



December 6, 2024

Delivered via email

To: Karl Schwing
District Director, San Diego Coast
California Coastal Commission

Re: Th20b, Appeal No. A-6-ENC-24-0050 (Sayer Family Trust, Encinitas)

Honorable Commissioners,

The Surfrider Foundation is a nonprofit grassroots organization dedicated to the protection and enjoyment of our world's ocean, waves, and beaches, for all people, through a powerful network. We support the Staff Report's recommendation that Substantial Issue should be found for the proposed development at 246 Fifth St, and appreciate the timely appeals filed by Chair Hart and Commissioner Bochco.

We agree with the grounds for Substantial Issue pointed out in the Staff Report and appeals. First, Encinitas' LCP requires all new blufftop development to be removable in case of endangerment. The proposed new development contains a basement, which is not removable without substantial bluff alteration. This is well articulated in the Staff Report.

Second, the required geotechnical report inadequately concludes a 1.5 factor of safety over the course of 75 years. The applicant's submitted report does not account for sea level rise, and uses a conservative erosion estimate of 0.49 feet a year without any real scientific analysis. While not site-specific, the Commission-certified erosion rates determined by the Army Corps of Engineers for the Solana Beach - Encinitas Storm Damage Protection project estimated an average annual shoreline retreat rate of 0.9 feet in the same area (Reach 5, Stonesteps to Moonlight Beach).¹

Third, the 1.5 factor of safety requirement is, in part, to ensure that new coastal blufftop development will never require shoreline protection. But the property in question already benefits from existing shoreline protection in the form of riprap, and the

¹[https://www.spl.usace.army.mil/Portals/17/docs/projectsstudies/Encinitas_Solana/Appendices_A_D_\(Volumell\).pdf](https://www.spl.usace.army.mil/Portals/17/docs/projectsstudies/Encinitas_Solana/Appendices_A_D_(Volumell).pdf)

applicant's geotechnical report states that the property will be safe from bluff erosion for 75 years *without* the existing shoreline protection. If that is the case, why is there no mention of removing it in the application, and no requirement for its removal by the City? The City's LUP prohibits new development "which may require structural measures to prevent destructive erosion or collapse."² Such structural measures are clearly in place at the site of the proposed development.

Fourth, the new development includes accessory structures that are inconsistent with Encinitas' LCP. This includes an existing private beach access stairway which would remain in place, in clear contradiction with Encinitas' coastal bluff setback guidelines. In fact, and as the Staff Report points out, the City's LUP expressly prohibits the approval of private access stairways. Lastly, the City did not require the applicant to waive any rights to future shoreline protection.

While outside the scope of this hearing, Surfrider would like to point out that the grounds for Substantial Issue on this appeal are strikingly similar to multiple locally-approved blufftop developments in Encinitas. There is clearly a divergence in city-level LCP interpretation vs. that of the Coastal Commission, as well as Surfrider, which has led to a disproportionate amount of appeals for locally approved projects. We believe that these divergent LCP interpretations cause hardship for all parties: Commission staff, coastal advocates, and project applicants. We encourage Commission staff to meet with Encinitas planning staff, Commissioners, and/or City Council members in hopes of rectifying this recurring issue. Meanwhile, our San Diego County Chapter will put this issue on our list of Encinitas priorities as well. Community advocacy will likely be needed to reach consensus on how to interpret Encinitas' LCP in a way that better balances development with the protection of coastal resources.

Thank you for the opportunity to comment on this item.

Sincerely,

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² Public Safety Policy 1.3, Encinitas LUP