

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370



# Th17d

Filed: 7/22/10  
49th Day: 9/9/10  
180th Day: 1/18/10  
Staff: E Stevens-SD  
Staff Report: 9/23/10  
Hearing Date: 10/13-15/10

AMENDMENT REQUEST  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-05-072-A1

Applicant: Las Brisas Homeowners Association

Agent: Bob Trettin

**Original**

Description: Construction of an approximately 120 ft.-long, 2 ft. 4 in.-wide, 35 ft.-high, colored and textured concrete tiedback seawall, concrete backfill and fill of seacave/notches with erodible concrete below 36 condominium structures.

**Proposed**

Amendment: Construction of an approximately 5 ft.-long, 2 ft. 4 in.-wide, 35 ft.-high extension to the existing return wall (perpendicular to the shore) on the southern end of an existing 120 ft.-long, 35 ft.-high seawall. This work has already been completed pursuant to Emergency Permit #6-10-017-G.

Site: On the beach and bluff face below 135 South Sierra Avenue, Solana Beach, San Diego County. APN's: 298-010-54-01 to 36.

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**STAFF NOTES:**

**Summary of Staff's Preliminary Recommendation:** Staff is recommending approval of the proposed 5 ft.-long, 2 ft. 4 in.-wide, 35 ft.-high extension to the existing return wall (perpendicular to the shore) on the southern end of an existing 120 ft.-long, 35 ft.-high seawall. The proposed return wall extension has already been completed pursuant to emergency permit 6-10-017-G. The return wall extension is needed to prevent flanking and eventual weakening of the existing approved seawall. The beach sand and recreation mitigation fee for the initial project (6-05-072/Las Brisas seawall) covered the same impacts to sand supply, coastal access and recreation that are being affected by the proposed return wall extension. Thus, no new impacts from the return wall extension would require any further mitigation for sand or recreation impacts.

Standard of Review: Chapter 3 policies of the Coastal Act

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Substantive File Documents: City of Solana Beach General Plan and Zoning Ordinance San Diego County LCP; Development Review Permit #17-10-08; “Structural Calculations for Proposed Design and Construction of Seawall Return Wall” by Soil Engineering Construction, Inc. dated 2/15/2010; Design and Las Brisas Construction of Seawall Return Wall Plans dated 2/8/10 by Soil Engineering Construction, Inc.; “Geotechnical Update Letter; Repairs to Coastal Bluff Seawall 135 South Sierra Avenue, Solana Beach, California” dated 4/5/10 by Soil Engineering Construction, Inc.; “Third Party Review of Structural Calculations and Repair Plan Las Brisas” dated 3/22/10 by Geopacifica Geotechnical Consultants. CDP Nos. 6-85-189/Las Brisas, 6-04-156-G/Las Brisas, 6-05-072/Las Brisas, 6-10-017-G/Las Brisas, 6-03-033/Surfsong, F1003/Las Brisas, 6-00-009/Del mar Beach Club, 6-99-100/Presnell, et. al, 6-99-103/Coastal Preservation Association, 6-00-066/Pierce, Monroe, 6-02-002/Gregg, and Santana, 6-02-084/Scism.

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I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-05-072-A1 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

## II. Special Conditions.

The permit is subject to the following conditions:

1. Prior Conditions of Approval. All terms and conditions of the original approval of Coastal Development Permit 6-05-72 shall remain in full force and effect.
2. Assumption of Risk, Waiver of Liability and Indemnity Agreement. By acceptance of this permit amendment, the applicant, on behalf of (1) itself; (2) its successors and assigns; and (3) any other holder of the possessory interest in the development authorized by this permit amendment, acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit amendment of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit amendment requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).
3. Deed Restriction/CC&R's Modification. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant homeowners' association (HOA) shall do one of the following:
  - a. Submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction in a manner that will cause said deed restriction to appear on the title to the individual condominium units, and otherwise in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment, as they apply to the HOA, as covenants, conditions and restrictions on the use and enjoyment of the individual condominium units. The deed restriction shall include a legal description of the entire parcel or parcels against which it is recorded. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit amendment shall continue

to restrict the use and enjoyment of the subject property so long as either this permit amendment or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property, or;

- b. Modify the condominium association's Declaration of Restrictions or CC&Rs, as applicable, in a form and content acceptable to the Executive Director, to reflect the obligations imposed on the homeowners' association by condition 2, above. This addition to the CC&Rs shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit.

4. As-Built Plans. **WITHIN 60 DAYS OF COMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT AMENDMENT** the permittee shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the return wall extension been constructed in conformance with the approved plans for the project.

5. Condition Compliance. **WITHIN 60 DAYS OF COMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT AMENDMENT**, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit amendment. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

### III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The bluffs below the existing condominium complex currently contain a 120 ft.-long, 35 ft.-high seawall at the base of an approximately 84 ft. bluff. The seawall extends from the northern property line to within a few feet of the southern property line and follows the contour of the natural bluff. Fletcher Cove Beach Park is located approximately 120 feet to the north of the seawall. There is an approximately 120 ft.-long seawall approximately 200 ft. to the south of the Las Brisas seawall (CDP #6-03-33/Surfsong).

In 1974, the San Diego Regional Commission approved the construction of the subject condominiums with conditions that included a requirement to provide a 10 ft. wide public access easement paralleling the upper edge of the bluff allowing for public views of the shoreline (CDP #F1003/Las Brisas). The public viewing area is accessed from an existing public access stairway leading from the public parking lot at Fletcher Cove Park. In May of 1985, the Commission approved the fill of a seacave beneath the subject property as a preventive measure (CDP #6-85-189/Las Brisas).

At the July 2005 hearing, the Commission denied a permit for the 120 foot Las Brisas Seawall, finding that the development had not been designed to effectively mitigate for the adverse impacts that would occur to shoreline sand supply, and, by extension, to public access and recreational opportunities (CDP #6-04-156/Las Brisas). In October 2005, the Commission approved a subsequent application for the 120 ft.-long, 35 ft.-high Las Brisas seawall with requirements that mitigation fee be imposed for impacts beach sand supply and public access and recreation (CDP #6-05-072/Las Brisas Condominiums).

On January 16, 2010 a significant failure occurred along the section of lower coastal bluff beginning at the southern terminus of the Las Brisas seawall and extending south approximately 70 ft. The failure resulted in a loss of approximately 5 ft. to 8 ft. in depth of the coastal bluff and exposed approximately 7 ft. to 8 ft. of the southern end of the Las Brisas Seawall. On March 22, 2010, the Executive Director of the Commission approved an emergency permit (6-10-017-G/Las Brisas) to address this unexpected occurrence of marine erosion/bluff collapse and exposure of the clean sands lens, which required immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. Emergency Permit #6-10-017-G allowed for the construction of a 5 ft.-long, 2 ft. 4 in.-wide, 35 ft.-high (perpendicular to the shore) extension to the existing return wall on the southern end of the existing 120 ft.-long, 35 ft.-high Las Brisas seawall.

The majority of the work on the return wall extension was completed in May and June of 2010. Scheduling the work for this project was problematic because the Coastal Development Permit was necessary in order for the applicant to obtain a development review permit from the City of Solana Beach. Solana Beach issued the development review permit April 28<sup>th</sup>, 2010 and included conditions that took several weeks to complete. Thus, work could not begin until late May, and the tides were not favorable. Therefore, the City of Solana Beach and the Executive Director of the Commission granted the applicant an extension to work up until June 18<sup>th</sup>, 2010 (the Commission emergency permit (6-10-017-G) originally specified that the work must be completed within 66 days of the date of issuance, i.e. by May 27<sup>th</sup>, 2010).

The proposed amendment involves a request for approval of the construction of the 5 ft.-long, 2 ft. 4 in.-wide, 35 ft.-high extension to the existing return wall on the southern end of the existing 120 ft.-long, 35 ft.-high Las Brisas seawall. The return wall extension is notched at least 1 ft. into the existing bluff face at the base of the bluff and extends 5 ft. out perpendicularly to a point in which it is flush with the existing seawall. The toe of the return wall extension is embedded at least 4 ft. below the top of the bedrock/wave-cut platform to match the existing seawall depth. A seep hole is installed at a 10 ft. elevation for drainage. The face of the return wall extension is hand sculpted, colored and textured to match the nearby coastal bluff and the existing seawall.

The project is located in the City of Solana Beach. The City of Solana Beach was previously within the jurisdiction covered by the certified County of San Diego Local Coastal Program (LCP). Because the LCP was never effectively certified, the standard of

review is the Chapter 3 Policies of the Coastal Act with the County LCP used as guidance.

2. Geologic Conditions and Hazards. Section 30235 of the Coastal Act states, in part:

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.

In addition, Section 30253 of the Coastal Act states, in part:

New development shall do all of the following:

(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.

The proposed project involves the construction of a 5 ft.-long, 2 ft. 4 in.-wide, 35 ft.-high extension to the existing return wall on the southern end of an existing 120 ft.-long, 35 ft.-high seawall in order to prevent erosion from an exposed clean sand lens below an existing condominium complex. The subject condominiums at the top of the bluff consist of three buildings containing a total of 36 condominiums.

The applicants' geotechnical report indicates that the proposed project is required to protect the condominiums because of the threat posed by recent significant bluff failures which exposed natural bluff materials along the base of the bluff. The return wall extension is needed to protect the seawall and the mid and upper bluffs. The report states:

The January 16<sup>th</sup> failure resulted in a loss of 5' to 8' in depth of the coastal bluff. The failure exposed approximately 7' to 8' of the southern end of the Las Brisas seawall. Leaving these natural bluff materials exposed will result in a near-immediate failure of clean sand lens materials behind the seawall (near the top of wall) as well as the loss of sandstone materials behind the seawall. This process has already begun and will accelerate if left unabated for even a short period of time... At some point, first from clean sand failure and later from sandstone erosion, the seawall would be substantially damaged. The clean sand failure, left unabated, is also projected to result in mid to upper bluff failure behind the seawall in the southern area of Las Brisas' property, thereby negating one of the seawall's primary purposes and functions ("Geotechnical Update Letter; Repairs to Coastal Bluff

Seawall 135 South Sierra Avenue, Solana Beach, California” dated 4/5/10 by Soil Engineering Construction, Inc.).

According to the Commission’s staff geologist, the clean sand lens consists of a layer of sand with a limited amount of capillary tension and a very minor amount of cohesion, which causes the material to erode easily, making this clean sand layer, once exposed, susceptible to wind blown erosion and continued sloughing as the sand dries out and loses the capillary tension that initially held the materials together. Geotechnical reports associated with developments near this site have stated that gentle sea breezes and any other perturbations, such as landing birds or vibrations from low-flying helicopters, can be sufficient triggers of small- or large-volume bluff collapses, since the loss of the clean sands eliminates the support for the overlying, slightly more cemented, terrace deposits.

The presence of this clean sand layer within the bluffs along the Solana Beach shoreline has previously been identified in geotechnical reports submitted in conjunction with seawall, seacave and notch infill projects in Solana Beach (6-00-9/Del Mar Beach Club, 6-99-100/Presnell, et. al, 6-99-103/ Coastal Preservation Association, 6-00-66/Pierce, Monroe, 6-02-02/Gregg, Santana, 6-02-84/Scism and 6-03-33/Surfsong). The typical mechanism of sea cliff retreat along the Solana Beach shoreline involves the slow abrasion and undercutting of the Torrey Sandstone bedrock, which forms the sea cliff at the base of the bluffs, from wave action which becomes more pronounced in periods of storms, high surf and high tides. Other contributing factors to sea cliff retreat include fracturing, jointing, sea cave and overhang collapse and the lack of sand along the shoreline.

The Commission’s staff geologist has reviewed the proposed project and has determined that the proposed return wall extension is needed to prevent flanking and eventual weakening of the existing seawall, which could lead to failure of the seawall and a threat to the residential condominiums on the blufftop. Thus, the applicants have documented a need for additional protection. However, there are a variety of ways in which the threat from erosion could be addressed. Under the policies of the Coastal Act, the project must eliminate or mitigate adverse effects on shoreline sand supply and minimize adverse effects on public access, recreation, and the visual quality of the shoreline.

#### Sand Supply/In Lieu Mitigation Fee

Although construction of the return wall extension is required to protect the existing principle structures on the site, Section 30235 of the Coastal Act requires that the shoreline protection be designed to eliminate or mitigate adverse impacts on local shoreline sand supply. There are a number of adverse impacts to public resources associated with the construction of shoreline protection. The natural shoreline processes referenced in Section 30235, such as the formation and retention of sandy beaches, can be significantly altered by construction of a seawall, since bluff retreat is one of several ways that beach area and beach quality sand is added to the shoreline. This retreat is a natural process resulting from many different factors such as erosion by wave action causing cave formation, enlargement and eventual collapse, saturation of the bluff soil

from ground water causing the bluff to slough off and natural bluff deterioration. When a seawall is constructed on the beach at the toe of the bluff, it directly impedes these natural processes.

Some of the effects of a shoreline protective structure on the beach, such as scour, end effects and modification to the beach profile, are temporary or difficult to distinguish from all the other actions which modify the shoreline. Seawalls also have non-quantifiable effects to the character of the shoreline and visual quality. However, some of the effects that a structure may have on natural shoreline processes can be quantified. Three of the effects from a shoreline protective device which can be quantified are: 1) loss of the beach area on which the structure is located; 2) the long-term loss of beach which will result when the back beach location is fixed on an eroding shoreline; and 3) the amount of material which would have been supplied to the beach if the back beach or bluff were to erode naturally.

The Commission's staff engineer has determined that the proposed return wall extension will create no new impacts that would require additional sand supply mitigation. The approval of the existing 120 foot Las Brisas seawall included mitigation for the loss of sand from the bluffs behind the seawall. The proposed return wall will similarly prevent this same sand from entering the littoral system. Thus, because mitigation for this loss of sand was included in the permit for the original seawall, no additional mitigation is needed here. The proposed return wall extension will be constructed behind the current return wall (perpendicular to the shore) in an area that, previous to the significant failure of the lower coastal bluff which occurred on January 16, 2010, was coastal bluff. Therefore, no public beach area will be impacted as a result of the return wall extension. Thus, as conditioned, the Commission finds the project consistent with the public access and recreation policies of the Coastal Act.

Due to the inherent risk of shoreline development, Special Condition #2 requires the applicant to waive liability and indemnify the Commission against damages that might result from the proposed shoreline devices or their construction. The risks of the proposed development include that the proposed shoreline devices will not protect against damage to the residences from bluff failure and erosion. In addition, the structures themselves may cause damage either to the applicant's property or to neighboring properties by increasing erosion of the bluffs. Such damage may also result from wave action that damages the seawall. Although the Commission has sought to minimize these risks, the risks cannot be eliminated entirely. Given that the applicants have chosen to construct the proposed shoreline devices despite these risks, the applicants must assume the risks. Special Condition #3 requires the applicant to record a deed restriction imposing the conditions of this permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property or that the CC&Rs be modified to reflect the obligation imposed on the homeowners association by the permit amendment conditions. Only as conditioned can the proposed project be found consistent with Sections 30235 and 30253 of the Coastal Act.

To assure the proposed shore/bluff protection has been constructed properly, Special Condition #4 has been proposed. This condition requires that, within 60 days of Commission action on this permit amendment, as built-plans and certification by a registered civil engineer be submitted, verifying that the proposed return wall extension has been constructed in accordance with the approved plans. Because the proposed return wall extension has already been constructed pursuant to Emergency Permit #6-10-17-G, Special Condition #5 is necessary to ensure that a Coastal Development Permit Amendment is issued in a timely manner.

In summary, the applicant has documented that the existing blufftop primary structures are in danger from erosion and subsequent bluff collapse and that the proposed return wall extension is necessary to address that threat. As conditioned, there are no other less damaging alternatives available to reduce the risk from bluff erosion. Thus, the Commission is required to approve the proposed protection for the residential structures. Therefore, as conditioned, the Commission finds that the proposed return wall extension to the existing seawall is consistent with Sections 30235 and 30253 of the Coastal Act.

3. Public Access/Recreation. In addition to the adverse impacts shoreline protective devices cause on local sand supply, they also have significant adverse impacts to public access and recreation. Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” The proposed project is located seaward of the first through public road, on the beach. Coastal Act Sections 30210 through 30213, as well as Sections 30220 and 30221 specifically protect public access and recreation, and state:

**Section 30210:** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

**Section 30211:** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

**Section 30212(a):** Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...

**Section 30213:** Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...

**Section 30220:** Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

**Section 30221:** Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Coastal Act Section 30240(b) also protects parks and recreation areas such as Fletcher Cove Beach Park. Section 30240(b) states:

**Section 30240(b).** Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The project site is located on a public beach utilized by local residents and visitors for a variety of recreational activities such as swimming, surfing, jogging, walking, fishing, beachcombing and sunbathing. The Las Brisas seawall is located approximately 120 feet to the south of Fletcher Cove Beach Park, which contains the main public pedestrian and vehicle beach access ramp to the City's approximately 1-mile long stretch of beach.

The Commission's staff engineer has determined that the proposed return wall extension will create no new impacts that would require additional access/recreation mitigation. The proposed return wall extension will be constructed behind the current return wall (perpendicular to the shore) in an area that, previous to the significant failure of the lower coastal bluff which occurred on January 16, 2010, was coastal bluff. The proposed return wall provides shoreline protection for the same area of bluff (the same sand and other materials) that are kept in place within the bluff by the existing seawall. The Commission required mitigation for the public access and recreation impacts of the existing seawall; thus, because the proposed return wall provides protection for the same bluff area addressed in the permit for the original seawall, there is no additional impact caused by the return wall that would require additional mitigation. No public beach area will be impacted as a result of the return wall extension. Thus, as conditioned, the Commission finds the project consistent with the public access and recreation policies of the Coastal Act.

4. Visual Resources/Alteration of Natural Landforms. Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

In addition, Section 30240(b) of the Act states that:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

As stated above, the proposed development will occur on the face of a coastal bluff and on the public beach. The applicant is proposing to construct a 5 ft.-long, 2 ft. 4 in.-wide, 35 ft.-high extension to the existing return wall on the southern end of the existing 120 ft.-long, 35 ft.-high Las Brisas seawall. To mitigate the visual impacts of the proposed return wall extension, the applicant proposes to color and texture the return wall extension. The visual treatment proposed is similar to the visual treatment approved by the Commission in recent years for seawalls along the Solana Beach shoreline (6-02-84/Scism; 6-02-02/Gregg, Santana; 6-03-33/Surfsong) and will match the existing Las Brisas seawall and the adjacent natural bluff.

Therefore, the Commission finds that potential visual impacts associated with the proposed development have been reduced to the maximum extent feasible and the proposed development will include measures to prevent impacts that would significantly degrade the adjacent park and recreation area (beach area). Thus, the project can be found consistent with Sections 30240 and 30251 of the Coastal Act.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The project site is designated for Open Space Recreation in the City of Solana Beach Zoning Ordinance and General Plan, and was also designated for open space uses under the County LCP. As conditioned, the subject development is consistent with these requirements.

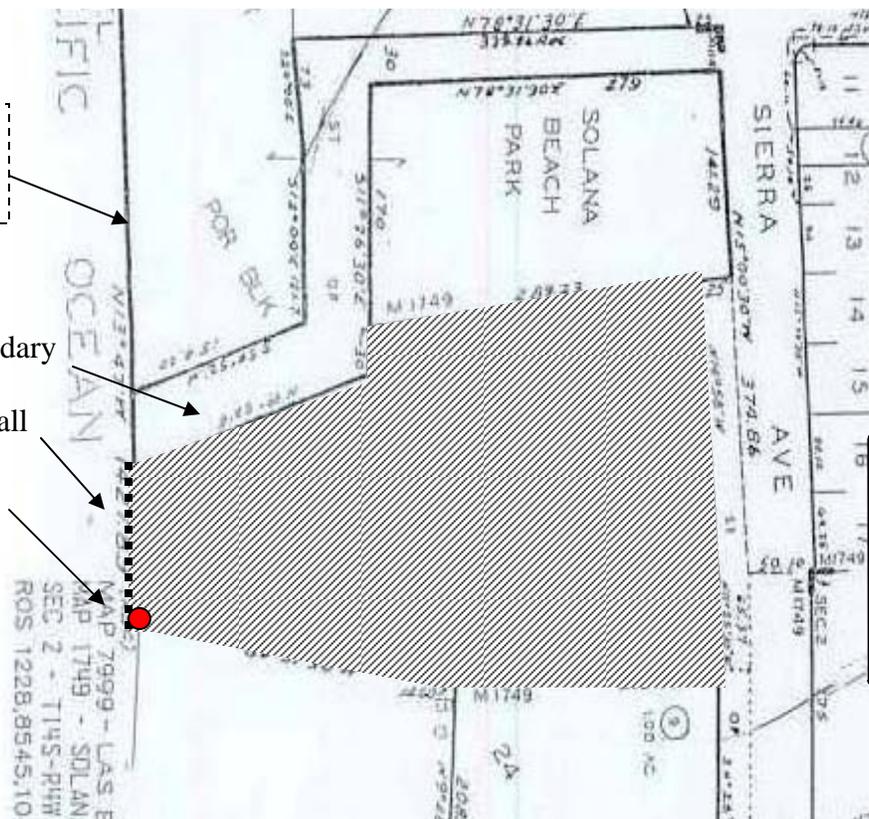
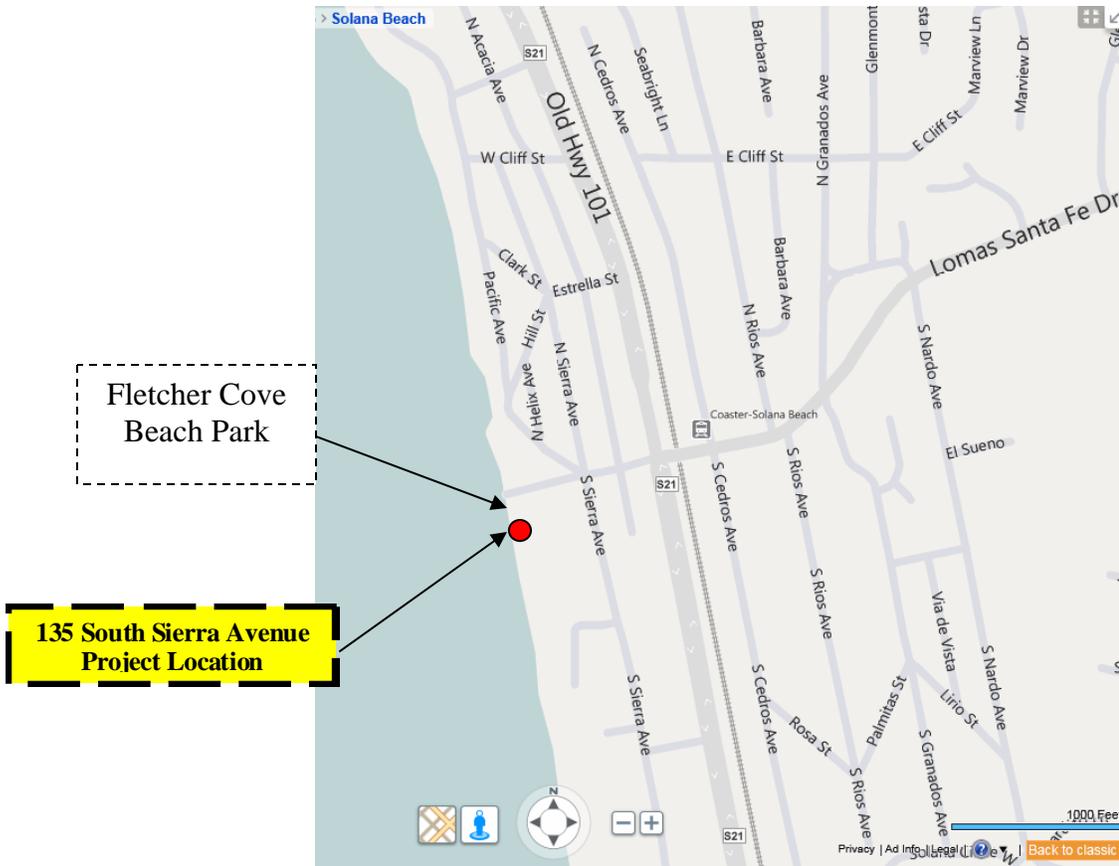
Therefore, the Commission finds the proposed development is consistent with the Chapter 3 policies of the Coastal Act, and will not prejudice the ability of the City of Solana Beach to complete a certifiable local coastal program. However, these issues of shoreline planning will need to be addressed in a comprehensive manner in the future through the City's LCP certification process

6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a

proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions that the applicant has agreed to comply with all previous permit conditions, accept all associated risk and liability, and record the conditions of this permit amendment against their property, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

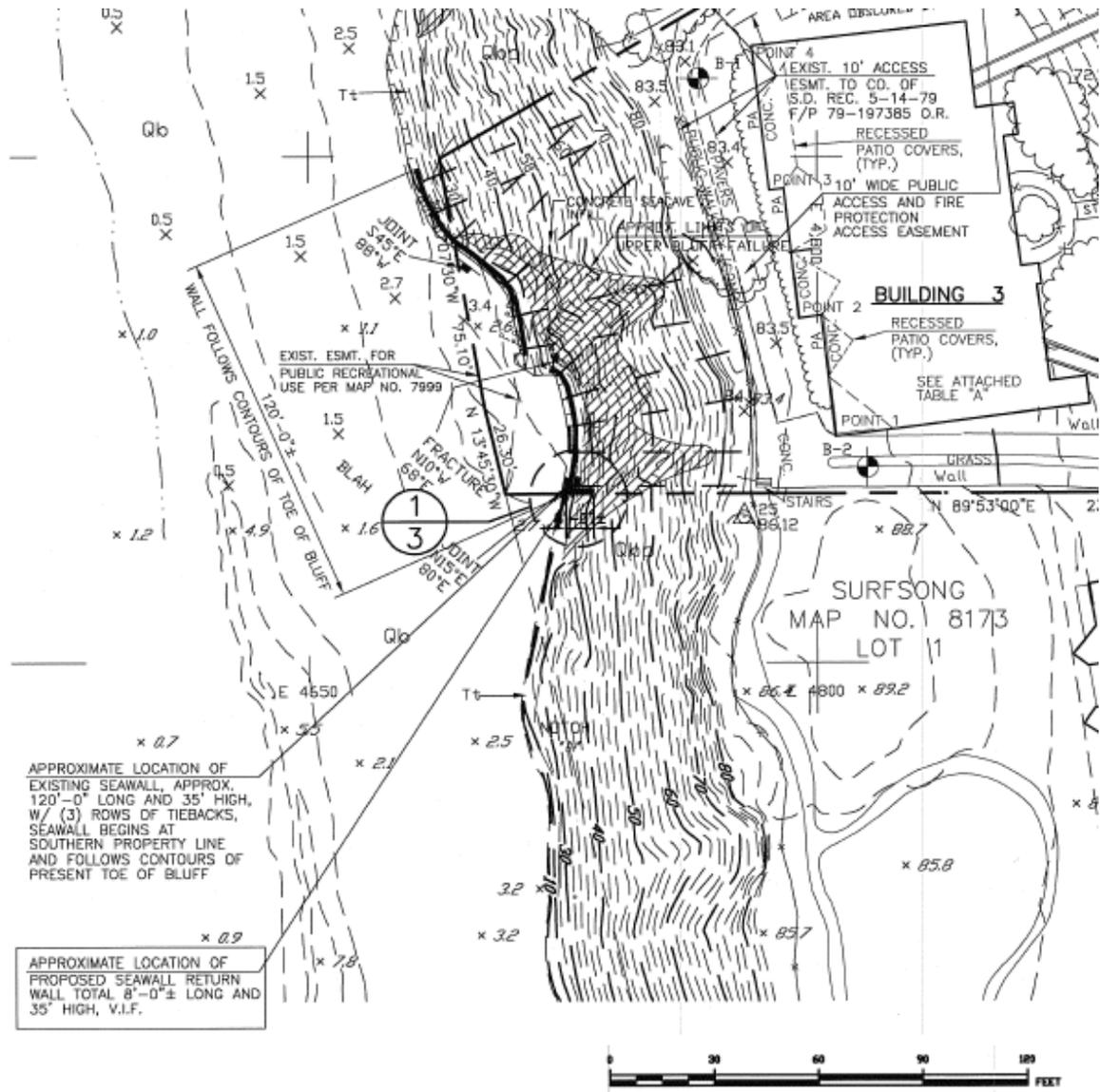
# Project Location and Assessors Parcel Map



- Fletcher Cove Beach Park
- Property Boundary
- Existing Seawall
- Return Wall

EXHIBIT NO. 1
APPLICATION NO.
<b>6-05-72-A1</b>
Project Location
California Coastal Commission

# Existing Las Brisas Seawall and Proposed Return Wall Plan



APPROXIMATE LOCATION OF EXISTING SEAWALL, APPROX. 120'-0" LONG AND 35' HIGH, W/ (3) ROWS OF TIEBACKS, SEAWALL BEGINS AT SOUTHERN PROPERTY LINE AND FOLLOWS CONTOURS OF PRESENT TOE OF BLUFF

APPROXIMATE LOCATION OF PROPOSED SEAWALL RETURN WALL TOTAL 8'-0"± LONG AND 35' HIGH, V.I.F.



EXHIBIT NO. 2
APPLICATION NO.
<b>6-05-72-A1</b>
Site Plan
California Coastal Commission

# Return Wall Plan

LAS BRISAS CONDOMINIUM ASSOCIATION  
135 SOUTH SIERRA AVENUE,  
SOLANA BEACH, CALIFORNIA

#5 CONTINUOUS BARS  
@ 12" C.C. E.W., E.F. (EACH FACE),  
"PANEL" REINFORCING, ALL REBAR TO  
BE EPOXY COATED, (TYP.)  
AT CONTRACTOR'S OPTION INSTALL  
#5 CONTINUOUS BARS @ 6" C.C., E.W.  
ON SEAWARD FACE

INSTALL "J" DRAIN PANELS, OR CCW  
MIRADRAIN 2000 PANELS, OR EQUAL,  
AS CHIMNEY DRAIN, APPROX. 4'-0"  
WIDE PANELS, W/ CCW HC 12"  
SIDEOUT DRAINAGE CONNECTOR, TIED  
INTO 3" DIA. SCH. 40 PVC DRAIN  
OUTLET PIPE WEEP HOLE, (TYP.)

INSTALL #4 TIES @ 5'-0" C.C.±  
VERTICALLY

INSTALL #8 DOWELS @ 12" C.C. VERTICALLY  
TOTAL 3'-9" LONG (MIN.), DRILL 7" (MIN.)  
INTO (E) SEAWALL, USE EPOXY GROUT, (TYP.)

CONSTRUCTION JOINT (C.J.), SAND BLAST  
ROUGH CLEAN (E) CONCRETE SURFACE AND  
CUT 2"x6" CONTINUOUS VERTICAL KEY

(E) #5 CONTINUOUS BARS  
@ 10" C.C. VERT. & @ 12" C.C.  
HORIZONTALLY, E.F. (EACH FACE),  
"PANEL" REINFORCING, (TYP.)

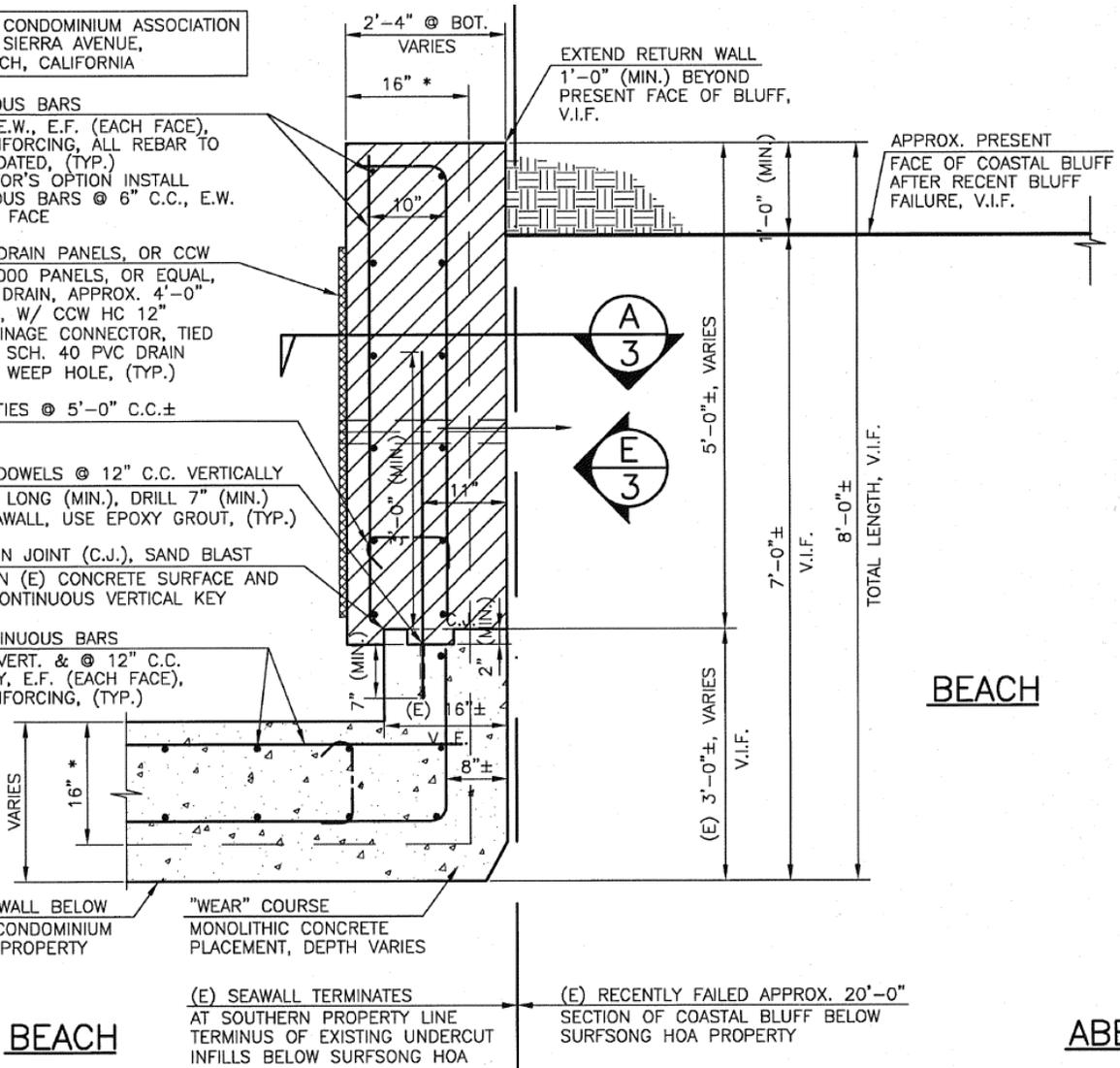
EXISTING SEAWALL BELOW  
LAS BRISAS CONDOMINIUM  
ASSOCIATION PROPERTY

"WEAR" COURSE  
MONOLITHIC CONCRETE  
PLACEMENT, DEPTH VARIES

(E) SEAWALL TERMINATES  
AT SOUTHERN PROPERTY LINE  
TERMINUS OF EXISTING UNDERCUT  
INFILLS BELOW SURFSONG HOA

EXTEND RETURN WALL  
1'-0" (MIN.) BEYOND  
PRESENT FACE OF BLUFF,  
V.I.F.

APPROX. PRESENT  
FACE OF COASTAL BLUFF  
AFTER RECENT BLUFF  
FAILURE, V.I.F.



BEACH

BEACH

UP COAST

DOWN COAST

ABB

C.C.  
C.O.  
E.W.



EXHIBIT NO. 3
APPLICATION NO. <b>6-05-72-A1</b>
Return Wall Plan
California Coastal Commission





# Return Wall Plan

LAS BRISAS CONDOMINIUM ASSOCIATION  
135 SOUTH SIERRA AVENUE,  
SOLANA BEACH, CALIFORNIA

**#5 CONTINUOUS BARS**

⊙ 12" C.C. E.W., E.F. (EACH FACE),  
"PANEL" REINFORCING, ALL REBAR TO  
BE EPOXY COATED, (TYP.)  
AT CONTRACTOR'S OPTION INSTALL  
#5 CONTINUOUS BARS ⊙ 6" C.C., E.W.  
ON SEAWARD FACE

INSTALL "J" DRAIN PANELS, OR CCW  
MIRADRAIN 2000 PANELS, OR EQUAL,  
AS CHIMNEY DRAIN, APPROX. 4'-0"  
WIDE PANELS, W/ CCW HC 12"  
SIDEOUT DRAINAGE CONNECTOR, TIED  
INTO 3" DIA. SCH. 40 PVC DRAIN  
OUTLET PIPE WEEP HOLE, (TYP.)

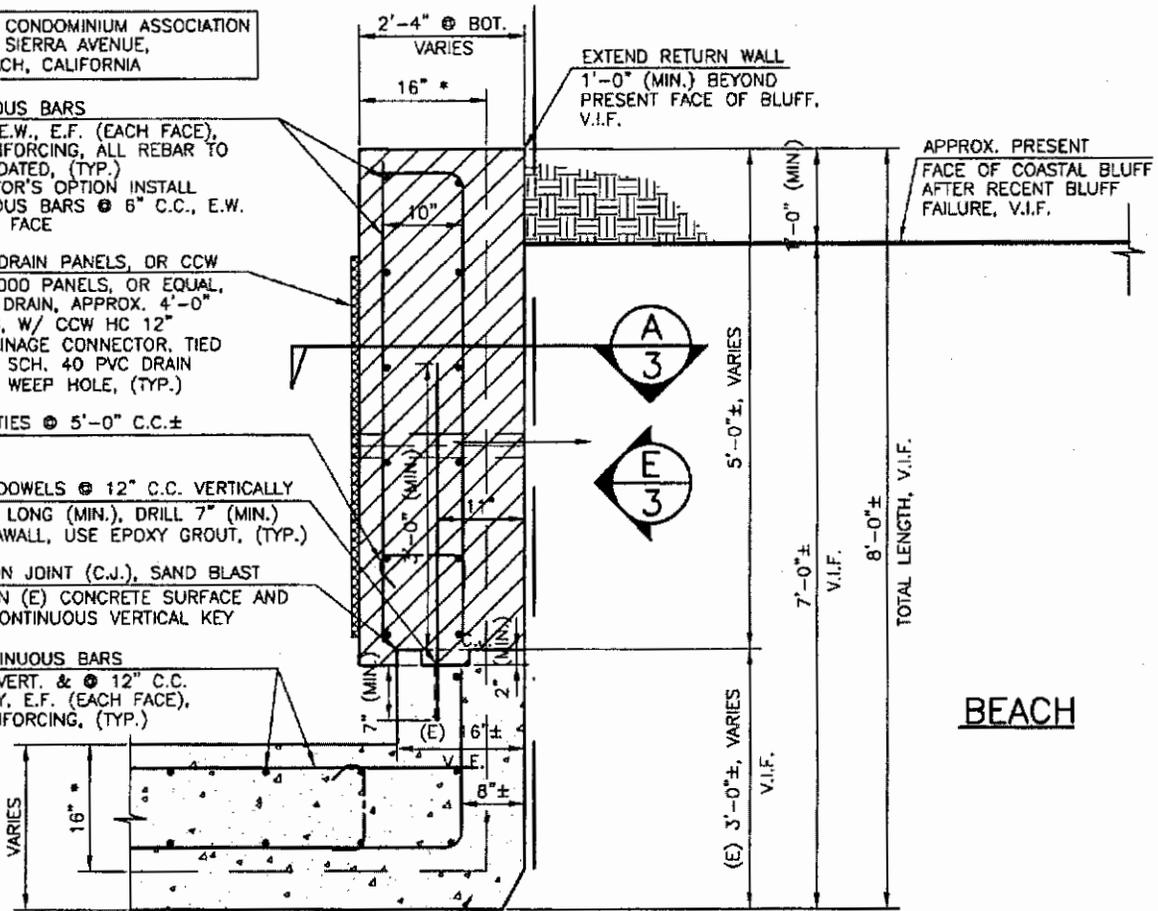
INSTALL #4 TIES ⊙ 5'-0" C.C.±  
VERTICALLY

INSTALL #8 DOWELS ⊙ 12" C.C. VERTICALLY  
TOTAL 3'-9" LONG (MIN.), DRILL 7" (MIN.)  
INTO (E) SEAWALL, USE EPOXY GROUT, (TYP.)

CONSTRUCTION JOINT (C.J.), SAND BLAST  
ROUGH CLEAN (E) CONCRETE SURFACE AND  
CUT 2"x8" CONTINUOUS VERTICAL KEY

**(E) #5 CONTINUOUS BARS**

⊙ 10" C.C. VERT. & ⊙ 12" C.C.  
HORIZONTALLY, E.F. (EACH FACE),  
"PANEL" REINFORCING, (TYP.)



EXISTING SEAWALL BELOW  
LAS BRISAS CONDOMINIUM  
ASSOCIATION PROPERTY

"WEAR" COURSE  
MONOLITHIC CONCRETE  
PLACEMENT, DEPTH VARIES

(E) SEAWALL TERMINATES  
AT SOUTHERN PROPERTY LINE  
TERMINUS OF EXISTING UNDERCUT  
INFILLS BELOW SURFSONG HOA

(E) RECENTLY FAILED APPROX. 20'-0"  
SECTION OF COASTAL BLUFF BELOW  
SURFSONG HOA PROPERTY

**BEACH**

**ABE**

**UP COAST**

**DOWN COAST**

C.C.  
C.O.  
E.W.



EXHIBIT NO. 3  
APPLICATION NO.  
**6-05-72-A1**  
Return Wall Plan  
California Coastal Commission

**CALIFORNIA COASTAL COMMISSION**

San Diego Coast Area Office  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4421  
(619) 767-2370

Date: December 1, 2005  
Permit Application No.: 6-05-072  
Page: 1 of 11

**NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

**THIS IS NOT A COASTAL DEVELOPMENT PERMIT**

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all of the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On **October 12, 2005**, the California Coastal Commission approved Coastal Development Permit No. **6-05-072**, requested by **Las Brisas Homeowners Association, Attn: Jack Harris** subject to the attached conditions, for development consisting of: **Construction of an approximately 120 ft.-long, 35 ft. high, colored and textured concrete tiedback seawall, concrete backfill and fill of seacave/notches with erodible concrete below 36 condominium structures..** More specifically described in the application file in the Commission offices. **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone in **On the beach and bluff face below 135 South Sierra Avenue, Solana Beach (San Diego County).**

EXHIBIT NO. 4
APPLICATION NO. <b>6-05-72-A1</b>
NOI 6-05-072
Page 1 of 11 California Coastal Commission

**NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

Date: December 1, 2005

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If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. 6-05-072, please contact the Coastal Program Analyst identified below.

Sincerely,  
PETER M. DOUGLAS  
Executive Director

By: Gary Cannon  
Coastal Program Analyst  
Date: December 1, 2005

**ACKNOWLEDGMENT**

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

\_\_\_\_\_

Date

Permittee

Please sign and return one copy of this form to the Commission office at the above address.

**STANDARD CONDITIONS**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

## **NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

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3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **SPECIAL CONDITIONS:**

The permit is subject to the following conditions:

1. **Final Revised Plans.** **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit for review and written approval of the Executive Director, final plans for the seawall, concrete backfill, and seacave/notch fills in substantial conformance with the submitted plans dated June 3, 2004 and as Revised on March 25, 2005, by Soil Engineering Construction. Said plans shall first be approved by the City of Solana Beach and be revised to include the following:
  - a. Sufficient detail regarding the construction method and technology utilized for constructing the seawall so as to demonstrate that the design will gradually blend into the adjacent natural bluff. The north and south sides of the seawall shall be designed and constructed to minimize the erosive effects of the approved seawall on the adjacent bluffs.
  - b. Sufficient detail regarding the construction method and technology utilized for texturing and coloring the seawall to confirm, and be of sufficient detail to verify, that the seawall and return wall's color and texture closely matches the adjacent natural bluffs, including provision of a color board indicating the color of the fill material.
  - c. As noted on the plans for Repairs to Lower Bluff (Revised 3/25/05), any existing permanent irrigation system located within 150 feet from the bluff edge shall be removed or capped.

## **NOTICE OF INTENT TO ISSUE PERMIT**

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- d. All runoff from impervious surfaces on the top of the bluff shall be collected and directed away from the bluff edge towards the street.

Existing accessory improvements (i.e., decks, patios, walls, etc.) located in the geologic setback area on the site shall be detailed and drawn to scale on the final approved site plan and shall include measurements of the distance between the accessory improvements and the bluff edge (as defined by Section 13577 of the California Code of Regulations) taken at 3 or more locations. The locations for these measurements shall be identified through permanent markers, benchmarks, survey position, written description, or other method that enables accurate determination of the location of structures on the site. Any future permitted accessory improvements shall be located no closer than 5 feet landward of the natural bluff edge.

The permittees shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Mitigation for Impacts to Public Recreational Use and Sand Supply. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that a fee of \$271,658.08 (\$248,680.72 for loss of sandy beach area, and thus, loss of public recreational impacts + \$22,977.36 for loss of sand) has been deposited in an interest bearing account designated by the Executive Director, in-lieu of providing the total amount of sand to replace the sand that will be lost due to the impacts of the proposed protective structure and to mitigate for the loss of public recreational use over 22 years resulting from effects associated with the placement of the structure on the public beach at the toe of the natural bluffs. All interest earned by the account shall be payable to the account for the purposes stated below.

The required in-lieu fee mitigation covers impacts only through the identified 22-year design life of the seawall. No later than 21 years after the issuance of this permit, the permittees or their successor in interest shall apply for and obtain an amendment to this permit that either requires the removal of the seawall within its initial design life or requires mitigation for the effects of the seawall on shoreline sand supply, and thus public recreational use, for the expected life of the seawall beyond the initial 22 year design life. If within the initial design life of the seawall

## **NOTICE OF INTENT TO ISSUE PERMIT**

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the permittees or their successor in interest obtain a coastal development permit or an amendment to this permit to enlarge or reconstruct the seawall or perform repair work that extends the expected life of the seawall, the permittee shall provide mitigation for the effects of the additional size of the seawall or the extended effects of the existing seawall on shoreline sand supply and public recreational use for the expected life of the seawall beyond the initial 22 year design life.

The purpose of the account shall be to establish a beach sand replenishment fund to aid SANDAG, or a Commission-approved alternate entity, in the restoration of the beaches within San Diego County. The funds for loss of sand shall be used solely to implement projects which provide sand to the region's beaches, not to fund operations, maintenance or planning studies. The funds for impacts on public access and recreation shall be used solely for permanent long-term public recreational improvements. The funds shall be released only upon approval of an appropriate project by the Executive Director of the Coastal Commission. The funds shall be released as provided for in a MOA between SANDAG, or a Commission-approved alternate entity, and the Commission, setting forth terms and conditions to assure that the in-lieu fee will be expended in the manner intended by the Commission. If the MOA is terminated, the Commission can appoint an alternative entity to administer the fund.

3. Monitoring Program. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval, a monitoring program prepared by a licensed civil engineer or geotechnical engineer to monitor the performance of the seawall, concrete backfill and exposed seacave/notch infills which requires the following:

- a. An annual evaluation of the condition and performance of the seawall, concrete backfill and exposed seacave/notch infills addressing whether any significant weathering or damage has occurred that would adversely impact the future performance of the structures. This evaluation shall include an assessment of the color and texture of the seawall and concrete backfill comparing the appearance of the structures to the surrounding native bluffs.
- b. Annual measurements of any differential retreat between the natural bluff face and the seawall face, at the north and south ends of the seawall and at 20-foot intervals (maximum) along the top of the seawall face/bluff face

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intersection. The program shall describe the method by which such measurements shall be taken.

- c. Provisions for submittal of a report to the Executive Director of the Coastal Commission by May 1 of each year (beginning the first year after construction of the project is completed) for a period of three years, and then each third year following the last annual report, for the life of the approved seawall and seacave/notch infills. However, reports shall be submitted in the Spring immediately following either:

1. A significant storm event – comparable to or greater than a 20-year storm.
2. An earthquake of magnitude 5.5 or greater with an epicenter in San Diego County or offshore.

Thus reports may be submitted more frequently depending on the occurrence of the above events in any given year.

- d. Each report shall be prepared by a licensed civil, geotechnical engineer or geologist. The report shall contain the measurements and evaluation required in sections a and b above. The report shall also summarize all measurements and analyze trends such as erosion of the bluffs or changes in sea level and the stability of the overall bluff face, including the upper bluff area, and the impact of the seawall on the bluffs to either side of the wall. In addition, each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the project.
- e. An agreement that the permittee shall apply for a coastal development permit within 90 days of submission of the report required in subsection c. above for any necessary maintenance, repair, changes or modifications to the project recommended by the report that require a coastal development permit and implement the repairs, changes, etc. approved in any such permit.

The permittee shall undertake monitoring in accordance with the approved monitoring program. Any proposed changes to the approved monitoring program shall be reported to the Executive Director. No changes to the monitoring program shall occur without a Coastal Commission approved

## **NOTICE OF INTENT TO ISSUE PERMIT**

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amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Storage and Staging Areas/Access Corridors. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that:

- a. No overnight storage of equipment or materials shall occur on the public beach or in public parking spaces at Fletcher Cove. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to construct the seawall and notch fill. Construction equipment shall not be washed on the beach or in the Fletcher Cove parking lot.
- b. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c. No work shall occur on the beach on weekends, holidays or between Memorial Day weekend and Labor Day of any year.
- d. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Storm Design/Certified Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit certification by a registered civil engineer that the proposed shoreline protective devices are designed to withstand storms comparable to the winter storms of 1982-83.

## **NOTICE OF INTENT TO ISSUE PERMIT**

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In addition, **within 60 days following construction**, the permittee shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the seawall, concrete backfill and seacave/notch infills have been constructed in conformance with the approved plans for the project. These plans shall also show the elevations of the clean sand lens along the bluff face and the contacts of this lens with the Torrey Formation and terrace deposits.

6. Future Response to Erosion. If in the future the permittees seek a coastal development permit to construct additional bluff or shoreline protective devices, the permittees will be required to include in the permit application information concerning alternatives to the proposed bluff or shoreline protection that will eliminate impacts to scenic visual resources, recreation and shoreline processes. Alternatives shall include but not be limited to: relocation of all or portions of the principle structure that are threatened, structural underpinning, and other remedial measures capable of protecting the principal structure and providing reasonable use of the property, without constructing bluff or shoreline stabilization devices. The information concerning these alternatives must be sufficiently detailed to enable the Coastal Commission or the applicable certified local government to evaluate the feasibility of each alternative, and whether each alternative is capable of protecting existing structures that are in danger from erosion. No additional bluff or shoreline protective devices shall be constructed on the adjacent bluff face above the approved seawall or on the beach in front of the proposed seawall unless the alternatives required above are demonstrated to be infeasible. No shoreline protective devices shall be constructed in order to protect ancillary improvements (patios, decks, fences, landscaping, etc.) located between the principal residential structures and the ocean.

7. Future Maintenance. The permittee shall maintain the permitted seawall, concrete backfill and seacave/notch infills in its approved state. Maintenance of the seawall and seacave/notch infills includes maintaining the color, texture and integrity. Any change in the design of the project or future additions/reinforcement of the seawall, backfill or seacave/notch infills beyond exempt maintenance as defined in Section 13252 of Title 14 of the California Code of Regulations to restore the structure to its original condition as approved herein, will require a coastal development permit. **However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, including maintenance of the color of the structures to ensure a continued match with the surrounding native bluffs, the permittee shall contact the Executive Director to determine whether a coastal development permit or an amendment to this permit**

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**is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance.**

8. Other Permits. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director copies of all other required local, state or federal discretionary permits for the development authorized by CDP #6-04-156. The applicant shall inform the Executive Director of any changes to the project required by other local, state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

9. State Lands Commission Approval. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval, a written determination from the State Lands Commission that:

- a) No state lands are involved in the development; or
- b) State lands are involved in the development, and all permits required by the State Lands Commission have been obtained; or
- c) State lands may be involved in the development, but pending a final determination of state lands involvement, an agreement has been made by the applicant with the State Lands Commission for the project to proceed without prejudice to the determination.

10. Public Rights. The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that exist or may exist on the property.

11. Assumption of Risk, Waiver of Liability and Indemnity Agreement. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from erosion and coastal bluff collapse; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its

## **NOTICE OF INTENT TO ISSUE PERMIT**

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officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

12. Deed Restriction/CC&R's Modification. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant homeowners' association (HOA) shall do one of the following:

**A.** Submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction in a manner that will cause said deed restriction to appear on the title to the individual condominium units, and otherwise in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as they apply to the HOA, as covenants, conditions and restrictions on the use and enjoyment of the individual condominium units. The deed restriction shall include a legal description of the entire parcel or parcels against which it is recorded. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property, or;

**B.** Modify the condominium association's Declaration of Restrictions or CC&Rs, as applicable, in a form and content acceptable to the Executive Director, to reflect the obligations imposed on the homeowners' association by conditions 2, 3, 6, 7, 10, and 11, above. This addition to the CC&Rs shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit.

13. Best Management Practices. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit for review and written approval of the Executive Director, a Best Management Plan that effectively assures no shotcrete or other construction byproduct will be allowed onto the sandy beach and/or allowed to enter into coastal waters. The Plan shall apply to both concrete

## **NOTICE OF INTENT TO ISSUE PERMIT**

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pouring/pumping activities as well as shotcrete/concrete application activities. During shotcrete/concrete application specifically, the Plan shall at a minimum provide for all shotcrete/concrete to be contained through the use of tarps or similar barriers that completely enclose the application area and that prevent shotcrete/concrete contact with beach sands and/or coastal waters. All shotcrete and other construction byproduct shall be properly collected and disposed of off-site.

The applicant shall undertake the development in accordance with the approved Plan. Any proposed changes to the approved Plan shall be reported to the Executive Director. No changes to the Plan shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**NOTE: IF THE SPECIAL CONDITIONS REQUIRE THAT DOCUMENT(S) BE RECORDED WITH THE COUNTY RECORDER, YOU WILL RECEIVE THE LEGAL FORMS TO COMPLETE (WITH INSTRUCTIONS). IF YOU HAVE ANY QUESTIONS, PLEASE CALL GARY CANNON AT (619) 767-2370 THE DISTRICT OFFICE.**