

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
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SAN DIEGO, CA 92108-4402
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Th16a

A-6-ENC-13-0210 (Lindstrom)

November 5, 2020

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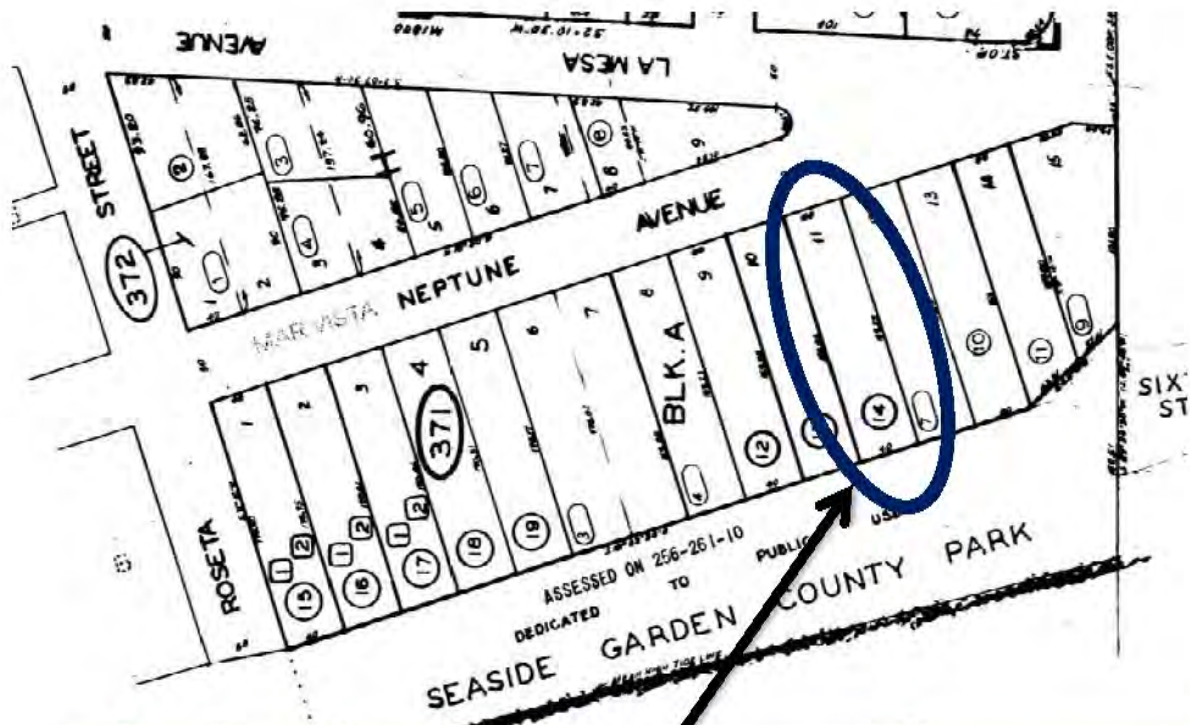
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PROJECT LOCATION



**Project
Location**

**Moonlight
Beach**



Google Maps

EXHIBIT NO. 1
APPLICATION NO. A-6-ENC-13-0210
Project Location
 California Coastal Commission

SITE PHOTO 1

**Project
Location**



EXHIBIT NO. 2

APPLICATION NO.

A-6-ENC-13-0210

Site Photo 1



California Coastal Commission



**Project
Location**



SITE PHOTO 2

EXHIBIT NO. 3

APPLICATION NO.

A-6-ENC-13-0210

Site Photo 2



California Coastal Commission

NEARBY SHORELINE ARMORING



**Project
Location**

**Seawall located 6
properties north of
subject site**

EXHIBIT NO. 4

APPLICATION NO.

A-6-ENC-13-0210

Nearby Armoring



California Coastal Commission

SIZE OF BLUFFTOP HOMES ON SAME BLOCK AS SUBJECT SITE

Address	Street	Sq. Ft.
104	Neptune	6,000
112	Neptune	2,252
120	Neptune	2,845
126	Neptune	3,102
132	Neptune	Subject Site
138	Neptune	1,990
142	Neptune	3,980
150	Neptune	4,052
160	Neptune	1,892
164	Neptune	3,145
172	Neptune	3,908
180	Neptune	1,425
186	Neptune	1,425
194	Neptune	1,282
	Average	2,869

EXHIBIT NO. 5

APPLICATION NO.

A-6-ENC-13-0210

Nearby Home Size



California Coastal Commission

RESOLUTION NO. PC 2013-

**A RESOLUTION OF THE CITY OF ENCINITAS PLANNING COMMISSION
APPROVING A COASTAL DEVELOPMENT PERMIT TO ALLOW FOR THE
CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE WITH A SECOND
STORY DECK ELEMENT WHICH CANTILEVERS 8 FEET INTO THE 40-FOOT
BLUFF SETBACK, SHORING PLAN, TEMPORARY CONSTRUCTION TRAILER
AND ASSOCIATED IMPROVEMENTS, FOR THE PROPERTY LOCATED AT 132
NEPTUNE AVENUE.**

(CASE NO. 12-201 CDP; APN: 256-371-14)

WHEREAS, a request for consideration of a Coastal Development Permit was filed by James and Karla Lindstrom to allow for the construction of a single-family residence, shoring plan, temporary construction trailer and associated improvements in accordance with Chapter 30.80 (Coastal Development Permit) and Section 30.34.020 (Coastal Bluff Overlay Zone) of the Encinitas Municipal Code, for the property located in the Residential 8 (R-8) zoning district, the Coastal Bluff Overlay Zone and the Coastal Appeal Zone of the California Coastal Commission in the community of Old Encinitas of the City of Encinitas, legally described as:

LOT 11, BLOCK "A" SEASIDE GARDENS, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1800, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 6, 1924.

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

WHEREAS, the Planning Commission conducted a noticed public hearing on the application on May 2, 2013, at which time all those desiring to be heard were heard; and

WHEREAS, the Planning Commission considered, without limitation:

1. The May 2, 2013 agenda report to the Planning Commission with attachments; and
2. The General Plan, Local Coastal Program, Municipal Code, and associated Land Use Maps; and
3. Written and oral evidence submitted at the hearing; and
4. Project drawings stamped received by the City on March 14, 2013, consisting of 15 sheets, including title sheet/site plan (Sheet C1), factor of safety site plan (Sheet C2), existing floor plan (Sheets A1, A2 and A3), exterior elevations and sections (Sheets A4, A5 and A6), topographical survey (Sheets SUV-1 and SUV-2), shoring plan (Sheets SH1 – SH4) and landscape plan (Sheet L1), all designated as

EXHIBIT NO. 6
APPLICATION NO.
A-6-ENC-13-0210
City Resolution
 California Coastal Commission

approved by the Planning Commission on May 2, 2013, and shall not be altered without express authorization by the Planning and Building Department; and

WHEREAS, the Planning Commission made the following findings pursuant to Section 30.80.090 (Coastal Development Permit) of the Encinitas Municipal Code:

(SEE ATTACHMENT "A")

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Encinitas hereby approves application Case No. 12-201 CDP subject to the following conditions:

(SEE ATTACHMENT "B")

BE IT FURTHER RESOLVED that the Planning Commission, in its independent judgment, finds that this project is categorically exempt from environmental review pursuant to Section 15303(a) which exempts the construction of single-family residence.

PASSED AND ADOPTED this 2nd day of May, 2013, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Jo Ann Shannon, Chair of the
Encinitas Planning Commission

ATTEST:

Jeff Murphy
Secretary

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

ATTACHMENT "A"
Resolution No. PC 2013-
Case No. 12-201 CDP

FINDINGS FOR A COASTAL DEVELOPMENT PERMIT

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

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

Facts: The applicant requests approval of a Coastal Development Permit for the construction of a new single-family residence, shoring plan, temporary construction trailer and associated improvements on the Coastal Bluff in the Old Encinitas Community Area of the City of Encinitas. The project proposes a single-family home consisting of 3,553 square feet of area, including a basement of 1,355 square feet. A 950-square foot four car garage is also proposed with this application. Pursuant to Section 30.34.020C1 of the Municipal Code, a second story cantilevered portion of a structure is permitted to encroach 20% beyond the bluff edge setback if demonstrated through standard engineering practices not to create an unnecessary surcharge load upon the bluff area and if a finding can be made that no public or private views would be significantly impacted by the construction of the cantilevered portion of the structure. The new residence also includes a second story deck element cantilevered 8 feet into the 40-foot bluff edge setback. The building is a contemporary beachfront home design, including extensive glass glazing and art glass details, stone veneer, copper roof, and copper clad windows. Improvements are proposed within the 40-foot bluff setback area, including planter walls and a small concrete pad for future above ground spa all on pier footings. A 30-inch high glass rail fence is shown adjacent to the bluff, setback 5 feet from the bluff edge. Hardscape, along with planter walls are shown within the front yard setback.

Discussion: The improvements listed above are consistent with the R-8 zoning standards outlined in Chapter 30.16 (Residential Zones) and requirements contained in Section 30.34.020 (Coastal Bluff Overlay Zone) of the Encinitas Municipal Code (EMC). The setbacks shown on the site plan include 20 feet for the front yard setback and 10 feet on

the south sideyard and 5 feet on the north sideyard. As outlined in the "Report of Preliminary Geotechnical Investigation and Coastal Bluff Stability Evaluation" received by the City on February 8, 2013, the appropriate setback distance from the bluff edge with a 1.5 factor of safety plus a 75 year estimated erosion rate was determined to be 29 feet from bluff edge by Geotechnical Exploration, Inc. However, the minimum coastal bluff edge setback is 40 feet as required per Section 30.34.020 of the Encinitas Municipal Code. The proposed single-family residence is setback 40 feet, with an 8-foot cantilevered deck shown off the rear of the home into the 40-foot bluff set back (also permissible per Section 30.34.020 of the EMC). Shoring beams are also proposed along the west edge of the proposed single-family dwelling due to the proposed excavation of the basement. The bluff fronting the subject property does not currently have (nor is it proposed at this time) any form of shoreline armoring.

Geopacifica, Inc. (the City's Third Party Geotechnical Engineering firm) has reviewed the proposed project and Preliminary Geotechnical Investigation and Coastal Bluff Stability Evaluation report prepared by Geotechnical Exploration, Inc. Geopacifica, Inc. concurs that the reports are in conformance with City of Encinitas Municipal Code requirements. The project as designed could be removed in the event of endangerment and the property owner has been conditioned herein (Specific Condition of Approval SCD) to participate in any comprehensive plan adopted by the City to address coastal bluff recession and shoreline erosion problems in the City.

Related to finding No. 1, the project complies with or is conditioned to comply with the City's Local Coastal Program and the Municipal Code. Related to finding No. 2, the project is exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15303(a). Finding No. 3, the project is in conformity with the public access and public recreation policies of Section 30200 et. seq. of the Coastal Act, and, based on the City's Third Party Geotechnical review, complies with the City's Municipal Code requirements as designed. No direct public access is available through the property as it is an interior lot along the west side of Neptune Avenue with no direct access to the beach. Public access to the shore is available in the near vicinity at Stone Steps beach access.

Conclusion: The Planning and Building Department finds that 1) the Coastal Development Permit complies with the City's Local Coastal Plan including policies of the General Plan and Municipal Code requirements, and all other applicable development and design standards; 2) no potentially significant adverse impacts to the environment will result from the project and the project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines; and 3) finding No. 3, the project is in conformity with the public access and public recreation policies of Section 30200 et. seq. of the Coastal Act. No direct public access is available through the property as it is an interior lot along the west side of Neptune Avenue with no direct access to the beach.

ATTACHMENT "B"
Resolution No. PC 2013-
Case No. 12-201 CDP

Applicant: Jim and Karla Lindstrom

Location: 132 Neptune Avenue (APN: 256-371-14)

This approval is subject to the following conditions:

SC1 SPECIFIC CONDITIONS:

- SC2 At any time after two years from the date of this approval, May 2, 2015 at 5:00 P.M., or the expiration date of any extension granted in accordance with the Municipal Code, the City may require a noticed public hearing to be scheduled before the authorized agency to determine if there has been demonstrated a good faith intent to proceed in reliance on this approval. If the authorized agency finds that a good faith intent to proceed has not been demonstrated, the Coastal Development Permit shall be deemed expired as of the above date (or the expiration date of any extension). The determination of the authorized agency may be appealed to the City Council within 15 days of the date of the determination as listed on this Permit.
- SC5 This project is conditionally approved as set forth on the application and project drawings stamped received by the City on March 14, 2013, consisting of 15 sheets, including title sheet/site plan (Sheet C1), factor of safety site plan (Sheet C2), site plan floor plans (Sheets A1, A2 and A3), exterior elevations and sections (Sheets A4, A5 and A6), topographical survey (Sheets SUV-1 and SUV-2), shoring plan (Sheets SH1 – SH4) and landscape plan (Sheet L1), all designated as approved by the Planning Commission on May 2, 2013, and shall not be altered without express authorization by the Planning and Building Department.
- SCA The following conditions shall be included on the building and/or grading plans and performed to specification of the Engineering Services Department:
1. As shown on the CDP site plan the applicant shall design and construct post construction BMP/IMP facilities to collect and treat all runoff generated by all new impervious surfaces including roof, hardscape, and driveways. Because of the proximity to the bluff, these facilities shall prohibit or limit infiltration. Additionally, all runoff shall drain to Neptune Avenue and no runoff shall be permitted to drain over the face of the bluff.
 2. Per SDRSD G-16 driveway standards, the driveway apron curbcut shall be a maximum of 40% of the property frontage with a minimum driveway size of 12'.

3. The applicant shall provide an ADA compliant pedestrian ramp to allow for pedestrian traffic to cross from that corner to the west side of Neptune. The pedestrian ramp may be designed in conjunction with the proposed driveway as shown on the CDP site plan.
4. Any existing public improvements along the property frontage that are damaged during construction shall be repaired or removed and replaced to the satisfaction of the Engineering Inspector.
5. This project proposes shoring for the construction of the basement. The shoring shall be designed and permitted on an approved grading plan by the Engineering Department.

SCB The following conditions shall be satisfied prior to building permit issuance to the satisfaction of the San Dieguito Water District (SDWD):

1. The subject property is currently not being served. The fire department requires fire sprinklers for the new development. The owner/applicant will need to have installed the meter and service at his expense. The district will require that water meters be located in front of the parcel they are serving and outside of any existing or proposed travel way.
2. The owner/applicant will be required to show all existing and proposed water facilities on improvement or grading plans for District approval.

SCC The owner/applicant shall provide a letter in writing stating that "the building as designed could be removed in the event of endangerment, and the property owner agrees to participate in any comprehensive plan adopted by the City to address coastal bluff recession and shoreline erosion problems in the City". This letter shall be provided to the Planning and Building Department prior to building permit issuance.

SCD All landscaping plant materials proposed shall be of native species appropriate for coastal bluff application.

SCE No permanent irrigation shall be allowed within the 40-foot bluff setback.

SCF No continuous footing shall be allowed within the 40-foot bluff setback.

SCG An open space easement shall be executed and recorded to the satisfaction of the Planning and Building Department to conserve the coastal bluff face between the coastal bluff edge and the most westerly property line. Said coastal bluff conservation action shall prohibit the alteration of land forms, removal of vegetation, or the removal/erection of structures of any type except as permitted herein and/or by written authorization by the City of Encinitas Planning and Building Department. This does not preclude the exercise of emergency measures as directed and authorized by the City of Encinitas Planning and Building Department and California Coastal Commission in accordance with Section 30.34.0202B2 of the Encinitas Municipal Code. Said open space easement shall be clearly depicted on the plans submitted for building and grading permit issuance in reliance on this approval to the satisfaction of the Planning and Building Department and

Engineering Services Department and shall be recorded prior to issuance of said building and grading permits.

G1 **STANDARD CONDITIONS:**

CONTACT THE PLANNING DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:

- G2 This approval may be appealed to the City Council within 15 calendar days from the date of this approval in accordance with Chapter 1.12 of the Municipal Code.
- G3 This project is located within the Coastal Appeal Zone and may be appealed to the California Coastal Commission pursuant to Coastal Act Section 30603 and Chapter 30.04 of the City of Encinitas Municipal Code. An appeal of the Planning Commission's decision must be filed with the Coastal Commission within 10 days following the Coastal Commission's receipt of the Notice of Final Action. Applicants will be notified by the Coastal Commission as to the date the Commission's appeal period will conclude. Appeals must be in writing to the Coastal Commission, San Diego Coast District office.
- G4 Prior to **building permit issuance**, the owner shall cause a covenant regarding real property to be recorded. Said covenant shall set forth the terms and conditions of this grant of approval and shall be of a form and content satisfactory to the Planning and Building Director. The Owner(s) agree, in acceptance of the conditions of this approval, to waive any claims of liability against the City and agrees to indemnify, hold harmless and defend the City and City's employees relative to the action to approve the project.
- G7 Prior to issuing a final inspection on framing, the applicant shall provide a survey from a licensed surveyor or a registered civil engineer verifying that the building height is in compliance with the approved plans. The height certification/survey shall be supplemented with a reduced (8 ½" x 11") copy of the site plan and elevations depicting the exact point(s) of certification. The engineer/surveyor shall contact the Planning and Building Department to identify and finalize the exact point(s) to be certified prior to conducting the survey.
- G5 Approval of this request shall not waive compliance with any sections of the Municipal Code and all other applicable City regulations in effect at the time of Building Permit issuance unless specifically waived herein.
- G12 Prior to any use of the project site pursuant to this permit, all conditions of approval contained herein shall be completed or secured to the satisfaction of the Planning and Building Department.
- G13 The applicant shall pay development fees at the established rate. Such fees may include, but not be limited to: Permit and Plan Checking Fees, Water and Sewer Service Fees, School Fees, Traffic Mitigation Fees, Flood Control Mitigation Fees, Park Mitigation Fees, and Fire Mitigation/Cost Recovery Fees. Arrangements to pay these fees shall be made prior to **building permit issuance** to the satisfaction of the Planning and Building and Engineering

Services Departments. The applicant is advised to contact the Planning and Building Department regarding Park Mitigation Fees, the Engineering Services Department regarding Flood Control and Traffic Fees, applicable School District(s) regarding School Fees, the Fire Department regarding Fire Mitigation/Cost Recovery Fees, and the applicable Utility Departments or Districts regarding Water and/or Sewer Fees.

G19 Garages enclosing required parking spaces shall be kept available and usable for the parking of owner/tenant vehicles at all times, and may not be rented or conveyed separately from the appurtenant dwelling unit.

BL1 Owner(s) shall enter into and record a covenant satisfactory to the City Attorney waiving any claims of liability against the City and agreeing to indemnify and hold harmless the City and City's employees relative to the approved project. This covenant is applicable to any bluff failure and erosion resulting from the development project.

BL4 An "as-built geotechnical report", reviewed and signed by both the soils/geotechnical engineer and the project engineering geologist, shall be completed and submitted to the City within 15 working days after completion of the project. The project shall not be considered complete (and thereby approved for use or occupancy) until the as-built report is received and the content of the report is found acceptable by the Planning and Building and Engineering Services Departments.

B1 **BUILDING CONDITION:**

CONTACT THE ENCINITAS BUILDING DIVISION REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION:

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

F1 **FIRE CONDITIONS:**

CONTACT THE ENCINITAS FIRE DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:

F7 **RESPONSE MAPS:** Any new development, which necessitates updating of emergency response maps by virtue of new structures, hydrants, roadways or similar features, shall be required to provide map updates in one of the following formats (AutoCad DWG,

DXF, ESRI shapefile, ESRI personal geodatabase, or XML format) and shall be charged a reasonable fee for updating all response maps.

- F13 **ADDRESS NUMBERS:** Approved numbers and/or addresses shall be placed on all new and existing buildings and at appropriate additional locations as to be plainly visible and legible from the street or roadway fronting the property from either direction of approach. Said numbers shall contrast with their background, and shall meet the following minimum standards as to size: 4" high with a 3/8" stroke for residential buildings, 8" high with a 1/2" stroke for commercial and multi-family residential buildings, 12" high with a 1" stroke for industrial buildings. Additional numbers shall be required where deemed necessary by the Fire Marshal, such as rear access doors, building corners, and entrances to commercial centers.
- F15A **AUTOMATIC FIRE SPRINKLER SYSTEM-ONE AND TWO FAMILY DWELLINGS:** Structures shall be protected by an automatic fire sprinkler system designed and installed to the satisfaction of the Fire Department. Plans for the automatic fire sprinkler system shall be approved by the Fire Department prior to the issuance of building permit(s).
- F17 **SMOKE DETECTORS/FIRE SPRINKLER SYSTEMS:** Smoke detectors/fire sprinklers shall be inspected by the Encinitas Fire Department.
- F18 **CLASS "A" ROOF:** All structures shall be provided with a Class "A" Roof covering to the satisfaction of the Encinitas Fire Department.
- F21 **SOLAR PHOTOVOLTAIC INSTALLATIONS (Solar Panels):** Solar Photovoltaic systems shall be installed per Encinitas Fire Department installation guidelines.
- F22 **Basement:**
- All basements shall be designed and equipped with emergency exit systems consisting of operable windows, lightwells or exit door that's leads directly outside via staircase and exit door or exit door at grade.
 - Lightwells that intrude into side yard or backyard setbacks of five feet or less, shall require a hinged grating covering the lightwell opening. The grating shall be capable of supporting a weight of 250lb person; yet must be able to be opened by someone of minimal strength with no special knowledge, effort or use of key or tool. Any modification of previously approved plans related to this condition shall be subject to re-submittal and review by City staff (Fire, Building, Planning).

E1 **ENGINEERING CONDITIONS:**

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

- E2 All City Codes, regulations, and policies in effect at the time of building/grading permit issuance shall apply.
- E3 All drawings submitted for Engineering permits are required to reference the NAVD 88 datum; the NGVD 29 datum will not be accepted.
- EG1 **Grading Conditions**
- EG3 The developer shall obtain a grading permit prior to the commencement of any clearing or grading of the site.
- EG4 The grading for this project is defined in Chapter 23.24 of the Encinitas Municipal Code. Grading shall be performed under the observation of a civil engineer whose responsibility it shall be to coordinate site inspection and testing to ensure compliance of the work with the approved grading plan, submit required reports to the Engineering Services Director and verify compliance with Chapter 23.24 of the Encinitas Municipal Code.
- EG5 No grading shall occur outside the limits of the project unless a letter of permission is obtained from the owners of the affected properties.
- EG6 Separate grading plans shall be submitted and approved and separate grading permits issued for borrow or disposal sites if located within the city limits.
- EG7 All newly created slopes within this project shall be no steeper than 2:1.
- EG8 A soils/geological/hydraulic report (as applicable) shall be prepared by a qualified engineer licensed by the State of California to perform such work. The report shall be submitted with the first grading plan submittal and shall be approved prior to issuance of any grading permit for the project.
- EG9 Prior to hauling dirt or construction materials to any proposed construction site within this project the developer shall submit to and receive approval from the Engineering Services Director for the proposed haul route. The developer shall comply with all conditions and requirements the Engineering Services Director may impose with regards to the hauling operation.
- EG10 In accordance with Section 23.24.370 (A) of the Municipal Code, no grading permit shall be issued for work occurring between October 1st of any year and April 15th of the following year, unless the plans for such work include details of protective measures, including desilting basins or other temporary drainage or control measures, or both, as may be deemed necessary by the field inspector to protect the adjoining public and private property from

damage by erosion, flooding, or the deposition of mud or debris which may originate from the site or result from such grading operations.

ED1 **Drainage Conditions**

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

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

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

ES1 **Street Conditions**

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

EU1 **Utilities Conditions**

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

ESW1 **Storm Water Pollution Control Conditions**

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

ESW6 Storm Water Pollution Control (SWPC) facilities shall be designed and approved by the City Engineer, and secured with a performance bond prior to the issuance of a **grading** permit for this project.

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

ECB1: Coastal Bluff Conditions

ECB3 If an automatic irrigation system is proposed for this project, it shall be designed to avoid any excess watering. The system shall also be designed to automatically shut off in case of a pipe break. Automatic shut-off system, moisture shut-off sensors, and other advanced controls will be required for the installation of an automatic irrigation system.

EB1: Underground Basement/Garage Conditions

EB3 The developer shall design and have approved the shoring and construction dewatering systems necessary for the construction of the underground garage prior to issuance of any grading permit for the project.

EB4 No permanent dewatering system shall be allowed for the underground garage. The underground garage shall be designed to withstand the hydrostatic pressure without any dewatering.

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Esther Sanchez
Mailing Address: City of Oceanside
300 North Coast Hwy
Oceanside, CA 92054
Phone Number: (760) 435-0971

RECEIVED

JUN 06 2013

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Encinitas
2. Brief description of development being appealed: Construction of a new 2-story, 3,553 sq. ft. home over a 1,355 sq. ft. basement with a 950 sq. ft. garage on an existing 6,776 sq. ft. vacant lot. The basement and first floor are proposed to be located approximately 40 ft. from the coastal bluff edge and the second floor is proposed to cantilever within 32 ft. of the bluff edge.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
132 Neptune Avenue, Encinitas, CA 92024, APN No. 256-371-14
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐
 - d. Other: ☐ _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-ENC-13-0210

DATE FILED: 6/6/13

DISTRICT: San Diego

EXHIBIT NO. 7

APPLICATION NO.

A-6-ENC-13-0210

Appeals



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: 5/2/2013

Local government's file number (if any): 12-201

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:

James And Karla Lindstrom
3378 Jasmine Crest
Encinitas, CA 92024

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

SECTION IV. Reasons Supporting This Appeal

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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

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

SECTION V. Certification

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

Signed: Signature on File
Appellant or Agent

Date: 6/6/13

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

Signed: _____

Date: _____

Attachment A
Lindstrom Family Trust Appeal
06/6/2013

The project approved by the City of Encinitas ("City") consists of the construction of a new 2-story, 3,553 sq. ft. home over a 1,355 sq. ft. basement with a 950 sq. ft. garage on an existing 6,776 sq. ft. vacant lot. The basement and first floor are proposed to be located approximately 40 ft. from the coastal bluff edge and the second floor is proposed to cantilever within 32 ft. of the bluff edge. The basement is proposed to be constructed using 24 steel shoring beams that will be excavated down to a maximum elevation of 14.5 feet. In addition, the applicant proposes to install 17 (12 inch) piers at a depth of 18 inches to support planter boxes and an above ground spa. The project raises LCP consistency issues and the pertinent LCP provisions are as follows:

Geologic Stability

The City's decision is inconsistent with several provisions of the City's LCP which relate to the siting of new development in a safe location so as to not require shoreline protection and prohibits grading within 40 ft. of the coastal bluff edge.

Public Safety (PS) Policy 1.3 of the City's LUP requires that:

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

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

DEVELOPMENT PROCESSING AND APPROVAL. In addition to findings and processing requirements otherwise applicable, the following establishes specific processing and finding requirements for proposed development within the Coastal Bluff Overlay Zone...

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

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

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

[...]

...The report shall use a current acceptable engineering stability analysis method and shall also describe the degree of uncertainty of analytical results due to assumptions and unknowns. The degree of analysis required shall be appropriate to the degree of potential risk presented by the site and the proposed project.

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

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

[...]

Policy 30.34.20.B.1 of the City's certified Implementation Plan (IP) states, in part:

1. With the following exceptions, no principal structure, accessory structure, facility or improvement shall be constructed, placed or installed within 40 feet of the top edge of the coastal bluff. Exceptions are as follows:

[...]

b. Minor accessory structures and improvements located at grade, including landscaping, shall be allowed to within 5 feet of the top edge of the coastal bluff. Precautions must be taken when placing structures close to the bluff edge to ensure that the integrity of the bluff is not threatened. For the purposes of the Coastal Bluff Overlay Zones, "minor accessory structures and improvements" are defined as those requiring no City approval or permit including a building or grading permit, and not attached to any principal or accessory structure which would require a permit. Grading for reasonable pedestrian access in and around a principal or accessory structure may be permitted by the City Engineer following review of a site specific soils report. [Emphasis added]

The proposed single family residence will be located on a blufftop lot that is subject to erosion. Although the subject site does not currently have coastal armoring, a 13 ft. high, approximately 80 ft. long seawall was approved by the Commission in 1998 to protect two existing homes on the same block as the subject site at 164 and 172 Neptune Avenue (CDP #6-98-039); and, in 1994 and 1995, the Commission approved seawalls two blocks north of the subject site at 312 Neptune Avenue, 354 Neptune Avenue, 370 Neptune Avenue, 378 Neptune Avenue, and 396 Neptune Avenue (Ref: CDP Nos. 6-93-085/Auerbach & 6-95-066/Han).

The City's LCP, as cited above, requires that new structures and improvements be located at least 40 feet from the bluff edge and that a site-specific geotechnical report, which includes a slope stability analysis, be prepared that demonstrates the development will be sited in a safe location for the life of the structure so as to not require shoreline protection in the future. The applicant's geotechnical report "*Report of Preliminary Geotechnical Exploration and Coastal Bluff Stability Evaluation*," dated December 5, 2012, found that the long term erosion rate over 75 years for this property is predicted to be approximately 10 feet (0.13 ft. /year). Additionally, the geotechnical report found that a factor of safety of 1.5 would be attained at a distance of 18.3 feet landward of the bluff edge. Thus, a total setback of 28.3 feet was determined to be adequate to achieve a 1.5 factor of safety and to account for 75 years of erosion.

This information was evaluated by the Commission's staff geologist who identified the following concerns about the analysis. The long term erosion rate chosen by the applicant was significantly lower than any erosion rate accepted for a past project in the City of Encinitas and was not well supported. Specifically, the applicant used long-term average *historic* rates, did not utilize the most recent long-term study for erosion rates in Encinitas (Benumof and Griggs) and did not factor in likely acceleration of bluff retreat rates in the future due to sea level rise and increased exposure of the bluffs to wave attack. The failure model used to determine the 1.5 factor of safety setback was also unrealistic; the Torrey Sandstone at the base of the subject bluff generally collapses as block failures, followed by circular or wedge failures in the overlying terrace deposits, rather than the modeled circular failure through both units. Thus, it does not appear that the analysis was adequate to support that the proposed development would be safe for 75 years.

Subsequent to the City's approval of this project, the applicant submitted a revised geotechnical memo to Commission staff referenced as "*Response to California Coastal Commission Letter dated 4/18/13*," dated May 28, 2013. This updated geotechnical memo was in response to a comment letter sent by Commission staff to the applicant and the City prior to the City's action. The updated geotechnical memo however was not available when the City approved the project on May 2, 2013; and, therefore, it is only used as reference for this appeal. Any appeal must be based on what was in the City record at the time of the decision. This updated report found that both the long term erosion rate and the methodology of determining the 1.5 factor of safety line previously used were incorrect. The long term erosion rate for the site was increased from 0.13 to 0.40 feet per year and the 1.5 factor of safety setback was increased from 28.3 feet to 42.25 feet. Thus, the applicant's geotechnical consultant determined that a total setback of 72.25 feet would be adequate to achieve a 1.5 factor of safety and to account for 75 years of erosion. However, it should be noted that the proposed 40 ft. bluff setback for the residence would still be inadequate if only the adjusted 1.5 factor of safety setback was considered (42.25 feet).

The Commission's staff geologist has reviewed the updated geotechnical report and concurs with the new 1.5 factor of safety setback, but not with the long term erosion rate. Most recently, a long term erosion rate of 0.49 feet per year has been required for new development in the City of Encinitas (A-6-ENC-09-002/Wellman & A-6-ENC-09-003/Wellman). Thus, the setback in order for the structure to be safe for 75 years may need to be extended to 79 feet from the bluff edge.

The applicant's geotechnical consultant has found that a home would have to be sited greater than 72.25 feet from the bluff edge to be safe from erosion over a period of 75 years; nonetheless, the consultant is still attempting to justify only a 40 ft. setback is required either through alternative bluff failure modeling or the possible use of caissons. However, this amended geologic stability analysis and the possible use of caissons was not considered by the City in its local decision. The approved setback of 40 feet from the bluff edge is inadequate. Therefore, because the City's action included an inadequate geotechnical report, the City's approval raises a substantial issue regarding its consistency with the requirements of the LCP that the addition "...be reasonably safe from failure and erosion over its lifetime without having to propose any shore or bluff stabilization to protect the structure in the future."

In addition, the certified LCP clearly states that only minor, at grade; accessory structures and improvement are permitted to be located within 40 feet of the bluff edge. The 17 (12 inch) diameter piers at a depth of 18 inches to support planter boxes and an above ground spa are not at grade and are therefore inconsistent with the certified LCP.

Visual Resources

In addition, the approved home has the potential to create adverse visual impacts in the future which is inconsistent with the certified LCP.

Section 30.34.020B.8 of the Implementation Program states:

The design and exterior appearance of buildings and other structures visible from public vantage points shall be compatible with the scale and character of the surrounding development and protective of the natural scenic qualities of the bluffs.

The seaward-most wall of the basement and steel shoring beams of the home are proposed to be located 40 feet from the bluff edge. As stated previously, the applicant's updated geotechnical report predicts that long term erosion will be 30 feet over a 75 year period. In addition, the report predicts that the bluff will lie back an additional 9.7 feet to an angle of repose of 45 degrees. Thus, the report predicts that the daylight line of the bluff after 75 years will be nearly 40 feet. However, if a long term erosion rate of 0.49 feet per year is applied, the daylight line after 75 years would be 46.75 feet from the bluff edge and the western wall of the basement would be exposed. The exposure of the basement wall would be inconsistent with the LCP policy requiring structures visible from public vantage points to be protective of the natural scenic qualities of the surrounding, for the most part un-armored, natural bluffs.

Conclusion

The City's approval of the proposed single family residence appears inconsistent with the policies of the LCP relating to the requirement that new development be sited in a safe location that will not require shoreline protection in the future and that no grading occur within 40 feet of the bluff edge. In addition, the proposed structure is inconsistent with the visual resources policy of the certified LCP that requires new development to preserve the scenic qualities of the surrounding bluffs.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 787-2370

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

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

Phone Number: (415) 904-5200

RECEIVED

JUN 06 2013

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

1. Name of local/port government: City of Encinitas
2. Brief description of development being appealed: Construction of a new 2-story, 3,553 sq. ft. home over a 1,355 sq. ft. basement with a 950 sq. ft. garage on an existing 6,776 sq. ft. vacant lot. The basement and first floor are proposed to be located approximately 40 ft. from the coastal bluff edge and the second floor is proposed to cantilever within 32 ft. of the bluff edge.
3. Development's location (street address, assessor's parcel no., cross street, etc):
132 Neptune Avenue, Encinitas, CA 92024, APN No. 256-371-14
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐
 - d. Other: ☐ _____

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

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-6-ENC-13-0210DATE FILED: 6/6/13DISTRICT: San Diego

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

a. ☐ Planning Director/Zoning
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☐ Other

Date of local government's decision: 5/2/2013

Local government's file number (if any): 12-201

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:

James And Karla Lindstrom
3378 Jasmine Crest
Encinitas, CA 92024

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

SECTION IV. Reasons Supporting This Appeal

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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

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: M *Signature on File*
Appellant or Agency

berger

Date: 6/6/13

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

Signed: _____

Date: _____

Attachment A
Lindstrom Family Trust Appeal
06/6/2013

The project approved by the City of Encinitas ("City") consists of the construction of a new 2-story, 3,553 sq. ft. home over a 1,355 sq. ft. basement with a 950 sq. ft. garage on an existing 6,776 sq. ft. vacant lot. The basement and first floor are proposed to be located approximately 40 ft. from the coastal bluff edge and the second floor is proposed to cantilever within 32 ft. of the bluff edge. The basement is proposed to be constructed using 24 steel shoring beams that will be excavated down to a maximum elevation of 14.5 feet. In addition, the applicant proposes to install 17 (12 inch) piers at a depth of 18 inches to support planter boxes and an above ground spa. The project raises LCP consistency issues and the pertinent LCP provisions are as follows:

Geologic Stability

The City's decision is inconsistent with several provisions of the City's LCP which relate to the siting of new development in a safe location so as to not require shoreline protection and prohibits grading within 40 ft. of the coastal bluff edge.

Public Safety (PS) Policy 1.3 of the City's LUP requires that:

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

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

DEVELOPMENT PROCESSING AND APPROVAL. In addition to findings and processing requirements otherwise applicable, the following establishes specific processing and finding requirements for proposed development within the Coastal Bluff Overlay Zone...

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

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

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

[...]

...The report shall use a current acceptable engineering stability analysis method and shall also describe the degree of uncertainty of analytical results due to assumptions and unknowns. The degree of analysis required shall be appropriate to the degree of potential risk presented by the site and the proposed project.

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

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

[...]

Policy 30.34.20.B.1 of the City's certified Implementation Plan (IP) states, in part:

1. With the following exceptions, no principal structure, accessory structure, facility or improvement shall be constructed, placed or installed within 40 feet of the top edge of the coastal bluff. Exceptions are as follows:

[...]

b. Minor accessory structures and improvements located at grade, including landscaping, shall be allowed to within 5 feet of the top edge of the coastal bluff. Precautions must be taken when placing structures close to the bluff edge to ensure that the integrity of the bluff is not threatened. For the purposes of the Coastal Bluff Overlay Zones, "minor accessory structures and improvements" are defined as those requiring no City approval or permit including a building or grading permit, and not attached to any principal or accessory structure which would require a permit. Grading for reasonable pedestrian access in and around a principal or accessory structure may be permitted by the City Engineer following review of a site specific soils report. [Emphasis added]

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The City's LCP, as cited above, requires that new structures and improvements be located at least 40 feet from the bluff edge and that a site-specific geotechnical report, which includes a slope stability analysis, be prepared that demonstrates the development will be sited in a safe location for the life of the structure so as to not require shoreline protection in the future. The applicant's geotechnical report "*Report of Preliminary Geotechnical Exploration and Coastal Bluff Stability Evaluation*," dated December 5, 2012, found that the long term erosion rate over 75 years for this property is predicted to be approximately 10 feet (0.13 ft. /year). Additionally, the geotechnical report found that a factor of safety of 1.5 would be attained at a distance of 18.3 feet landward of the bluff edge. Thus, a total setback of 28.3 feet was determined to be adequate to achieve a 1.5 factor of safety and to account for 75 years of erosion.

This information was evaluated by the Commission's staff geologist who identified the following concerns about the analysis. The long term erosion rate chosen by the applicant was significantly lower than any erosion rate accepted for a past project in the City of Encinitas and was not well supported. Specifically, the applicant used long-term average *historic* rates, did not utilize the most recent long-term study for erosion rates in Encinitas (Benumof and Griggs) and did not factor in likely acceleration of bluff retreat rates in the future due to sea level rise and increased exposure of the bluffs to wave attack. The failure model used to determine the 1.5 factor of safety setback was also unrealistic; the Torrey Sandstone at the base of the subject bluff generally collapses as block failures, followed by circular or wedge failures in the overlying terrace deposits, rather than the modeled circular failure through both units. Thus, it does not appear that the analysis was adequate to support that the proposed development would be safe for 75 years.

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The Commission's staff geologist has reviewed the updated geotechnical report and concurs with the new 1.5 factor of safety setback, but not with the long term erosion rate. Most recently, a long term erosion rate of 0.49 feet per year has been required for new development in the City of Encinitas (A-6-ENC-09-002/Wellman & A-6-ENC-09-003/Wellman). Thus, the setback in order for the structure to be safe for 75 years may need to be extended to 79 feet from the bluff edge.

The applicant's geotechnical consultant has found that a home would have to be sited greater than 72.25 feet from the bluff edge to be safe from erosion over a period of 75 years; nonetheless, the consultant is still attempting to justify only a 40 ft. setback is required either through alternative bluff failure modeling or the possible use of caissons. However, this amended geologic stability analysis and the possible use of caissons was not considered by the City in its local decision. The approved setback of 40 feet from the bluff edge is inadequate. Therefore, because the City's action included an inadequate geotechnical report, the City's approval raises a substantial issue regarding its consistency with the requirements of the LCP that the addition "...be reasonably safe from failure and erosion over its lifetime without having to propose any shore or bluff stabilization to protect the structure in the future."

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Visual Resources

In addition, the approved home has the potential to create adverse visual impacts in the future which is inconsistent with the certified LCP.

Section 30.34.020B.8 of the Implementation Program states:

The design and exterior appearance of buildings and other structures visible from public vantage points shall be compatible with the scale and character of the surrounding development and protective of the natural scenic qualities of the bluffs.

The seaward-most wall of the basement and steel shoring beams of the home are proposed to be located 40 feet from the bluff edge. As stated previously, the applicant's updated geotechnical report predicts that long term erosion will be 30 feet over a 75 year period. In addition, the report predicts that the bluff will lie back an additional 9.7 feet to an angle of repose of 45 degrees. Thus, the report predicts that the daylight line of the bluff after 75 years will be nearly 40 feet. However, if a long term erosion rate of 0.49 feet per year is applied, the daylight line after 75 years would be 46.75 feet from the bluff edge and the western wall of the basement would be exposed. The exposure of the basement wall would be inconsistent with the LCP policy requiring structures visible from public vantage points to be protective of the natural scenic qualities of the surrounding, for the most part un-armored, natural bluffs.

Conclusion

The City's approval of the proposed single family residence appears inconsistent with the policies of the LCP relating to the requirement that new development be sited in a safe location that will not require shoreline protection in the future and that no grading occur within 40 feet of the bluff edge. In addition, the proposed structure is inconsistent with the visual resources policy of the certified LCP that requires new development to preserve the scenic qualities of the surrounding bluffs.

07/16/2020 at 01:42:00 PM

Clerk of the Superior Court
By Veronica Navarro, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

**JAMES LINDSTROM and KARLA
LINDSTROM,**

Petitioners,

v.

**CALIFORNIA COASTAL COMMISSION,
an agency of the State of California; and
DOES 1 through 20, inclusive,**

Respondents.

Case No. 37-2016-00026574-CU-WM-NC

**~~[PROPOSED]~~ REVISED PEREMPTORY
WRIT OF MANDATE**

Dept: N-29
Judge: The Hon. Robert P. Dahlquist
Trial Date: December 22, 2017
Action Filed: August 4, 2016

EXHIBIT NO. 8

APPLICATION NO.

A-6-ENC-13-0210

Remand Order



California Coastal Commission

1 TO RESPONDENT CALIFORNIA COASTAL COMMISSION (Commission):

2 Whereas, this Court entered judgment on March 7, 2018, partially granting and partially
3 denying the petition for writ of mandate;

4 Whereas, the Court filed a writ of administrative mandate directing the Commission to set
5 aside its conditional approval of Coastal Development Permit No. A-6-ENC-13-0210 (Permit)
6 and reconsider the permit in light of the Court's finding that the Commission abused its discretion
7 by failing to proceed in the manner required by law regarding Special Conditions 1(a) and 3(a);

8 Whereas, the Commission filed a return to the writ of mandate indicating it was appealing
9 the judgment;

10 Whereas, the Commission appealed the judgment and Petitioners James and Karla
11 Lindstrom cross-appealed;

12 Whereas, the Court of Appeal filed an opinion on September 19, 2019 that reversed and
13 remanded the trial court judgment and vacated this Court's writ of administrative mandate;

14 Whereas, the Court of Appeal remanded with directions to the trial court to issue a new writ
15 of mandate ordering the Commission to either delete special condition 3.b of the Permit or revise
16 it as set forth in the Court of Appeal's opinion;

17 Whereas, in all other respects, the Court of Appeal held that the special conditions set forth
18 in the Commission's decision were valid and may remain in effect.

19 NOW, THEREFORE, IN LIGHT OF THE ABOVE, YOU ARE HEREBY
20 COMMANDED TO DO AS FOLLOWS:

21 1. Set aside your July 13, 2016 decision to conditionally approve Coastal Development
22 Permit No. A-6-ENC-13-0210;

23 2. Hold a hearing to reconsider Special Condition 3.b. of Coastal Development Permit No.
24 A-6-ENC-13-0210 in light of the Court of Appeal's September 19, 2019 decision in this case.

25 Except as specifically enjoined, this writ does not limit or control in any way the discretion
26 legally vested in the Commission.

1 YOU ARE FURTHER COMMANDED to make and file a return to this peremptory writ of
2 mandate within 60 days after the hearing on reconsideration of the permit.

3
4 Dated: 07/16/2020

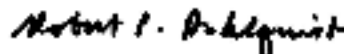

E. Fernandez

Clerk of the Court



5
6
7
8
9 **It is so ordered.**

10
11 07/27/2020



Special Condition No. 3 as Revised in Strikeout/Underline

3. **No Future Bluff or Shoreline Protective Device.**

a. By acceptance of this Permit, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-6-ENC-13-0210 including, but not limited to, the residence and foundation in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

b. By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that they are required to remove all or a portion of the development authorized by this permit and restore the site, if: the landowner shall remove the development authorized by this Permit, including the residence and foundation, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

- 1) The City or any government agency with jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, flooding, erosion, bluff retreat, landslides, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices.

c. In the event the edge of the bluff recedes to within 10 feet of the principal residence but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the applicants, that addresses whether any portions of the residence are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without shore or bluff protection, including but not limited to removal or relocation of portions of the residence. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the permittee shall, within 90 days of submitting the report, apply for a coastal development permit.



amendment to remedy the hazard, which shall include removal of the threatened portion of the structure.