



California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105
October 4, 2024

RE: Agenda Items TH16a, Appeal A-3-STC-22-001 (Cutright and Yurochko, Seabright Beach area, City of Santa Cruz)

Hearing Date: October 10, 2024

Position: Substantial Issue Determination: FIND SUBSTANTIAL ISSUE

Dear Chair Hart and Commissioners,

The Sierra Club urges that your Commission find that the appeal contentions raise a substantial issue.

It is important the reasoning used in the City of Santa Cruz CDP approval be discussed and discarded, and that can only happen if your Commission finds substantial issue and proceeds to appeal.

The Staff Report for this appeal does properly document the messy and improper aspects of the procedural history of this project and the Applicants' purposeful and repeated violations of their 2017 Coastal Development Permit. The altering and enlarging of the beachfront blufftop amenities, and crossing the 50% threshold of wall removal of the prior structure were taken without consulting with the City of Santa Cruz until after the fact, and not until the City was informed of these actions by others.

However, the 2021 City of Santa Cruz CDP to resolve this only addressed some of the violations noted in the Coastal Commission Staff Report. The **segmentation** of these violations on the same parcel and to the same 2017 CDP (undertaken by the City of Santa Cruz in their 2021 CDP approval now subject to appeal) is **inappropriate**.

It is hard to overstate the importance of addressing the City of Santa Cruz' errant position stated in their 2021 decision. The City of Santa Cruz claim to have "retroactively approved" unpermitted coastal development because of its inclusion on a project plan for other development on the parcel in 2017, simply because it had been tagged "Existing".

Yet the 2017 City of Santa Cruz Staff Report had no discussion of the unpermitted status of anything designated "Existing", no discussion of their impacts, and no mention of any attempt to bring it into permitted status.

This important issue is in the way in which the City addressed prior unpermitted development on the parcel. In the City Staff Report for the 2017 Coastal Development Permit, the City identified the action as approval of a remodel of the structure. Other, earlier, (unpermitted) development was only identified as "Existing" in the project plans seen in the City Staff Report, and no mention was made of these prior

unpermitted structures being reviewed, analyzed, or considered for approval, or of their unpermitted status. Yet later the City, and now the Appellant in their correspondence for this appeal, are making the claim that these prior unpermitted structures were retroactively permitted in 2017 due to their presence in the project drawings.

The rationale that the presence of an existing unpermitted structure in an existing conditions drawing can be construed as a basis for permitting that structure in the absence of any further mention, as forwarded by the City of Santa Cruz at their 2021 CDP hearing, and now furthered by Applicants' counsel, cannot be maintained.

Nothing in the 2017 plans for the CDP, nor in the Staff Report's analysis and discussion, indicates to any impartial reader that there had been any attempt to retroactively permit anything. There is no reference to any previously unpermitted development being reviewed and proposed for approval in that CDP package. It is wholly inappropriate for the City of Santa Cruz to have then later referred to that CDP package as having provided such an approval.

Now, the City has approved a second CDP (in 2021) which approves a purported Minor Modification to the 2017 CDP to allow changes to the beachfront blufftop amenities/structures, basing the "minor" aspect upon – they assert – the approval of the earlier unpermitted development in that 2017 CDP. These are the structures which had been referred to as "Existing" in the 2017 plan.

There has been no appropriate process to have approved the prior unpermitted blufftop development, and now there has been a modification approved that modifies what is being referred to as a prior approval. In addition, it is clear from the record that other violations of the 2017 CDP occurred, including that of exceeding the 50% redevelopment threshold, and no record of whether there are open violations. If there are such open violations, this permit should be held until those are resolved in a joint manner. If there are not yet violations opened, then in light of the record in this Staff Report they should be opened, and this permit should be held until those are resolved in a joint manner.

Because of the importance of this issue of prior "approval" of unpermitted development as discussed above, and because of the segmentation of the violations on this parcel which occurred in the City action, the Sierra Club urges your Commission to find substantial issue, so that there is opportunity during appeal pendency for the afore-mentioned issues to be resolved.

Thank you for your consideration of these comments.

Sincerely,

Nancy Okada
Chair, Coastal Subcommittee
Sierra Club California

Michael Guth
Chair, Santa Cruz Group
Ventana Chapter