



December 14, 2022

To: Chris Johnson, Senior Planner, San Clemente

Re: Notice of Preparation: DEIR for Bluffs as Boca Project

Dear Mr. Johnson,

On behalf of the Surfrider Foundation, including the South Orange County Chapter, we are writing to provide scoping comments regarding the Notice of Preparation (“NOP”) of a Draft Environmental Impact Report (DEIR) for the Bluffs at Boca Project. The Surfrider Foundation’s mission is the protection and enjoyment of our ocean, waves, and beaches, for all people, through a powerful activist network. Towards this mission, Surfrider, including our South O.C. Chapter, focuses on five primary initiatives – clean water, ocean protection, coastal preservation, beach access, and preventing plastic pollution. The Chapter has worked for decades to help preserve the coast and beaches including the successful Save Trestles campaign and the nature based adaptation project at Capistrano Beach.

We are concerned about several significant impacts of the proposed project which contravene Surfrider’s mission and initiatives – including impacts on coastal geologic stability and erosion, water quality, and public beach access. Simply looking at an aerial view of this proposed project location (below), one wonders how such extensive development could be proposed in such a highly erosive, susceptible location, directly above a recreational pedestrian access trail and railroad, and adjacent to the ocean.





It is imperative that the NOP properly describe the project and its purpose so as to not improperly restrict the consideration of reasonable project alternatives, and for the DEIR to thoroughly analyze the range of likely significant impacts from the whole project.

- **The Project Description is Incomplete, and May Not Preclude Consideration of Reasonable Alternatives**

Under the California Environmental Quality Act (“CEQA”), the NOP must include a project description that contains a clear statement of the project objectives, including the underlying purpose of the project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR. (Cal. Code Regs. tit. 14 § 15124(b)). The project description provides that it would entail constructing one single family home for each of seven residential lots on La Rambla and Boca del Canon, but the NOP does not clearly state the project objectives or the underlying purpose of the project beyond this description. The project description cannot be improperly narrow so as to preclude other reasonable alternatives, such as those which may include fewer homes and/or other development, which is consistent with applicable laws such as the local Land Use Plan and Coastal Act, and protective of our critical coastal resources.

The project description also states that La Rambla is a private roadway, and Boca del Canon is a private street, but further explains that the applicant has requested the City abandon an existing public access driveway located at the cul de sac at the end of La Rambla, indicating that not all of La Rambla is private. It is unclear how such abandonment would further the project purpose or the public’s interest, and the DEIR would have to thoroughly analyze those issues.

- **The DEIR Must Include a Reasonable Range of Alternatives to Minimize Impacts, Including a No Project Alternative, Which Is Most Protective of our Coastal Resources**

CEQA requires that an Environmental Impact Report analyze a reasonable range of alternatives to the proposed project, including a no project alternative. (Cal. Pub. Res. Code §§ 21002, 21061, 21100(4); Cal. Code Regs. tit. 14 § 15126.6). The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. (Cal. Code Regs. tit. 14 § 15126.6(d)) Public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. (Cal. Pub. Res. Code § 21002).



With a project purpose of developing and/or utilizing these properties in a way that is consistent with applicable laws and coastal protections and which takes into account existing geologic conditions, reasonable alternatives include other uses such as a public access park (with access limited to non-hazardous areas), establishment of a conservation area, and perhaps development of a more limited number of home sites furthest away from the coast (e.g., lots 10, 8, and 7). Alternatives must include iterations which do not require the abandonment of the existing public access driveway at the end of La Rambla.

- **The DEIR Must Analyze Potentially Significant Impacts and How the Project will Comply with Coastal Act and Land Use Plan Policies:**

The DEIR must include a list of other permits and approvals necessary for the project and should consider consistency with the California Coastal Act and the City's land use plan ("LUP") policies (Cal. Code Regs. tit. 14 § 15124(d)(1)), particularly those related to coastal hazards (e.g., LUP policies HAZ-2 & 3, 18 & 19, 21, 23, 29, 30, 44). The proposed project is inconsistent with the Coastal Act and LUP for several reasons. Notably, the proposed project location would be situated on a historic landslide from 1966 where several homes were destroyed. The lots have remained vacant since then.

Under the Coastal Act, new development may not result in geologic instability or rely on shoreline armoring. The proposed project would include extensive bluff fill and undoubtedly require retaining walls and other types of impermissible shoreline armoring such as caisson foundations, though the notice does not provide sufficient information about this key part of the development. Coastal Act section 30235 provides as follows:

"Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible."

The proposed homes are not a coastal dependent use, are not preexisting, and are not designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Instead, this project is proposed in an existing landslide area.

The DEIR must thoroughly analyze the impacts of the construction of the seven cliffside homes, in a landslide area, and demonstrate how that will not create or contribute to erosion and



geologic instability (without the use of shoreline armoring). This analysis must also account for the cumulative impacts of climate change and anticipated sea level rise which are exacerbating erosion and geologic instability. Coastal Act Section 30253 states, in part:

“New development shall: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs....”

This would prohibit shoreline armoring at the site.

This is particularly important in light of existing concern about beach erosion along San Clemente’s coast, that has “been causing a slow-moving landslide” which reportedly destabilized the train tracks that run along the coast. A recent November 17 [Voice of OC article](#) quotes Orange County officials in response to train service disruption along San Clemente due to beach erosion destabilizing the tracks. An official specifically mentions that eventual relocation of the tracks may be necessary. This is significant for a couple of reasons. First, if the railroad is eventually moved inland, once the tracks and associated revetment are removed from San Clemente’s beaches, any development at the proposed location may become even more geologically unstable than it already is, and yet may not utilize shoreline armoring.¹ Further, the DEIR must also thoroughly analyze potential impacts from the project on transportation and safety, including on the already jeopardized railroad tracks below the cliff. Increased risk of landslide and geologic instability could have significant adverse impacts on the stability of the railway and safety of passengers. The DEIR should also specifically analyze the impacts from construction of swimming pools (e.g., proposed for cliffside Lots 11, 9, 28, and 29) and their potential to compromise bluff stability.

- **The DEIR Must Carefully Examine Water Quality Impacts and Run-Off Effects**

The DEIR should carefully examine the potential for water quality impacts from construction, especially given that debris from the 1966 bluff collapse and existing homes are known to persist. This location is adjacent to popular recreational surfing (including at T-Street,

¹ Shoreline armoring at the site, which cuts off sand supply, disrupts natural dynamic coastal processes, and exacerbates erosion, would be extremely concerning given its close proximity to San Clemente’s famous wave and training ground for numerous professional surfers, known as T-Street (map available at <https://www.google.com/maps/place/T-Street+Beach/@33.4166631,-117.6174761,18z/data=!4m13!1m7!3m6!1s0x80dcf4404e6d316d:0xac30d55a7fc00ecd!2sT-Street+Beach!3b1!8m2!3d33.4163681!4d-117.617739!3m4!1s0x80dcf4404e6d316d:0xac30d55a7fc00ecd!8m2!3d33.4163681!4d-117.617739>)



approximately a quarter mile away), swimming and beachgoing. The project may exacerbate runoff, particularly during construction, given the significant earth movement, grading, excavation and fill required for the development and construction of seven homes (with basement areas, pools, etc.), in a landslide area directly adjacent to the ocean. This development will also increase impervious surface which may result in additional runoff.

- **The DEIR Should Address Impacts to Public Access, Prescriptive Rights and Coastal Views**

The proposed development would be located at one of the last undeveloped oceanfront spaces in San Clemente, other than the public beaches themselves. This coastal bluff is at the mouth of Toledo Canyon, just south of the popular surf spot known as T-Street. For decades, the open bluff has served as an excellent, and frequently used, spot for the public not only to view the sun setting over the Pacific, to check the waves and the entire San Clemente coastline but also to access a coastal trail that leads down to the beach.

The DEIR Must thoroughly analyze impacts to public access including:

- Impacts of vacating a public access roadway. The roadway provides parking and promotes beach access. The proposed access path will be meaningless if there isn't sufficient public parking.
- Impacts on the public's perception that this development will have on their ability to access the coast at this location, as they have for decades. The development of seven lots may adversely impact the public's perception of their ability to access the coast in this location, particularly if the street easement is abandoned.
- Disruption of prescriptive coastal access rights. Since the public has utilized this property to access the beach for several decades, they likely *already* have rights via prescription or dedication – as noted in the California Coastal Commission's prior 2006 staff report for a similar project. Therefore, continued means of access is likely *required* under the Coastal Act, such that the inclusion of public access as part of this project is *not in addition* to anything already required, and may in fact be insufficient. The Coastal Commission's 2006 staff report for the formerly proposed project constructing a 4,468 square foot home on one of these subject lots acknowledged an ongoing prescriptive rights survey on the entire nine-lot area, as well as Boca del Canon, and provided that surveys submitted as of that date indicated substantial public use of those sites for the past several decades to access the beach and ocean, along with public viewing to and along the bluffs, beaches, and ocean. This history of use, and likelihood for already existing rights via prescription and/or implied dedication must be included in the baseline description of the property.



- Impacts to the stability and safety of the new proposed beach access easement considering the current geologic instability and anticipated increased geologic instability after construction of new homes. Increased geologic instability and erosion caused by the project may have on the recreational pedestrian beach trail between the cliff and ocean, including potential safety risks and impacts to recreational users.
- Impacts to public coastal views of the ocean and beach. As mentioned, this is a popular location for viewing the ocean and sunsets.

In 2006, the California Coastal Commission recommended denial for a proposed development at this location, in part due to adverse public access impacts and visual impacts. This project was only one home, not seven. The 2006 staff report also discusses the history of a past effort to create a public park at this location, in the late 1980s. Circumstances have not changed and cumulative impacts to development at this location have only increased, especially given impacts related to climate change, sea level rise and the coastal squeeze.

Surfrider asserts that the proposed development is unlawful and very likely cannot be approved for all the reasons discussed above. Under CEQA, the EIR shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans. As such, the EIR must comprehensively examine all the potentially significant environmental impacts raised by this project, including those related to likely inconsistencies with the California Coastal Act and city land use plan (including but not limited to those related to hazards and shoreline armoring). Cal. Code Regs. tit. 14 § 15125(d).

The permitting decisions we make today will impact the coast for decades and generations to come. Considering sea level rise, increasing pressures on coastal access and few remaining open spaces and ocean vistas, this development would come at a great detriment to the City of San Clemente and our coastline.

Sincerely,

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