakened by naturally occurring weathering, joints, and fractures. The project engineers determined that the construction of the retaining wall will stabilize the existing bluff face and help to preserve the north side of the property.

Historic Evaluation Summary: A determination of consistency with the Secretary of the Interior Standards for the Treatment of Historic Properties was granted by the Historic Resources Board on January 19, 2016. The Historic Resources Board took into consideration the appearance of the seawall and accepted the project subject to the following conditions:

- 1) All drainage should remain behind the wall, with no seep holes protruding through the wall.
- 2) The wall shall be built with a natural and integrated appearance to the existing rock, without a shelf or stepped appearance.
- 3) Prior to the issuance of a building permit, staff shall review the color and texture specifications of the artificial rock to confirm a natural appearance and differentiation

These requirements have been included in the conditions of approval for this project.

Archaeological Analysis: The subject residence and surrounding lands are located within the City of Carmel Archaeological Significance Overlay zone. An Archaeological Review of the retaining wall was completed by BASIN Research Associates on October 21, 2015, and found that sediment with a very low density of Red Abalone shell fragments are present within the footprint of the proposed retaining wall. This sediment may represent prehistoric midden (culturally affected soil) associated with the archaeological site that was destroyed during the construction of the residence in the early 1950s. The report notes that the sediment along the bluff appears to lack cultural integrity and significant prehistoric archaeological materials. The Archaeologist recommended the following three conditions:

- 1) The project proponent shall note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources including prehistoric Native American burials.
- 2) The project proponent shall retain a Professional Archaeologist to provide pre-construction briefing(s) to supervisory personnel of any excavation contractor to alert them to the possibility of exposing significant prehistoric archaeological resources within the project area. The briefing shall discuss any archaeological objects that could be exposed, the need to stop excavation at the discovery, and the procedures to follow

regarding discovery protection and notification of the project proponent and archaeological team. An "Alert Sheet" shall be posted in conspicuous locations at the project location to alert personnel to the procedures and protocols to follow for the discovery of potentially significant prehistoric archaeological resources.

- 3) The project proponent shall retain a Professional Archaeologist on an "on-call" basis during ground disturbing construction for the project to review, identify, and evaluate cultural resources that may be inadvertently exposed during construction. The archaeologist shall review and evaluate any discoveries to determine if they are historic resource(s) and/or unique archaeological resources under the California Environmental Quality Act (CEQA).

Environmental Review: An environmental Initial Study (IS) was prepared to evaluate the potential for the project to result in environmental impacts. The IS concluded that there was a potential for environmental effects, but that these could all be reduced to "less-than-significant" levels through the implementation of specific mitigation measures. Based on this conclusion, a draft Mitigated Negative Declaration (MND) was prepared for the project. Adoption of the MND by the Planning Commission and approval of the Design Study will complete the environmental review process. The draft IS and proposed MND will be circulated from March 10, 2016 to April 9, 2016 (30 days) and as of April 4, 2016, no comments were received. The final MND proposed for adoption is included as Attachment E, and the complete IS/MND is available for review (including all technical reports) upon request or at the Community Planning and Building Department.

ATTACHMENTS:

- Attachment A – Conditions of Approval
- Attachment B – Site Photographs
- Attachment C – Mitigated Negative Declaration (Initial Study will be provided electronically to Commission)
- Attachment D – California Coastal Conservancy Letter
- Attachment E – Project Plans

Attachment A – Conditions of Approval

DS 15-158 (Henderson)

April 13, 2016

Conditions of Approval

Page 1

| Revised on 4/13/2016 by the Planning Commission | | |
|--|---|---|
| Conditions of Approval | | |
| No. | Standard Conditions | |
| 1. | Authorization: This approval of Design Study (DS 14-158) authorizes the installation of a 63-foot long bluff-top retaining wall along the northern boundary of the property, overlooking the southern edge of Carmel Beach. The wall is proposed to range between 7 feet and 8 feet in height, with the top of the wall approximately 16 feet above the existing grade of the beach. | ✓ |
| 2. | The project shall be constructed in conformance with all requirements of the local R-1 zoning ordinances. All adopted building and fire codes shall be adhered to in preparing the working drawings. If any codes or ordinances require design elements to be changed, or if any other changes are requested at the time such plans are submitted, such changes may require additional environmental review and subsequent approval by the Planning Commission. | ✓ |
| 3. | This approval shall be valid for a period of one year from the date of action unless an active building permit has been issued and maintained for the proposed construction. | ✓ |
| 4. | All new landscaping, if proposed, shall be shown on a landscape plan and shall be submitted to the Department of Community Planning and Building and to the City Forester prior to the issuance of a building permit. The landscape plan will be reviewed for compliance with the landscaping standards contained in the Zoning Code, including the following requirements: 1) all new landscaping shall be 75% drought-tolerant; 2) landscaped areas shall be irrigated by a drip/sprinkler system set on a timer; and 3) the project shall meet the City's recommended tree density standards, unless otherwise approved by the City based on site conditions. The landscaping plan shall show where new trees will be planted when new trees are required to be planted by the Forest and Beach Commission or the Planning Commission. | ✓ |
| 5. | Trees on the site shall only be removed upon the approval of the City Forester or Forest and Beach Commission as appropriate; and all remaining trees shall be protected during construction by methods approved by the City Forester. | ✓ |
| 6. | All foundations within 15 feet of significant trees shall be excavated by hand. If any tree roots larger than two inches (2") are encountered during construction, the City Forester shall be contacted before cutting the roots. The City Forester may require the roots to be bridged or may authorize the roots to be cut. If roots larger than two inches (2") in diameter are cut without prior City Forester | ✓ |

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| | approval or any significant tree is endangered as a result of construction activity, the building permit will be suspended and all work stopped until an investigation by the City Forester has been completed. Twelve inches (12") of mulch shall be evenly spread inside the dripline of all trees prior to the issuance of a building permit. | |
| 7. | The applicant shall submit in writing to the Community Planning and Building staff any proposed changes to the approved project plans prior to incorporating changes on the site. If the applicant changes the project without first obtaining City approval, the applicant will be required to either: a) submit the change in writing and cease all work on the project until either the Planning Commission or staff has approved the change; or b) eliminate the change and submit the proposed change in writing for review. The project will be reviewed for its compliance to the approved plans prior to final inspection. | ✓ |
| 8. | The applicant agrees, at his or her sole expense, to defend, indemnify, and hold harmless the City, its public officials, officers, employees, and assigns, from any liability; and shall reimburse the City for any expense incurred, resulting from, or in connection with any project approvals. This includes any appeal, claim, suit, or other legal proceeding, to attack, set aside, void, or annul any project approval. The City shall promptly notify the applicant of any legal proceeding, and shall cooperate fully in the defense. The City may, at its sole discretion, participate in any such legal action, but participation shall not relieve the applicant of any obligation under this condition. Should any party bring any legal action in connection with this project, the Superior Court of the County of Monterey, California, shall be the situs and have jurisdiction for the resolution of all such actions by the parties hereto. | ✓ |
| 9. | The applicant shall include a storm water drainage plan with the working drawings that are submitted for building permit review. The drainage plan shall include applicable Best Management Practices and retain all drainage on site through the use of semi-permeable paving materials, French drains, seepage pits, etc. Excess drainage that cannot be maintained on site, may be directed into the City's storm drain system after passing through a silt trap to reduce sediment from entering the storm drain. Drainage shall not be directed to adjacent private property. | ✓ |
| 10a. | An archaeological reconnaissance report shall be prepared by a qualified archaeologist or other person(s) meeting the standards of the State Office of Historic Preservation prior to approval of a final building permit. The applicant shall adhere to any recommendations set forth in the archaeological report. All new construction involving excavation shall immediately cease if materials of archaeological significance are discovered on the site and shall not be permitted to recommence until a mitigation and monitoring plan is approved by the | ✓ |

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| | Planning Commission. | |
| 10b. | All new construction involving excavation shall immediately cease if cultural resources are discovered on the site, and the applicant shall notified the Community Planning and Building Department within 24 hours. Work shall not be permitted to recommence until such resources are properly evaluated for significance by a qualified archaeologist. If the resources are determined to be significant, prior to resumption of work, a mitigation and monitoring plan shall be prepared by a qualified archaeologist and reviewed and approved by the Community Planning and Building Director. In addition, if human remains are unearthed during excavation, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and distribution pursuant to California Public Resources Code (PRC) Section 5097.98. | ✓ |
| 11. | Prior to Building Permit issuance, the applicant shall provide for City (Community Planning and Building Director in consultation with the Public Services and Public Safety Departments) review and approval, a truck-haul route and any necessary temporary traffic control measures for the grading activities. The applicant shall be responsible for ensuring adherence to the truck-haul route and implementation of any required traffic control measures. | ✓ |
| 12. | All conditions of approval for the Planning permit(s) shall be printed on a full-size sheet and included with the construction plan set submitted to the Building Safety Division. | ✓ |
| Special Conditions per the Historic Resources Board approval on March 21, 2016 | | |
| 13. | Prior to the beginning of construction, the applicant shall convene a pre-construction meeting to include the contractor and the City's Project Planner to ensure compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. | ✓ |
| 14. | All drainage should remain behind the wall, with no seep holes protruding through the wall. | ✓ |
| 15. | The wall shall be built with a natural and integrated appearance to the existing rock, without a shelf or stepped appearance. | ✓ |
| 16. | Prior to the issuance of a building permit, staff shall review the color and texture specifications of the artificial rock to confirm a natural appearance and differentiation from the existing. | ✓ |
| Special Conditions per the Mitigation Monitoring Program | | |
| 17. | The installation of the bluff-top retaining wall should be constructed in a manner to replicate the volcanic bedrock texture with undulations both vertically and | ✓ |

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| | horizontally. The surface color should be blended to conform with the underlying bedrock formation to avoid a differentiating line at the seam between the wall and bedrock. Samples of the proposed finish should be reviewed by City staff prior to installation. | |
| 18. | The installation of the bluff-top retaining wall should be constructed with a natural and integrated appearance to the existing rock, without a shelf or stepped appearance. The color and texture should have a natural appearance, which blends with the natural appearance of the rock. however it should appear different from the existing natural rock. Color and texture specifications should be reviewed by City staff prior to installation. The appearance details of the bluff top wall shall be reviewed by the City's historical consultant prior to construction to ensure that the new addition integrates the old and new in a manner consistent with the Secretary of the Interior's Standards and the Historic Resources Board Recommendations from the March 21, 2016 meeting. | ✓ |
| 19. | The project proponent shall retain a Professional Archaeologist to provide pre-construction briefings to supervisory personnel of any excavation contract to alert them to the possibility of exposing significant prehistoric archaeological resources within the project area. The briefing shall discuss any archaeological objects that could be exposed, the need to stop excavation at the discovery, and the procedures to follow regarding discovery protection and notification of the project proponent and archaeological team. An "Alert Sheet" shall be posted in conspicuous locations at the project location to alert personnel to the procedures and protocols to follow for the discovery of potentially significant prehistoric archaeological resources. | ✓ |
| 20. | The project proponent shall note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources including prehistoric Native American burials. | ✓ |
| 21. | The project proponent shall retain a Professional Archaeologist on an "on-call" basis during ground disturbing construction for the project to review, identify and evaluate cultural resources that may be inadvertently exposed during construction. The archaeological shall review and evaluate any discoveries to determine if they are historic resources(s) and/or unique archaeological resources under the California Environmental Quality Act (CEQA). | ✓ |
| 22. | The project Geotechnical Engineer or Engineering Geologist should observe the bedrock along the keyway of the proposed bluff top retaining wall after it has | ✓ |

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| | been initially excavated and make any necessary recommendation to deepen it if necessary to mitigate premature undermining of the wall due to localized wreathing or fracturing of the bedrock. | |
| 23. | The Wing Walls at the end of the bluff top retaining wall should be embedded at least 6 feet laterally into the terrace deposits to stall outflanking of the wall. The ends of the upper wall shall be configured to conform to the adjacent natural bluff face. | ✓ |
| 24. | A landscape and drainage plan shall be submitted to the City for review prior to the beginning of construction. The landscaping shall prevent the migration of water behind the seawall. Following grading, all exposed slopes should be planted or landscaped as soon as possible to avoid erosion. | ✓ |
| 25. | Surface drainage should include provisions for positive gradients so that surface runoff is not permitted to pond adjacent to the top of the reconstructed coastal bluffs and seep into the seawall systems. Surface drainage should be directed away from the reconstructed bluff top edge towards appropriate storm drain facilities where possible. | ✓ |
| Special Conditions per Municipal Code Section 17.20.190 | | |
| 26. | Proposed bluff top development shall be designed and constructed to incorporate appropriate erosion control measures, in compliance with the City's grading standards. | ✓ |
| 27. | The permittee shall ensure that the condition and performance of existing seawalls and revetments are regularly monitored by a licensed civil engineer with experience in coastal structures and processes. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred that would adversely impact its future performance, and identify any structural damage requiring repair to maintain the as-built revetment profile. | ✓ |
| 28. | Annual monitoring reports shall be prepared by a licensed civil engineer with experience in coastal structures and processes and shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the existing revetment or the bedrock benches adjacent to and below it. All monitoring reports shall include photos of the structures and surrounding areas taken during low sand elevations in the winter months. | ✓ |
| 29. | It is the permittee's responsibility to maintain any shoreline armoring structures and all irrigation, drainage, and vegetation in a structurally sound manner and its approved state until such a time that the seawalls and/or revetments are | ✓ |

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877



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's Shallenberger and Howell

Mailing Address: 45 Fremont Street, Suite 2000

City: San Francisco

Zip Code: 94105

Phone: 415 904-5202

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Carmel-by-the-Sea

2. Brief description of development being appealed:

Construction of an eight-foot high and 63-foot long upper bluff wall with faux bluff facing and related development (i.e., drainage and landscaping improvements).

3. Development's location (street address, assessor's parcel no., cross street, etc.):

26336 Scenic Road, Carmel-by-the-Sea; APNs 009-423-001 and 009-423-002

4. Description of decision being appealed (check one.):

- Approval; no special conditions
Approval with special conditions:
Denial

RECEIVED

MAY 19 2016

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

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-3-CML-16-0057
DATE FILED: 5/19/16
DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: April 13, 2016

7. Local government's file number (if any): DS 15-158

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Wellington S. Henderson, Jr.
1325 Howard Avenue #940
Burlingame, CA 94010-4212

b. 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.

(1) Gail Hatter-Crawford
Sr. Land Use Specialist
Anthony Lombardo & Associates
144 W. Gabilan Street
Salinas, CA 93901

(2) Andrew Runnoe
Runnoe Construction
689 Francis Avenue
Seaside, CA 93955

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE 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.
- 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.)
- This 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.

See Attached Reasons For Appeal

Reasons for Appeal of City of Carmel-by-the-Sea Coastal Development Permit DS 15-158 (Henderson Bluff Armoring)

Carmel-by-the-Sea (Carmel) coastal development permit (CDP) DS 15-158 authorizes the construction of an eight-foot high and 63-foot long upper bluff wall with faux bluff facing and related development (i.e., drainage and landscaping improvements) at 26336 Scenic Road in the City of Carmel-by-the-Sea in Monterey County. The site is the location of a circa 1948 Frank Lloyd Wright house, which is a notable historical residence in the City of Carmel. According to the City's approval, the purpose of the project is to protect the driveway and driveway gate from potential bluff failure due to future erosion and storm events. The City-approved project involves development within the LCP's Beach Overlay District at the south end of Carmel Beach. The City-approved project raises questions regarding its consistency with the City's LCP for the following reasons:

The LCP prohibits shoreline protective structures unless they are necessary to protect existing structures, coastal-dependent uses, or public recreational facilities and beaches in danger of erosion (including LUP Policy P5-6 and IP Section 17.20.19 C.1). The LCP further prescribes that shoreline armoring may only be permitted when it is determined that the armoring is the least environmentally damaging feasible alternative to address the identified danger, and where it is designed to eliminate or mitigate adverse impacts on the shoreline, sand supply, public beach access, and scenic resources (including LUP Policy P5-5 and IP Sections 17.20.19 C.2 – C.6). Applicants for shoreline armoring are required to submit a complete evaluation of a reasonable range of alternatives including the "no project" alternative, relocation of threatened structures, various armoring solutions, and "soft" options (LUP Policy P5-5 and IP Section 17.20.19 F).

The City-approved armoring would extend along the bluff fronting the existing driveway and driveway entrance gate, including a concrete pillar and decorative cut-off wall that are located within about six-and-a-half feet of the blufftop edge. Project technical reports indicate that the underlying bedrock bluffs are eroding very slowly at this location, approximately 0.1 feet annually. However, the technical reports do not provide an erosion rate for the upper bluff marine terrace deposits where the proposed armoring would be installed. In other words, the only technical information on the degree of threat is the fairly slow rate ascribed to the lower bluff bedrock (0.1 feet per year). And the upper bluff area appears fairly vegetated, suggesting a relative lack of erosion. As such, it is not clear that there is a structure endangered in such a way as to necessitate armoring at this location, and thus it is unclear if the approved wall can appropriately be considered in this situation.

In addition, even if the existing driveway and gate were shown to be in danger from erosion, then the LCP requires a thorough analysis of alternatives designed to address the identified danger, including but not limited to relocation or partial removal of the endangered existing structures. The City did not analyze any other alternatives to the armoring, such as modifications to or relocation of any endangered portions of the driveway and gate. Thus, not only is it unclear if a retaining wall can even be considered (because of the lack of evidence of erosion danger), it is likewise unclear that even if there was conclusive danger, whether a seawall is the least environmentally damaging feasible alternative to address the identified danger, as is also required by the LCP. Bracketing the question regarding the degree of threat, it appears that there

is space to move and relocate portions of the driveway and gate if that were needed to address erosion danger.

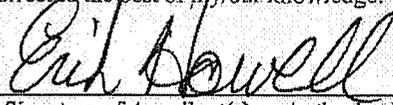
Furthermore, if danger were to be conclusively established, and if a retaining wall were to be conclusively shown to be the least damaging alternative to address the danger, the LCP still requires that all impacts be eliminated and, if not able to be eliminated, to be mitigated (e.g., the retaining wall would block sand generating materials from entering into the shoreline sand supply system, and this impact – and others – require mitigation per the LCP). The City addresses visual impacts via requiring the wall to be camouflaged as a bluff, but the ways in which this will be ensured are unclear (e.g., the approval lacks performance standards for same). This could result in a decidedly unnatural back beach area when this viewshed is protected by the LCP as a matter of great importance. With respect to other potential impacts, the City's approval omits discussion of any such impacts, and thus lacks required armoring mitigation (were armoring shown to be appropriate here), including with respect to shoreline sand supply.

In short, the City-approved project raises LCP questions regarding whether armoring is appropriate at this location and under what conditions, and the manner in which the City is evaluating armoring projects under its LCP. Danger has not been clearly established, and it appears as though the bluff is not actively retreating. There has been no evaluation of alternatives, and it is not clear that armoring would be appropriate even were danger to be established. And even if those LCP tests are met, the project lacks mitigation for impacts. For all of these reasons, this project should be further evaluated by the Coastal Commission to ensure LCP conformance.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: _____

5/19/16

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

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.)

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 J. Shallenberger
Appellant or Agent

Date: 5/19/16

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

Signed: _____

Date: _____



Bluff Area – Rendering of proposed wall with stone to match natural rock formations