

CALIFORNIA COASTAL COMMISSION

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F19a

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 Staff: L. McEachern-SD
 Staff Report: 6/16/10
 Hearing Date: 7/7-9/10

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: F7195-A1

Applicant: Holmes Family Trust
 AB Mountain Associates

Original Description: Construction of a riprap revetment at the toe of bluff to protect against further bluff erosion.

Proposed Amendment: Maintenance of riprap revetment on beach to include pulling stones off beach and restacking on revetment.

Site: 5570 & 5576 Calumet Avenue, La Jolla, San Diego, San Diego County.

Substantive File Documents: City of San Diego certified Local Coastal Program; CDP #F7195; Revetment Inspection Report for 5570 & 5576 Calumet Avenue by GeoSoils inc., dated June 16, 2009.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends the Commission approve the project with several special conditions. The project would repair an existing rock revetment by relocating riprap that has migrated onto the beach and repositioning existing rock to fill voids in the revetment that have formed through settling. The entire revetment has been permitted by the Commission, and the proposed maintenance will return the revetment to its permitted configuration. No encroachment onto the beach beyond the originally permitted footprint is proposed, and no impacts from the revetment itself, not previously anticipated by the Commission in the original permit, are expected to occur.

Standard of Review: Chapter 3 policies of the Coastal Act.

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. F7195 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. 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. Final Plans/Timing of Construction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final construction and staging plans to the Executive Director for review and written approval. The final plans shall indicate that:

- a) No new or additional riprap stones shall be added to the revetment. Only existing stones that have been displaced may be retrieved and pulled back and placed on the revetment.
- b) No overnight storage of equipment or materials shall occur on the public beach or public parking spaces.
- c) Access corridors and staging areas shall be identified and shall be located in the manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes.

- d) No work shall occur on the public beach between Memorial Day weekend and Labor Day of any year.
- e) The staging area shall be removed and/or restored following completion of the development.

The applicant shall undertake 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. As Built Plans. Within 60 days of completion of the project, the applicant shall submit as-built plans for the approved revetment repairs and submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the revetment has been repaired in conformance with the approved plans for the project. The plans shall identify permanent benchmarks from fixed reference point(s) from which the elevation and seaward limit of the revetment can be referenced for measurements in the future.

3. Long-Term Monitoring Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a long-term monitoring plan for the existing shoreline protection. The purpose of the plan is to monitor and identify damage or changes to the revetment such that repair and maintenance is completed in a timely manner to avoid further encroachment of the revetment on the beach. The monitoring plan shall incorporate, but not be limited to, the following:

- a. An evaluation of the current condition and performance of the revetment, addressing any migration or movement of rock which may have occurred on the site and any significant weathering or damage to the revetment that may adversely impact its future performance.
- b. Measurements taken from the benchmarks established in the survey as required in Special Condition #2 of CDP #F7195-A1 to determine settling or seaward movement of the revetment. Changes in the beach profile fronting the site shall be noted and the potential impact of these changes on the effectiveness of the revetment evaluated.
- c. Recommendations on any necessary maintenance needs, changes or modifications to the revetment to assure its continued function and to assure no encroachment beyond the permitted toe.
- d. An agreement that the permittee shall apply for a coastal development permit within 90 days of submission of the report 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 above-cited monitoring information shall be summarized in a report prepared by a licensed engineer familiar with shoreline processes and submitted to the Executive Director for review and written approval. The report shall be submitted to the Executive Director yearly after each winter storm season but prior to the 1st of May, starting with May 1, 2011. Monitoring shall continue throughout the life of the revetment or until the revetment is removed or replaced under a separate coastal development permit.

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

4. Future Maintenance. The applicant shall maintain the existing revetment in its approved state. Any change in the design of the revetment or future additions/reinforcement of the revetment 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 will require a coastal development permit. **However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, the applicant shall contact the Executive Director to determine whether a coastal development permit or an amendment to this permit is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance.**

5. Project Modifications. Only that work specifically described in this permit is authorized. Any additional work requires separate authorization from the Commission or Executive Director, if appropriate. **If, during construction, site conditions warrant changes to the project, the San Diego District office of the Coastal Commission shall be contacted immediately and before any changes are made to the project in the field.** No changes to the project shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. No Future Seaward Extension of Shoreline Protective Devices. By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device, shall be undertaken if such activity extends the footprint seaward of the existing device. By acceptance of this Permit, the applicant waives, on behalf of itself and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235.

The applicant 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.

7. Prior Conditions of Approval. All special conditions adopted by the Coastal Commission as part of the original permit action, remain in full force and effect.

8. Other Permits. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicants shall provide to the Executive Director copies of all other required local, state or federal discretionary permits for the development authorized by CDP #F7195-A1. The applicants 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 applicants obtain a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

9. 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 applicants shall not use this permit as evidence of a waiver of any public rights that exist or may exist on the property.

10. Assumption of Risk, Waiver of Liability and Indemnity Agreement. By acceptance of this permit, the applicants acknowledge and agree (i) that the sites may be subject to hazards from erosion and coastal bluff collapse; (ii) to assume the risks to the applicants and the properties that are 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 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.

11. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a deed restriction, 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 covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. 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.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The proposed project is to conduct maintenance to an existing riprap revetment located on the beach fronting two blufftop properties. The project will occur on the public beach fronting 5570 & 5576 Calumet Avenue, just south of Forward Street, in the La Jolla community of the City of San Diego. Both of the properties have an existing single-family home on the blufftop.

The existing riprap revetment subject to this review was originally authorized for installation pursuant to an emergency permit issued on April 4, 1978 (ref. Emergency Permit #E0022). Subsequently, the Commission approved the follow-up coastal development permit to permanently authorize the revetment on September 8, 1978 (ref. CDP #F7195). Both the emergency permit and the required follow-up permit included two other properties adjacent to and south of the subject site (5556 and 5564 Calumet Ave.). However, neither of the other two properties has requested maintenance of the revetment fronting their homes. It should be noted that the existing revetment abuts a small vertical seawall on the north end that extends out onto the beach. This seawall was constructed prior to the Coastal Act and, as such, was present when the revetment was originally approved.

While the City of San Diego has a certified LCP and issues coastal development permits for the La Jolla area, the subject project is located within the Commission's area of original jurisdiction. As such, the standard of review is the Chapter 3 policies of the Coastal Act, with the LCP used as guidance.

2. Seawall/Shoreline Protective Devices/Geologic 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 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.

[. . .]

Section 30240 requires that development in areas adjacent to environmentally sensitive habitat and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and be compatible with the continuance of those habitat and recreation areas.

In reviewing requests for shoreline protection, the Commission must assess both the need to protect private residential development and the potential adverse impacts to public resources associated with construction of shore/bluff protection. A number of adverse impacts to public resources are associated with the construction of shoreline structures. These include loss to the public of the sandy beach area that is displaced by the structure, "permanently" fixing the back of the beach, which leads to the narrowing and eventual disappearance of the beach in front of the structure, sand loss from the beach due to wave reflection and scour, accelerated erosion on adjacent unprotected properties, and the adverse visual impacts associated with construction of a shoreline protective device on the contrasting natural shoreline. As such, the construction of shoreline development raises consistency concerns with a number of Coastal Act policies, including Sections 30210, 30211, 30212, 30235, 30240, 30251, and 30253.

In its review of the original project, the Commission found that the existing homes at this location were in danger from wave erosion and bluff collapse and that shoreline protection was required to protect the existing structures. The purpose of the proposed maintenance is to ensure that the existing revetment continues to protect the existing residential structures on the bluff top from wave erosion. A wave runoff report has been submitted by the applicant (ref. GeoSoils Inc. report dated June 16, 2009). The GeoSoils report states that the need for shoreline protection in this area was established in the previously approved coastal development permit and that the need for such protection still exists today. Specifically, the report states:

The existing revetment is in need of maintenance at this time to insure its proper performance and to prevent further oversteepening. While the stone size is generally adequate for protection of the site, most of the stones are not oriented properly. Maintenance should consist of repositioning of stones which are oriented improperly or have become dislodged. Many stones have rolled down the slope. These stones should be collected and placed back onto the face and locked into place....No further seaward encroachment of the structure beyond what was permitted is necessary for the maintenance and proper functioning of the revetment. The revetment, when properly maintained represents the minimum shore protection necessary to protect the property....

The Commission's coastal engineer has reviewed the submitted technical report and has concurred that the existing residential structures on the blufftop are subject to threat and that the proposed repairs are the minimum amount necessary to correct the problem and protect the existing structures.

To assure the proposed shore/bluff protection has been constructed properly, Special Condition #2 has been proposed. This condition requires that, within 60 days of completion of the project, as built-plans and certification by a registered civil engineer be submitted that verify the proposed revetment repairs have been completed in accordance with the approved plans and that benchmarks be identified from fixed reference point(s) from which the elevation and seaward limit of the revetment can be measured in the future. Special Condition #3 requires the applicant to submit annual monitoring reports to the Commission to determine settling or seaward movement of the revetment to ensure the revetment continues to be configured to minimize impacts to public access. Special Condition #4 notifies the applicants that they are responsible for continued maintenance of the existing revetment. The condition also indicates that, should it be determined that additional maintenance of the proposed structures is required in the future, the applicant shall contact the Commission to determine if permits are required. Special Condition #6 requires the applicants to waive any rights to future seaward extension of the revetment.

Although the Commission finds that the proposed repair work has been designed to minimize the risks associated with its implementation, the Commission also recognizes the inherent risk of shoreline development. The revetment will be subject to wave action. Thus, there is a risk of damage to the revetment or damage to property as a result of wave action. Given that the applicants have chosen to perform these repairs despite these risks, the applicants must assume the risks. Accordingly, Special Condition #10 requires that the applicants acknowledge the risks and indemnifies the Commission against claims for damages that may be brought by third parties against the Commission as a result of its approval of this permit. Special Condition #11 requires the applicant to record a deed restriction imposing the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

Special Condition #1 requires the applicant to submit final plans for the proposed maintenance indicating that no new or additional riprap stones shall be added to the revetment and that only existing stones that have been displaced may be retrieved and pulled back and placed on the revetment. Special Condition #8 requires the applicants to submit a copy of any required permits from other local, state or federal agencies to ensure that no additional requirements are placed on the applicants that could require an amendment to this permit.

In summary, the Commission finds that the applicants have demonstrated that the existing primary structures continue to be subject to threat from wave action and erosion and that repairs/maintenance of the existing revetment is necessary and the minimum necessary to assure continued protection. Therefore, the Commission finds that the proposed repair project, as conditioned, is consistent with Sections 30235, 30240 and 30253 of the Coastal Act.

3. Public Access. The proposed project to repair and maintain an existing riprap revetment will occur on the public beach. As such, the potential for impacts on public access exist. The following Coastal Act policies are applicable to the proposed project and state, in part:

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 except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby [...]

By the nature of riprap revetments on the beach, it is recognized that periodic maintenance will be necessary for the revetment to retain its approved form. In the case of the proposed maintenance project, the stones from previously approved riprap have rolled off the revetment and others have been moved around and repositioned by waves such that the revetment is no longer providing adequate protection for the residences. The proposed project would pull back the riprap that has migrated beyond the approved revetment footprint. Replacing the migrated riprap will remove an existing access obstruction on the beach. Special Condition #1 requires that the applicant submit as-built plans demonstrating that the revetment has been built within the boundaries of the originally approved revetment.

The proposed project is consistent with the terms and requirements of the previously approved permit. Because the project will not result in any additional encroachment on the beach beyond the previously approved footprint, the project will not adversely impact public access. However, because the project is located on the beach, construction

activities associated with the project could potentially impact public access. The applicants have not submitted any staging and access plan that shows how they will get equipment to the site. There is no direct street access to the area where the revetment is located and the beach in this area is comprised of rock and cobble. Because there is no direct beach access or parking facilities adjacent to the site and because the proposed work will only take a couple of days, Special Condition #1 requires the applicant to submit final construction and staging plans that limit the use of any public parking areas, including on-street parking, for staging or storage of equipment overnight and that any approved staging area be restored upon completion of the project. The condition also prohibits construction on the beach during the summer months of Memorial Day to Labor Day of any year. Therefore, impacts to the public during construction of the project will be minimized to the greatest extent feasible.

In summary, the applicant is proposing to maintain the permitted shoreline protection consistent with the requirements of the original permit. The shoreline protection is required to protect existing structures and is the least environmentally damaging feasible alternative. The project will restore the revetment to its previously approved configuration and will not encroach any further seaward than the originally approved revetment, which the Commission found consistent with the Chapter 3 policies of the Coastal Act. Special Condition #7 indicates that all previously approved conditions of the original permit remain in effect. Thus, no unmitigated impacts to public access and recreation will result, consistent with the above-cited Chapter 3 policies of the Coastal Act.

4. Local Coastal Planning. The subject site is zoned and designated for residential use. The proposed repairs/maintenance to the existing riprap revetment will not affect the project's continued consistency with that zone and designation. The certified La Jolla-La Jolla Shores LCP Addendum contains policies which call for the proper siting of shoreline protective devices and their visual compatibility with the surrounding area. Since the proposed repairs to the existing riprap revetment will not result in any further encroachment onto the beach and the proposed project represents repairs to a previously-approved shoreline protection for existing development, the proposed work is consistent with the certified La Jolla-la Jolla Shores LCP Addendum and with all applicable Chapter 3 policies of the Coastal Act. The Commission finds that project approval, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the La Jolla area.

5. 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 addressing monitoring of the revetment condition and final plans 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

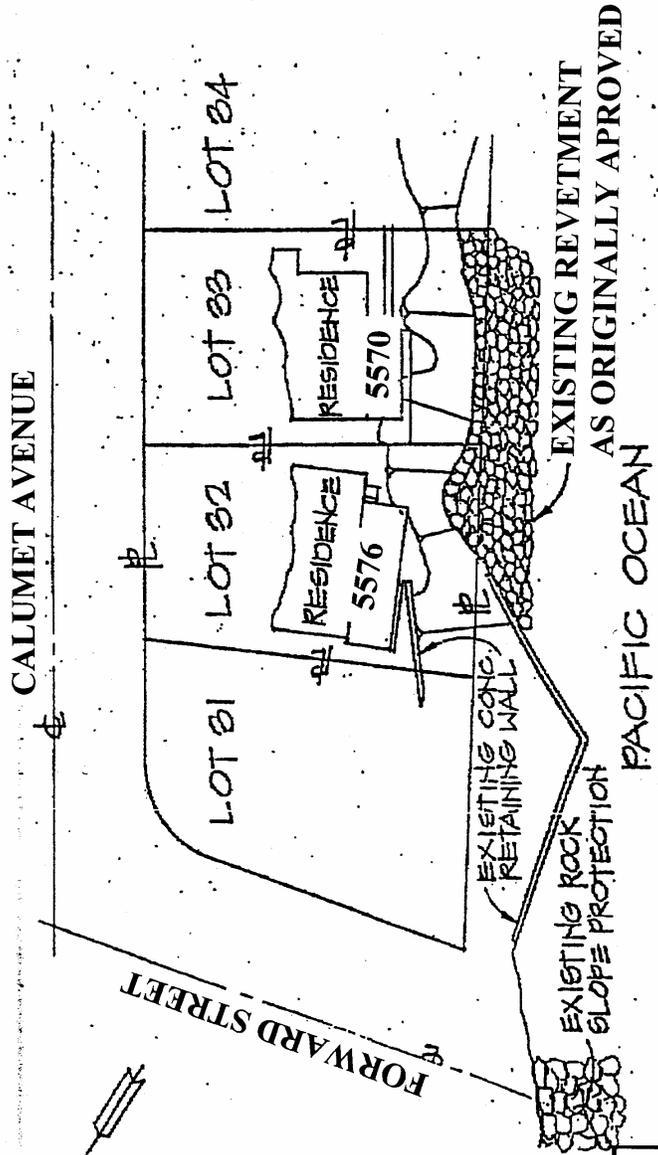


EXHIBIT NO. 2
APPLICATION NO.
F7195-A1
Site Plan
California Coastal Commission