



November 6, 2023

Santa Cruz County Planning Department
701 Ocean Street
Santa Cruz, CA 95060

Re: Application No. 211316
Hearing Date: November 8, 2023
APN: 043-081-13
Position: DENY APPLICATION

Re: Request for Denial of Application No. 211316

The Surfrider Foundation, on behalf of its Santa Cruz Chapter ("Surfrider") submits this comment regarding the Santa Cruz Planning Commission's ("Planning Commission") approval of a Coastal Development Permit at 266 Cliff Ct. Aptos. Surfrider asserts that approval of the project does not conform to the requirements of Santa Cruz County Code and the Santa Cruz Local Coastal Program (LCP).

Surfrider is a national nonprofit organization with around 80 volunteer chapters throughout the U.S., whose mission is the protection and enjoyment of our ocean, waves, and beaches, for all people, through a powerful activist network. Surfrider's five primary initiatives include coast and climate (which focuses on protecting our coasts from climate impacts), ocean protection, clean water, beach access, and preventing plastic pollution. Surfrider is interested in this coastal development permit, as our members recreate in and work to protect our valuable coastal resources, and permitting this project violates coastal protection laws and threatens coastal resources.

On September 29, 2021, Application 211316 for a Coastal Development Permit was filed with the Zoning Administrator. The project entails constructing approximately 110 feet of pin pier retaining wall on the cliff side of a blufftop property developed with an existing dwelling. On December 16, 2022, the project was denied by the Zoning Administrator based on non-compliance with the Geologic Hazards Ordinance (SCCC Chapter 16.10) of the adopted LCP. On April 25, 2023, the Planning Commission affirmed the Zoning Administrator's decision during an ensuing appeal. Thereafter, the project was further appealed to your Board of Supervisors ("Board"), and at that hearing, the project was remanded to the Zoning Administrator for additional review and consideration. A further public hearing of Application 211316 was conducted by the

Zoning Administrator on August 4, 2023, at which time the denial of Application 211316 was upheld, based on continued noncompliance with the Geologic Hazards Ordinance. Thereafter, the denial was appealed to the Planning Commission, and at a public hearing on October 11, 2023, Application 211316 was approved.

The Planning Commission staff submitted a letter on October 11, 2023 recommending that the members of the Planning Commission uphold the Zoning Administrator's recommendation to deny Application 211316. A copy of the letter is attached hereto as Attachment 1.

Rainey Graeven of the California Coastal Commission submitted a letter with comments on April 21, 2023 to concur with the County staff's denial recommendation of Application 211316 based on violations of the Santa Cruz County LCP provisions. This letter should have been provided to the Planning Commission to reject the proposed project. A copy of the letter is attached hereto as Attachment 2.

I. The Project Violates Santa Cruz County Code

The Planning Commission's role is to administer the County Code. However, the Project is not compliant with County Code.

A. The Project Fails to Protect Existing Structures

The Project violates County Code because the Project would fail to provide immediate protection from the threat of landslides to downhill structures (e.g., neighboring homes). Both the Applicant's geologist and the County's geologist acknowledge that the proposed retaining wall within scope of the project only offers protection once the hillside below the wall has eroded away. This is in violation of Santa Cruz County Code 16.10.070(H)(3)(a) which states that "[s]horeline protection structures shall only be allowed on parcels... where necessary to protect existing structures from a significant threat." However, the retaining wall of the Project would fail to protect the downhill homes from landslides.

B. There Are Alternative Nonstructural Protection Measures That Are Available That Would Provide Greater Protection For Downhill Structures than the Project

The Project violates County Code because the Project fails to take into account alternative protection measures that are feasible from an engineering standpoint. County Code 16.10.070 (H)(3)(c) states "[s]tructural protection measures on the bluff and beach shall only be permitted where nonstructural measures, such as relocating the structure or changing the design, are infeasible from an

engineering standpoint or are not economically viable.” In this instance, the Applicant was also presented with an alternative solution that involves installation of a Geobrugg landslide barrier. However, this solution was not deemed infeasible from an engineering standpoint or economically viable standpoint; rather, it was deemed infeasible because the Applicant did not want to coordinate with neighboring owners.

Furthermore, the alternative measure of installing Geobrugg landslide barrier would actually provide more immediate protection to the downhill structures because the Geobrugg landslide barrier would be positioned closer to the downhill structures. In contrast, compared to the Geobrugg landslide barrier, the retaining wall of the Project would be positioned further away from the downhill structures requiring protection. This is in violation of County Code 16.10.070 (H)(3)(d) states “[s]horeline protection structures shall be placed as close as possible to the development or structure requiring protection.”

II. The Project Violates the Local Coastal Program

The project is not compliant with the LCP due to the unsettled issue as to whether there are: (1) existing structures; and (2) whether the Project would protect the existing structures from a significant threat.

A. Applicant Fails to Establish Existing Structures

The Applicants fail to establish whether there is an existing structure as required under the LCP. The LCP limits the use of shoreline protection structures “to protect existing structures from a significant threat”. Here, it is unclear (and not established) whether the downhill neighboring homes at issue existed prior to the Coastal Act’s effective date (January 1, 1977) and were not redeveloped since January 1, 1977; thus, putting into doubt whether they would qualify for shoreline protection.

B. The Project Would Not Actually Protect the Downhill Structures

The proposed retaining wall within scope of the project would not actually protect the downhill structures. If the downhill structures are treated as existing structures within scope of the LCP, the geotechnical investigation report conducted determined that the “soldier piles will not stabilize the hillside downslope of the piers and that it should be anticipated that the area downslope of the piers will continue to fail.” In other words, the project will not perform its function of protecting downhill structures from landslide threats. Instead it appears that the purpose of the project is to protect Applicant's home, which

raises the question of whether the Applicant's home - and not the downhill structures - should be treated as existing structures under the Coastal Act.

Civil engineers of Santa Cruz County conducted a geologic assessment concluding that the retaining wall of the Project "will not remove the threat of future landsliding posed to the homes at the base of the bluff. While it may reduce the overall landslide threat to some extent, it would not have prevented the 2019 or 2023 landslides that impacted these homes, and it will not prevent future landslides from impacting the homes." See Santa Cruz County Department of Community Development and Infrastructure letter to Applicants dated July 12, 2023 (Attachment 3). Accordingly, the geologic assessment makes clear that the Project will not serve its primary purpose of protecting downhill structures from landslide threats.

C. The Project Would Not Provide Protection of the Downhill Structures With The Least Amount of Coastal Resource Impact

As stated above, the retaining wall within the scope of the Project would not be placed as close as possible to the downhill structures. Indeed, an alternate protection measure which was acknowledged by the Applicant, is the installation of a Geobrugg landslide barrier which would be positioned closer to the downhill structures than the retaining wall.

Moreover, it does not appear that an alternatives analysis has been completed, including one that evaluates the potential use of non-structural methods (e.g., landslide/debris removal, netting, drainage and landscaping improvements, etc.), let alone one that makes the case that the proposed retaining wall is the most appropriate response under the LCP.

III. Conclusion

Surfrider Foundation respectfully urges the Santa Cruz Board of Supervisors to reverse the Planning Commission's decision on the basis that the Project violates Santa Cruz County Code and the LCP. Please contact Laura Walsh, lwash@surfrider.org, if you have any questions regarding this comment.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, reading "Laura Walsh". The signature is fluid and cursive, with the first name "Laura" and last name "Walsh" clearly distinguishable.

Laura Walsh
California Policy Manager
Surfrider Foundation

Enclosures:

1. Planning Commission staff letter dated October 11, 2023
2. Rainey Graeven of the California Coastal Commission letter dated April 21, 2023
3. Santa Cruz County Department of Community Development and Infrastructure letter to Applicants dated July 12, 2023