



August 2, 2018

Delivered via email

To: Eric Stevens
California Coastal Commission
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Re: Gary and Bella Martin - A-6-ENC-16-0060

Dear Mr. Stevens,

The Surfrider Foundation San Diego County Chapter recognizes beaches as a public resource held in the public trust. Beaches provide affordable recreational access available to everyone. As human activities and development in coastal areas increase, preservation of these areas becomes more important. Surfrider Foundation is an organization representing 250,000 surfers and beach-goers worldwide that value the protection and enjoyment of oceans, waves and beaches. For the past decade, San Diego Chapter has reviewed and commented on coastal construction projects and policy in San Diego County. We appreciate the opportunity to provide comments to the California Coastal Commission about these important issues.

We support the staff recommendation that this project only be approved with a redesign requiring a 79 foot setback, no basement, and all of the conditions proposed by staff in their entirety. The proposed house must be sited to be safe for its expected lifetime, which means a factor of safety of 1.5 for 75 years. The Coastal Act protects "existing" structures because they were built before we knew better – now we know better. These hazardous areas can only be developed very carefully, if at all. Approving this application without the appropriate setbacks would be opposite of the type of precedent we should be setting in light of Sea Level Rise and Climate Change.

According to the LCP, the three elements listed below are all requirements of a geotechnical report. "This slope failure analysis shall be performed according to geotechnical engineering standards, and shall:

- Cover all types of slope failure.
- Demonstrate a safety factor against slope failure of 1.5.
- Address a time period of analysis of 75 years..."

The list is clearly meant to be inclusive. It would not make sense to leave out the first item "Cover all types of slope failure". So why would anyone let the applicant chose between the second and third items, when it is obvious that both need to be considered together? The 'either or' logic of choosing between the last two items is truly problematic. If the home is



sited at a location to achieve a factor of safety of 1.5 today, and there is any erosion, the home will immediately be below the established industry standard for safety, let alone over the next 75 years! All three elements must be taken together. To do anything less would set a terrible precedent and continue a development pattern that we now know is detrimental to the coast.

The applicant and their experts, Geosoils, have also changed their story in the past, please see page 19 of the staff report for further detail. In August 2010, Geosoils stated that the Factor of Safety (FOS) was at a 59.5 ft setback for this parcel. But when Geosoils was questioned about their analysis of the neighboring property, which apparently had a factor of safety closer to 40 ft, they then used a different methodology (which is not commonly used on the coast) and changed the FOS to a 40 ft setback on this property. These changing facts to protect the interest of the applicant are worrisome. Using the more common Modified Bishop Method and getting a 59.5 ft setback for the FOS, make the 79 ft set back more than reasonable, considering the life of the project.

Surfrider supports the removal of the proposed basement to make the structure more moveable if threatened by erosion. Section 30.34.020 (B)1a of the City's certified IP, states: "Any new construction shall be specifically designed and constructed such that it could be removed in the event of endangerment..." As such, we believe the basement is an undue risk in this hazardous zone and should not be allowed. There are many unknowns associated with Climate Change and SLR, and we may see changes much more rapidly than we have in the past. As the agency charged with protecting and maintaining the coastline, you should keep all available tools and options in the toolbox, in order to deal with unknown future conditions. Furthermore, removal of the basement in the future could significantly alter the bluffs natural state, which is also inconsistent with the LCP.

Section 30604 (c) of Coastal Act requires a finding that the development is in conformity with the public access and public recreation policies of Chapter 3. Without all of staff's proposed conditions, this development will conflict with those policies over its lifetime, therefore this application can only be approved with staff's conditions.

The good thing about this situation is that there is a reasonable path forward, the applicant can still enjoy a reasonably sized new home set further back from the bluff edge as your staff has suggested. This is not an all-or-nothing situation. We cannot perpetuate non-conforming bluff top development in areas we know to be hazardous and expect our coastline to be resilient to Sea Level Rise.

There is no substantiated risk of a "takings" here. First off, it is Surfrider's experience that public access and coastal habitat protection are often sacrificed over a fear of future takings claims even if those fears are not well founded. Second, in order for a "takings" claim to be successful, the agency would have to take a right the homeowner had in the first place. For instance, homeowners don't have a right to create a nuisance. To knowingly build on an eroding coastline, and then later require shoreline protection, which destroys the public



beach, could be considered creating a nuisance. Third, the Staff Report correctly points out that with the proposed setback required to assure structural stability over the life of the project, it is still possible to construct a home that ranged from 1434 sq. ft. to 2934 sq. ft. depending on whether or not a variance were accepted for front yard setback. Under none of these circumstances would the applicant be deprived of economic use of their property thus there is no takings.

We also feel that in many past development approvals in the North County San Diego area, the commission has erred in allowing development too close to the edge and applicants come in only a few years later for additional armor. The Staff Report at page 33 identifies at least 6 instances where inadequate diligence in determining setback resulted in armor for development that should not have been entitled to such protections. In the most egregious case, CDP 6-86-570 was approved for new development in 1986 and in 1993, only 7 years later, the applicant was granted a permit for armor in CDP 6-93-131.

Additional examples of inadequate setbacks followed by armor installation exist in Solana Beach. See for example, CDP 6-98-134 where a 352 ft. long seawall was constructed to protect residences using inadequate setbacks not based on the sound scientific methods proposed by the Staff Geologist and Engineer. The CDP's that resulted in inadequate setback for development behind the seawall include #6-91-309, #6-84-168, and #6-95-23.

The result of all these projects with inadequate setbacks are reverse takings where beachfront property is either directly gained for building a seawall or the shoreline is negatively impacted by the presence of the seawall or armor.

We support special condition #3 to waive the right to future armoring. Any new development must be sited so that it will neither be subject to nor contribute to significant geological instability throughout the life of the project.

We support your staff's recommendations and implore the Commission to only approve this project if it is conditioned as your staff suggests. Anything less would fly in the face of the best available science on Sea Level Rise, create a terrible precedent, and continue a hazardous pattern of development along our coast. Thank you for your time and consideration of this important issue. Please let us know if you have any questions.

Sincerely,

Julia Chunn-Heer
Policy Manager
San Diego Chapter of the Surfrider Foundation