

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94015
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV



Th13b

Prepared September 8, 2021 for September 9, 2021 Hearing

To: Commissioners and Interested Persons
From: Stephanie Rexing, North Central Coast District Manager
Sara Pfeifer, Coastal Planner
Subject: **STAFF REPORT ADDENDUM for Th13b**
CDP Application Number A-2-MAR-21-0048 (Groneman Residence)

In the time since the staff report for this item was published on August 20, 2021, staff received correspondence from the Applicants¹ and their representatives (including project engineer, architect, and attorney) objecting to the staff report and the recommended substantial issue finding (see such correspondence in the correspondence package for this item). The purpose of this addendum is to respond to the correspondence submitted by the Applicants and their team. Please note that this addendum does not modify the staff recommendation, which continues to be that the appeal raises a substantial issue requiring the Commission to take jurisdiction over the CDP application for this proposed project.

Substantial Issue Framework

As an initial matter, staff notes that the Applicants appear to misunderstand the nature of a substantial issue only hearing. Namely, at this substantial issue phase of the hearing the Commission decides only whether to accept an appeal for a full de novo review if it is determined that the appeal raises a substantial issue as to the Marin County-approved project's consistency with the County's Local Coastal Program (LCP)

¹ On this point it is noted that the staff report lists Eric and Madeline Groneman as the Applicants, and this is based on the fact that the materials submitted to the Commission by Marin County lists these same people as the Applicants (including the June 8, 2021 County staff report and County's Final Local CDP Action Notice). Staff has also been in contact with Graham Groneman regarding the project, who is apparently the son of Eric and Madeline Groneman, and asserts that he and his wife Brett Groneman are the actual Applicants, while his parents live in a house that is adjacent to the subject site. Thus, there is competing evidence as to which of the Gronemans are the Applicants in this case. However, this question need not be resolved as part of this substantial issue determination, including as it does not substantively affect such determination. In fact, this question can be readily resolved during the de novo portion of the hearing should the Commission find a substantial issue is raised by the appeal, and this question does not in a substantive way influence the outcome of the substantial issue portion of the hearing. Finally, to be clear, it is Graham and Brett Groneman (and their consultants) who have submitted the relevant correspondence to which this addendum responds.

A-2-MAR-21-0048 (Groneman Residence) Addendum

and/or the public access policies of the Coastal Act. The Commission is not tasked with determining at this stage whether or not the proposed project is consistent with these applicable provisions, as that is a different analysis and threshold. Rather, it is a question to the Commission at the substantial issue stage as to whether or not the questions and issues raised are significant enough to warrant the Commission taking jurisdiction over the CDP application for the proposed project, and subsequently reviewing that project 'de novo' for such consistency.

In that substantial issue framework and analysis, if there is a lack of clarity and/or additional information is needed to evaluate the project's consistency with these provisions, as Commission staff recommends due to significant questions about potential geologic hazards and impacts of development on a coastal bluff above Muir Beach, a finding of substantial issue is appropriate so that the Commission may conduct a full evaluation of the proposed project to ensure that coastal resources are protected as required by the LCP and by the Coastal Act's public access provisions. Thus, when the Applicants' submittal raises more questions and competing evidence related to the project site slope, the erosion rate that applies at the project site, the location and design of the foundation and septic system leach field, and access issues, such submittal itself only further exacerbates the concerns articulated by staff in the staff report that argue for a finding of substantial issue in this case.

Project Site Slope and Blufftop Edge

The Applicants' response indicates that the 60% project site slope described in the staff report mischaracterizes site conditions, stating that the average site slope is more akin to 26%. The Applicants further assert that because the project site slope extends down from Sunset Way at the top of the site at about a 2:1 (horizontal: vertical) slope to a clear blufftop edge nearer to the water, that the staff report findings also mischaracterize the blufftop edge location, and incorrectly call the entire project site a bluff face that is seaward of the blufftop edge. In terms of the slope of the site, page A000 of the Applicants' site plans (dated February 17, 2021 and included in the County staff report) include a "project data" section, which lists the slope as 60-percent. And thus, staff identified the slope at 60% based on these representations in the County record. The Applicants now dispute the characterization of the project site slope described in their own site plans that were included with the County's staff report, indicating that the slope is actually less steep than 60%.² The fact that the record is unclear on the degree of slope at the site, with competing information now in the record, indicates that there are significant questions as to the nature of the slope at the site, which argues for the Commission to find substantial issue to allow for further evaluation and clarity on this critical point.

In terms of the blufftop edge, staff did not state that the entire site is definitively a bluff face, as is alleged. Rather, staff noted in the staff report that the site was steeply sloped, as indicated in the Applicants' geotechnical reports, and that it appeared fairly

² In any case, it is noted that the Applicants' geotechnical report dated August 20, 2020 indicates that "the site is comprised entirely of steep slopes", and the two geotechnical reports (dated November 21, 2019 and August 20, 2020) describe the site as steep nearly 20 times.

A-2-MAR-21-0048 (Groneman Residence) Addendum

uniform in this regard, and thus that the site might all be seaward of the blufftop edge and thus all bluff face. To be clear, however, staff did not conclude, but rather only noted that these physical characteristics were different than what the County had identified as a blufftop edge further down the slope (which the Applicants also argue in their comments). Staff, including the Commission's geologist, Dr. Joe Street, continues to stand by its assessment, and in particular the lack of clarity on this critical point. Given that applicable LCP setbacks and requirements emanate from the location of the blufftop edge, and the LCP does not generally contemplate allowing residential development on bluff faces, this is obviously a critical question to be resolved. The fact that there exist differing interpretations based on the evidence of this key issue is another reason for finding substantial issue.

Erosion Rate

The Applicants' response indicates that the erosion rate provided in the geotechnical reports is not influenced by the presence of existing armoring. However, the Applicants' two geotechnical reports, dated November 21, 2019 and August 20, 2020, include aerial photographic analysis showing a fair amount of erosion at the toe of the slope over approximately the last 60 years. Given that the unpermitted riprap has allegedly been in place since 1986 and the back beach walls have allegedly been in place since the 1960s, this shoreline armoring has slowed though not prevented erosion, and the Applicants' geotechnical reports concede as much in several places. In fact, the Applicants' identified 7.2 inch annual historic erosion rate is likely an underestimate, as historic aerial photos of the area suggest that unprotected slopes in the area have experienced higher erosion (and on this point it is noted that the County actually applied a 6 inch per year erosion rate in its CDP review analyses). The blufftop setback for the proposed development's 40-year design life based solely on 7.2 inches of retreat would be 24 feet, which, depending on the location of the blufftop edge (see above) could be inland of the entire site. And the required setback could actually be even larger. Specifically, in order to adequately evaluate the potential erosion hazard over the next 100 years, the anticipated life used in the County's decision, *without* reliance on armoring, as is required for LCP-consistency, an estimate of the historical erosion rate without the existing armoring in place, as well as an analysis of how future sea level rise could affect erosion rates, is necessary. Additionally, no evidence of the permitting status of the riprap or back beach walls have been provided to staff, and they are being tracked as Coastal Act violations (as indicated in the staff report). All of these informational needs and questions warrant the Commission finding substantial issue and accepting the appeal for a full de novo review of the project.

Septic System Leach Field/Armoring

The Applicants also contend that the County-approved leach field was succeeded by revised septic plans, which relocated the septic system to a more uphill location that would allegedly ensure the system is safe from erosion over a longer time period. The question before the Commission is whether the appeal raises a substantial issue as to the County-approved project's consistency with the Marin County LCP and Coastal Act public access policies. The fact that the Applicants' septic plans may have been revised subsequent to the County's decision to approve the CDP further supports, rather than undermines, a Commission finding of substantial issue.

A-2-MAR-21-0048 (Groneman Residence) Addendum

Staff analyzed the substantial issue question based on review of the May 27, 2021 County-approved decision, however, it remains unclear that even the later, revised septic system would be allowed and would be safe through its anticipated design life of 30-40 years (see also above questions about site slope, blufftop edge location, and slope stability/erosion rates). Regardless, in the substantial issue portion of the hearing, the Commission evaluates the appealed County decision, not amended plans submitted following the County's decision. In its decision, the County relied on the identified 6-inch annual bluff retreat rate, and determined that a 50-foot blufftop setback would provide 100 years of protection for the proposed project. However, not only are there questions as to whether the blufftop edge has been appropriately identified, the proposed 50-foot project setback from the County-approved plans only encompassed the main residential structure, while associated development (including the septic system's subsurface stabilization piers) was proposed to be set back by less than 25 feet from the purported blufftop edge. The Applicant asserts that the County only required that the subsurface stabilization piers be effective through the septic system's lifetime of 30-40 years, however, this does not align with the anticipated design life of the residential structure, which typically is 75 to 100 years. As such, the record indicates that the residence may likely outlive its septic system, while property constraints would likely limit the potential for relocation of the septic system elsewhere, including whether it is allowable at all at this site.

Further, according to the geotechnical reports, all of the proposed development, including the home, garage, and the septic system, require foundation piers or other types of stabilization walls to reduce the risk of instability in the long-term, as the bluff erodes and encroaches closer to the development, effectively removing lateral support for the slope. As such design elements are initially placed, and eventually exposed by erosion, they have the same impact to natural erosion and sand supply dynamics as do more traditional forms of shoreline armoring (e.g., seawalls and riprap). Because of these impacts such structures may function as shoreline armoring in areas that are vulnerable to coastal hazards, which the LCP does not allow for new development. Further investigation and analysis of the proposed structural support systems, the appropriate erosion rate and slope stability characteristics for this location, and the project's vulnerability to hazards over the entire life of the proposed residence (e.g., 75-100 years) is necessary.

Ultimately, questions about the slope, the location of the blufftop edge, the slope stability, and potential retreat over time without reliance on shoreline armoring are key to understanding and appropriately evaluating these questions, again arguing for substantial issue to be found.

Public Access Issues

The Applicants assert that staff erred in identifying public access concerns due to the County-approved project, and that the "pre-existing shoreline structures support a path" from the Big Beach portion of Muir Beach to the Little Beach section, thus allowing for, rather than inhibiting, public access. The Applicants appear to misunderstand staff's analysis. First, the staff report correctly describes that these unpermitted lower bluff armoring structures, including a system of riprap and walls, block lateral public access

A-2-MAR-21-0048 (Groneman Residence) Addendum

and may occupy otherwise accessible sandy beach area. Further, such shoreline structures also inhibit natural bluff erosion, impact sand supply to the beach, and can accelerate beach erosion fronting the structures. The fact that the more nimble public might use these structures to navigate along the beach laterally at higher tides does not show that these structures need to be retained to provide such access, as the Applicants assert, but rather they are more appropriately removed to allow natural shoreline processes to continue to occur, including as it relates to beach formation and its accompanying public access.

And second, staff's evaluation indicated that the project relies on both proposed structures that could constitute shoreline armoring (e.g., the deep pier foundations and the subsurface stabilization piers) as well as existing unpermitted shoreline armoring to provide safety and stability for the project over time. The LCP does not allow for such armoring to protect new residential development such as this, and the staff analysis indicates that the County did not evaluate the appropriateness and/or impacts of such armoring, and thus also did not identify any mitigations associated with expected impacts, including on public access (and on natural landforms, public views, etc.).

In short, staff correctly identified these public access issues, which also argue for the Commission finding substantial issue and taking jurisdiction over the CDP application for the project.

Previous Commission Decision for 50 Cove Lane

The Applicants contend that the project before the Commission today is similar to the residential project located at 50 Cove Lane, a property approximately 300 feet upcoast of 183 Sunset Way, that was approved by the Regional Commission in 1977, and as such, should be evaluated and approved in the same way. That the Commission 44 years ago approved a residential project in the vicinity of this project does not undermine or in any way affect the recommended findings relating to questions of this County-approved project's consistency with the Marin County LCP (which was not certified in 1977) and the Coastal Act's public access provisions, or the importance of the coastal resources affected today. Each project is evaluated on its own merits based on the facts and the law, and the Commission's approval of a residence nearly a half-century ago that is alleged by the Applicant to raise similar issues as this project is essentially immaterial to the questions before the Commission regarding substantial issue.

Conclusion

As explained in the Commission staff report dated August 20, 2021, the question before the Commission is only whether to accept the appeal for a full de novo review of the project because the appeal raises a "substantial issue" as to the County-approved project's consistency with the Marin County LCP and/or the Coastal Act public access policies. In its evaluation of the appeal, the Commission considers and balances five substantial issue factors, including the factual and legal support for the County's decision, the extent and scope of the development as approved or denied by the County; the significance of the coastal resources affected by the decision; the precedential value of the County's decision for future interpretations of its LCP; and,

A-2-MAR-21-0048 (Groneman Residence) Addendum

whether the appeal raises only local issues as opposed to those of regional or statewide significance. At the substantial issue phase, it is not necessary for the Commission to determine that the project is, in fact, consistent with the Marin County LCP or the Coastal Act's public access provisions. Here, as discussed above, the Applicants object to the staff recommended finding of substantial issue and present evidence to support the County decision to approve a CDP for the project. However, the Applicants' letters and information actually only provide further support for the need for further evaluation of the various geologic/geotechnical reports and evidence reviewed by the County to ensure protection of sensitive coastal bluffs, shorelines, and beaches, a matter of regional and statewide concern. As set forth in the staff report, after balancing all of the substantial issue factors, Commission staff continues to recommend the Commission find substantial issue, take jurisdiction over the CDP application for the proposed project, and continue to the full de novo review phase of the appeal.