

CALIFORNIA COASTAL COMMISSION

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Th15b

A-6-ENC-20-0022 (Hanlon Residence)

August 13, 2020

EXHIBITS

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Project Location

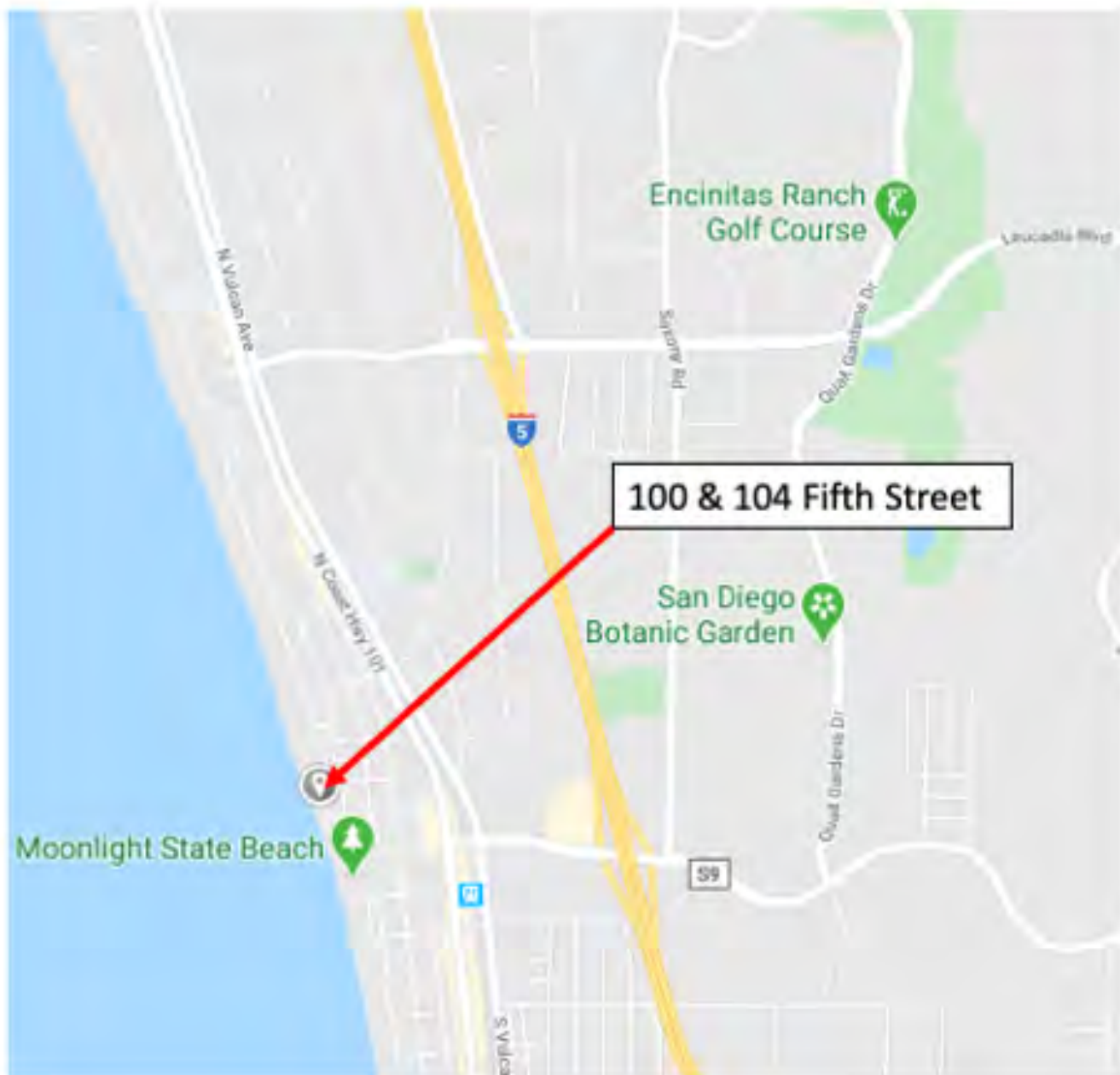


EXHIBIT NO. 1

APPLICATION NO.

A-6-ENC-20-0022

Project Location

Hanlon



California Coastal Commission

Engineering Design Group Fill Photos



EXHIBIT NO. 2

APPLICATION NO.

A-6-ENC-20-0022

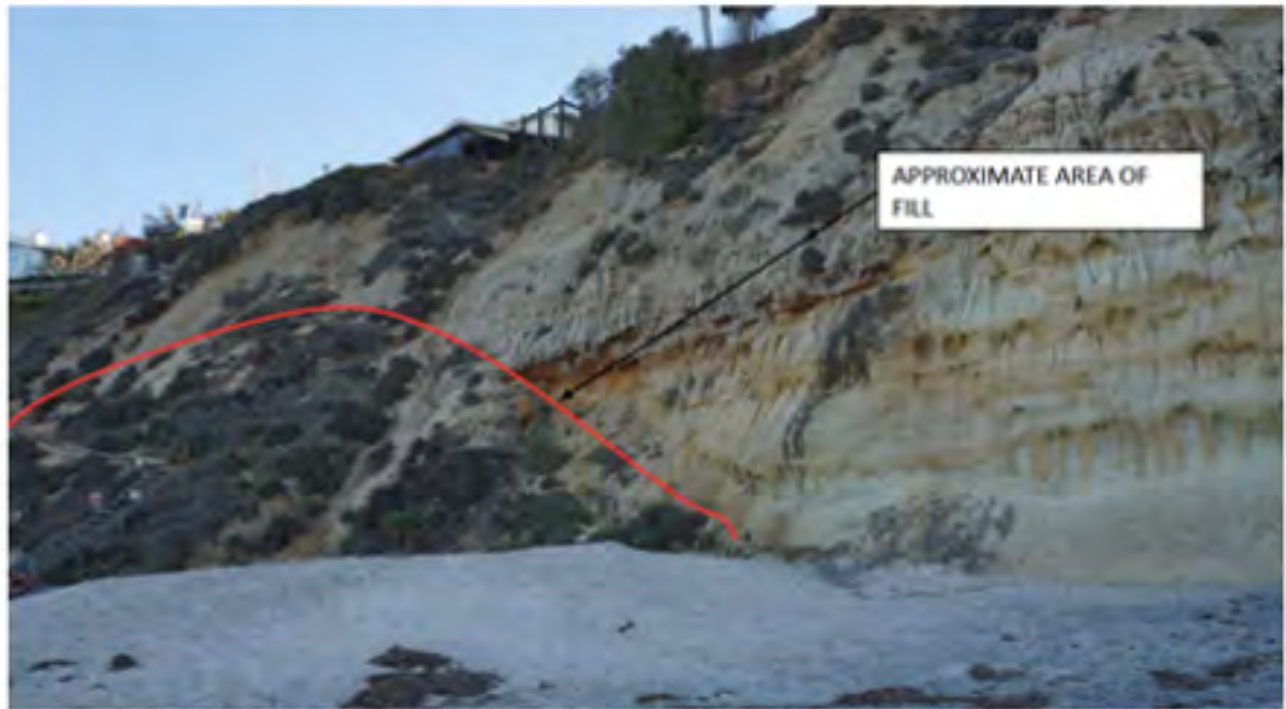
EDG Fill Photos

Hanlon



California Coastal Commission

Engineering Design Group Fill Photos



RESOLUTION NO. PC 2020-07

A RESOLUTION OF THE CITY OF ENCINITAS PLANNING COMMISSION APPROVING A PARCEL MAP WAIVER, MINOR USE PERMIT, DESIGN REVIEW PERMIT, AND COASTAL DEVELOPMENT PERMIT TO DEMOLISH TWO EXISTING SINGLE-FAMILY RESIDENCES, CONSOLIDATE TWO EXISTING UNDERLYING LEGAL LOTS INTO ONE LOT, AND CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE WITH AN OVERSIZED GARAGE WITHIN A BASEMENT, AND SITE AND GRADING IMPROVEMENTS FOR THE PROPERTIES LOCATED AT 100 FIFTH STREET AND 104 FIFTH STREET

(CASE NOS. MULTI-002926-2019, CDP-002927-2019, SUB-002973-2019, USE-003434-2019, and DR-003484-2019; APN 258-023-21 and 22)

WHEREAS, Lauren Williams, AIA, on behalf of Marco and Nicole Hanlon, submitted an application to demolish the existing single-family residences on two adjacent lots each, consolidate the two underlying legal lots into one lot, and construct a new single-family residence with an oversized garage within a basement, and site improvements to include grading exceeding four feet of fill, retaining walls exceeding six feet in height, landscaping and best management practices on the newly consolidated lot located on a coastal bluff for the properties located at 100 Fifth Street and 104 Fifth Street, **legally described in Exhibit A**; and

WHEREAS, the Planning Commission conducted a duly noticed public hearings on March 19, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Encinitas Planning Commission hereby APPROVES Case Nos. MULTI-002926-2019, CDP-002927-2019, SUB-002973-2019, USE-003434-2019, and DR-003484-2019 based on the following Environmental Determination and Findings:

Section 1. California Environmental Quality Act Determination

The project has been determined to be exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15332 which exempts in-fill development when:

CEQA Guidelines Section 15332	Explanation of CEQA Conformance
a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.	The project is consistent with all applicable policies of the General Plan and requirements of the Municipal Code.
b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.	The project is located within the City of Encinitas. The project area is 22,852 gross square feet (0.52 acres). Previously developed properties surround the site and all public utilities are in place to serve the project.



c. The project site has no value as habitat for endangered, rare or threatened species.	The project site has no value as habitat for endangered, rare or threatened species.
d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.	The proposed project is a primary single-family residence that will maintain the existing character of the residential neighborhood and surrounding residential area. The proposed single-family residence is similar to, consistent with, and appropriate for the residential vicinity, zoning, and character. Therefore, no significant effects relating to traffic, noise, air quality, or water quality would result.
e. The site can be adequately served by all required utilities and public services.	The proposed project is a primary single-family residence located within an established residential neighborhood. All public services are in place to serve the project and the established residential neighborhood.

As demonstrated in the table above, the proposed project meets this exemption. The project does not qualify as one of the exceptions prescribed under Section 15300.2 of the CEQA Guidelines and no historic resources are affected by the proposed project.

Section 2. Discretionary Action(s) Findings

Based on the findings for a Parcel Map Waiver per Encinitas Municipal Code Section 24.60.050 and the aforementioned analysis, Planning Commission has made the following findings to support the approval, with conditions:

Finding for Parcel Map Waiver	Explanation of Finding
The proposed subdivision and each of the lots proposed to be created comply with requirements as to area, on-site improvements, design, access, floodwater drainage control, adequate boundary monumentation, dedications of right-of-way, payment of development fees, appropriate improved public streets and other off-site improvements, sanitary disposal facilities, water supply availability, fire protection facilities, environmental review and protection, grading, and any and all other requirements of this Title and the State Subdivision Map Act which would be applicable to review and approval of a tentative parcel map.	The proposed project consolidates two existing lots into one legal lot, and no new lots are proposed by this application. All necessary on- and off-site improvements are in place. All utilities and services are in place for the development. The resulting consolidated lot complies with all standards of the R11 zone, including lot area, width and depth standards, and therefore, all applicable provisions of the Municipal Code and the Subdivision Map Act are met.

Based on the findings for a Use Permit per Encinitas Municipal Code Section 30.74.070 (Use Permit) and the aforementioned analysis, Planning Commission has made the following findings to support the approval, with conditions:

Findings for Minor Use Permit	Explanation of Finding
1. The location, size, design or operating characteristics of the proposed project will be incompatible with or will adversely affect or will be materially detrimental to adjacent uses, residences, buildings, structures or natural resources, with consideration given to, but not limited to:	
a. The inadequacy of public facilities, services and utilities to serve the proposed project.	Previously developed properties surround the site and all public utilities are in place to serve the project. The proposed project will be compatible with the surrounding uses and residences.
b. The unsuitability of the site for the type and intensity of use or development, which is proposed.	The suitability and intensity of development of the proposed basement garage was reviewed. The request to exceed the standard allowable area for the garage is not significant in nature relative to the size of the 22,852-gross square foot of total building area, the resultant bulk and mass, and its location within the basement. The proposed 4,820-SF garage located within the basement exceeds the maximum area of 1,000 SF. As conditioned, the proposed project meets all applicable zoning requirements as outlined in the Encinitas Municipal Code for projects located in the R11 zone. It is commonplace for single-family homes in the area to include attached accessory land uses. The proposed attached garage would be consistent with the neighborhood and compliant with the underlying zoning with the issuance of the minor use permit. The proposed garage is located within the basement and its area would not contribute to the overall FAR of the property, thereby maintaining the existing residential character of the neighborhood and surrounding area.

c. The harmful effect, if any, upon environmental quality and natural resources of the city.	Previously developed residential properties surround the subject property. There are no environmental issues associated with the project. The project has been determined to be exempt from environmental review pursuant to CEQA guidelines Section 15332.
2. The impacts of the proposed project will adversely affect the policies of the Encinitas General Plan or the provisions of this Code; or	The proposed project, as conditioned, is consistent with the policies of the General Plan, and applicable provisions of the Encinitas Municipal Code. The project will blend in and will complement the Leucadia community area. The project meets all of the zoning standards of the R11 zone, including setbacks, lot coverage, and building height.
3. The project fails to comply with any other regulations, conditions or policies imposed by this Code.	As conditioned, the project would comply with all requirements of the R11 zone, and applicable chapters of the Encinitas Municipal Code.

Based on the findings for a Design Review Permit as per Encinitas Municipal Code Section 23.08.080 and the aforementioned analysis, Planning Commission has made the following findings to support the approval, with conditions:

Findings for a Design Review Permit	Explanation of Finding
a. The project design is inconsistent with the General Plan, a Specific Plan or the provisions of the Municipal Code.	The project design is consistent with all applicable provisions of the General Plan and requirements of the Municipal Code. The project site is not located in a Specific Plan area.
b. The project design is substantially inconsistent with the Design Review Guidelines.	The view of the graded landform from the public view would appear as a natural landform and minimizes a manufactured appearance. The slopes descending from the west would be blended, rounded, and landscaped to look natural in appearance. The grading would not be visible from any public areas.
c. The project would adversely affect the health, safety, or general welfare of the community.	The project complies with all applicable standards outlined in the Municipal Code. The project is exempt from the requirements of CEQA and would not adversely affect the health, safety or general welfare of the community.

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

Finding for Coastal Development Permit	Explanation of Finding
1. The proposed project is consistent with the certified Local Coastal Program of the City of Encinitas.	The proposed project is consistent with the certified Local Coastal Program of the City of Encinitas. Based upon the information contained in the site-specific geotechnical study, the applicant has demonstrated that the new structure would not create an unnecessary surcharge load on the bluff. The City's third-party geotechnical consultant (Geopacifica) concluded that the geotechnical study provided as a part of the project review have addressed all site conditions and have provided all the necessary information to satisfy the requirements of the Encinitas Municipal Code. The building setback of 53 feet from the top of bluff accommodates the calculated factor of safety (1.5) setback for the seismic condition of 15 feet, plus an erosion rate of 0.51 feet/year over 75 years which results in a total of 38 feet.
2. The proposed project is consistent with the certified Local Coastal Program of the City of Encinitas. The proposed development conforms with Public Resources Code Section 21000 et al. (CEQA) and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment.	Previously developed properties surround the project site. There are no environmental issues associated with the project. The project would not have a harmful effect on environmental quality or natural resources. The project conforms with Public resources Code Section 21000 (CEQA). The project has been determined to be exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15322. The project meets these criteria of the exemptions. None of the exceptions in CEQA Guidelines Section 15300.2 exists and no historic resources will be impacted by the proposed project.
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.	Public access is not available or feasible on the site because it is a steep private blufftop property located on the west side of the intersection of Sylvia Street and Fifth Street. In accordance with Section 30212 of the Coastal Act, public beach and shore access and recreational opportunities already exist and both are available approximately 785 feet south of the project site at Moonlight Beach.

The above environmental determination and findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED that based on the Environmental Determination and Findings hereinbefore adopted by the Planning Commission, Case Nos. MULTI-002926-2019, CDP-002927-2019, SUB-002973-2019, USE-003434-2019, and DR-003484-2019 is hereby subject to the conditions in Exhibit B.

PASSED AND ADOPTED this 19th day of March, 2020, by the following vote, to wit:

AYES: Ehlers, Doyle, Flicker
NOES: None.
ABSTAIN: Sherod
ABSENT: Farrow

 4/3/2020

Bruce Ehlers, Chair

ATTEST:



Roy Sapa'u
Secretary

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

EXHIBIT "A"
RESOLUTION NO. PC 2020-07
CASE NOS. MULTI-002926-2019, CDP-002927-2019, SUB-002973-2019,
USE-003434-2019, and DR-003484-2019

LEGAL DESCRIPTION

PARCEL A-1:

THOSE PORTIONS OF LOTS ONE AND SIXTEEN, BLOCK FORTY-SIX, PITCHER'S SUBDIVISION OF ENCINITAS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 187 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY APRIL 4, 1887, TOGETHER WITH THE WESTERLY 40 FEET OF 5TH STREET ADJOINING SAID LOT ONE ON THE EAST AND THAT PORTION OF THE ALLEY IN SAID BLOCK 46 LYING BETWEEN SAID LOTS ONE AND SIXTEEN AS CLOSED DECEMBER 3, 1913 BY ORDER OF THE BOARD OF SUPERVISORS OF SAN DIEGO TOGETHER WITH THAT PORTION OF BLOCK 46 OF ENCINITAS IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 148, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY JUNE 12, 1883 AND THOSE PORTIONS OF THE WEST 40 FEET OF 5TH STREET ADJOINING SAID BLOCK 46 ON THE EAST AND OF THE ALLEY IN SAID BLOCK 46 AS CLOSED TO PUBLIC USE DECEMBER 3, 1913 BY ORDER OF THE BOARD OF SUPERVISORS WHICH LIES NORTHERLY OF THE NORTHERLY LINE (OF THE EASTERLY EXTENSION THEREOF) OF THE SAID BLOCK 46 OF PITCHER'S SUBDIVISION OF ENCINITAS, ACCORDING TO MAP THEREOF NO. 187, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY APRIL 4, 1887 AND SOUTHERLY OF THE SOUTHERLY LINE OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 4 WEST SAN BERNARDINO MERIDIAN AS SAID SOUTHERLY LINE IS SHOWN ON THE MAP OF SEA SIDE GARDENS NO. 1800 AND IN MAP OF NORTH ENCINITAS NO. 1845 LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 1 OF MAP 187; THENCE ALONG THE SOUTHERLY LINE THEREOF SOUTH 83°23'36" WEST, 96.00 FEET TO THE TRUE POINT OF BEGINNING OF SAID LINE, THENCE NORTH 6°36'24" WEST 89.14 FEET MORE OR LESS TO SAID SOUTHERLY LINE OF SECTION 9.

EXCEPTING THEREFROM, THAT PORTION, IF ANY HERETOFORE OR NOW LYING BELOW THE MEAN TIDE OF THE PACIFIC OCEAN.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 2, 1991 AS INSTRUMENT NO. 91-617677 OF OFFICIAL RECORDS.

PARCEL A-2:

AN EASEMENT FOR INGRESS AND EGRESS AND FOR ROADWAY AND UTILITY PURPOSES AND APPURTENANCES THERETO OVER, UNDER, ALONG AND ACROSS THE SOUTHERLY 20.00 FEET OF THOSE PORTIONS OF LOTS ONE AND SIXTEEN, BLOCK FORTY SIX, PITCHER'S SUBDIVISION OF ENCINITAS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 187 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY APRIL 4, 1887,

TOGETHER WITH THE WESTERLY 40 FEET OF 5TH STREET ADJOINING SAID LOT ONE ON THE EAST AND THAT PORTION OF THE ALLEY IN SAID BLOCK 46 LYING BETWEEN SAID LOTS ONE AND SIXTEEN AS CLOSED DECEMBER 3, 1913 BY ORDER OF THE BOARD OF SUPERVISORS OF SAN DIEGO.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN THE HEREINABOVE DESCRIBED PARCEL A-I.

PARCEL B:

THOSE PORTIONS OF LOTS ONE AND SIXTEEN, BLOCK FORTY-SIX, PITCHER'S SUBDIVISION OF ENCINITAS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 187 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY APRIL 4, 1887, TOGETHER WITH THE WESTERLY 40 FEET OF 5TH STREET ADJOINING SAID LOT ONE ON THE EAST AND THAT PORTION OF THE ALLEY IN SAID BLOCK 46 LYING BETWEEN SAID LOTS ONE AND SIXTEEN AS CLOSED DECEMBER 3, 1913 BY ORDER OF THE BOARD OF SUPERVISORS OF SAN DIEGO; TOGETHER WITH THAT PORTION OF BLOCK 46 OF ENCINITAS IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 148, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY JUNE 12, 1881 AND THOSE PORTIONS OF THE WEST 40 FEET OF 5TH STREET ADJOINING SAID BLOCK 46 ON THE EAST AND OF THE ALLEY IN SAID BLOCK 46 AS CLOSED TO PUBLIC USE DECEMBER 3, 1913 BY ORDER OF THE BOARD OF SUPERVISORS WHICH LIES NORTHERLY OF THE NORTHERLY LINE (OF THE EASTERLY EXTENSION THEREOF) OF THE SAID BLOCK 46 OF PITCHER'S SUBDIVISION OF ENCINITAS, ACCORDING TO MAP THEREOF NO. 187, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY APRIL 4, 1887 AND SOUTHERLY OF THE SOUTHERLY LINE OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 4 WEST SAN BERNARDINO MERIDIAN AS SAID SOUTHERLY LINE IS SHOWN ON THE MAP OF SEA SIDE GARDENS NO. 1800 AND IN MAP OF NORTH ENCINITAS NO. 1845 LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE.

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 1 OF MAP 187; THENCE ALONG THE SOUTHERLY LINE THEREOF SOUTH $83^{\circ}23'36''$ WEST, 96.00 FEET TO THE TRUE POINT OF BEGINNING OF SAID LINE THENCE NORTH $6^{\circ}36'24''$ WEST 89.14 FEET MORE OR LESS TO SAID SOUTHERLY LINE OF SECTION 9.

EXCEPTING THEREFROM, THAT PORTION, IF ANY HERETOFORE OR NOW LYING BELOW THE MEAN TIDE OF THE PACIFIC OCEAN.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 2, 1991 AS INSTRUMENT NO. 91-617677 OF OFFICIAL RECORDS.

APN: 258-023-21-00 AND 258-023-22-00

EXHIBIT "B"
RESOLUTION NO. PC 2020-07
CASE NOS. MULTI-002926-2019, CDP-002927-2019, SUB-002973-2019,
USE-003434-2019, and DR-003484-2019

CONDITIONS OF APPROVAL

Applicant: Lauren Williams, AIA, on behalf of Marco and Nicole Hanlon

Location: 100 Fifth Street (APN 258-023-21) and 104 Fifth Street (258-023-22)

SC1 SPECIFIC CONDITIONS:

SC2 At any time after two years from the date of this approval, on March 19, 2022, at 5 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 application shall be deemed expired as of the above date (or the expiration date of any extension). The determination of the authorized agency may be appealed to the City Council within 10 days of the date of the determination.

SC5 This project is conditionally approved as set forth on the application and project drawings stamped received by the City on March 13, 2020, consisting of 18 sheets including a Title Sheet & Site Plan (Sheet as 01), Topographic Survey (02), Preliminary Grading Plan (03a and 03b), Slope Analysis (03c), Floor Plans (04 through 06), Roof Plans (07 and 08), Elevations (09 through 11), Sections (12 and 13), Preliminary Landscape Plan (One sheet), and Colored North Elevation (One Sheet); all designated as approved by the Planning Commission on March 19, 2020, and shall not be altered without express authorization by the Development Services Department.

SCA The following conditions shall be completed and/or fulfilled to the satisfaction of the Development Services Department:

1. Prior to building permit issuance, the applicant shall obtain an assigned address for the single-family residence.
2. Prior to final occupancy, a Planning Final Inspection shall be completed.
3. To the satisfaction of the Development Services Department, all onsite landscaping shall be at least 50 percent of native species. All vegetation planted on the site shall consist of drought tolerant species and non-invasive plants.
4. To the satisfaction of the Development Services Department, the proposed custom single-family residence shall be compatible with the surrounding environment in earth tones includes shades of green, brown, and gray, with no white or light shades, and no bright tones except as minor accents.

5. Any and all light sources associated with the subject project shall be shielded in such a manner that the light is directed away from streets or adjoining properties.
6. Erosion control landscaping shall be manually watered.
7. No permanent irrigation shall be permitted on the bluff face and within 40 feet of the bluff edge.
8. Any surface drains that must be relocated during construction shall drain to the street.
9. No improvements (i.e. fences/walls, landscaping, hardscape, etc.) shall be permitted within five feet of the bluff edge. All existing improvements within five feet of the bluff edge shall be removed or relocated to the satisfaction of the Development Services Department prior to final inspection.
10. Prior to grading/building permit issuance, an Open Space Easement shall be executed and recorded to the satisfaction of the Development Services Department to conserve the coastal bluff face between the coastal bluff edge and the western property line. Said coastal bluff conservation action shall prohibit the alteration of landforms, removal of vegetation, or the removal/erection of structures of any type except as permitted by written authorization by the City of Encinitas Development Services Department and/or California Coastal Commission. Said Open Space Easement shall be clearly depicted on the plans submitted for building permit plan issuance in reliance on this approval to the satisfaction of the Development Services Department.
11. The owner shall grant an easement for additional Public Street Right-of-Way subject to the terms and conditions set forth in the City of Encinitas Resolution 2009-52 adopted October 28, 2009 to the City of Encinitas along the property frontage at the intersection of Fifth Street and Sylvia Street to create a 15.00 feet radius.
12. For purposes of public improvement requirements, the owner shall be responsible for the construction of public improvements along the property frontages to Fifth Street and Sylvia Street. An ADA compliant pedestrian ramp shall be constructed at the intersection. A sidewalk shall be constructed to the north to connect to the existing. All new driveway aprons shall be constructed per SDRSD G-14D. The existing "Miracle 8-1929 Constr Co" sidewalk stamping shall be preserved and replaced.
13. All overhead utility service lines to the residences shall be installed underground.
14. The applicant shall provide standard post construction stormwater quality treatment BMP facilities to collect and treat all runoff generated by new and/or removed and replaced impervious surfaces for each parcel.
15. The existing survey monuments shall be shown on the grading plan and shall be protected in-place. If any monument is disturbed or destroyed it shall be replaced by a licensed land surveyor and shall file a Corner Record with the County.

16. All street signs, lights, lamps, utilities, etc. located within the public right-of-way shall be protected in-place during construction or replaced to the satisfaction of the City Engineer.
17. The proposed shoring retaining wall shall be included with the grading plans and be reviewed by the City's third-party reviewer. Additional plan check fees shall be required.
18. No grading shall be performed within the bluff setback including any temporary excavations for the proposed basements.

SCB The following condition of approval was added at the March 19, 2020 Planning Commission public hearing:

1. The applicant agrees, 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 California Government Code Section 30253(b) of the Coastal Act 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 applicable law.

G1 **STANDARD CONDITIONS:**

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

- M1 This approval may be appealed to the City Council within 10 calendar days from the date of this approval pursuant to Chapter 1.12 of the Municipal Code.
- G3 This project is located within the Coastal Appeal Zone and may be appealed to the California Coastal Commission pursuant to Coastal Act Section 30603 and Chapter 30.04 of the City of Encinitas Municipal Code. An appeal of the Planning Commission's decision must be filed with the Coastal Commission within 10 working days following the Coastal Commission's receipt of the Notice of Final Action. Applicants will be notified by the Coastal Commission as to the date the Commission's appeal period will conclude. Appeals must be in writing to the Coastal Commission, San Diego Coast District office.
- G4 Prior to **building permit issuance/recordation of the Certificate of Compliance**, 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 Development Services Director.
- G5 The Owner(s) shall waive any claims of liability against the City and indemnify, hold harmless and defend the City and City's employees regarding any component of the City's approval, by executing an indemnity agreement in substantially the form as provided by the Development Services Department prior to **grading/building permit issuance/recordation of the Certificate of Compliance** and the Development Services Director, or designee, is hereby authorized to execute the same.

- G6 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.
- G8 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 inches x 11 inches) copy of the site plan and elevations depicting the exact point(s) of certification. The engineer/surveyor shall contact the Development Services Department to identify and finalize the exact point(s) to be certified prior to conducting the survey.
- G11 All retaining and other freestanding walls, fences, and enclosures shall be architecturally designed in a manner similar to, and consistent with, the primary structures (e.g. stucco-coated masonry, split-face block or slump stone). These items shall be approved by the Development Services Department prior to the issuance of building and/or grading permits.
- G12 All roof-mounted equipment and appurtenances, including air conditioners and their associated vents, conduits and other mechanical and electrical equipment, shall be architecturally integrated, and shall be shielded from view and sound buffered to the satisfaction of the Development Services Department. **Note: All rooftop equipment shall be assumed visible unless demonstrated otherwise to the satisfaction of the Development Services Department, and adequate structural support shall be incorporated into building design.** Rooftop vent pipes shall be combined below the roof, and shall utilize decorative caps where visible from any point. Ground-mounted mechanical and electrical equipment shall also be screened through use of a wall, fence, landscaping, berm, or combination thereof to the satisfaction of the Development Services Department. All exterior accessory structures shall be designed to be compatible with the primary building's exterior to the satisfaction of the Development Services Department.
- G13 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 Development Services Department.
- G14 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 Development Services Departments. The applicant is advised to contact the Development Services Department regarding Park Mitigation Fees, 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.
- G20 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.

- G22 All utility connections shall be designed to coordinate with the architectural elements of the site so as not to be exposed except where necessary. Locations of pad mounted transformers, meter boxes, and other utility related items shall be included in the site plan submitted with the building permit application with an appropriate screening treatment. Transformers, terminal boxes, meter cabinets, pedestals, ducts and other facilities may be placed above ground provided they are screened with landscaping.
- G23 Building plans for all new dwelling units shall include installation of wiring for current or conduits for future installation of photovoltaic energy generation system(s) and an electric vehicle charging station.
- G24 Any wall, fence or combination thereof exceeding six feet in height and facing any neighboring property or visible from the public right-of-way shall be subject to design review pursuant to Section 23.08.040.A.1 of the Encinitas Municipal Code. Where a minimum two feet horizontal offset is provided, within which screening vegetation is provided to the satisfaction of the Development Services Department, the fence/wall may not be considered one continuous structure for purpose of measuring height and may be exempted from design review provided none of the offset fences or walls exceed six feet in height pursuant to Section 23.08.030.B.1.
- G25 Newly constructed single-family dwelling units shall be pre-plumbed for a graywater system permitted and constructed in accordance with Chapter 16 of the California Plumbing Code and including a stub-out in a convenient location for integration of the graywater system with landscape irrigation systems and accepting graywater from all sources permissible in conformance with the definition of graywater as per Section 14876 of the California Water Code. **Exception:** A graywater system shall not be permitted where a percolation test shows the absorption capacity of the soil is unable to accommodate the discharge of a graywater irrigation system.

LANDSCAPING

- L1 The project is subject to Chapter 23.26 of the Municipal Code (Water Efficient Landscape Program), which requires a landscape and irrigation plan to be prepared by a State licensed landscape designer. The requirements for the plans are listed in Chapter 23.26. The landscape and irrigation plans including the required signature block of the State licensed landscape designer must be submitted as part of the building permit application for the project.
- L2 All required plantings and automated irrigation systems shall be in place prior to use or occupancy of new buildings or structures. All required plantings and automated irrigation systems shall be maintained in good condition, and whenever necessary, shall be replaced with new materials to ensure continued compliance with applicable landscaping, buffering, and screening requirements. All landscaping and irrigation systems shall be maintained in a manner that will not depreciate adjacent property values and otherwise adversely affect adjacent properties. All irrigation lines shall be installed and maintained underground (except drip irrigation systems).
- L5 All masonry freestanding or retaining walls visible from points beyond the project site shall be treated with a protective sealant coating to facilitate graffiti removal. The sealant shall be of a type satisfactory to the Development Services Department. The

property owner shall be responsible for the removal in a timely manner of any graffiti posted on such walls.

USE PERMITS

- U1 At all times during the effective period of this permit, the responsible party shall obtain and maintain in valid force and effect, each and every license and permit required by a governmental agency for the operation of the authorized activity.
- U2 In the event that any of the conditions of this permit are not satisfied, the Development Services Department shall cause a noticed hearing to be set before the authorized agency to determine whether the City of Encinitas should revoke this permit.
- U3 Upon a showing of compelling public necessity demonstrated at a noticed hearing, the City of Encinitas, acting through the authorized agency, may add, amend, or delete conditions and regulations contained in this permit.
- U4 Nothing in this permit shall relieve the applicant from complying with conditions and regulations generally imposed upon activities similar in nature to the activity authorized by this permit.
- U5 Nothing in this permit shall authorize the applicant to intensify the authorized activity beyond that which is specifically described in this permit.
- U7 Any future modifications to the approved project will be reviewed relative to the findings for substantial conformance with a use permit contained in Section 30.74.105 of the Municipal Code. Modifications beyond the scope described therein will require submittal of an amendment to the use permit and approval by the authorized agency.
- U8 All project grading shall conform with that shown on the approved project plans. If no grading is proposed on the approved plans, or subsequent grading plans are inconsistent with the grading shown on the approved plans, a use permit modification for such grading shall be obtained from the authorized agency of the City prior to issuance of grading or building permits.

PARCEL MAP WAIVER/CERTIFICATES OF COMPLIANCE

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

DESIGN REVIEW

- DR1 Any future modifications to the approved project will be reviewed relative to the findings for substantial conformance with a design review permit contained in Section 23.08.140 of the Municipal Code. Modifications beyond the scope described therein may require submittal of an amendment to the design review permit and approval by the authorized agency.
- DR3 All project grading shall conform with the approved plans. If no grading is proposed on the approved plans, or subsequent grading plans are inconsistent with the grading shown on the approved plans, a design review permit for such grading shall be obtained from the authorized agency of the City prior to issuance of grading or building permits.

BLUFFTOP DEVELOPMENT:

- BL1 Owner(s) shall enter into and record a covenant satisfactory to the City Attorney waiving any claims of liability against the City and agreeing to indemnify and hold harmless the City and City's employees relative to the approved project. This covenant is applicable to any bluff failure and erosion resulting from the development project.
- BL2 The owner shall participate in and comply with any comprehensive plan adopted by the City to address coastal bluff recession and shoreline erosion problems in the City. This condition shall apply to future owners, encumbrances, successors, heirs, personal representatives, transferees and assigns of the respective parties.
- BL3 An "as-built geotechnical report" shall be submitted to the Development Services Departments, for review and acceptance, prior to approval of the foundation inspection. The report shall outline all field test locations and results, and observations performed by the consultant during construction of the proposed structure(s), and especially relative to the depths and actual location of the foundations. The report shall also verify that the recommendations contained in the Geotechnical Investigation Report, prepared and submitted in conjunction with the application, have been properly implemented and completed.

B1 BUILDING CONDITION(S):

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

- B2R The applicant shall submit a complete set of construction plans to the Development Services Department for building permit 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 CONDITION(S):**

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

- F6 **GATES:** All gates or other structures or devices, which could obstruct fire access roadways or otherwise hinder emergency operations, are prohibited unless they meet standards approved by the Fire Department. An approved emergency key-operated switch and/or an approved emergency traffic control-activating strobe light sensor shall be installed per Encinitas Fire Department standards.
- 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: four inches high with a half-inch stroke width for residential buildings, eight inches high with a half-inch stroke for commercial and multi-family residential buildings, twelve inches high with a one-inch stroke for industrial buildings. Additional numbers shall be required where deemed necessary by the Fire Marshal, such as rear access doors, building corners, and entrances to commercial centers.
- F15A **AUTOMATIC FIRE SPRINKLER SYSTEM-ONE- AND TWO-FAMILY DWELLINGS:** Structures shall be protected by an automatic fire sprinkler system designed and installed to the satisfaction of the Fire Department. Plans for the automatic fire sprinkler system shall be approved by the Fire Department prior to installation.
- F18 **CLASS "A" ROOF:** All structures shall be provided with a Class "A" Roof covering to the satisfaction of the Encinitas Fire Department.
- F22 **BASEMENT:**
1. All basements shall be designed and equipped with emergency exit systems consisting of operable windows, window wells or exit door that's leads directly outside via staircase and exit door or exit door at grade.
 2. Window wells/Light wells that intrude into side yard or backyard setbacks of five feet or less, shall require a hinged grating covering the window well/lightwell opening. The grating shall be capable of supporting a weight of 250-pound 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 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 Development 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 Development Services Director for the proposed haul route. The developer shall comply with all conditions and requirements the Development 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.

EG13 Owner shall provide a precise grading plan prior to approval of building permit. Grading plan shall provide design for drainage improvements, erosion control, storm water pollution control, and on-site pavement.

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 Development 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 Development Services Director.
- ED6 The owner of the subject property shall execute a hold harmless covenant regarding drainage across the adjacent property prior to approval of the any grading or building permit for this project.
- ED7 Concentrated flows across driveways and/or sidewalks shall not be permitted.

ES1 **Street Conditions**

- ES3 The owner shall make an offer of dedication to the City for all public streets and easements required by these conditions or shown on the site development plan. The offer shall be made by execution of a grant deed prior to issuance of any building permit for this project. All land so offered shall be granted to the City free and clear of all liens and encumbrances and without cost to the City. Streets that are already public are not required to be rededicated.
- ES5 Prior to any work being performed in the public right-of-way, a right-of-way construction permit shall be obtained from the Development Services Director and appropriate fees paid, in addition to any other permits required.
- ES10 Improvements constructed within the present or future public right-of-way shall be considered temporary. The owner shall enter into an encroachment removal covenant agreeing to remove those improvements at the direction of the City.

EU1 **Utilities Conditions**

- EU2 The owner shall comply with all the rules, regulations, and design requirements of the respective utility agencies regarding services to the project.
- EU3 The owner shall be responsible for coordination with S.D.G. & E., AT&T, and other applicable authorities.
- 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

- ESW3 Best Management Practice shall be utilized for storm water pollution control to the satisfaction of the City Engineer. The surface run off shall be directed over grass and landscaped areas prior to collection and discharge onto the street and/or into the public storm drain system. If pipes are used for area drainage, inlets shall be located to allow maximum flow distance over grass and non-erodible landscape areas. A grass lined ditch, reinforced with erosion control blanket, or a rip-rap lined drainage ditch shall be used instead of a concrete ditch where feasible. Hardscaped areas and driveways shall be sloped toward grassy and landscaped areas. Driveways with a grass or gravel lined swale in the middle can be used if the site topography does not allow for the discharge of driveway runoff over landscaped areas. The **Grading Plan** shall identify all landscape areas designed for storm water pollution control (SWPC). A note shall be placed on the plans indicating that the BMPs are to be privately maintained and the facilities not modified or removed without a permit from the City.
- 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 Development 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

- ECB2 In order to prevent any runoff from discharging over the coastal bluff, a drainage collection system shall be designed to intercept all the on-site runoff. The runoff shall be directed to a holding tank/wet well. The wet-well pump system shall be designed to handle a 50-year storm event and must be pumped onto a street or into a controlled storm drain system. No storm or irrigation water shall flow over the bluff edge.
- ECB3P 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.


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 Development Services Director and appropriate fees paid, in addition to any other permits required.

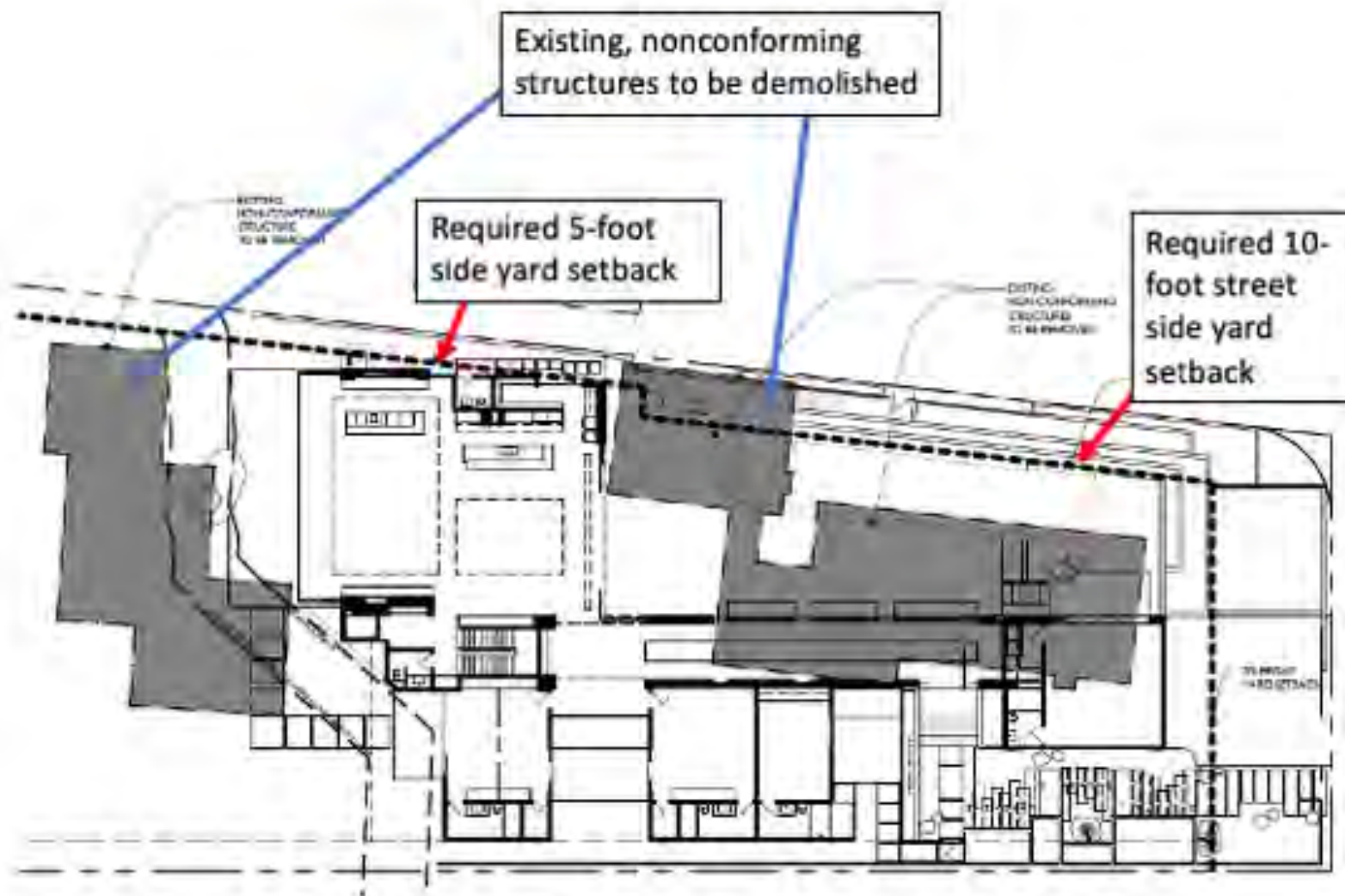
California Coastal Records Project Photo (1989)



Aerial view of the site, January 1989
Copyright (C) 2002-2020 Kenneth & Gabrielle Adelman, California
Coastal Records Project, www.Californiacoastline.org

EXHIBIT NO. 4
APPLICATION NO. A-6-ENC-20-0022
CCRP Photo (1989)
Hanlon
 California Coastal Commission

Street Side Yard Setback Plans




EXISTING STRUCTURES VS PROPOSED

SCALE: $\frac{1}{8}'' = 1'-0''$
MARCH 19, 2020

EXHIBIT NO. 5
APPLICATION NO. A-6-ENC-20-0022
Street Side Yard Setback Plans
Hanlon
 CALIFORNIA COASTAL COMMISSION

Parcel Boundary Map



EXHIBIT NO. 6
APPLICATION NO.
A-6-ENC-20-0022
Parcel Boundary Map
Hanlon
 California Coastal Commission

Site Plan

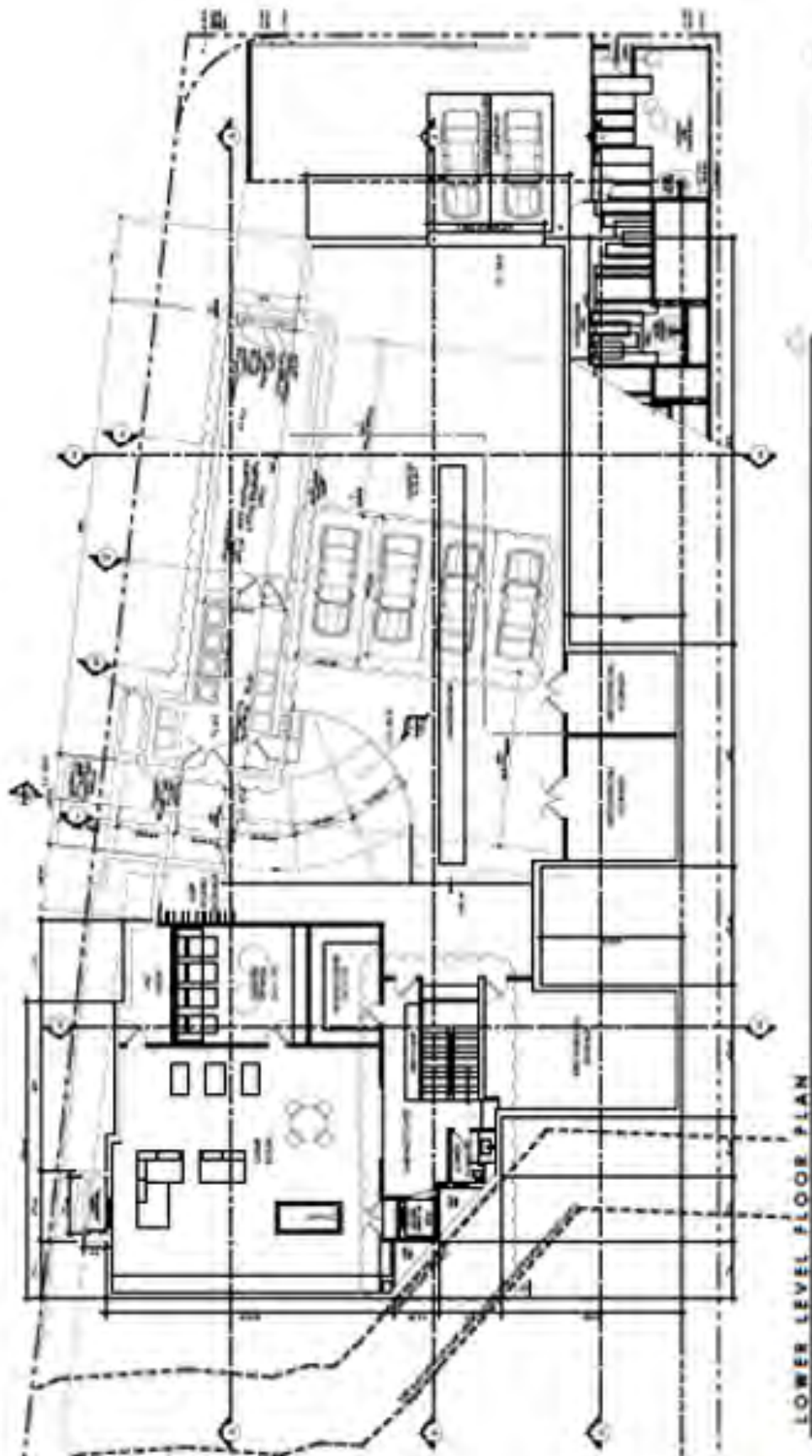


EXHIBIT NO. 7

APPLICATION NO.
A-6-ENC-20-0022

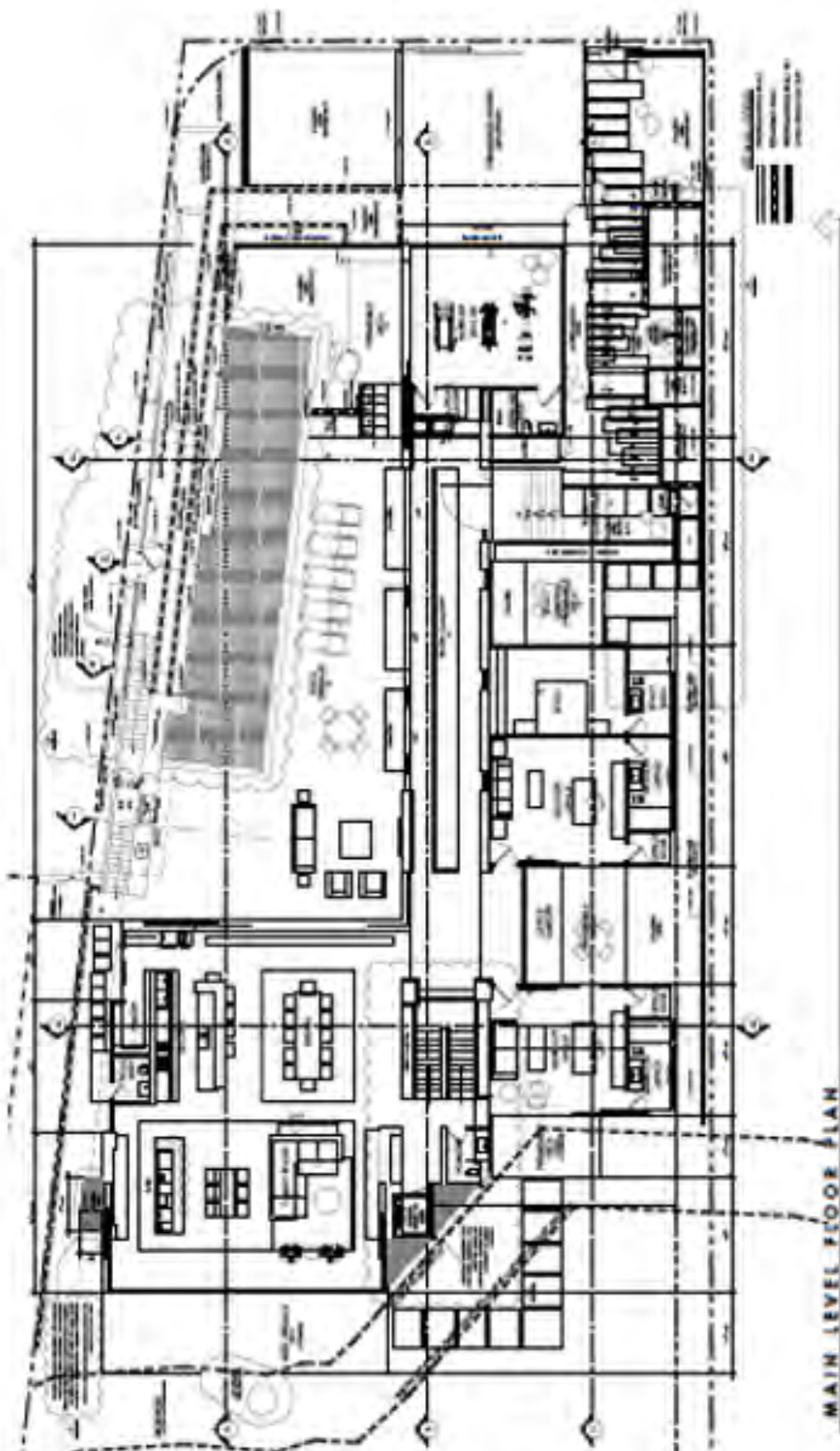
Site Plan

Hanlon

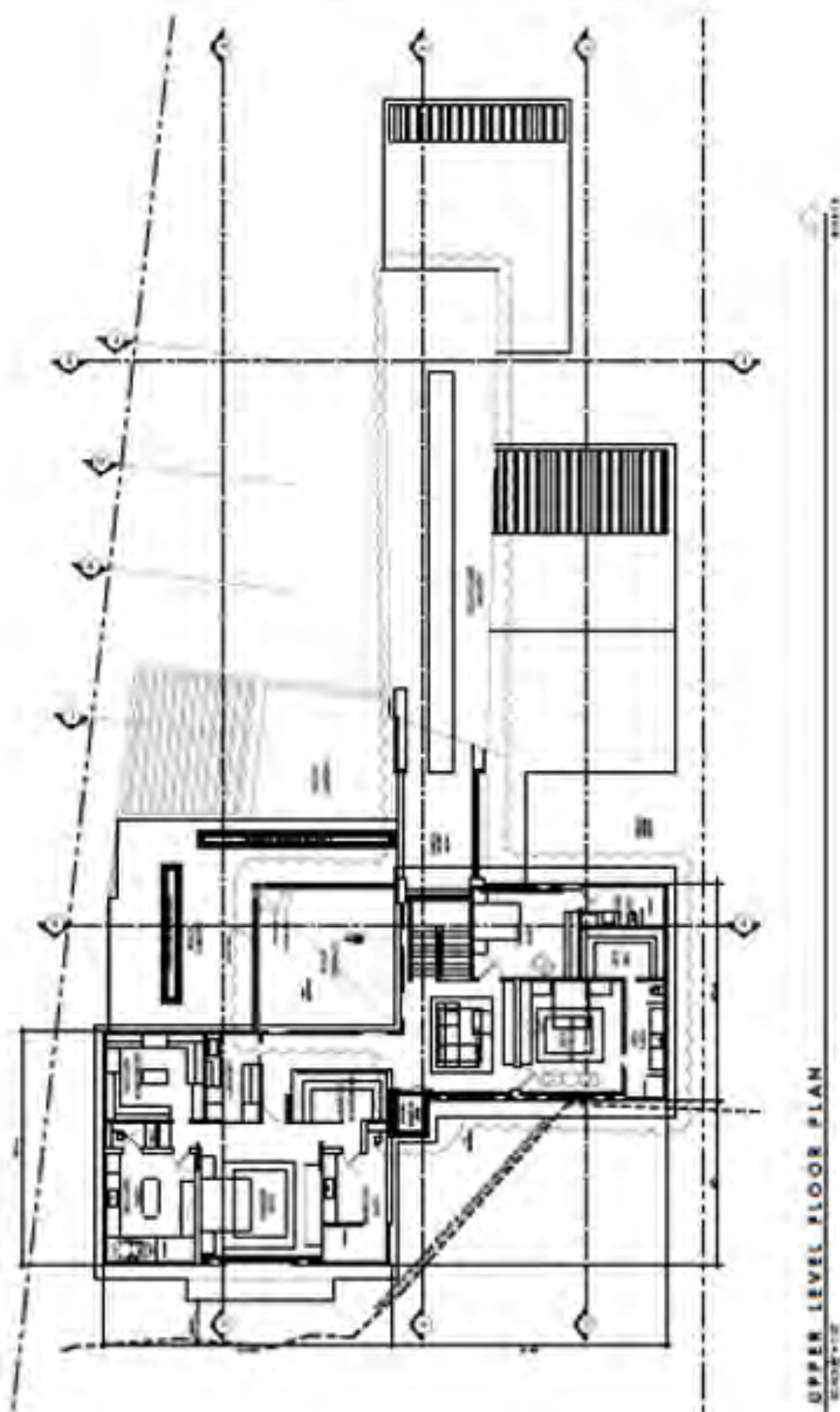


CALIFORNIA STATE SEAL

Site Plan



Site Plan



Elevations

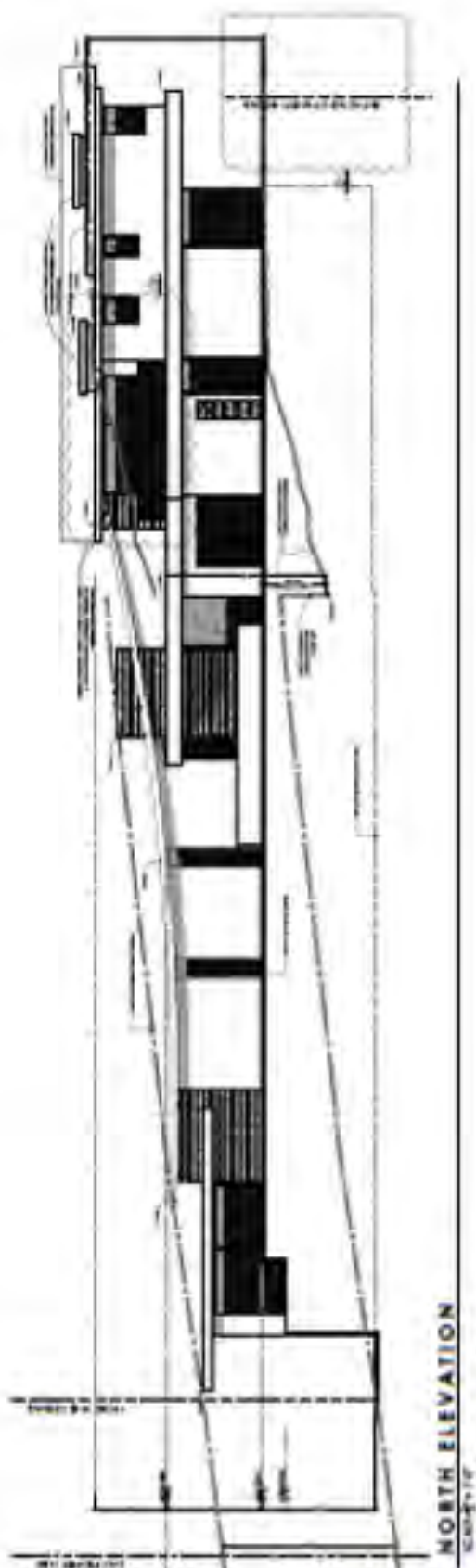
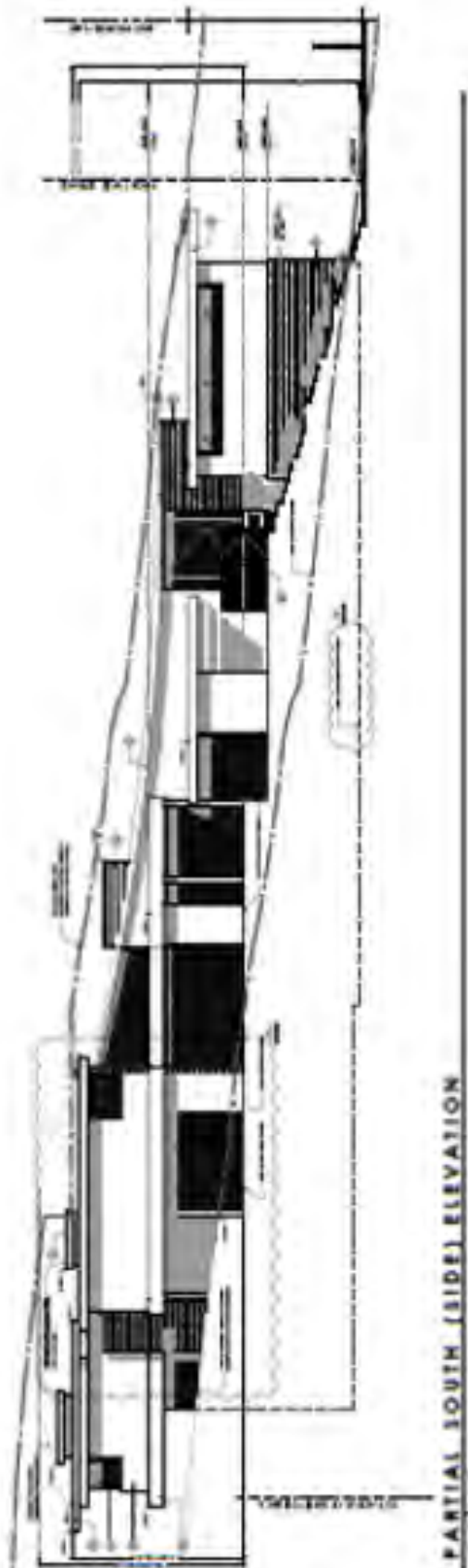


EXHIBIT NO. 8

APPLICATION NO.
A-6-ENC-20-0022

Elevations

Hanlon



CALIFORNIA STATE COMMISSION

Existing Development on the Bluff Face



EXHIBIT NO. 9
APPLICATION NO.
A-6-ENC-20-0022
Existing Bluff Face Development
Hanlon
California Coastal Commission

Existing Development on the Bluff Face



Memo

To: Jay Dichoso, Planning
From: James Knowlton, Geotechnical Consultant
Date: 5/2/19
Re: Geotechnical Review, 100 & 104 Fifth Street, Encinitas, CA , 2926 Multi

In response to your request I have reviewed a geotechnical report prepared by Engineering Design Group for a new residence to be constructed at 100 & 104 Fifth Street, Encinitas, CA. I have also discussed this project with Erin Rist of Engineering Design Group and. Based upon our discussion I am willing to approve the geotechnical report utilizing a 14-foot factor-of-safety setback and a 39 foot 75-year erosion rate setback (utilizing a coastal commission erosion rate of 0.52ft./yr.) for a total setback of 53 feet. Please have the plans revised to reflect this setback and they will be approved also.



Date: December 5, 2019

To: Marco & Nicole Hanlon
1446 Blue Heron Avenue
Encinitas, CA 92024

Re: Proposed new residences to be located at 100 & 104 Fifth Street, Encinitas, California

Subject: Response to City Comments

Reference:

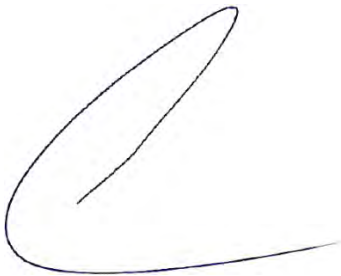
1. "Preliminary Geotechnical Investigation & Geologic Evaluation, Proposed Development to be Located at, 100 & 104 5th Street, Encinitas, California," prepared by Engineering Design Group, dated December 23, 2016.
2. Addendum No. 2, prepared by Engineering Design Group, dated August 17, 2017

We have prepared this letter in response to a City comment to clarify the proposed building setback from the top of bluff, as it relates to erosion rate and factor of safety. The building setback of 53 feet accommodates the calculated factor of safety for the seismic condition of 15 feet, plus an erosion rate of 0.51 ft/yr over 75 yearsm which results in a total of up to 38 feet.

If you have any questions with respect to the recommendations of this letter, please do not hesitate to contact our office.

Sincerely,

ENGINEERING DESIGN GROUP



Steve Norris
GE 2590, CEG 2263



Erin Rist
RCE 65122



CALIFORNIA COASTAL COMMISSION

San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421
(619) 767-2370



APPEAL TO THE CALIFORNIA COASTAL COMMISSION
OF A LOCAL COASTAL PERMIT DECISION

TO BE COMPLETED BY COMMISSION STAFF

APPEAL NO: _____
DATE FILED: _____
DISTRICT: _____

APPELLANT: COMPLETE THE INFORMATION BELOW AND SUBMIT TO THE DISTRICT OFFICE WITH JURISDICTION OVER THE LOCAL PERMIT DECISION.

NOTE: To ensure the appeal is adequate for filing, please review the [Appeal Information Sheet](#) located above this form on the Commission website.

NOTE: E-mailed appeals to the San Diego Coast District Office will be accepted ONLY at the general e-mail address as follows: SanDiegoCoast@coastal.ca.gov. The Executive Director will reject e-mailed appeals sent to any other address, including addresses of individual staff members.

SECTION I. Appellant Information

1. Contact Information

Name: LAURA WALSH

Street Address: 3900 CLEVELAND AVE

City, Zip: SAN DIEGO, 92103

Phone: 702 521 8196

E-mail Address: LAURA.W@SURFRIDERSO.ORG

2. How did you participate during the local government's consideration of application? Check all that apply:

☐ Testified at the first local hearing

EXHIBIT NO. 12
APPLICATION NO. A-6-ENC-20-0022
Appeal Forms
Hanlon <small>California Coastal Commission</small>

- ☒ Submitted a written comment in advance of the first local hearing
☐ Otherwise participated (describe):
☐ Good cause for why I did not participate (describe): DID NOT PARTICIPATE IN PERSON DUE TO PANDEMIC CONCERNS.

3. Each appellant must supply their individual contact and participation information. To add other appellants, copy this page, fill out, and attach.

SECTION II. Decision Being Appealed

1. Name of local government or port district: CITY OF ENCINITAS

2. Development location (street address, assessor parcel number, cross street, etc.):
100 & 104 FIFTH STREET, CITY OF ENCINITAS

3. Brief description of development being appealed:
DEMOLITION OF 2 SINGLE FAMILY RESIDENCES, CONSOLIDATIONS OF 2 LOTS TO 1 LOT, CONSTRUCTION OF NEW SINGLE FAMILY

4. Type of appeal (check one): RESIDENCE W/ BASEMENT

☐ Approval with special conditions

☐ Approval with no special conditions

☒ Denial – NOTE: appeals for denials are available only for major energy or public works projects denied by jurisdictions with a fully-certified local coastal program (both land use plan and implementation plan are certified).

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

☐ Administrator (e.g. Planning Director)

☒ Planning Commission or equivalent

☐ City Council, Board of Supervisors, or equivalent body

☐ Other (describe):

6. Date of latest local government decision: MARCH 19, 2020

7. Local permit number or other filing number: APN 258-023-21 and 22

SECTION III. Grounds Supporting this Appeal

State your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements with which you believe the project is inconsistent and why the asserted inconsistencies form a substantial issue for the Commission's consideration. Attach additional pages as necessary. Be concise but complete. The Executive Director may request further information in order to file the appeal.

PLEASE SEE ATTACHED "GROUNDS FOR APPEAL" LETTER.

NOTE: Each appellant is encouraged to supplement the information in Section IV. Each appellant must fill out Section V, and if necessary, Section VI. To add appellants, copy this page, fill out, sign, and attach.

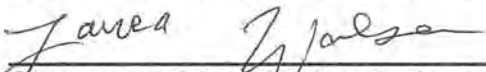
SECTION IV. Identification of Interested Persons

Please supply the names, mailing addresses, and if available, e-mail addresses of the following persons or entities. Attach pages if necessary.

1. Applicant. LAUREN WILLIAMS
2. Persons who commented, either in person or in writing, at the local hearing.
LAURA WALSH, JIM JAFFEE, KRISTIN BRINNER
3. Other persons you know have an interest in the matter.

SECTION V. Certification Signatures

I attest that to the best of my knowledge, all information and facts in this submitted appeal are correct and complete.



Signature of Appellant or Authorized Agent

LAURA WALSH, THE SURFRIDER FOUNDATION SAN DIEGO
PRINT NAME AND ORGANIZATION COUNTY CHAPTER

6/7/2020
DATE

SECTION VI. Agent/Organization Authorization

I hereby authorize LAURA WALSH (print agent name) to act as my or my organization's representative with the power to bind me or my organization in all matters concerning this appeal, including any subsequent Commission actions.



Signature of Appellant

LAURA WALSH
PRINT NAME

6/7/2020
DATE



June 7, 2020

VIA E-MAIL

California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive, #103
San Diego, CA 92108
SanDiegoCoast@coastal.ca.gov

**Re: Reasons Supporting Appeal of City of Encinitas Coastal Development
Permit 002927-2019 for a Single-Family Residence with Oversized Garage
and Basement**

Dear Coastal Commission:

The San Diego County Chapter of Surfrider Foundation ("Surfrider") submits this letter in connection with the appeal of the City of Encinitas' ("City") approval of Coastal Development Permit ("CDP")-00297-2019 for the demolition of two existing single-family residences, consolidation of two existing legal lots into one lot, and the construction of a new single-family residence with an oversized garage within a basement at 100 Fifth Street and 104 Fifth Street, APNs: 258-023-21 and 258-023-22 (the "Project"). A copy of the City's Notice of Final Action for the CDP is attached hereto as Attachment 1.

The City's Planning Commission approved the Project and CDP during a virtual meeting on March 19, 2020. A copy of Planning Commission Resolution No. PC 2020-07 is attached hereto as Attachment 2. Surfrider submitted public comments in opposition to the Project prior to the Planning Commission's approval of the Project and CDP. A copy of the comments submitted by Surfrider Foundation's San Diego County Chapter is attached hereto as Attachment 3.

The blufftop Project is seaward of the first public street near the corner of Fifth Street and Sylvia Street and sits on a blufftop directly overlooking Moonlight State Beach. An aerial photograph of the Project site is attached hereto as Attachment 4. This timely

appeal is brought pursuant to Public Resources Code sec 30603(b)(1). Specifically, approval of the development does not conform to resource protection requirements of the California Coastal Act nor the City of Encinitas certified Local Coastal Program.

I. The Project Violates the Coastal Act

The Project's setback is significantly flawed and the Project is therefore not compliant with Coastal Act Section 30253. Additionally, rip rap at the base of the project site may impede lateral access at high tide and is not compliant with Sections 30235 or 30211.

A. The Project Does Not Minimize Adverse Impacts of New Development

The City's certified LCP incorporates Coastal Act Section 30253. The project is directly in conflict with Section 30253 which states, in part, that new development shall:

Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." (Coastal Act Section 30253(b)).

The Project cannot ensure stability and structural integrity because its setback is flawed. The setback relies on erosion rates that 1) do not consider accelerated erosion due to sea level rise and 2) a stability analysis that relies on the presence of fill at the base of the project site, or potentially on both fill and rip rap at the base of the project site¹. The applicant's geotechnical report fails to consider future accelerated erosion and the erosion rate estimates are therefore inaccurate. In 2016, the Coastal Commission required the construction of a new single-family residence less than a half mile away from the Project to factor sea level rise into setback calculations (A-6-ENC-16-0060)². Stability analyses cannot be calculated based on the existence of protective devices such as the fill and rip rap mentioned in order to be found consistent with Coastal Act Section 30253.

Further evidence can be found for these points in Attachment 3, as well as the fact that highly credible erosion rates for this specific stretch of beach already exist in the area via The Army Corps of Engineer's (ACOE) Environmental Impact Statement (EIS) for the 50-year Encinitas Solana Beach Coastal Storm Damage Reduction Project³.

¹ Page 9 of the applicant's [geotechnical report](#) incorporates fill into the slope stability analysis. This is confirmed by the slope stability model outputs for static and pseudo static conditions.

² <https://documents.coastal.ca.gov/reports/2016/7/w10c-7-2016.pdf>

³

[https://www.spl.usace.army.mil/Portals/17/docs/projectsstudies/Encinitas_Solana/Encinitas-SolanaBeach_Integrated_Feasibility_ReportandEIS_R\(VolI\).pdf](https://www.spl.usace.army.mil/Portals/17/docs/projectsstudies/Encinitas_Solana/Encinitas-SolanaBeach_Integrated_Feasibility_ReportandEIS_R(VolI).pdf)

The EIS is a highly vetted study that was approved by both the City of Encinitas and the California Coastal Commission, and it estimates erosion rates in the area that are approximately twice as high (1.1 ft/year) as the applicant's rates (.51 ft/year.) The 1.1 ft/yr ACOE rate was arrived at even without considering sea level rise, emphasizing how badly the applicants' experts have underestimated the erosion rate at the site.⁴ The highly relevant ACOE study was excluded entirely from the applicant's estimation of erosion rates.

B. The Project Does Not Comply with Construction Altering Natural Shoreline Mitigation and Public Access Policies of the Coastal Act

The City's certified LCP incorporates Coastal Act Section 30235. Section 30235 of the Coastal Act provides:

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. (Coastal Act Section 30235(b)).

Demolition of the existing residences pursuant to the CDP would remove the "existing structure" under this statute. Accordingly, the rip rap at the base of the project site would no longer be serving an "existing structure" as permitted under Section 30235, and therefore, must be removed if the new development is allowed. This is in conformance with the intent behind the Coastal Commission's practice to impose a "no future armoring" provision for new shoreline development. The intent is to prevent the proliferation of seawalls and hardened armoring for new structures on the coast.

It should be noted that there is significant precedent that new development is not only unable to rely on existing shoreline armoring but also that existing armoring must be removed in order to permit new development. The Commission has required the removal of shoreline armoring once the existing or a new structure is no longer

⁴ According to Appendix B of the study, Reach 4 is a studied area which contains the subject site. Three erosion scenarios are modeled for Reach 4 through 2065: Erosion with no sea level rise, erosion considering historic sea level rise, and erosion considering accelerated sea level rise. Figure 5.2-37, 5.2-45, and 5.2-53 show results from ACOE models under all scenarios. In all cases the erosion rates projected are significantly higher than those selected by the applicant.

entitled to the protection⁵. The rip rap relevant to this Project also currently sits at the base of a pre-Coastal Act (legal nonconforming) trail that is no longer usable due to erosion.

A failure to remove the rip rap results in an additional violation of Coastal Act Section 30212, which requires:

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. (Coastal Act Section 30212).

The Project would fail to satisfy this requirement because the rip rap can impede lateral access along the coast at high tide (see Attachment 4).

II. The Project Violates the Local Coastal Program

The City's General Plan and certified LCP are combined into a single document. General Plan at I-1. The City's LCP policies applying the Coastal Act in the City are contained in the various elements of the General Plan. Id. The Project violates several public safety provisions of the LCP.

A. The Project violates the Implementation Plan

Encinitas Municipal Code (EMP) requires the applicant to submit a geotechnical report that certifies that: "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 (Encinitas Implementation Plan section 30.34.020D)." The project is inconsistent as the proposed setbacks are insufficient and the project will not be safe from failure and erosion.

⁵ In 2018, the Coastal Commission required the owner of the Katz Residence in Laguna Beach (CCC-18-CD-02) to remove an unpermitted seawall that was placed to protect a home that had recently undergone a major remodel. Additionally, in July 2018, the Coastal Commission required the removal of redeveloped structures at 1307 West Cliff Drive so as to not rely on the existing seawall (A-3-STC-16-0016).

B. The Project Violates the LCP's Public Safety Provisions

The Project is located within the City's Coastal Bluff Overlay Zone. The Project violates several LCP provisions concerning public safety. Among other things, the Project violates LCP Public Safety Goal 1, which states: "Public health and safety will be considered in future Land Use Planning. (Coastal Act/30253)."

The Project also violates LCP Public Safety Policy 1.3, which provides: "The City will rely on the Coastal Bluff and Hillside/Inland Bluff Overlay Zones to prevent future development or redevelopment that will represent a hazard to its owners or occupants, and which may require structural measures to prevent destructive erosion or collapse. (Coastal Act/30240/30251/30253)."

The City approved the CDP with Specific Condition B (SCB) following lengthy discussion over concerns about the Project's impacts to bluff and beach erosion. SCB requires the Project applicant waive any right to construct bluff or shoreline protective devices. Such waiver does not satisfy the requirement of Policy 1.3. The Project would still represent a hazard that may lead to destructive erosion and/or collapse.

LCP Public Safety Policy 1.6. includes several requirements seeking to reduce unnatural causes of coastal bluff erosion. Among other things, Policy 1.6 requires: "In all cases, all new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment and the applicant shall agree to participate in any comprehensive plan adopted by the City to address coastal bluff recession and shoreline erosion problems in the City." The removal of the Project's oversized basement garage and the mitigation of its associated effects cannot be easily accomplished in the event of endangerment.

The Project violates these LCP Public Safety provisions. The Project failed to consider the appropriate stability analysis and erosion rates. Also, the Project's proposed oversized basement introduces some amount of unnatural bluff erosion within the coastal bluff overlay zone and is not designed to be easily removable.

The City's approval of such risks is particularly problematic due to the Project's close proximity to Moonlight State Beach, an area identified in the General Plan/LCP as a "high intensity beach recreational use area." General Plan at RE-8. Bluff collapses in San Diego concern public safety and it stands counter to the intentions of Public Safety Goal 1 and related policies to site development on an actively eroding blufftop that has not properly considered erosion, bluff stability, and sea level rise.

III. Conclusion

Surfrider Foundation's San Diego County Chapter respectfully urges the Coastal Commission to find substantial issue with the Project and conduct a de novo hearing.

Please contact Laura Walsh if you have any questions regarding this appeal.

Thank you for your attention to this matter.

Sincerely,

Laura Walsh
Policy Coordinator
San Diego County Chapter
Surfrider Foundation

Jim Jaffe and Kristin Brinner
Co-Leads of the Beach Preservation Committee
San Diego County Chapter
Surfrider Foundation

cc: Cort Hitchens, Coastal Program Analyst, San Diego Coast District

Enclosures:

1. Notice of Final Action on City of Encinitas CDP-002927-2019
2. City of Encinitas Planning Commission Resolution No. PC 2020-07
3. Surfrider Foundation's San Diego County Chapter's March 19, 2020 Comments to City of Encinitas Planning Commission
4. Aerial photograph of Project site

CALIFORNIA COASTAL COMMISSION

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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: Dr. Caryl Hart
Mailing Address: 45 Fremont Street
Suite 2000
San Francisco, CA 94105
Phone Number: (415) 904-5202

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Encinitas
2. Brief description of development being appealed: Demolition of two existing single-family residences on two adjacent lots, consolidation of the lots, one a bluff-top lot; and construction of a new approximately 7,830 sq. ft. two-story single-family residence with an approximately 8,193 sq. ft. garage/subterranean garage and a pool on a combined 22,852 sq. ft. lot. Existing riprap at the base of the bluff will remain.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 100 & 104 Fifth Street, Encinitas 92024; APN(s): 258-023-21, -22
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: 6-ENC-20-0357

DATE FILED: June 26, 2020

DISTRICT: 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: March 19, 2020

Local government's file number (if any): MULTI-002926-2019, CDP-002927-2019, SUB-002973-2019, USE-00343402019, DR-003484-2019

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:

Lauren Williams c/o Marco & Nicole Hanlon
8580 Spectrum Lane #1
San Diego, CA 92121

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.

Laura Finn, laurarfinn@gmail.com, (760) 815-4025
Marissa Livesay, marissa.livesay@gmail.com
Chad Livesay, chad.livesay@gmail.com
Wallman, 444 Sylvia Street, Encinitas, CA 92024
Laura Walsh, Surfrider Foundation San Diego County

SECTION IV. Reasons Supporting This Appeal

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

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

See Attachment "A" dated June 26, 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: _____
Appellant or Agent

Date: _____

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

Signed: _____

Date: _____

Attachment A

6/26/2020

The project raises a substantial issue with regard to several of the LCP policies relating to bluff top development and hazards.

Section 30.34.020.D of the City's certified LCP implementation plan requires that a geology report be prepared that includes the 1.5 factor of safety (FOS) setback (industry standard) for any new development and to estimate erosion over a 75 year time period. Upon preliminary review, the estimates in the submitted geology report appear to have been done taking into account existing riprap that is located below the site. The history of the riprap is unclear, but it does not appear to have been authorized by a coastal development permit for an existing structure. The 1.5 FOS line and erosion rate need to be determined without the existing shoreline protection to be able to determine if the proposed development will be safe from failure or erosion over a 75 year lifetime without needing any future shoreline protection.

LCP Policy 30.34.020.C.2.c provides that "No preemptive measure at the base of the bluff or along the beach shall be approved until a comprehensive plan is adopted as Council policy for such preemptive treatment." The City has not adopted such a plan, and the riprap at the site should not be retained with new development at the site. Further, LUP Public Safety Element Policy 1.3 requires the City to prevent development that may require structural measures to prevent destructive erosion or collapse. Since the erosion calculations for the project consider the existing riprap to protect the site, the project as proposed relies on structural measures to prevent erosion at the site, inconsistent with LUP Public Safety Element Policy 1.3.

In addition, the applicant's geology report does not use accelerated erosion rates from sea level rise to determine the geologic setback line (GSL). Without considering accelerated erosion from SLR, the erosion rates used by the applicant to calculate the GSL are incorrect and cannot be used to determine a safe setback for the residence without the need for shoreline protection. Thus, the proposed 53-foot setback may not be sufficient to safely site the home for 75 years. Further, no analysis was provided regarding hazards associated with placement of a pool on the bluff top lot.

The City approval specifically includes a requirement for the applicant to execute a waiver of future shoreline protection. However, the proposed basement walls will essentially act as shoreline protection in the future if erosion occurs on the site, inconsistent with the LCP policies prohibiting new shoreline protection.

Public Safety Policy 1.6 of the City's certified LCP Land Use Plan and Section 30.34.020.B.a of the City's certified LCP Implementation Plan require that any new construction shall be specifically designed and constructed such that it can be removed in the event of endangerment. On a bluff top lot, removal or relocations of a basement to a safe location, if threatened by erosion, would require a great deal of alteration of the bluff,

if even feasible, and the excavation could threaten the overall stability of the bluff. No analysis or removal plan was included for the proposed new basement.

An existing garage that will be demolished with the new development is located along the northern property line at 100 Fifth Street and the lot provides only a 5-foot street side yard setback instead of the required 10-foot street side yard setback. The new development proposes a new structural nonconformity within the required 10-foot setback. Section 30.76.090(C) of the LCP requires that "If a nonconforming use or structural nonconformity is enlarged, extended, expanded or in any other manner changed to increase its inconsistency with the regulations of this title, then, in addition to any other consequences imposed by this Code, any entitlement to thereafter maintain the nonconformity is terminated." Although all of the existing structures on the site will be demolished, the new development includes a deck and pool located approximately 8-feet into the street side yard setback. The City's findings present that in accordance with EMC Section 30.76.050 (Limit on Utilizing Nonconformity-General), the applicant can maintain the existing legal nonconformity so long as it is not enlarged, relocated or increased in intensity. Section 30.76.050 does allow nonconforming uses to be replaced but does not allow for the replacement of structural nonconformities, as defined by Section 30.76.030. Thus, the encroachment into the street side yard setback is not consistent the LCP.

There are remnants of a private stairway on the bluff face, which has visual impacts and could present a safety hazard. Section 30.34.020.B.2, states that no structure, facility, improvement or activity can be allowed on the face or at the base of a coastal bluff. This non-conforming structure should be removed; however, the local approval allows the existing stairs and accessway down the bluff to remain and to be maintained with the new development.

CALIFORNIA COASTAL COMMISSION

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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: 45 Fremont Street
Suite 2000
San Francisco, CA 94105
Phone Number: (415) 904-5202

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Encinitas
2. Brief description of development being appealed: Demolition of two existing single-family residences on two adjacent lots, consolidation of the lots, one a bluff-top lot; and construction of a new approximately 7,830 sq. ft. two-story single-family residence with an approximately 8,193 sq. ft. garage/subterranean garage and a pool on a combined 22,852 sq. ft. lot. Existing riprap at the base of the bluff will remain.
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TO BE COMPLETED BY COMMISSION:

APPEAL NO: 6-ENC-20-0357

DATE FILED: June 28, 2020

DISTRICT: 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: March 19, 2020

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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.

Laura Finn, laurarfinn@gmail.com, (760) 815-4025
Marissa Livesay, marissa.livesay@gmail.com
Chad Livesay, chad.livesay@gmail.com
Wallman, 444 Sylvia Street, Encinitas, CA 92024
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6/26/2020

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