

CALIFORNIA COASTAL COMMISSION

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W18a

ADDENDUM

December 13, 2022

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item W18a**, Coastal Commission Permit Application **#A-6-ENC-20-0022 (Hanlon Residence)**, for the Commission Meeting of December 14, 2022.

The purpose of this addendum is to make minor corrections and additions to the staff report and respond to a letter submitted by Surfrider Foundation on December 9, 2022, a comment from a member of the public submitted on December 2, 2022, and a letter submitted by the applicants on December 13, 2022. Staff recommends the following changes be made to the above-referenced staff report. Deletions shall be marked by ~~strike through~~ and additions shall be underlined:

1. On page 8, revise Special Condition #1(h) as follows:

(h) The portions of the private beach accessway on the applicant's property shall be removed. Portions of the private beach accessway on the parcel immediately adjacent to the applicant's property shall be removed unless the applicant demonstrates, to the satisfaction of the Executive Director, that the property owner objects to its removal. The revised final plans shall describe how the accessway improvements will be removed and shall demonstrate that removal activities will minimize erosion and shallow instability.

2. On page 14, revise the last complete paragraph as follows:

After Substantial Issue was found, the applicant modified the project. The proposed project is now the demolition of two existing single-family residences (approximately 2,300 sq. ft. and 1,500 sq. ft.) on two adjacent lots; consolidation of the lots; and construction of a new approximately 6,415 sq. ft. two-story single-family residence with an approximately 3,800 sq. ft. basement/subterranean garage, construction of an approximately 1,000 sq. ft. ADU on top of the garage, and a pool, spa, and hardscaping

and landscaping on a combined 22,852 sq. ft. lot. The first floor of the residence is now proposed to be located approximately 60-70 feet from the bluff edge. The second floor is proposed to cantilever to within 48 feet of the bluff edge. With construction of the ADU, the proposed project will result in two living units. No changes to the unpermitted riprap and private beach accessway improvements are proposed, nor are the applicant's proposing to remove this development.

3. On page 24, edit the first complete paragraph as follows:

Nonetheless, in spite of these problems, Dr. Street determined that the Commission may accept the applicant's analysis and a future bluff retreat projection of 30 feet in 75 years, due to the relatively high rate of historical bluff retreat (0.4 ft./yr.) assumed by TerraCosta, which greatly exceeds the historical bluff retreat rates in the project vicinity. Due to the presence of unpermitted shoreline protection at the project site over the last 30 – 40 years, no site-specific estimate of the natural historical erosion rate is available.¹ However, previous studies by the U.S. Geological Survey (USGS) (Barnard et al 2018) and Benumoff and Griggs (1999) indicate that the average historical erosion rate (since the 1930s) at unarmored, geologically-similar sites in the immediate project vicinity is approximately 0.15 ft./yr. Higher erosion rates of 1.0 – 1.1 ft./yr. are reported for the project vicinity in a 2015 study by the U.S. Army Corps of Engineers (USACE),² reflecting "worst case" conditions – combining both intense wave action and a total absence of the protective sand beach – during and after the strong El Niño winters of 1982-83 and 1997-98. While similar periods of elevated bluff retreat are likely to occur in the future, an erosion rate of 1.0 ft./yr. is not representative of the long-term historical retreat rate in the area, which includes episodes of both rapid and slow erosion. As a check on the applicant's future bluff retreat analysis, Dr. Street has independently evaluated future bluff retreat at the site using both the SCAPE equation and projections provided by the USGS CoSMoS cliff retreat model. Dr. Street's analysis used observed historical retreat rates for unarmored bluffs in the project area but avoided the several non-conservative assumptions contained in the TerraCosta analysis. Based on this analysis, under scenarios assuming 6.6 – 7.1 feet of sea level rise by 2100, the coastal bluff at the site could retreat approximately 30 - 32 feet over the next 75 years. Given the large uncertainties in projecting both future sea level rise and the erosion response of coastal bluffs, this projection is not significantly different than TerraCosta's, assuming an average future bluff retreat rate of 0.4 ft./yr. Therefore, an additional setback of 30 feet is necessary to protect against potential future bluff retreat, maintain the 1.5 factor

¹ TerraCosta (2021) asserts that little or no bluff retreat has occurred at the project site since 1954. However, the unpermitted rip rap and fill slope protection at the bluff toe has likely suppressed (or even eliminated) natural bluff erosion at the site, including during the El Nino winters of 1982-83 and 1997-98 when significant bluff erosion and retreat occurred elsewhere in Encinitas.

² Encinitas-Solana Beach Coastal Storm Damage Reduction Project Integrated Feasibility Report & Environmental Impact Statement/ Environmental Impact Report (EIS/EIR), Vol. I & II (technical appendices), U. S. Army Corps of Engineers, Los Angeles District, April 2015.

of safety against failure, and assure that the proposed residence is reasonably safe from failure and erosion over its lifetime.

4. On page 26, edit the complete second paragraph as follows:

As detailed in Policy 30.34.20.B.1 of the City's IP, only at grade accessory structures and improvements are allowed within 40 ft. of the bluff edge. Grading seaward of the 40 ft. bluff edge setback has the potential to substantially alter the natural landform of the coastal bluff. Furthermore, grading in such close proximity to the bluff edge may destabilize the eroding coastal bluff. While the project originally approved by the City included a retaining wall within the bluff setback, the applicant's revised project plans indicate all existing improvements within the bluff setback will be removed and no rear yard retaining walls are proposed, consistent with the policies set forth by the City's IP. Thus, **Special Condition #1** prohibits grading within 40 ft. of the existing bluff edge. Drought-tolerant landscaping and accessory improvements, including walkways, patios, patio covers, cabanas, windscreens, sundecks, lighting standards, walls, and temporary accessory buildings not exceeding 200 square feet in area, are permitted within 40 feet of the bluff edge, as long as they do not involve grading.

5. On page 37, edit the first complete paragraph as follows:

However, the pathway and staircase were not constructed prior to the Coastal Act and are nonconforming unpermitted development. Since the proposed project includes redevelopment of the entire property, the entire site should be resolved of any nonconformities and brought into conformance with current standards. The City's LCP specifically calls for private accessways to be phased out. Development on coastal bluffs can result in impacts such as degradation and instability of the bluff. IP 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. The Commission has historically discouraged the development of private access stairs from residential development on coastal bluffs to the beach as it can deter public access (CDP# A-6-CII-08-018/Byrne). Development such as private access stairs and armoring creates a perception that the beach fronting these sites is also private, leading to a decrease in public access. Further, these nonconforming features present visual impacts and could present safety hazards to beachgoers below and should be removed with redevelopment of the site. Therefore, **Special Condition #1** requires the applicant to remove the unpermitted and nonconforming staircase and private accessway improvements. The special condition requires the applicants to remove all associated structures on their property. The special condition also requires the revised final plans to describe how the improvements will be removed and requires the removal activities to minimize erosion and shallow instability. Since a portion of the private accessway improvements are located on an adjacent parcel not owned by the applicant, **Special Condition #1** requires the applicants to remove these structures on the adjacent parcel or demonstrate that removal the landowner objects to their removal. **Special Condition #8** requires the applicant remove the accessway improvements within 180 days of Commission action.

6. On page 37, edit the complete first paragraph of the Rip Rap Revetment section as follows:

Aerial imagery suggests that the rip rap revetment at the base of the bluff was placed between 1979 and 1989 ([Exhibit 8](#)). The revetment is located on state-owned property. Nevertheless, the revetment is acting as an improvement of the applicant's property, and, thus, they are obligated to resolve the violation. The applicant has declined to resolve the unpermitted revetment violation through this application and thus Commission's enforcement staff will consider additional options to pursue the violation separately from this CDP. While Surfrider asserts that the revetment should be removed in their December 2022 letter, the applicant has declined to propose removal of the revetment. Surfrider also suggests that the applicants should be required to waive their rights to any future repairs to the unpermitted revetment; however, this is not necessary. Any future requests for development associated with the revetment would require a CDP, in which the State of California must be invited as a co-applicant, and the applicants would be required to demonstrate a legal interest in the public property on which the revetment is located. In addition, the Commission cannot approve a CDP to repair a revetment that has been installed without the necessary CDP unless the legality of the revetment is also addressed and the revetment is found to be consistent with the Coastal Act. **Special Condition #1** requires that any depiction of the revetment on the final plans indicate that the revetment is unpermitted.