

CALIFORNIA COASTAL COMMISSION

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A-6-CII-20-0056 (Cline)

November 5, 2020

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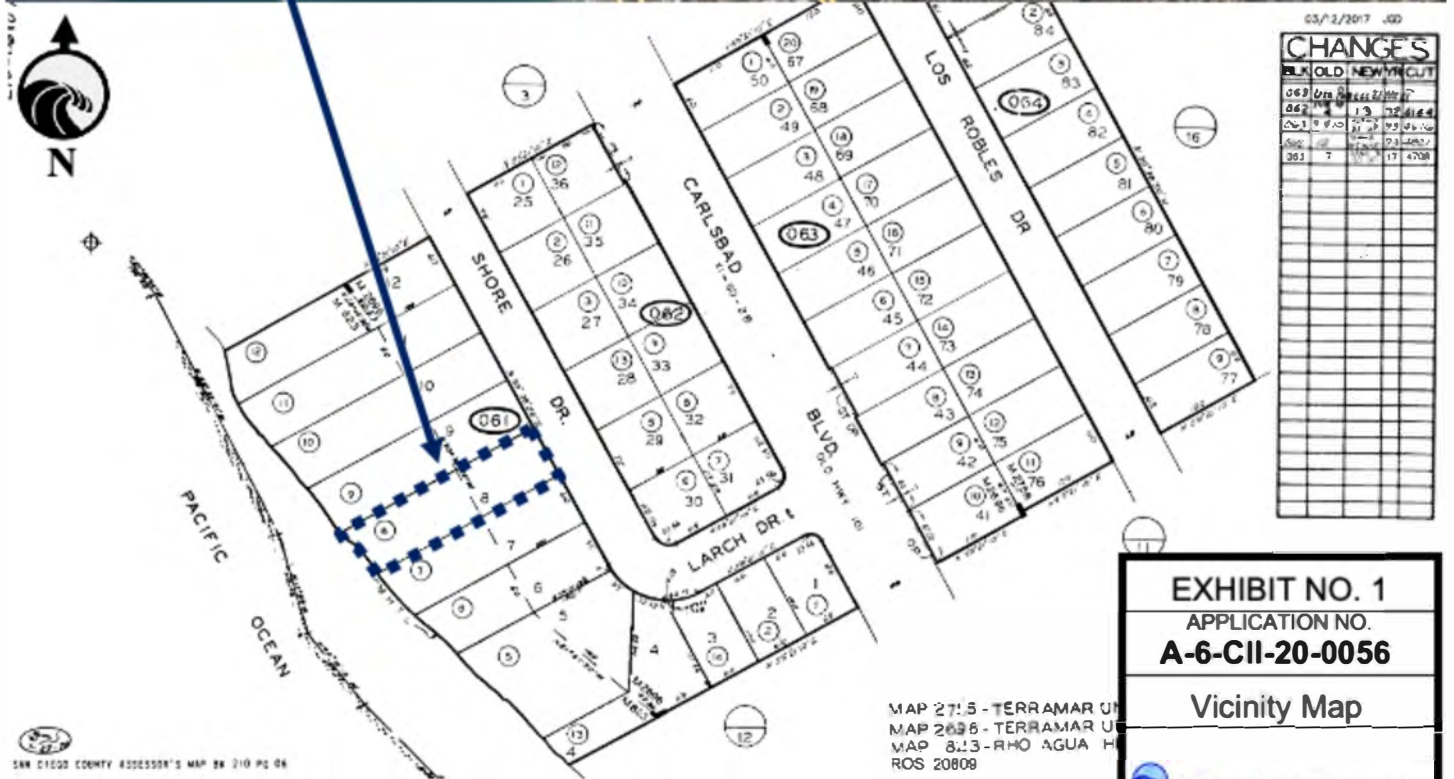
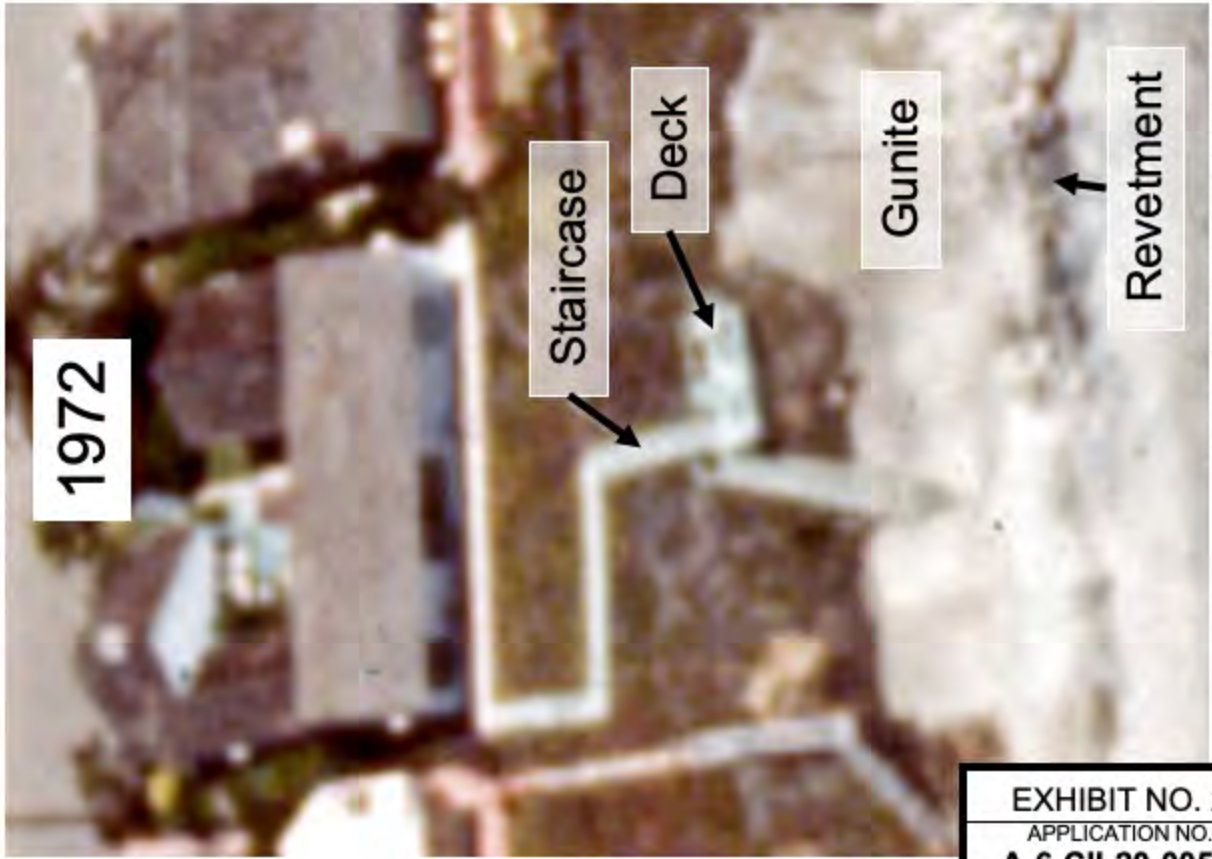


EXHIBIT NO. 1
APPLICATION NO.
A-6-CII-20-0056
Vicinity Map

California Coastal Commission

Bluff-face development prior to
Coastal Act



Permitted modifications



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EXHIBIT NO. 2	
APPLICATION NO.	
A-6-CII-20-0056	
Bluff-face Development	
	California Coastal Commission



2004

Patio
extension

Refinished
surfaces
including
stairs & deck

Landform
alteration,
shower area &
plumbing



2006

Landform
alteration &
deck
expansion

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EXHIBIT NO. 3a

APPLICATION NO.

A-6-CII-20-0056

Unpermitted Bluff-
face Development



California Coastal Commission



2006



2008



2010

Concrete
steps

Augmented
gunite

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EXHIBIT NO. 3b

APPLICATION NO.

A-6-CII-20-0056

Unpermitted Bluff-
face Development



California Coastal Commission



Single Family Coastal Development Permit

Item No.

2

P.C. AGENDA OF: August 19, 2020

Application complete date: February 4, 2020

Project Planner: Paul Dan

Project Engineer: Tim Carroll

SUBJECT: **CDP 2018-0036/NCP 2018-0003 (DEV2018-0021) – CLINE RESIDENCE** - Request for approval of a Coastal Development Permit and Nonconforming Construction Permit to allow the addition of 3,145 square feet to an existing 2,330-square-foot single-family residence for a total of 5,475 square feet, and removal of unpermitted features on the bluff, within the Mello II Segment of the city's Local Coastal Program located at 5215 Shore Drive within Local Facilities Management Zone 3. The project site is within the appealable area of the California Coastal Commission. The City Planner has determined that the project belongs to a class of projects that the State Secretary for Resources has found do not have a significant impact on the environment, and it is therefore categorically exempt from the requirement for the preparation of environmental documents pursuant to Section 15301(e)(2), additions to existing structures less than 10,000 square feet, of the state CEQA Guidelines.

I. RECOMMENDATION

That the Planning Commission **ADOPT** Planning Commission Resolution No. 7380 **APPROVING** Coastal Development Permit and Nonconforming Construction Permit CDP 2018-0036/NCP 2018-0003 based upon the findings and subject to the conditions contained therein.

II. PROJECT DESCRIPTION AND BACKGROUND

Project Site/Setting: The 0.32-acre (13,939 square feet) project site is located at 5215 Shore Drive as shown on the attached location map. The site is presently developed with an existing 2,330-square-foot, one-story single-family residence with an attached two-car garage which was legally constructed circa 1954. Existing development also includes a cantilevered wood deck in the rear of the residence due west, facing the ocean. Due north of the deck are stairs that lead down to a flat terraced area, and from there is another staircase that leads down the bluff toward the beach. The topography of the site gradually descends in elevation from east to west within the areas of existing and proposed development, and then descends more sharply in elevation from east to west on the bluff as it nears the beach below. The bluff is covered in two areas by ornamental vegetation (e.g. ice plant) and, as it descends towards the ocean, by high-strength gunite that was installed in the early 1970's prior to the Coastal Act. Installed below the gunite is shotcrete as a means to prevent adverse erosion to the bluff and residence. Top residences on Shore Drive similarly had gunite installed to address bluff erosion. The vegetation is ornamental and is comprised of mostly ice plant.



Table “A” below includes the General Plan designations, zoning and current land uses of the project site and surrounding properties.

TABLE A

Location	General Plan Designation	Zoning	Current Land Use
Site	Residential/Open Space (R-4/OS)*	One-Family Residential/Open Space (R-1/OS)	Single-Family Residence
North	R-4/OS	R-1/OS	Single-Family Residence
South	R-4/OS	R-1/OS	Single-Family Residence
East	Residential (R-4)	One-Family Residential (R-1)	Single-Family Residence
West	--	--	Pacific Ocean

* The very western portion of the site on the beach west of the mean high tide line, is designated Open Space (OS).

Proposed Residential Construction: Proposed construction includes 3,145 square feet (sq. ft.) of additions and remodeling to the existing 2,330 sq. ft. residence. The additions consist of 554 sq. ft. of habitable space to the first floor, all of which is located in the courtyard of the residence, and 2,166 sq. ft. for a new second story. The remodel includes the conversion of an existing game room to a garage/workshop, a staircase and elevator to access the second story, additional dining and living space, and replacement of the balcony at the rear of the residence. The new second story will house the majority of the bedrooms. The project is consistent with the building height, at 24 feet, for residences that have a roof pitch less than 3:12. Architecturally, the proposed residence remodel features a contemporary-minimalist design, utilizing clean straightforward lines to convey a simple and orderly aesthetic. The white building forms are complemented by composite organic wood accent siding. Dark bronze colored fine-line aluminum doors and windows offer a contrast to the white-colored building forms. The existing residence is considered legal nonconforming due to the front and side yard setbacks. The proposed construction is required to meet current setback and other development standards, as discussed in Section III.C of this report.

Removal of Unpermitted Bluff Structures: The project also includes removal of unpermitted structures and building materials and restoration of the bluff. The intent of the work is to bring the property into compliance with applicable coastal policies and development standards. The applicant is proposing to restore the bluff back to an acceptable condition prior to 2004, which was approximately when most of the unpermitted work occurred. Removal of some of the unpermitted structures would cause a three-foot vertical cut into the bluff, so the applicant proposes to stabilize the cut slope with a Mirafi Geogrid and ground cover slope stabilization solution, covered by a geomat and hydroseed mix on the exposed soil. Below lists the general work proposed to the bluff:

- Removal of the cantilevered portion of the patio directly adjacent to the west wall of the residence.
- Removal of the expanded concrete slab into the bluff, due east of the original existing staircase landing deck, and the stone cladding wall. This portion of the bluff will be restored appropriately to a condition prior to 2004 when most of the unpermitted work occurred.
- Removal of the expanded shower area north of the staircase landing deck.
- Removal of the cantilevered portion of the staircase landing deck that extends due west to reduce the landing deck to its 2004 configuration.

The applicant is proposing to retain two features on the bluff that the Coastal Commission staff initially indicated should be removed, as discussed in Section D below.

Required Permits: The project is located in the coastal zone and is subject to the Mello II Segment of the Local Coastal Program and approval of a Coastal Development Permit (CDP), which is appealable to the California Coastal Commission. The project also requires a Nonconforming Construction Permit (NCP) for the expansion of a home with existing nonconforming front and side yard setbacks where the expansion area exceeds 640 square feet.

Proposed Grading: Estimated grading quantities include five cubic yards (cy) of cut, nine cy of fill with five cy of export. A grading permit will be required for this project because the grading exceeds a percentage of the total work threshold.

III. ANALYSIS

The project is subject to the following regulations and requirements:

- A. Residential/Open Space (R-4/OS) General Plan Designation;
- B. One-Family Residential (R-1) Zone (CMC Chapter 21.10);
- C. Nonconforming Structures and Uses (CMC Chapter 21.48);
- D. Coastal Development Regulations for the Mello II Segment of the Local Coastal Program (CMC Chapter 21.201) and the Coastal Resource Protection Overlay Zone (CMC Chapter 21.203)
- E. Inclusionary Housing Ordinance (CMC Chapter 21.85); and
- F. Growth Management (CMC Chapter 21.90).

The recommendation for approval of this project was developed by analyzing the project's consistency with the applicable city regulations and policies. The project's compliance with each of the above regulations is discussed in detail in the sections below.

A. General Plan Land Use Designation

The project site has a General Plan Land Use designation of Residential (R-4), which allows development of single-family residences at a density of 0-4 dwelling units per acre with a Growth Management Control Point (GMCP) of 3.2 dwelling units per acre. At the R-4 GMCP, one dwelling unit would be permitted on this 0.32-acre property. One single-family residence currently exists on the site. The proposed addition does not increase the number of dwelling units on the site; thus, the project remains consistent with the R-4 General Plan Land Use designation.

B. R-1 One-Family Residential Zone (CMC Chapter 21.10)

The project site is zoned One-Family Residential (R-1). The project is required to comply with all applicable regulations and development standards of the Carlsbad Municipal Code (CMC), including the One-Family Residential (R-1) Zone. The proposed project meets all applicable requirements of the R-1 zone as shown in Table "B" below:

TABLE B – R-1 ZONE DEVELOPMENT STANDARDS

STANDARD	REQUIRED/ALLOWED	PROPOSED
Front Yard Setback	20 feet	12'-3" (First story existing) 20 feet (Second story proposed)*
Side Yard Setback	6 feet	5 feet (First story existing) 6 feet (Second story proposed)*
Rear Yard Setback	12 feet	90+ feet
Max Building Height	Maximum 24 feet with less than a 3:12 roof pitch provided	24 feet with a 0.125:12 roof pitch
Lot Coverage	40 percent	38 percent
Parking	Two-car garage (20 feet x 20 feet)	Three-car garage

*Per CMC Sections 21.48.050(A) and (C), nonconforming residences may be altered and expanded as long as the project does not add nonconformities or increase the degree of an existing nonconformity, and the new construction must meet current development standards.

C. Nonconforming Structures and Uses (CMC Chapter 21.48)

Since the residence was built in the mid 1950's development standards and requirements have changed. Although the residence was legally constructed circa 1954, it does not meet the current standards applicable for lots within the R-1 zone. As shown in Table "B" above, the existing home has legal nonconforming front and side yard setbacks. Currently the residence has a front yard setback of 12'-3" and side yard setbacks of 5'-0" and 5'-2" on the south and north sides, respectively. According to CMC Section 21.48.050(A), nonconforming residences may be altered and expanded as long as the project does not create additional nonconformities or increase the degree of the existing nonconformity. CMC Section 21.48.080(D) requires four findings in order to approve a Nonconforming Construction Permit. All of the findings can be made for this project as discussed below:

1. The expansion of the residential structure would not result in an adverse impact to the health, safety and welfare of surrounding uses, persons or property in that **the proposed additions and remodel will not result in an additional structural nonconformity because the new second story satisfies the current R-1 zone development standards and requirements. Therefore, the additions and remodel will not add a new, or increase the degree of the existing, nonconformity and will not result in an adverse impact to the surrounding area.**
2. The area of expansion shall comply with all current requirements and development standards of the zone (R-1) in which it is located in that **the new second story complies with the front, side and rear yard setback requirements and all other development standards including building height and lot coverage.**
3. The expansion/replacement structure shall comply with all current fire protection and building codes and regulations contained in Titles 17 and 18 in that **the project's construction drawings will be reviewed for consistency under all applicable fire protection and building codes prior to issuance of a building permit. Furthermore, the project will undergo standard building inspection procedures during the construction of the addition.**
4. The expansion/replacement would result in a structure that would be considered an improvement to, or complimentary to and/or consistent with the character of the neighborhood in which it is located in that **the project proposes 3,145 square feet of additions and a remodel to the first floor of a home**

constructed circa 1954. The second-story additions and remodel of the first floor improve the lot and the residence by bringing it up to current standards. Expansions and remodels are common for the neighborhood, more specifically Shore Drive, and the project complements the surrounding residences. The project also meets all applicable development standards for the R-1 zone, including but not limited to height, setbacks, and building coverage.

D. Conformance with the Coastal Development Regulations for the Mello II Segment of the Local Coastal Program (CMC Chapter 21.201) and the Coastal Resource Protection Overlay Zone (CMC Chapter 21.203).

1. Mello II Segment of the Certified Local Coastal Program and all applicable policies.

The project is located within the Mello II Segment of the Local Coastal Program. The project site has a Local Coastal Program (LCP) Land Use designation of Residential (R-4), which is consistent with the General Plan Land Use designation for the site. The R-4 LCP Land Use designation allows development of single-family residences at a density of 0-4 dwelling units per acre with a Growth Management Control Point (GMCP) of 3.2 dwelling units per acre. At the R-4 GMCP, one dwelling unit would be permitted on this 0.32-acre property. One single-family residence already exists on the site. The proposed addition does not increase the number of dwelling units on the site. Therefore, the project remains consistent with the R-4 LCP Land Use designation.

The project consists of the addition of 3,145 square feet to an existing 2,330-square-foot single-family residence for a total of 5,475 square feet and an attached three-car garage in an area designated for residential development. The resulting two-story, single-family residence is compatible with the surrounding development of one- and two-story single-family residences. The two-story residence will not obstruct views of the coastline as seen from public lands or the public right-of-way, nor otherwise damage the visual beauty of the coastal zone. In addition to the remodel and additions, the project proposes bluff restoration by the removal of unpermitted work as described in Section II above. The applicant is proposing to restore the bluff through a Mirafi Geogrid and ground cover solution. However, the applicant is proposing to retain two of the features, the stairway from the residence to the beach, and the extra gunite at the base of the staircase to the beach which serves as a means to prevent erosion and offer public access during high-tides.

The Coastal Commission staff does not agree with maintaining the two mentioned features. However, removal of the gunite shoreline protection would immediately endanger the project site and the adjacent properties to the north and south by accelerated erosion and associated flanking of the low elevation terrace deposits. Pursuant to the City's Coastal Shoreline Development Overlay Zone (CMC) Chapter 21.204, construction that alters the natural shoreline shall be permitted to protect existing structures or public beaches in danger from erosion. Lastly, the staircase leading from the residence to the beach was originally built prior to the Coastal Act. Therefore, the project proposes to revert the staircase to its configuration when it was originally constructed.

No agricultural uses currently exist on the previously graded and developed site, nor are there any sensitive resources located on the developable portion of the site. The proposed single-family residence is not located in an area of known geologic instability or flood hazard. The property is located adjacent to the shore; however, since the site is residentially designated, it is not suited for water-oriented recreation activities. Furthermore, because there is adequate vertical public access to beaches located to the north and south of the property there is no need for additional vertical public access to beaches from this site. Therefore, the project will not interfere with the public's right to physical access to the sea.

2. Coastal Resource Protection Overlay Zone

The project is consistent with the provisions of the Coastal Resource Protection Overlay Zone (CMC Chapter 21.203 of the Zoning Ordinance) in that the project will adhere to the city's Master Drainage Plan, Grading Ordinance, Storm Water Ordinance, BMP Design Manual and Jurisdictional Runoff Management Program (JRMP) to avoid increased urban run-off, pollutants and soil erosion. In addition, the site is not located in an area prone to landslides, or susceptible to accelerated erosion, floods or liquefaction.

3. Coastal Shoreline Development Overlay Zone

As the project site is located within the Mello II Segment of the Local Coastal Program and is located between the ocean and the first public road parallel to the ocean, it is subject to the provisions of the Coastal Shoreline Development Overlay Zone. The proposed development complies with all applicable requirements of the Coastal Shoreline Development Overlay Zone as illustrated in Table "C" below:

TABLE C – COASTAL SHORELINE DEVELOPMENT OVERLAY ZONE COMPLIANCE

STANDARD	PROVIDED
Lateral Access 25' dry sandy beach	The project has been conditioned to grant an access easement for a minimum of 25' of dry sandy beach.
Bluff Top Access Applies to lots where no beach is present or where beach is not accessible.	Access to the beach is available via an existing public stairway located less than 600 feet north of the subject site. In addition, this access is also located on the same street as the subject property, Shore Drive. Since the access is available and the beach is present, the requirement does not apply to the project. However, the project proposes to maintain the additional gunite installed at the base of the staircase to the beach as a means for public access and shelter from high-tide.
Geotechnical Report Analyze bluff erosion and geologic conditions.	A geotechnical analysis for the project was prepared by TerraCosta Consulting Group on October 25, 2017. The analysis concluded that the proposed development, including the removal of unpermitted features and restoration of the bluff, will have no adverse effect on the stability of the coastal bluff for the life of the project, and that the site is suitable for the proposed development. The added gunite will remain as a means of erosion control for the project site and the neighboring properties to the north and south. Removal of the added gunite would immediately accelerate erosion and associated flanking of the low elevation terrace deposits on the site and adjacent properties.
Appearance Building developed on site with a general attractive appearance related to surrounding development and natural environment.	The proposed residential structure has been designed with attractive architectural features, which are compatible with the surrounding development and natural environment. The project proposes to remove unpermitted extensions but maintain the stairway from the house to the beach, which was in place prior to the Coastal Act and is similar to several other stairways along the Carlsbad Coast. The

STANDARD	PROVIDED
	gunite near the base of the stairway was added to the pre-existing gunite as a means for erosion protection and public access safety and does not substantially alter the appearance of the site.
Ocean Views Building designed to preserve to the extent feasible ocean views.	The project design is consistent with the other adjacent homes along Shore Drive. The proposed structure complies with applicable side yard setback requirements, and to the extent feasible along the north elevation, will continue to preserve existing ocean views from the public street. A condition requires decorative view fencing with a ≥50% opening to help preserve existing ocean views from the public street.
Natural Features To the extent feasible, retain natural features and topography.	The proposed addition is located only within the footprint of the existing single-family residence, consistent with this requirement. The bluff will also be reclaimed by the removal of unpermitted structures, restoring the bluff to its prior condition as described previously, and will achieve a more natural appearance.
Grading Grading executed so as to blend with existing terrain.	The improved site has been previously graded to accommodate the existing structure. Minimal grading will be performed, mostly as a means to remove unpermitted structures and restore the bluff.
“Stringline” Maintain a “stringline” setback for structures, patios, decks, and other similar structures.	The project adheres to all coastal “stringline” setback requirements. The project consists of second-story additions and a remodel to an existing residence. The new development to the residence will adhere to the stringline setback requirement for both the residential structure and patio/decks.

E. Inclusionary Housing Ordinance (CMC Chapter 21.85)

Pursuant to CMC Section 21.85.030.D.1, the inclusionary housing ordinance shall not apply to existing residences which are altered, improved, restored, repaired, expanded or extended, and also provided that the number of units is not increased. Since there will not be an increase in the number of units on the subject property, and the project involves the alterations and expansion of an existing residence, the project is exempt from the inclusionary housing requirements.

F. Growth Management

The proposed project is located within Local Facilities Management Zone 3 in the Northwest Quadrant of the city. The project proposes additions to an existing single-family residence without increasing density, so there will be no impacts on public facilities.

IV. ENVIRONMENTAL REVIEW

This project is exempt from CEQA per Section 15301(e)(2) of the state CEQA Guidelines, which exempts additions to existing structures less than 10,000 square feet. In making this determination, the City Planner has found that the exceptions listed in Section 15300.2 of the state CEQA Guidelines do not apply to this project.

A Notice of Exemption will be filed by the City Planner upon project approval.

ATTACHMENTS:

1. Planning Commission Resolution No. 7380
2. Location Map
3. Disclosure Form
4. Reduced Exhibits
5. Exhibit(s) "A" – "L" dated August 19, 2020

PLANNING COMMISSION RESOLUTION NO. 7380

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT AND NONCONFORMING CONSTRUCTION PERMIT TO ALLOW THE ADDITION OF 3,145 SQUARE FEET TO AN EXISTING 2,330-SQUARE-FOOT SINGLE-FAMILY RESIDENCE FOR A TOTAL OF 5,475 SQUARE FEET, AND REMOVAL OF UNPERMITTED FEATURES ON THE BLUFF, LOCATED AT 5215 SHORE DRIVE WITHIN THE MELLO II SEGMENT OF THE CITY'S LOCAL COASTAL PROGRAM AND LOCAL FACILITIES MANAGEMENT ZONE 3.

CASE NAME: CLINE RESIDENCE

CASE NO: CDP 2018-0036/NCP 2018-0003 (DEV2018-0021)

WHEREAS, **David Cline**, "Developer/Owner," has filed a verified application with the City of Carlsbad regarding property described as

Lot 8 of Terramar unit no. 1 in the City of Carlsbad, County of San Diego, State of California, according to map thereof no. 2696, filed in the Office of the County Recorder of San Diego County, September 6, 1950

("the Property"); and

WHEREAS, said verified application constitutes a request for a **Coastal Development Permit and a Nonconforming Construction Permit** as shown on Exhibit(s) "**A**" – "**L**" dated **August 19, 2020**, attached hereto and on file in the Carlsbad Planning Division, **CDP 2018-0036/NCP 2018-0003 – CLINE RESIDENCE**, as provided in **Chapters 21.48 and 21.201** of the Carlsbad Municipal Code; and

WHEREAS, the Planning Commission did, on **August 19, 2020**, hold a duly noticed public hearing as prescribed by law to consider said request;

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to the Coastal Development Permit.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Carlsbad, as follows:

- A) That the above recitations are true and correct.
- B) That based on the evidence presented at the public hearing, the Commission **APPROVES CDP 2018-0036/NCP 2018-0003 – CLINE RESIDENCE**, based on the following findings and subject to the following conditions:

Findings:

Coastal Development Permit, CDP 2018-0036

1. That the proposed development is in conformance with the Certified Local Coastal Program and all applicable policies in that **the project site is designated for single-family residential development and the project consists of a major remodel and a 3,145-square-foot second-story addition to an existing single-family residence on a 0.32-acre property. The development is consistent with the Mello II land use designation of R-4/OS. No development proposed in the Open Space designated portion of the site which is west of the mean high tide line. The proposed project, which includes the addition of a second story, does not obstruct views of the coastline as seen from public land or public right-of-way or otherwise damage the visual beauty of the coastal zone. The project is conditioned to use transparent or semi-open fencing in the northerly side yard where there is an opportunity to improve ocean views from the street. The project also proposes bluff restoration by the removal of unpermitted structures. The applicant is proposing to restore the bluff through a Mirafi Geogrid and ground cover solution. However, the applicant is proposing to retain two of the unpermitted features, the stairway from the residence to the beach, and the extra gunite at the base of the stairway to the beach as a means to prevent erosion and offer public access safety during high-tides. No agricultural activities, geological instability or coastal access opportunities exist on the previously graded and developed site; and no sensitive biological resources exist on the site.**
2. The proposal is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act in that **while the property is located adjacent to the shore, the project will not interfere with the public's right to physical access as there are existing vertical shoreline public access points in close proximity of the project site located to the north on Shore Drive. The proposal will not deny the public access to the beach in that the project is conditioned to dedicate a lateral public access easement with a minimum width of 25 feet of dry sandy beach at all times of the year to the California Coastal Commission or their designee as agreed to with the California Coastal Commission.**
3. The project is consistent with the provisions of the Coastal Resource Protection Overlay Zone (Chapter 21.203 of the Zoning Ordinance) in that **the project will adhere to the city's Master Drainage Plan, Grading Ordinance, Storm Water Ordinance, BMP Design Manual and Jurisdictional Runoff Management Program (JRMP) to avoid increased urban runoff, pollutants, and soil erosion. No development occurs within areas of natural steep slopes ($\geq 25\%$); no native vegetation is located on the subject property; and no habitable development occurs within the 100-year flood plain. A geotechnical report prepared for the project indicates that the site is not located in an area prone to landslides or slope instability for the life of the project; and seismic hazards, such as risk of liquefaction, tsunami and seiche, is considered low.**
4. The project is consistent with the provisions of the Coastal Shoreline Development Overlay Zone (Chapter 21.204 of the Zoning Ordinance) in that **a) the project does not interfere with the public's right to physical access as there are existing vertical shoreline public access points in close proximity to the north of the project site as discussed in the project staff report; b) the proposal does not deny the public access to the beach in that the project has been conditioned to dedicate a lateral public access easement with a minimum width of 25 feet of dry sandy beach at all times of the year to the California Coastal Commission or their designee as agreed to with the California Coastal Commission; c) a geotechnical analysis and subsequent updates for the project concluded that the proposed development will have no adverse effect on the stability**

of the coastal bluff for the life of the project and that the site is suitable for the proposed development; d) all portions of the proposed additions, including decks and other appurtenances, adhere to the coastal “stringline” setback requirements; e) the project proposes an attractive architectural design that is well articulated and consistent with other adjacent homes within the neighborhood and will continue to preserve existing ocean views from the public street. A condition requires decorative view fencing greater than 50% open to help preserve existing ocean views from the public street; f) the proposed remodel and additions to the existing single-family home, to the extent feasible, retain the natural features and topography of the site; g) the improved site has been previously graded to accommodate the existing single-family residence.

Nonconforming Construction Permit, NCP 2018-0003

5. The expansion of the residential structure would not result in an adverse impact to the health, safety and welfare of surrounding uses, persons or property in that **the proposed additions and remodel will not result in an additional structural nonconformity or an increase in the degree of the existing nonconformity, and the new second story satisfies the current R-1 zone development standards and requirements. Therefore, the additions and remodel will not result in an adverse impact to the surrounding area.**
6. The area of expansion shall comply with all current requirements and development standards of the zone (R-1) in which it is located in that **the new second story complies with the front, side and rear yard setback requirements and all other development standards including building height and lot coverage.**
7. The expansion/replacement structure shall comply with all current fire protection and building codes and regulations contained in Titles 17 and 18 in that **the project’s construction drawings will be reviewed for consistency under all applicable fire protection and building codes prior to issuance of a building permit. Furthermore, the project will undergo standard building inspection procedures during the construction of the addition.**
8. The expansion expansion/replacement would result in a structure that would be considered an improvement to, or complimentary to and/or consistent with the character of the neighborhood in which it is located in that **the project proposes 3,145 square feet of additions and a remodel to the first floor of a home constructed circa 1954. The second-story additions and remodel of the first floor improve the lot and the residence by bringing it up to current standards. Expansions and remodels are common for the neighborhood, more specifically Shore Drive, and complements the surrounding residences. The project also meets all applicable development standards for the R-1 zone, including but not limited to height, setbacks, and building coverage.**

General

9. The City Planner has determined that the project belongs to a class of projects that the State Secretary for Resources has found do not have a significant impact on the environment, and it is therefore categorically exempt from the requirement for preparation of environmental documents pursuant to **Sections 15301(e)(2)** of the State CEQA Guidelines. **More specifically, CEQA Section 15301(e)(2), Existing Facilities, is a Class 1 exemption allowing for additions to existing structures up to 10,000 square feet where all public services and facilities are available to allow for the maximum development permissible under the General Plan and the area is not environmentally sensitive. Consistent with this section, the project is proposing to remodel and**

expand one (1) existing single-family residence by not more than 3,145 square feet on a legal lot located within an area of the city where all public services and facilities are in place to allow for the maximum development permissible under the General Plan, which in this case is one (1) single-family residence. In making this determination, the City Planner has found that the exceptions listed in Section 15300.2 of the State CEQA Guidelines do not apply to this project. In addition to the remodel and additions, the project proposes bluff restoration by the removal of unpermitted structures. The presence of unpermitted structures, and removal of same, is fairly common along the coast and does not represent an unusual circumstance. The bluff will be restored through a sustainable manner by utilizing a Mirafi Geogrid and ground cover solution. The applicant is proposing to retain the added gunite at the base of the stairway to the beach as a means to prevent erosion and offer the public access safety during high-tides. A geotechnical study prepared for the project concluded the project will not have adverse geological impacts to the bluff and the site. Furthermore, the geotechnical report indicated that retention of the added gunite is necessary for continued bluff stability since removal of the added gunite would immediately endanger the project site and the adjacent properties to the north and south by accelerated erosion and associated flanking of the low elevation terrace deposits.

10. The project is consistent with the City-Wide Facilities and Improvements Plan, the Local Facilities Management Plan for Zone 3 and all City public policies and ordinances. The project includes elements or has been conditioned to construct or provide funding to ensure that all facilities and improvements regarding: sewer collection and treatment; water; drainage; circulation; fire; schools; parks and other recreational facilities; libraries; government administrative facilities; and open space, related to the project will be installed to serve new development prior to or concurrent with need. Specifically,
 - a. The project has been conditioned to provide proof from the **Carlsbad Unified** School District that the project has satisfied its obligation for school facilities.
 - b. The Public Facility fee is required to be paid by Council Policy No. 17 and will be collected prior to the issuance of building permit.
 - c. The Local Facilities Management fee for Zone 3 is required by Carlsbad Municipal Code Section 21.90.050 and will be collected prior to issuance of building permit.
11. The Planning Commission has reviewed each of the exactions imposed on the Developer contained in this resolution, and hereby finds, in this case, that the exactions are imposed to mitigate impacts caused by or reasonably related to the project, and the extent and the degree of the exaction is in rough proportionality to the impact caused by the project.

Conditions:

NOTE: Unless otherwise specified herein, all conditions shall be satisfied prior to **approval of a grading permit or building permit, whichever occurs first.**

General

1. If any of the following conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the city shall have the right to revoke or modify all approvals herein

granted; deny or further condition issuance of all future building permits; deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted; record a notice of violation on the property title; institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. No vested rights are gained by Developer or a successor in interest by the city's approval of this **Coastal Development Permit and Nonconforming Construction Permit**.

2. Staff is authorized and directed to make, or require the Developer to make, all corrections and modifications to the **Coastal Development Permit and Nonconforming Construction Permit** documents, as necessary to make them internally consistent and in conformity with the final action on the project. Development shall occur substantially as shown on the approved Exhibits. Any proposed development, different from this approval, shall require an amendment to this approval.
3. Developer shall comply with all applicable provisions of federal, state, and local laws and regulations in effect at the time of building permit issuance.
4. If any condition for construction of any public improvements or facilities, or the payment of any fees in-lieu thereof, imposed by this approval or imposed by law on this Project are challenged, this approval shall be suspended as provided in Government Code Section 66020. If any such condition is determined to be invalid, this approval shall be invalid unless the City Council determines that the project without the condition complies with all requirements of law.
5. Developer/Operator shall and does hereby agree to indemnify, protect, defend, and hold harmless the City of Carlsbad, its Council members, officers, employees, agents, and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees incurred by the city arising, directly or indirectly, from (a) city's approval and issuance of this **Coastal Development Permit and Nonconforming Construction Permit**, (b) city's approval or issuance of any permit or action, whether discretionary or nondiscretionary, in connection with the use contemplated herein, and (c) Developer/Operator's installation and operation of the facility permitted hereby, including without limitation, any and all liabilities arising from the emission by the facility of electromagnetic fields or other energy waves or emissions. This obligation survives until all legal proceedings have been concluded and continues even if the city's approval is not validated.
6. Prior to the issuance of a building permit, the Developer shall provide proof to the Building Division from the **Carlsbad Unified** School District that this project has satisfied its obligation to provide school facilities.
7. This project shall comply with all conditions and mitigation measures which are required as part of the Zone **3** Local Facilities Management Plan and any amendments made to that Plan prior to the issuance of building permits.
8. This approval shall become null and void if building permits are not issued for this project within 24 months from the date of project approval.
9. Developer shall submit to the City a Notice of Restriction executed by the owner of the real property to be developed. Said notice is to be filed in the office of the County Recorder, subject to the satisfaction of the City Planner, notifying all interested parties and successors in interest that the City of Carlsbad has issued a **Coastal Development Permit and Nonconforming Construction Permit** by Resolution No. 7380 on the property. Said Notice of Restriction shall note

the property description, location of the file containing complete project details and all conditions of approval as well as any conditions or restrictions specified for inclusion in the Notice of Restriction. The City Planner has the authority to execute and record an amendment to the notice which modifies or terminates said notice upon a showing of good cause by the Developer or successor in interest.

10. Building permits will not be issued for this project unless the local agency providing water and sewer services to the project provides written certification to the City that adequate water service and sewer facilities, respectively, are available to the project at the time of the application for the building permit, and that water and sewer capacity and facilities will continue to be available until the time of occupancy.
11. Approval is granted for **CDP 2018-0036, NCP 2018-0003** as shown on **Exhibits "A" – "L"**, dated **August 19, 2020**, on file in the Planning Division and incorporated herein by reference. Development shall occur substantially as shown unless otherwise noted in these conditions.
12. Developer/Owner shall pay the citywide Public Facilities Fee imposed by City Council Policy #17, the License Tax on new construction imposed by Carlsbad Municipal Code Section 5.09.030, and CFD #1 special tax (if applicable), subject to any credits authorized by Carlsbad Municipal Code Section 5.09.040. Developer shall also pay any applicable Local Facilities Management Plan fee for Zone **3**, pursuant to Chapter 21.90. All such taxes/fees shall be paid at issuance of building permit. If the taxes/fees are not paid, this approval will not be consistent with the General Plan and shall become void.
13. **Prior to the issuance of a building permit, the owner shall comply with the Coastal Shoreline Development Overlay Zone (Chapter 21.204 of the Zoning Ordinance), and dedicate a lateral public access easement with a minimum width of twenty-five feet of dry sandy beach at all times of the year to the California Coastal Commission or their designee as agreed to with the California Coastal Commission.**
14. **Prior to the issuance of a building permit, the applicant shall submit plans that demonstrate a minimum 5-foot wide view corridor that will be established and maintained within the required north side yard area. Any gates or fencing across the north side yard setback area shall have a minimum 50 percent open design which will preserve and enhance views from the public street toward the ocean in that location. Installation of the approved fencing shall be required prior to final inspection/occupancy.**
15. **Prior to the issuance of building occupancy, the owner/developer shall restore the bluff back to a condition prior to approximately 2004, with the exception of the gunite added to the base of the stairway which is to remain, as indicated on the approved plans. The owner/developer shall prepare and submit grading/construction plans for approval by the city planner and city engineer detailing how the removal of structures and bluff restoration work will take place including but not limited to the number and types of equipment, staging areas and access, etc. Said plans shall be included with the grading plans prior to the issuance of the grading permit. Access for equipment and labor to the bluff worksite shall only be permitted from Shore Drive, and shall not be allowed from the beach.**

Engineering:

General

16. Prior to hauling dirt or construction materials to or from any proposed construction site within this project, developer shall apply for and obtain approval from, the city engineer for the proposed haul route.
17. This project is approved upon the express condition that building permits will not be issued for the development of the subject property, unless the district engineer has determined that adequate water and sewer facilities are available at the time of permit issuance and will continue to be available until time of occupancy.
18. Developer shall cause property owner to execute and submit to the city engineer for recordation, the city's standard form Geologic Failure Hold Harmless Agreement.
19. Developer shall cause property owner to apply for, execute, and submit, to the city engineer for recordation, an Encroachment Agreement covering **private fences, gates, pavers, deck and retaining walls** located over existing **drainage** easement as shown on the site plan. Developer shall pay processing fees per the city's latest fee schedule.

Grading

20. Based upon a review of the proposed grading and the grading quantities shown on the site plan, a grading permit for this project is required. Developer shall prepare and submit plans and technical studies/reports as required by city engineer, post security and pay all applicable grading plan review and permit fees per the city's latest fee schedule.

Storm Water Quality

21. Developer shall comply with the city's Stormwater Regulations, latest version, and shall implement best management practices at all times. Best management practices include but are not limited to pollution control practices or devices, erosion control to prevent silt runoff during construction, general housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants to stormwater, receiving water or stormwater conveyance system to the maximum extent practicable. Developer shall notify prospective owners and tenants of the above requirements.
22. Developer shall complete and submit to the city engineer a Determination of Project's SWPPP Tier Level and Construction Threat Level Form pursuant to City Engineering Standards. Developer shall also submit the appropriate Tier level Storm Water Compliance form and appropriate Tier level Storm Water Pollution Prevention Plan (SWPPP) to the satisfaction of the city engineer. Developer shall pay all applicable SWPPP plan review and inspection fees per the city's latest fee schedule.
23. Developer is responsible to ensure that all final design plans (grading plans, improvement plans, landscape plans, building plans, etc.) incorporate all source control, site design, pollutant control BMP and applicable hydromodification measures.
24. Developer shall complete the City of Carlsbad Standard Stormwater Requirement Checklist Form. Developer is responsible to ensure that all final design plans, grading plans, and building plans

incorporate applicable best management practices (BMPs). These BMPs include site design, source control and Low Impact Design (LID) measures including, but not limited to, minimizing the use of impervious area (paving), routing run-off from impervious area to pervious/landscape areas, preventing illicit discharges into the storm drain and adding storm drain stenciling or signage all to the satisfaction of the city engineer.

Dedications/Improvements

25. Developer shall design the private drainage systems, as shown on the site plan to the satisfaction of the city engineer. All private drainage systems (12" diameter storm drain and larger) shall be inspected by the city. Developer shall pay the standard improvement plan check and inspection fees for private drainage systems.

Utilities

26. Developer shall meet with the fire marshal to determine if fire protection measures (fire flows, fire hydrant locations, building sprinklers) are required to serve the project.

Code Reminders:

The project is subject to all applicable provisions of local ordinances, including but not limited to the following:

27. Prior to the issuance of a building permit, Developer shall pay the Local Facilities Management fee for Zone 3 as required by Carlsbad Municipal Code Section 21.90.050.
28. Developer shall pay planned local area drainage fees in accordance with Section 15.08.020 of the City of Carlsbad Municipal Code to the satisfaction of the city engineer.
29. Approval of this request shall not excuse compliance with all applicable sections of the Zoning Ordinance and all other applicable City ordinances in effect at time of building permit issuance, except as otherwise specifically provided herein.
30. Premise identification (addresses) shall be provided consistent with Carlsbad Municipal Code Section 17.04.060.

NOTICE TO APPLICANT

An appeal of this decision to the City Council must be filed with the City Clerk at 1200 Carlsbad Village Drive, Carlsbad, California, 92008, within ten (10) calendar days of the date of the Planning Commission's decision. Pursuant to Carlsbad Municipal Code Chapter 21.54, section 21.54.150, the appeal must be in writing and state the reason(s) for the appeal. The City Council must make a determination on the appeal prior to any judicial review.

NOTICE TO APPLICANT

The project site is within the appealable area of the California Coastal Commission. This Coastal Development Permit (CDP) shall not become effective until ten (10) working days have elapsed, without a valid appeal being filed with the Coastal Commission, following the Coastal Commission's receipt of the city's notice of the CDP issuance ("Notice of Final Action"). The filing of a valid appeal with the Coastal Commission shall not constitute a stay of the CDP. The project shall be subject to the Coastal Commission's final decision. The project shall be subject to the Coastal Commission's final decision. The project shall be subject to the Coastal Commission's final decision.

PC RESO NO. 7380

Commission within such time limit shall stay the effective date of this CDP until such time as a final decision on the appeal is reached by the Coastal Commission.

NOTICE

Please take **NOTICE** that approval of your project includes the "imposition" of fees, dedications, reservations, or other exactions hereafter collectively referred to for convenience as "fees/exactions."

You have 90 days from date of final approval to protest imposition of these fees/exactions. If you protest them, you must follow the protest procedure set forth in Government Code Section 66020(a), and file the protest and any other required information with the City Manager for processing in accordance with Carlsbad Municipal Code Section 3.32.030. Failure to timely follow that procedure will bar any subsequent legal action to attack, review, set aside, void, or annul their imposition.

You are hereby FURTHER NOTIFIED that your right to protest the specified fees/exactions DOES NOT APPLY to water and sewer connection fees and capacity charges, nor planning, zoning, grading, or other similar application processing or service fees in connection with this project; NOR DOES IT APPLY to any fees/exactions of which you have previously been given a NOTICE similar to this, or as to which the statute of limitations has previously otherwise expired.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Carlsbad, California, held on **August 19, 2020**, by the following vote, to wit:

AYES: Chair Anderson, Commissioners Geldner, Lafferty, Luna, Meenes, Merz, and Stine

NOES:

ABSENT:

ABSTAIN:



VELYN ANDERSON, Chair
CARLSBAD PLANNING COMMISSION

ATTEST:



DON NEU
City Planner

1st floor addition to
existing 1-story
residence

2nd floor addition

See Ex. 5b for bluff-face
development

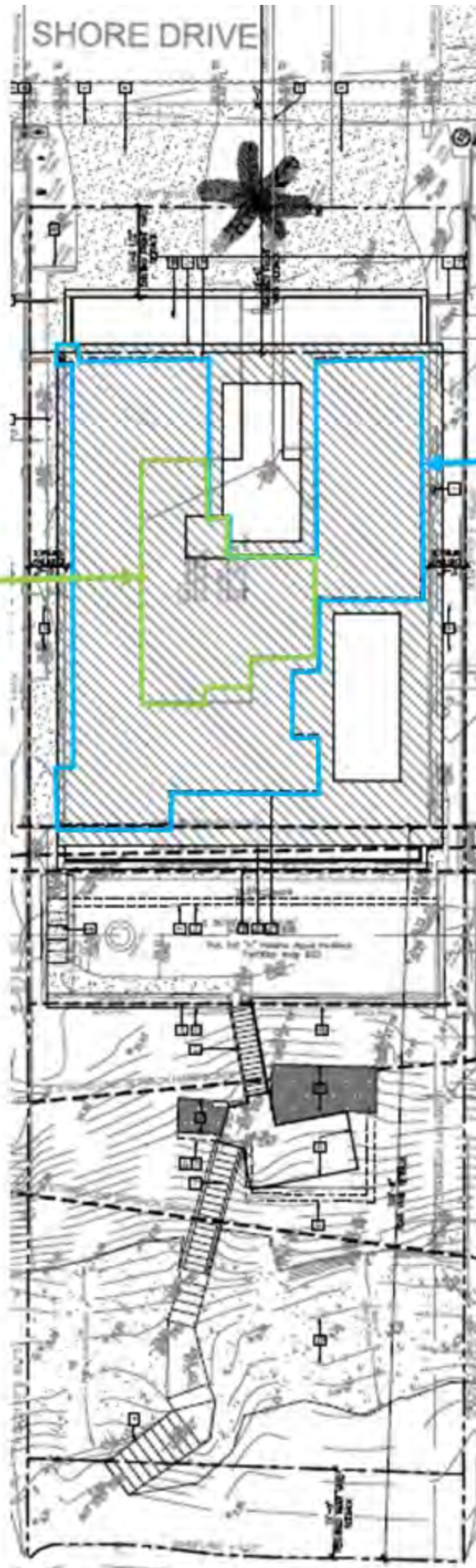


EXHIBIT NO. 5a

APPLICATION NO.

A-6-CII-20-0056

Site Plan



California Coastal Commission

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

(619) 767-2370



October 4, 2019

Andrew Carlos
Carlos Architects, Inc.
3327 Adams Street
Carlsbad, CA 92008

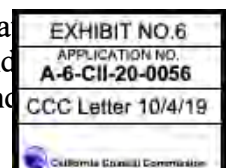
Re: Cline Residence, 5215 Shore Drive, Carlsbad

Dear Mr. Carlos:

Thank you for the opportunity to review and comment on the pending development at 5215 Shore Drive in Carlsbad. The site is located in the coastal development permit jurisdiction of the City of Carlsbad, in an area where permits are appealable to the Coastal Commission. The proposed project is a remodel and second-story addition to an existing bluff top single-family residence. You requested that Commission staff review the proposed project and provide direction on potential resolution of the unpermitted development on the site.

Existing development on the site currently consists of a single-family residence constructed in 1954; a rock revetment located at the base of the bluff spanning the width of the property; a cantilevered patio directly adjacent to the west wall of the home; a staircase and a landing area on the bluff face; a shower area on the bluff face; mid-bluff retaining walls; a concrete staircase to sand-level; layers of shotcrete shoreline protection on the bluff face; scattered riprap at the base of the bluff, drainage pipes within shoreline protection; exposed rebar; and stone cladding on retaining walls. California Coastal Records Project (CCRP) aerial photographs from 1972 show existing development on the site at that time consisted of the house; the staircase and landing on the bluff face, and the layers of concrete shoreline protection. The only permit history that the Coastal Commission has for the site is Coastal Development Permit (CDP) #F1612, which was approved on June 7, 1974 and permitted installation of the two retaining walls on the seaward side of the home which effectively created a patio extending from the west-most wall of the home to the top of the nearest retaining wall. Photos from CCRP between 1972 and 1979 show that one retaining wall was installed just below and westward of the home, and a second retaining wall installed further seaward of the home to create a terraced, flat yard space. This work appears to be consistent with the plans approved by CDP #F1612. No other site modifications appear to have occurred between 1972 and 1979.

Using the same resource (CCRP), it is evident that between 2004 and 2006 modifications were made to both the patio immediately west of the home, and to the stairs and landing area on the bluff face. A cantilevered patio now exists at the rear of the home beyond



October 4, 2019

Page 2

first retaining wall over a portion of the terraced yard space. In addition, the stairs on the bluff have been replaced or refinished, and the landing area along the stairs has been expanded to accommodate a hot tub, shower area and seating area. Our site visit on August 9, 2019 confirmed these modifications. Commission staff also believes that the bluff was excavated to accommodate the expanded landing area and shower area on the bluff face. Finally, the existing shotcrete shoreline protection at the base of the bluff has clearly been augmented and expanded over time, with the addition of concrete steps between 2008 and 2010 (CCRP) to access the sand and shoreline below this home. The Coastal Commission has no record of permit history associated with any of these improvements.

Thus, the features that staff believe to be unpermitted are as follows:

- 1) Cantilevered/expanded portion of the patio located directly adjacent to the west wall of the home.
- 2) Expanded landing area on the bluff face.
- 3) Shower area and associated plumbing.
- 4) Retaining wall located mid-bluff that stabilizes the expanded landing area.
- 5) Retaining wall located mid-bluff that stabilizes the shower area.
- 6) New Trex/similar materials on stairs, stair railings, sitting surfaces, ledges, shower area, landing area, and on top of permitted retaining walls.
- 7) Concrete/gunite stairway addition from above rip rap down to existing sand level.
- 8) Additional layers on shotcrete shoreline protection on the bluff face.
- 9) Drainage pipes and rebar located in new shotcrete shoreline protection.
- 10) Stone cladding on permitted and unpermitted retaining walls.

There are generally two ways in which unpermitted development can be authorized. The first is for the applicant to request after-the-fact approval of the unpermitted development, and the second is removal of the unpermitted development. In this case, the City's certified Local Coastal Program (LCP) has the following policies related to development on the face of a coastal bluff:

Section 21.204.110 4b of the Coastal Shoreline Development Overlay zone states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 21.204.050 of the Coastal Shoreline Development Overlay Zone and policies of the Mello II LCP state:

Mello II LUP Policy 4-1(IV):

No development shall be permitted on sand or rock beach or on the face of any ocean bluff, with the exception of access ways to provide **public** beach access and of limited public recreational facilities.

October 4, 2019

Page 3

Section 21.204.050 of the Coastal Shoreline Development Overlay Zone provides:

- a. Grading and Excavation - Grading and excavation **shall be the minimum necessary** to complete the proposed development consistent with the provisions of this zone and the following requirements:
 - 2) No excavation, grading or deposit of natural materials shall be permitted on the beach or the face of the bluff except to the extent necessary to accomplish construction pursuant to this section.

The unpermitted bluff work appears to be inconsistent with the LCP policies prohibiting development and grading on the face of the bluff that does not provide public beach access.

Therefore, in order to ensure consistency with the LCP, Commission staff recommend that your project incorporate removal of all unpermitted development, and restoration of the bluff face to a natural condition. Although some of the improvements appear to have been constructed prior to passage of the Coastal Act, because they have been substantially altered without benefit of a coastal development permit, these structures can no longer be considered legally non-conforming, and cannot be restored to the previous configuration. If the unpermitted development on the site is not addressed and resolved through the City's permit, it may result in the project being appealed to the Coastal Commission.

Thank you again for the opportunity to comment. Other information that may be received during the public review process for the proposed development will be reviewed by staff as it is made available during the coastal development permit process. Should the project be appealed to the Commission, the Coastal Commission itself will make a final determination as to the project's consistency with the Coastal Act.

If you have any questions, please feel free to call me.

Sincerely,



Cort Hitchens
Coastal Planner

cc: Diana Lilly, Permits Chief
Marsha Venegas, Enforcement

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370
FAX (619) 767-2384



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Steve Padilla
Mailing Address: City of Chula Vista – City Council
276 Fourth Ave
Chula Vista, CA 91910
Phone Number: _____

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Carlsbad
2. Brief description of development being appealed: Addition of 3,145 sq. ft. to an existing 2,330 sq. ft. single family residence on a 0.32 acre bluff top lot. Removal of unpermitted development on the bluff face and restoration of the bluff. Retention of an unpermitted stairway and deck on the bluff face, unpermitted shotcrete added to an existing gunite blanket on the lower bluff face, and unpermitted addition of concrete stairs connecting the bluff face stairway to the sand.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
5215 Shore Dr, Carlsbad 92008; APN: 210-061-08-00
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐
 - d. Other: ☐ _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-CII-20-0056

DATE FILED: September 24, 2020

DISTRICT: San Diego

RECEIVED

SEP 24 2020

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 7
APPLICATION NO. A-6-CII-20-0056
Appeal Forms
California Coastal Commission

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

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

Date of local government's decision: August 19, 2020

Local government's file number (if any): CDP 2018-0036

SECTION III. Identification of Other Interested Persons

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

Name and mailing address of permit applicant:

David and Barbara Cline
5215 Shore Drive
Carlsbad, CA 92008

Andrew Carlos
Carlos Architects, Inc.
3327 Adams Street
Carlsbad, CA 92008

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.

N/A

SECTION IV. Reasons Supporting This Appeal

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

RECEIVED

FEB 14 2021

CLERK OF SUPERIOR COURT
COUNTY OF SAN DIEGO
JUDICIAL BRANCH 17

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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

See Attachment "A" dated 9/24/2020

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

SECTION V. Certification

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

Signed: [Signature]
Appellant or Agent

Dated: 9/24/2020

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

Signed: NA

Dated: NA

RECEIVED

SEP 24 2020

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Attachment A

Cline Residence – 5215 Shore Drive, Carlsbad
September 24, 2020

Project Description and History

The existing house was constructed in 1954. A gunite blanket on the lower bluff, riprap at the toe of the bluff, wooden staircase on the bluff face, and a small wooden deck halfway down the bluff were also constructed on the property prior to implementation of the Coastal Act.

The proposed project includes a 3,145 sq. ft. addition to an existing 2,330 sq. ft. single-family residence on a 0.32-acre blufftop lot; removal of unpermitted development on the bluff face and restoration of the bluff; and retention of an unpermitted stairway and deck on the bluff face, unpermitted shotcrete added to an existing gunite blanket on the lower bluff face, and unpermitted addition of concrete stairs connecting the bluff face stairway to the sand. The project site is a blufftop lot on the west side of Shore Drive in the City of Carlsbad.

Consistency with the LCP

The City found that the proposed development is consistent with the provisions of the certified LCP. However, the development as approved by the City raises several LCP consistency issues with regard to geological stability, unpermitted bluff-face development, shoreline protection.

1) Geological Stability

Mello II LUP Policy 4-1(I)(a) requires:

For all new development along the shoreline, including additions to existing development, a site-specific geologic investigation and analysis similar to that required by the Coastal Commission's Geologic Stability and Blufftop Guidelines shall be required; for permitted development, this report must demonstrate bluff stability for 75 years, or the expected lifetime of the structure, whichever is greater.

Section 21.204.110 Coastal Shoreline Development Overlay Zone – Geotechnical Reports states:

- A. Geotechnical reports shall be submitted to the city planner as part of an application for plan approval. Geotechnical reports shall be prepared and signed by a professional civil engineer with expertise in soils and foundation engineering; and a certified engineering geologist or a registered geologist with a background in engineering applications. The report document shall consist of a single report, or separate but coordinated reports. The document

should be based on an onsite inspection in addition to a review of the general character of the area and it shall contain a certification that the development as proposed will have no adverse effect on the stability of the bluff and will not endanger life or property, and professional opinions stating the following:

1. The area covered in the report is sufficient to demonstrate the geotechnical hazards of the site consistent with the geologic, seismic, hydrologic and soil conditions at the site;
 2. The extent of potential damage that might be incurred by the development during all foreseeable normal and unusual conditions, including ground saturation and shaking caused by the maximum credible earthquake;
 3. The effect the project could have on the stability of the bluff.
- B. As a minimum the geotechnical report(s) shall consider, describe and analyze the following:
1. Cliff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site.
 2. Historic, current and foreseeable cliff erosion including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available and possible changes in shore configuration and sand transport.
 3. Geologic conditions, including soil, sediment and rock types and characteristics and structural features, such as bedding, joints and faults.
 4. Evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity.
 5. Impact of construction activity on the stability of the site and adjacent area.
 6. Ground and surface water conditions and variations, including hydrologic changes caused by the development (i.e., introduction of sewage effluent and irrigation water to the ground water system, alterations in surface drainage).
 7. Potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction (i.e., landscaping and drainage design).
 8. Effects of marine erosion on seacliffs.

9. Potential effects of earthquakes including:
 - a. Ground shaking caused by maximum credible earthquake;
 - b. Ground failure due to liquefaction, lurching, settlement and sliding; and
 - c. Surface rupture.
10. Any other factors that might affect slope stability.
11. The potential for flooding due to sea surface super elevation (wind and wave surge, low barometric pressure and astronomical tide), wave run-up, tsunami and river flows. This potential should be related to one-hundred and five-hundred-year recurrence intervals.
12. A description of any hazards to the development caused by possible failure of dams, reservoirs, mudflows or slides occurring off the property and caused by forces or activities beyond the control of the applicant.
13. The extent of potential damage that might be incurred by the development during all foreseeable normal and unusual conditions, including ground saturation and shaking caused by the maximum credible earthquake.
14. The effect the project could have on the stability of the bluff.
15. Mitigating measures and alternative solutions for any potential impact.

The report shall also express a professional opinion as to whether the project can be designed or located so that it will neither be subject to nor contribute to significant geologic instability throughout the lifespan of the project. The report shall use a currently acceptable engineering stability analysis method, shall describe the degree of uncertainty of analytical results due to assumptions and unknowns, and at a minimum, shall cover an area from the toe of the bluff inland to a line described on the bluff top by the intersection of a plane inclined at a twenty-degree angle from horizontal passing through the toe of the bluff or fifty feet inland from the bluff edge, whichever is greater. The degree of analysis required shall be appropriate to the degree of potential risk presented by the site and the proposed project. If the report does not conclude that the project can be designed and the site be found to be geologically stable, no coastal shoreline development permit shall be issued.

Although the submitted geotechnical report for the proposed project concludes that the cliff is stable, the analysis appears to include the existing shoreline protection. The report also does not analyze cliff erosion or the effects of sea level rise on future erosion. The factor of safety and erosion rate need to be determined without the existing

shoreline protection to be able to make a finding whether the proposed development will be safe from failure or erosion over a 75-year lifetime without needing any future shoreline protection.

2) Bluff-face development

Mello II LUP Policy 4-1(IV) states:

No development shall be permitted on sand or rock beach or on the face of any ocean bluff, with the exception of access ways to provide public beach access and of limited public recreational facilities.

The property currently has several unpermitted structures on the face of the bluff. The proposed project would remove some of these structures and restore the bluff face. However, the City's approval allows the applicant to retain a private stairway and deck on the bluff face, a concrete stair added to the gunite blanket connecting the bluff stairway to the sand, and additional layers of shotcrete added to the gunite blanket that was installed prior to implementation of the Coastal Act.

Although a wooden staircase and small wooden deck were constructed on the bluff face prior to implementation of the Coastal Act, both features have been substantially altered without the benefit of a coastal development permit. Therefore, they can no longer be considered legally non-conforming. As such, the City's approval allowing the applicants to restore the private staircase and deck to their previous configuration is inconsistent with Policy 4-1(IV).

The City's staff report did not include findings regarding Policy 4-1(IV) for this project. However, the City states that the unpermitted concrete stairs at the base of the bluff provides public access safety during high tides. However, little evidence was provided to demonstrate that the concrete steps provide public beach access and therefore meet the LCP requirements.

Finally, the existing gunite blanket on the lower bluff face has been augmented over the years without benefit of a coastal development permit. The extent of that augmentation is unclear and may extend onto the beach area.

3) Shoreline protection / public access impacts

Mello II LUP Policy 4-1(III) states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing

structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. As a condition of coastal development permit approval, permitted shoreline structures may be required to replenish the beach with imported sand. Provisions for the maintenance of any permitted seawalls shall be included as a condition of project approval.

Section 21.204.040 Coastal Shoreline Development Overlay Zone – Conditional Beach Uses states:

- A. Uses substantially similar to the permitted uses listed above may be permitted on the beach subject to this chapter and Chapters 21.42 and 21.50.
- B. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. As a condition of approval, permitted shoreline structures may be required to replenish the beach with imported sand.

Provisions for the maintenance of any permitted seawalls shall be included as a condition of project approval. As a further condition of approval, permitted shoreline structures shall be required to provide public access. Projects which create dredge spoils shall be required to deposit such spoils on the beaches if the material is suitable for sand replenishment. Seawalls shall be constructed essentially parallel to the base of the bluff and shall not obstruct or interfere with the passage of people along the beach at any time.

In addition, because the site is located between the sea and the first coastal road, the public access and recreation policies of the Coastal Act apply and state in part:

Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211.

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway....

The existing home, riprap and some of the gunite blanket pre-date the Coastal Act. However, as described above, the gunite blanket on the lower bluff has been augmented over the years without benefit a coastal development permit. The City staff report finds that the project is consistent with the LCP because it protects existing structures or public beaches in danger from erosion. In addition, the City's findings suggest that removal of shotcrete added to the gunite blanket would immediately accelerate erosion and flanking on the site and adjacent properties.

Because augmentation of the existing shoreline protection has never been permitted, its potential impacts to sand supply and public access have never been analyzed. Further, the proposed addition to the existing single-story house would increase the square footage by more than 50%. The submitted plans lack detailed demolition calculations; however, it appears that more than 50% of the exterior walls of the existing one-story residence may be demolished to accommodate the proposed addition and remodel. If so, the project will effectively result in construction of a new home that is dependent on shoreline protection that was installed to protect a pre-Coastal home. The City's approval does not require the applicant to execute a waiver of future shoreline protection.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370
FAX (619) 767-2384



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Donne Brownsey
Mailing Address: California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105
Phone Number: (415) 904-5202

SECTION II: Decision Being Appealed

1. Name of local/port government: City of Carlsbad
2. Brief description of development being appealed: Addition of 3,145 sq. ft. to an existing 2,330 sq. ft. single family residence on a 0.32 acre bluff top lot. Removal of unpermitted development on the bluff face and restoration of the bluff. Retention of an unpermitted stairway and deck on the bluff face, unpermitted shotcrete added to an existing gunite blanket on the lower bluff face, and unpermitted addition of concrete stairs connecting the bluff face stairway to the sand.
3. Development's location (street address, assessor's parcel no., cross street, etc.)
5215 Shore Dr, Carlsbad 92008; APN: 210-061-08-00
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐
 - d. Other: ☐ _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-C11-20-0056

DATE FILED: September 24, 2020

DISTRICT: San Diego

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SEP 24 2020

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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

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

Date of local government's decision: August 19, 2020

Local government's file number (if any): CDP 2018-0036

SECTION III. Identification of Other Interested Persons

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

Name and mailing address of permit applicant:

David and Barbara Cline
5215 Shore Drive
Carlsbad, CA 92008

Andrew Carlos
Carlos Architects, Inc.
3327 Adams Street
Carlsbad, CA 92008

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.

N/A

SECTION IV. Reasons Supporting This Appeal

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



Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated September 24, 2020

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: *Anna Munk*
Appellant or Agent

Date: Sept 24, 2020

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

Signed: N/A

Date: N/A

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SEP 24 2020

**CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT**

Attachment A

Cline Residence – 5215 Shore Drive, Carlsbad
September 24, 2020

Project Description and History

The existing house was constructed in 1954. A gunite blanket on the lower bluff, riprap at the toe of the bluff, wooden staircase on the bluff face, and a small wooden deck halfway down the bluff were also constructed on the property prior to implementation of the Coastal Act.

The proposed project includes a 3,145 sq. ft. addition to an existing 2,330 sq. ft. single-family residence on a 0.32-acre blufftop lot; removal of unpermitted development on the bluff face and restoration of the bluff; and retention of an unpermitted stairway and deck on the bluff face, unpermitted shotcrete added to an existing gunite blanket on the lower bluff face, and unpermitted addition of concrete stairs connecting the bluff face stairway to the sand. The project site is a blufftop lot on the west side of Shore Drive in the City of Carlsbad.

Consistency with the LCP

The City found that the proposed development is consistent with the provisions of the certified LCP. However, the development as approved by the City raises several LCP consistency issues with regard to geological stability, unpermitted bluff-face development, shoreline protection.

1) Geological Stability

Mello II LUP Policy 4-1(I)(a) requires:

For all new development along the shoreline, including additions to existing development, a site-specific geologic investigation and analysis similar to that required by the Coastal Commission's Geologic Stability and Blufftop Guidelines shall be required; for permitted development, this report must demonstrate bluff stability for 75 years, or the expected lifetime of the structure, whichever is greater.

Section 21.204.110 Coastal Shoreline Development Overlay Zone – Geotechnical Reports states:

- A. Geotechnical reports shall be submitted to the city planner as part of an application for plan approval. Geotechnical reports shall be prepared and signed by a professional civil engineer with expertise in soils and foundation engineering, and a certified engineering geologist or a registered geologist with a background in engineering applications. The report document shall consist of a single report, or separate but coordinated reports. The document

should be based on an onsite inspection in addition to a review of the general character of the area and it shall contain a certification that the development as proposed will have no adverse effect on the stability of the bluff and will not endanger life or property, and professional opinions stating the following:

1. The area covered in the report is sufficient to demonstrate the geotechnical hazards of the site consistent with the geologic, seismic, hydrologic and soil conditions at the site;
 2. The extent of potential damage that might be incurred by the development during all foreseeable normal and unusual conditions, including ground saturation and shaking caused by the maximum credible earthquake;
 3. The effect the project could have on the stability of the bluff.
- B. As a minimum the geotechnical report(s) shall consider, describe and analyze the following:
1. Cliff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site.
 2. Historic, current and foreseeable cliff erosion including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available and possible changes in shore configuration and sand transport.
 3. Geologic conditions, including soil, sediment and rock types and characteristics and structural features, such as bedding, joints and faults.
 4. Evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity.
 5. Impact of construction activity on the stability of the site and adjacent area.
 6. Ground and surface water conditions and variations, including hydrologic changes caused by the development (i.e., introduction of sewage effluent and irrigation water to the ground water system, alterations in surface drainage).
 7. Potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction (i.e., landscaping and drainage design).
 8. Effects of marine erosion on seacliffs.

9. Potential effects of earthquakes including:
 - a. Ground shaking caused by maximum credible earthquake;
 - b. Ground failure due to liquefaction, lurching, settlement and sliding; and
 - c. Surface rupture.
10. Any other factors that might affect slope stability.
11. The potential for flooding due to sea surface super elevation (wind and wave surge, low barometric pressure and astronomical tide), wave run-up, tsunami and river flows. This potential should be related to one-hundred and five-hundred-year recurrence intervals.
12. A description of any hazards to the development caused by possible failure of dams, reservoirs, mudflows or slides occurring off the property and caused by forces or activities beyond the control of the applicant.
13. The extent of potential damage that might be incurred by the development during all foreseeable normal and unusual conditions, including ground saturation and shaking caused by the maximum credible earthquake.
14. The effect the project could have on the stability of the bluff.
15. Mitigating measures and alternative solutions for any potential impact.

The report shall also express a professional opinion as to whether the project can be designed or located so that it will neither be subject to nor contribute to significant geologic instability throughout the lifespan of the project. The report shall use a currently acceptable engineering stability analysis method, shall describe the degree of uncertainty of analytical results due to assumptions and unknowns, and at a minimum, shall cover an area from the toe of the bluff inland to a line described on the bluff top by the intersection of a plane inclined at a twenty-degree angle from horizontal passing through the toe of the bluff or fifty feet inland from the bluff edge, whichever is greater. The degree of analysis required shall be appropriate to the degree of potential risk presented by the site and the proposed project. If the report does not conclude that the project can be designed and the site be found to be geologically stable, no coastal shoreline development permit shall be issued.

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