

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
(619) 767-2370



# Th27a

[Click here to go to original staff report](#)

## Addendum

December 7, 2015

To: Commissioners and Interested Persons

From: California Coastal Commission  
San Diego Staff

Subject: Addendum to **Item Th27a**, Coastal Commission Permit Application **#6-02-084-A4 (Scism)**, for the Commission Meeting of December 10, 2015

---

Staff recommends the following changes be made to the above-referenced staff report, deletions are shown in ~~strike-out~~.

1. On page 6 of the staff report, Special Condition 4a shall be modified as follows:

4. **Duration of Armoring Approval.**

a. Authorization Expiration. The geogrid structure results in an addition/enlargement to an existing shoreline armoring system that includes the existing Commission-approved seawall and underground upper bluff caisson retention system fronting the subject site. This CDP amendment authorizes the shoreline armoring system (mid and upper bluff geogrid structure, lower bluff seawall, and the below-grade upper bluff caisson retention system) until the time when the currently existing bluff top structure requiring protection is redeveloped as that term is defined in CDP #6-02-084-A3 Special Condition 5, is no longer present, or no longer requires a protective device. Prior to the anticipated expiration of the permit ~~and/or~~ in conjunction with redevelopment of the property, the Permittee shall apply for a new CDP to remove the protective devices or to modify the terms of their authorization.

2. On page 8 of the staff report, Special Condition 4a shall be modified as follows:

a. Authorization Expiration. The geogrid structure results in an addition/enlargement to an existing shoreline armoring system that includes the existing Commission-approved seawall and underground upper bluff caisson retention system fronting the subject site. This CDP amendment authorizes the shoreline armoring system (mid and upper bluff geogrid structure, lower bluff seawall, and the below-grade upper bluff caisson retention system) until the time when the currently existing bluff top structure requiring protection is

redeveloped as that term is defined in CDP #6-02-084-A3 Special Condition 5, is no longer present, or no longer requires a protective device. Prior to the anticipated expiration of the permit ~~and~~/or in conjunction with redevelopment of the property, the Permittee shall apply for a new CDP to remove the protective devices or to modify the terms of their authorization.

3. On page 13 of Appendix A of the staff report, Special Condition 4a shall be modified as follows, deletions are shown in ~~double strike-out~~.

**4. Duration of Armoring Approval.**

a. Authorization Expiration. The geogrid structure results in an addition/enlargement to an existing shoreline armoring system that includes the existing Commission-approved seawall and underground upper bluff caisson retention system fronting the subject site. This CDP amendment authorizes the shoreline armoring system (mid and upper bluff geogrid structure, lower bluff seawall, and the below-grade upper bluff caisson retention system) until the time when the currently existing bluff top structure requiring protection is redeveloped as that term is defined in CDP #6-02-084-A3 Special Condition 5, is no longer present, or no longer requires a protective device. Prior to the anticipated expiration of the permit ~~and~~/or in conjunction with redevelopment of the property, the Permittee shall apply for a new CDP to remove the protective devices or to modify the terms of their authorization.

**CALIFORNIA COASTAL COMMISSION**

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



# TH27a

Filed: 10/06/2015  
180th Day: 04/03/2016  
Staff: E. Stevens-SD  
Staff Report: 11/19/2015  
Hearing Date: 12/10/2015

## STAFF REPORT: AMENDMENT

**Application No.:** 6-02-084-A4

**Applicant:** Douglas Scism

**Agent:** Bob Trettin

**Location:** On bluff fronting 357 Pacific Avenue, Solana Beach (San Diego County) APN #263-301-05

**Original Project Description:** After-the-fact construction of a 50-ft-long, 35-ft-high colored and textured concrete tiedback seawall and underground upper bluff retention system, consisting of nine, 35-ft-deep caissons, tiebacks, and grade-beam.

**Proposed Amendment:** Amend condition authorizing shoreline protection for 20 years to authorize seawall, geogrid structure, and upper bluff caissons for the life of the bluff top structure.

**Staff Recommendation:** Approval with Conditions

---

## SUMMARY OF STAFF RECOMMENDATION

The subject shoreline protection is located on a public bluff fronting an existing single family residence in the City of Solana Beach. The site currently contains a seawall on the public beach at the toe of the bluff, a geogrid structure on the bluff face, and buried upper bluff caissons, which have all been approved by the Commission. The existing geogrid structure is currently authorized for a period of twenty years from the date of

Commission approval of CDP #6-02-084-A3 (November 14, 2013). This CDP amendment proposes to tie the authorization of all the shoreline armoring on the site to the life of the existing threatened structure the armoring is required to protect. That is, as amended, when the existing structure warranting armoring is redeveloped, is no longer present, or no longer requires armoring, the applicant must submit a complete coastal development permit application to remove the armoring or to modify the terms of the authorization of the armoring. The three adjacent properties to the south of the subject site also have a pending CDP amendment application with the Commission requesting a similar change to their shoreline armoring authorization duration in those special conditions (ref: CDP #6-13-025-A1).

The intent of the proposed amendment is to reflect the current requirements of the City of Solana Beach certified Land Use Plan (LUP). When the subject permit was originally approved, the City's LUP required that bluff retention devices only be approved for a period of twenty years from the date of approval of the CDP. However, the LUP was subsequently amended in January 2014 to instead require that shoreline armoring be tied to the life of the existing endangered structures the armoring is required to protect, and to require that applicants submit a complete coastal development permit application to remove or modify the terms of the authorization of the armoring when the existing structures warranting armoring are redeveloped, are no longer present, or no longer require armoring.

The bluff top home has remained substantially unchanged since the Commission approved the shoreline armoring fronting the subject site. The home is an existing structure constructed prior to the approval of the Coastal Act. In addition, according to the Commission's Coastal Engineer, site conditions at the subject site relative to sea level rise, bluff erosion, and implementation of long-term, large scale sand replenishment or shoreline restoration programs have not changed in a way that would allow the existing shoreline armoring to be removed without creating a risk to the bluff top property. Thus, under the terms of the existing permit, the bluff top home is allowed to maintain its non-conforming bluff top setback and the owner retains the right to shoreline armoring as long as armoring is required to protect the existing structure.

Coastal Act Section 30235 requires the Commission to allow a shoreline protective device to protect an existing structure in certain circumstances, and Section 30253 requires new development to be sited and designed so that it does not require the construction of armoring devices that would substantially alter natural landforms along bluffs and cliffs. The proposed amendment mandates that the existing shoreline armoring be authorized only so long as it is required to protect a pre-Coastal Act structure, and thus, will ensure that the Commission can properly implement Coastal Act Section 30253 together with Section 30235.

The subject site is within the Commission's coastal development permit jurisdiction. The Commission recently certified the City's Land Use Plan (LUP); however, the City of Solana Beach does not yet have a certified LCP. Therefore, the Chapter 3 policies of the Coastal Act are the standard of review, with the City's certified LUP used as guidance.

Commission staff recommends **approval** of coastal development permit amendment 6-02-084-A4 as conditioned.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION</b> .....	<b>5</b>
<b>II. SPECIAL CONDITIONS</b> .....	<b>6</b>
<b>III. FINDINGS AND DECLARATIONS</b> .....	<b>7</b>
A. PROJECT HISTORY/ AMENDMENT DESCRIPTION .....	7
B. GEOLOGIC CONDITIONS AND HAZARDS .....	10
C. PUBLIC ACCESS/RECREATION AND SAND SUPPLY MITIGATION .....	15
D. LOCAL COASTAL PLANNING.....	18
E. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENT QUALITY ACT (CEQA).....	19

### APPENDICES

- Appendix A – Standard and Special Conditions
- Appendix B – Substantive File Documents
- Appendix C – CDP #6-02-084
- Appendix D – CDP #6-02-084-A3

### EXHIBITS

- [Exhibit 1 – Project Location](#)
- [Exhibit 2 – CDP History](#)
- [Exhibit 3 – Upcoast Photo of Bluff Armoring](#)
- [Exhibit 4 – Downcoast Photo of Bluff Armoring](#)

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit Application No. 6-02-084-A4 subject to the conditions set forth in the staff recommendation.*

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

### Resolution:

*The Commission hereby approves coastal development permit amendment 6-02-084-A4 and adopts the findings set forth below on grounds that the development as amended and conditioned 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 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

**NOTE:** Appendix A, attached, includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by all subsequent amendments, including this amendment number A4. All of the Commission's adopted special conditions and any changes in the project description proposed by the applicant and approved by the Commission in this or previous actions continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on Amendment A4 are shown in the following section. Within Appendix A, changes to the previously approved special conditions are also shown in ~~strikeout~~/underline format. This will result in one set of adopted special conditions.

## II. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

The following shall replace, in its entirety, Special Condition 4 of CDP #6-02-084-A3:

### 4. **Duration of Armoring Approval.**

a. **Authorization Expiration.** The geogrid structure results in an addition/enlargement to an existing shoreline armoring system that includes the existing Commission-approved seawall and underground upper bluff caisson retention system fronting the subject site. This CDP amendment authorizes the shoreline armoring system (mid and upper bluff geogrid structure, lower bluff seawall, and the below-grade upper bluff caisson retention system) until the time when the currently existing bluff top structure requiring protection is redeveloped as that term is defined in CDP #6-02-084-A3 Special Condition 5, is no longer present, or no longer requires a protective device. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the property, the Permittee shall apply for a new CDP to remove the protective devices or to modify the terms of their authorization.

b. **Modifications.** If, during the term of this authorization, the Permittee desires to enlarge the shoreline armoring (mid and upper bluff geogrid structure, lower bluff seawall, or the below-grade upper bluff caisson retention system) or to perform repair work affecting more than 50 percent of the shoreline armoring, the Permittee shall apply for a new CDP. Additional mitigation requirements for the impacts of the enlarged or reconstructed armoring on public views, public recreational access, shoreline processes, and all other affected coastal resources that have not already been mitigated through this permit will be addressed and required at that time.

The following shall be added as new Special Condition 15 to the amended permit:

15. **Deed Restriction.** Prior to issuance of this coastal development permit amendment, or within such additional time as the Executive Director may grant for good cause, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has 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, as amended, 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 amended, 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. This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition #14 of Coastal Development Permit #6-02-084-A3, approved on November 14, 2013, which deed restriction is recorded as Instrument No. 2015-0223277 in the official records of San Diego County.

### **III. FINDINGS AND DECLARATIONS**

#### **A. PROJECT HISTORY/ AMENDMENT DESCRIPTION**

The original permit (CDP #6-02-084) approved the construction of a 50-foot long, 35 feet high, lower coastal bluff seawall on the beach and bluff fronting 357 Pacific Avenue (previously constructed pursuant to Emergency CDP #6-02-130-G) and the construction of a below-grade upper bluff retention system consisting of 9 caissons in the rear yard of the residential structure (previously constructed pursuant to Emergency CDP #6-03-008-G). An amendment to the original permit (CDP #6-02-084-A3) approved the construction of a geogrid structure on the mid and upper bluff face fronting 357 Pacific Avenue<sup>1</sup> (Exhibit 2).

The approved seawall, geogrid structure, and upper bluff caissons are on publicly owned bluff and beach in the City of Solana Beach. The Tide Beach Park public access stairway is located approximately 500 feet north of the site, and Fletcher Cove, the City's central beach access park, is located approximately ¼ mile to the south. An approximately 80 ft.-high coastal bluff fronts the existing single family residence (Exhibit 1).

There are numerous special conditions on the original permit and the previous permit amendments to address the shoreline protection's impacts to public access and recreation, visual quality, and geologic stability. These include a condition requiring that the applicant make mitigation payments for the shoreline armoring's impact to sand supply for a period of 22 years, and Special Condition 4, which limits approval of the shoreline armoring to a 20-year permit term.

---

<sup>1</sup> As described in more detail in the CDP history section of this report, CDP application #6-02-084-A1 was denied by the Commission in 2009 and CDP application #6-02-084-A2 was withdrawn by the applicant in 2013 prior to the Commission taking any action. Both applications proposed the shoreline armoring on the mid and upper bluff, similar to the development approved by the Commission pursuant to CDP #6-02-084-A3.

The applicants are proposing to replace subsection a of Special Condition 4 of CDP amendment #6-02-084-A3, which currently states:

4. Duration of Armoring Approval.

- a. Authorization Expiration. The geogrid structure results in an addition/enlargement to an existing shoreline armoring system that includes the existing Commission-approved seawall and underground upper bluff caisson retention system fronting the subject site. This CDP amendment authorizes the mid and upper bluff geogrid structure for twenty years from the date of Commission approval of the CDP amendment. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the property, the Permittee(s) shall apply for a new CDP to remove the protective device or to or modify the terms of its authorization.
- b. Modifications. If, during the term of this authorization, the Permittee desires to enlarge the shoreline armoring (mid and upper bluff geogrid structure, lower bluff seawall, or the below-grade upper bluff caisson retention system) or to perform repair work affecting more than 50 percent of the shoreline armoring, the Permittee shall apply for a new CDP. Additional mitigation requirements for the impacts of the enlarged or reconstructed armoring on public views, public recreational access, shoreline processes, and all other affected coastal resources that have not already been mitigated through this permit will be addressed and required at that time.

This condition authorizes the mid and upper bluff geogrid structure for a period of twenty years from the date of Commission approval of CDP #6-02-084-A3 (November 14, 2013).

As amended, subsection a would state:

- a. Authorization Expiration. The geogrid structure results in an addition/enlargement to an existing shoreline armoring system that includes the existing Commission-approved seawall and underground upper bluff caisson retention system fronting the subject site. This CDP amendment authorizes the shoreline armoring system (mid and upper bluff geogrid structure, lower bluff seawall, and the below-grade upper bluff caisson retention system) until the time when the currently existing bluff top structure requiring protection is redeveloped as that term is defined in CDP #6-02-084-A3 Special Condition 5, is no longer present, or no longer requires a protective device. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the property, the Permittee shall apply for a new CDP to remove the protective devices or to modify the terms of their authorization.

The revised Special Condition 4a would tie the authorization of the shoreline armoring to the life of the existing threatened structure the armoring is required to protect, and require the Permittee to submit a complete coastal development permit application to remove the

armorings or to modify the terms of the authorization of the armorings when the existing structures warranting armorings are redeveloped, are no longer present, or no longer require armorings.

The existing amended permit (Special Condition 5) prohibits redevelopment of the bluff top structure that relies on the permitted armorings system. It defines redevelopment to include (1) additions; (2) exterior and/or interior renovations, or; (3) demolition which would result in alteration to 50 percent or more of the exterior walls and/or other major structural components, or a 50 percent increase in floor area, both totaled cumulatively over time, as further defined in the certified Solana Beach LCP Land Use Plan.

The intent of the proposed amendment is to reflect the current requirements of the City of Solana Beach certified Land Use Plan (LUP). When the subject permit was originally approved, the City's LUP required that bluff retention devices only be approved for a period of twenty years from the date of approval of the CDP. However, the LUP was subsequently amended in January 2014 to instead require that shoreline armorings be tied to the life of the existing endangered structures the armorings is required to protect, and to require that applicants submit a complete coastal development permit application to remove or modify the terms of the authorization of the armorings when the existing structures warranting armorings are redeveloped, are no longer present, or no longer require armorings. Because the Commission was currently in the process of reviewing this LUP amendment when the subject permit was before the Commission for review, during the Commission hearing to approve CDP #6-02-084-A3, the Commission found that if the LUP policy regarding shoreline armorings duration was changed, that the applicant would not be required to pay an application fee to amend Special Condition 4a.

- **CDP History: Shoreline Armoring**

The bluff fronting the bluff top home has been subject to extensive shoreline armorings over the past decade.

In September of 2002, the Executive Director authorized an emergency permit to construct a 35 foot-high, 50 foot-long, 2 foot-wide tiedback concrete seawall at the toe of the bluff (CDP #6-02-130-G) and also issued a separate emergency permit in 2003 to construct a below-grade upper bluff retention system consisting of 9 caissons, approximately 30 inches in diameter, placed eight-foot on center in the rear yard of the residential structure extending to a depth of approximately 35 feet and secured with tiebacks (CDP #6-03-008-G). In March of 2003, the Commission approved the required follow-up regular coastal development permit for the project constructed under the two emergency permits (CDP #6-02-84).

In December of 2009, the Commission denied a request to reconstruct the mid-bluff area above the existing seawall using a geogrid structure and to construct a keystone block wall extending from the north end of the seawall to the top of the bluff (CDP #6-02-084-A1). The Commission denied this request because, at the time, the applicant had not demonstrated that the existing residential structure was subject to threat such that the geogrid structure was required to protect the residence.

In November of 2013, the Commission approved the installation of a geogrid mid bluff structure at the subject site (CDP #6-02-084-A3)<sup>2</sup>.

- **Site History: Bluff Top Development**

The subject residence was constructed in the 1950's and the Commission has no record of any additional development activity on the subject lot, other than described above, since the effective date of the Coastal Act.

- **Other Shoreline Armoring in the Surrounding Area**

The section of Solana Beach shoreline where the subject site is located has extensive shoreline armoring both to the north and to the south (Exhibits 3 & 4).

The three properties directly to the south of the subject property (341, 347, and 355 Pacific Avenue) contain a lower bluff seawall, mid and upper bluff geogrid armoring below two of the homes, and below grade caissons in the rear yard of one of the homes (CDP #6-13-025). The three adjacent properties to the south of the subject site also have a pending CDP amendment application with the Commission requesting a similar change to their shoreline armoring authorization duration special conditions (ref: CDP #6-13-025-A1).

The two properties directly to the north of the subject property (365 and 367 Pacific Avenue) contain a lower bluff seawall and mid and upper bluff geogrid armoring (CDP #6-08-073).

- **Jurisdiction**

The Commission recently certified the City's Land Use Plan; however, the City of Solana Beach does not yet have a certified LCP. Therefore, the Chapter 3 policies of the Coastal Act are the standard of review, with the certified LUP used as guidance.

## **B. GEOLOGIC CONDITIONS AND HAZARDS**

As described above, the standard of review is Chapter 3 of the Coastal Act, with the City's LUP providing non-binding guidance. As such, applicable Coastal Act policies are cited in this report, as well as certain LUP policies for guidance as relevant.

---

<sup>2</sup> CDP application #6-02-084-A2 was for the same development that was later approved pursuant to CDP #6-02-084-A3. CDP #6-02-084-A3 was withdrawn before any action was taken by the Commission in order to allow more time for Commission staff to review the development proposal.

Coastal Act Section 30235 addresses the use of shoreline protective devices:

*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.*

Coastal Act Section 30253 addresses the need to ensure long-term structural integrity, minimize future risk, and to avoid landform altering protective measures. Section 30253 provides, in applicable 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...*

In addition, the following City of Solana Beach Land Use Plan (LUP) language provides additional guidance regarding geologic hazards and shoreline protection:

***Policy 4.53:*** *All permits for bluff retention devices shall expire when the currently existing blufftop structure requiring protection is redeveloped (per definition of Bluff Top Redevelopment in the LUP), is no longer present, or no longer requires a protective device, whichever occurs first and a new CDP must be obtained. Prior to expiration of the permit, the bluff top property owner shall apply for a coastal development permit to remove, modify or retain the protective device. In addition, expansion and/or alteration of a legally permitted existing bluff retention device shall require a new CDP and be subject to the requirements of this policy.*

*The CDP application shall include a re-assessment of need for the device, the need for any repair or maintenance of the device, and the potential for removal based on changed conditions. The CDP application shall include an evaluation of:*

- The age, condition and economic life of the existing principal structure;*
- changed geologic site conditions including but not limited to, changes relative to sea level rise, implementation of a long-term, large scale sand replenishment or shoreline restoration program; and*

- *any impact to coastal resources, including but not limited to public access and recreation.*

*The CDP shall include a condition requiring reassessment of the impacts of the device in 20-year mitigation periods pursuant to Policies 4.48 and 4.51.*

*No permit shall be issued for retention of a bluff retention device unless the City finds that the bluff retention device is still required to protect an existing principal structure in danger from erosion, that it will minimize further alteration of the natural landform of the bluff, and that adequate mitigation for coastal resource impacts, including but not limited to impacts to the public beach has been provided.*

The LUP defines Bluff Top Redevelopment as follows:

***Bluff Top Redevelopment*** shall apply to proposed development located between the sea and the first public road paralleling the sea (or lagoon) that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, (3) and/or demolition of an existing bluff home or other principal structure, or portions thereof, which results in:

*(a) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.*

*(b) Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LUP; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area taking into consideration previous additions approved on or after the date of certification of the LUP.*

### **Geologic Site Conditions**

The applicant most recently submitted a monitoring report for the shoreline armoring on the bluff fronting the subject property in August 2013. The monitoring report, by Soil Engineering Construction, Inc. and The Trettin Company, found that the lower seawall is in excellent condition, that the majority of the mid to upper coastal bluff had failed, and action is required address the significantly exposed upper bluff caisson system. Subsequent to receipt of this monitoring report, the Commission approved CDP #6-02-084-A3, which includes the construction of a geogrid structure on the mid and upper bluff and extensive landscaping. The construction of the geogrid structure is currently

underway, but not yet completed. The applicant has identified that the improvements to the mid and upper bluff geogrid structure and the landscaping will be completed prior to May 2016.

According to the Commission's Coastal Engineer, site conditions at the subject site relative to sea level rise, bluff erosion, and implementation of long-term, large scale sand replenishment or shoreline restoration programs have not changed in a way that would allow the existing shoreline armoring to be removed without creating a risk to the bluff top property.

### **Duration of Armoring Approval**

Section 30235 requires the permitting of shoreline protection devices when necessary to protect an existing structure in danger of erosion. Shoreline protective devices are no longer authorized by Section 30235 when the existing structures they protect are redeveloped, no longer present, or no longer require armoring. Armoring impedes public access to and along the shoreline, destroys beaches and related habitats over time, and visually impairs coastal areas. In this case, the recently approved geogrid structure results in an addition/enlargement to an existing shoreline armoring system that includes the existing Commission-approved seawall and underground upper bluff caisson retention system fronting the subject site. The existing seawall is located on sandy beach area that, if not for the seawall, would be available for public use.

Thus, one reason to limit the length of a shoreline protective device's development authorization is to ensure that the armoring being authorized by Section 30235 is only being authorized as long as it is required to protect an existing structure. Another reason to limit the authorization of shoreline protective devices is to ensure that the Commission can properly implement Coastal Act Section 30253 together with Section 30235. If a landowner is seeking new development on a blufftop lot, Section 30253 requires that such development be sited and designed such that it will not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. Section 30235 requires the Commission to allow a shoreline protective device to protect an existing structure in certain circumstances and Section 30253 requires new development to be sited and designed so that it does not require the construction of armoring devices that substantially alter natural landforms along bluffs and cliffs. These sections do not permit landowners to rely on such armoring devices when siting new structures on bluff tops and/or along shorelines. If a shoreline protective device exists in front of a lot, but is no longer required to protect the existing structure it was authorized to protect, the Commission should not authorize new development that might perpetuate the need for the shoreline armoring. Otherwise, if a new structure is able to rely on shoreline armoring that is no longer required to protect an existing structure, then the new structure can be sited without a sufficient setback, perpetuating an unending construction/redevelopment loop that prevents proper siting and design of new development, as required by Section 30253 and other Chapter 3 policies. By limiting the length of development authorization of a new shoreline protective device to the existing structure it is required to protect, the Commission can more effectively apply Section 30253 when new development is proposed.

The applicant is proposing to amend the Special Condition of CDP #6-02-084-A3 that limits authorization of the existing shoreline armoring to a 20-year period, and to instead allow for authorization of the bluff retention devices to be as long as the bluff top structure requiring protection still exists, or until the structure no longer needs the protection. A 20-year authorization term was chosen because rising sea levels and its attendant consequences will likely decrease the intervals between applications for armoring repairs in the future, potentially dramatically, depending on how far sea level actually rises. A twenty-year period enables the Commission to better respond to such potential changes and uncertainties, including to allow for an appropriate reassessment of continued armoring and its effects at that time, including with respect to its physical condition after twenty years of hard protection. In addition, with respect to climatic change and sea level rise specifically, the understanding of these issues should improve in the future, given better understanding of the atmospheric and oceanic linkages and more time to observe the oceanic and glacial responses to increased temperatures, including trends in sea level rise. Such an improved understanding will almost certainly affect CDP armoring decisions, including at this location, much as the Commission's direction on armoring has changed over the past twenty years as more information and better understanding has been gained regarding such projects, including their effect on the California coastline. In addition, after 20 years, it is possible that the structure on the bluff top will have been remodeled or relocated such that the shoreline protection is no longer necessary. Or, the residence may be of an age or condition that construction of a bluff retention device is not reasonable.

As revised, the amendment would provide a way to address inherent uncertainties, including those related to the lifetime of development being protected by the armoring, changed circumstances and mitigation requirements. In review of any proposals for significant alteration or improvements and/or additions to an existing blufftop structure that is protected by a shoreline protective device, assessment of the effect of those improvements on the economic life of the existing blufftop structure and the life of the shoreline protective device will be required to address any additional impacts on coastal resources that cannot be avoided and were not mitigated in any prior permitting action.

Thus, tying the authorization period to the existence of existing structure that requires protection by the shoreline armoring will ensure that upon redevelopment of the property, the shoreline armoring would either be removed or, if removal is not appropriate, the terms of authorization of retention of the protective device would be reassessed through a new CDP, which would address any rights to retention. Removal of the device in the future would remain a viable option.

In order to modify Special Condition 4a of the CDP, it is also necessary to add one additional special condition. Special Condition 15 requires the applicant to record a new deed restriction to ensure that future property owners are aware of the revised permit conditions that apply to the site.

Therefore, given the foregoing, under revised Special Condition 4, authorization of the shoreline protection approved through the original CDP and the previous CDP



amendment will expire when the currently existing blufftop structure requiring protection is redeveloped (as defined in Special Condition 5 of CDP #6-02-084-A3), is no longer present, or no longer requires the protective devices approved under CDP #6-02-084 and 6-02-084-A3, whichever occurs first. Therefore, the proposed amendment is consistent with the shoreline and geologic protection policies of the Coastal Act.

### **C. PUBLIC ACCESS/RECREATION AND SAND SUPPLY MITIGATION**

Pursuant to Section **30604(c)**, the Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast. Section **30210** of the Coastal Act is applicable to the proposed development and states:

*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.*

In addition, Section **30212** of the Act is applicable and states, in part:

- (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....*

Additionally, Section **30220** of the Coastal Act provides:

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

The City's certified LUP states:

**Policy 4.49:** *Coastal structures ...*

*(c) Mitigation for the impacts to shoreline and sand supply, public access and recreation and any other relevant coastal resource impacted by the coastal structure is required and shall be assessed in 20-year increments, starting with the building permit completion certification date. Property owners shall apply for a CDP amendment prior to expiration of each 20-year mitigation period, proposing mitigation for coastal resource impacts associated with retention of the coastal structure beyond the preceding 20-year mitigation period and shall include consideration of alternative feasible measures in which the permittee can modify the coastal structure to lessen the coastal structure's impacts in coastal resources. Monitoring reports to the City and the Coastal Commission shall be required every*

*five years from the date of the CDP issuance until CDP expiration, which evaluate whether or not the coastal structure is still required to protect the existing structure it was designed to protect. The permittee is required to submit a CDP application to remove the authorized coastal structure within six months of a determination that the coastal structure is no longer required to protect the existing structure it was designed to protect.*

***Policy 4.50:*** *The bluff property owner shall pay for the cost of the coastal structure or Infill and pay a Sand Mitigation Fee and a Public Recreation Fee per LUP Policy 4.38. These mitigation fees are not intended to be duplicative with fees assessed by other agencies. It is anticipated the fees assessed as required by this LCP will be in conjunction with, and not duplicative of, the mitigation fees typically assessed by the CCC and the CSLC for impacts to coastal resources from shoreline protective devices.*

*Sand Mitigation Fee - to mitigate for actual loss of beach quality sand which would otherwise have been deposited on the beach. For all development involving the construction of a bluff retention device, a Sand Mitigation Fee shall be collected by the City which shall be used for beach sand replenishment and/or retention purposes. The mitigation fee shall be deposited in an interest-bearing account designated by the City Manager of Solana Beach in lieu of providing sand to replace the sand that would be lost due to the impacts of any proposed protective structure. The methodology used to determine the appropriate mitigation fee has been approved by the CCC and is contained in LUP Appendix A. The funds shall solely be used to implement projects which provide sand to the City's beaches, not to fund other public operations, maintenance, or planning studies.*

*Sand Mitigation Fees must be expended for sand replenishment and potentially for retention projects as a first priority and may be expended for public access and public recreation improvements as secondary priorities where an analysis done by the City determines that there are no near-term, priority sand replenishment Capital Improvement Projects (CIP) identified by the City where the money could be allocated. The Sand Mitigation funds shall be released for secondary priorities only upon written approval of an appropriate project by the City Council and the Executive Director of the Coastal Commission.*

*Public Recreation Fee – Similar to the methodology established by the CCC for the sand mitigation fee, the City and the CCC are jointly developing a methodology for calculating a statewide public recreation fee. To assist in the effort, the City has shared the results of their draft study with the CCC to support their development of a uniform statewide Public Recreation / Land Lease Fee. Until such time as an approved methodology for determining this fee has been established, and the methodology and payment program has been incorporated into the LCP through an LCP amendment, the City will collect a \$1,000 per linear foot interim fee deposit. In the interim period, CCC will evaluate each project on a site-specific basis to determine impacts to public access and recreation, and additional mitigation may*

*be required. The City shall complete its public recreation/land lease fee study within 18 months of effective certification of the LUP.*

*Project applicants have the option of proposing a public recreation/access project in lieu of payment of Public Recreation Fees (or interim deposits) to the City. At the City's discretion, these projects may be accepted if it can be demonstrated that they would provide a directly-related recreation and/or access benefit to the general public.*

*Public Recreation Fees must be expended for public access and public recreation improvements as a first priority and for sand replenishment and retention as secondary priorities where an analysis done by the City determines that there are no near-term, priority public recreation or public access CIP identified by the City where the money could be allocated. The Public Recreation funds shall be released for secondary priorities only upon written approval of an appropriate project by the City Council and the Executive Director of the Coastal Commission.*

***Policy 4.52: An upper bluff system...***

*(d) Mitigation for the impacts to shoreline and sand supply, public access and recreation and any other relevant coastal resource impacted by the upper bluff system is required and shall be assessed in 20-year increments, starting with the building permit completion certification date. Property owners shall apply for a CDP amendment prior to expiration of each 20-year mitigation period, proposing mitigation for coastal resource impacts associated with retention of the upper bluff system beyond the preceding 20-year mitigation period and shall include consideration of alternative feasible measures in which the permittee can modify the upper bluff system to lessen the upper bluff system's impacts on coastal resources. Monitoring reports to the City and the Coastal Commission shall be required every five years from the date of the CDP issuance until CDP expiration, which evaluate whether or not the upper bluff system is still required to protect the existing structure it was designed to protect. The permittee is required to submit a CDP application to remove the authorized upper bluff system within six months of a determination that the upper bluff system is no longer required to protect the existing structure it was designed to protect.*

The project site is located on a public beach owned and administered by the City of Solana Beach and is utilized by local residents and visitors for a variety of recreational activities such as swimming, surfing, jogging, walking, surf fishing, beachcombing and sunbathing. The site is located approximately ¼ mile north of Fletcher Cove, the City's primary beach access location, and approximately ¼ mile south of Tide Beach Park public stairway.

The existing seawall and mid and upper bluff shoreline armoring result in various adverse impacts to sand supply and to public access and recreation. The existing seawall extends 2 ft. seaward of the toe of the bluff. An encroachment of any amount onto the sandy beach, especially 2 ft. for a length of 50 feet, reduces the small beach area available for public use and is therefore a significant adverse impact. This is particularly true given the existing beach profiles and relatively narrow beach where access is sometimes only available at low tides. In addition, were it not for the seawall and infill structure, the seaward face of the bluff would naturally recede, making additional beach area available for public use. At the time that the Commission approved the regular CDP for the seawall at the subject site, the applicant identified that the seawall had a design life of 22 years. During a 22-year period, as the beach area available to the public is reduced, dry sandy beach will become less available seaward of the seawall such that beachgoers will not want to sit or lay a towel in this area. In addition, the shoreline armoring prevents the bluffs from eroding and reduces the available sand supply to the public beach.

Pursuant to CDP #6-02-084, the Commission required that the applicant provide mitigation for impacts to sand supply. As detailed in CDP #6-02-084, the applicant was required to pay \$10,942.23 for impacts to sand supply over a 22-year period. At the time that the Commission approved the lower seawall in 2003, applicants were not typically required to pay a mitigation fee for impacts to public access and recreation. If the 50 ft. long lower seawall were approved today, the applicant would be required to pay a public access and recreation mitigation fee deposit of \$1,000 per linear foot. If the applicant proposes to retain the shoreline armoring system (seawall, mid and upper bluff geogrid, and below-grade caissons) longer than its identified design-life, the applicant is required to apply for an amendment proposing mitigation for the coastal resource impacts associated with the retention of all of the armoring on the site beyond the 22-year design-life. The purpose of the initial 22-year mitigation period is to mitigate the impacts of the shoreline armoring on sand supply, and is not related to the 20 year shoreline authorization condition that is the subject of this amendment. The currently proposed amendment to the duration of armoring condition does not impact the amount of mitigation required or timing of when the applicants are required to return to the Commission for re-assessment of required mitigation.

#### **D. 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 subject site is within the boundaries of the City of Solana Beach. The Commission has recently approved the City's Local Coastal Program Land Use Plan. However, the City has not yet completed, nor has the Commission reviewed any implementing ordinances. Thus, the City's LCP is not fully certified.

The location of the existing shoreline armoring is designated for Open Space Recreation in the City of Solana Beach LUP and General Plan. As conditioned, the subject development is consistent with these requirements.

Therefore, the Commission finds the proposed development, as conditioned, 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 continue to be addressed in a comprehensive manner in the future through the City's LCP certification process.

#### **E. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENT QUALITY ACT (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of 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 that the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The preceding coastal development permit amendment findings in this staff report have discussed the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources. The Commission incorporates these findings as if set forth here in full.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

# Appendix A – Standard and Special Conditions

Appendix A provides a list of all standard and special conditions that apply to this development, as approved by the Commission in its original action and as modified and/or supplemented by all subsequent amendments, including this amendment number 6-02-084-A4. All of the Commission's previously adopted special conditions pursuant to CDP Nos. 6-02-084 and 6-02-084-A3 and any changes in the project description proposed by the applicants and approved by the Commission in this or previous actions continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on Amendment 6-02-084-A4 are shown in the following section. Thus, Appendix A provides an aggregate list of all currently applicable adopted standard and special conditions.

Language added pursuant to 6-02-084-A4 is shown in underline; language deleted pursuant to 6-02-084-A4 is shown in ~~strikeout~~:

## 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.
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:

### Special Conditions of 6-02-084:

1. Revised Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director, final seawall, site, landscape, irrigation and drainage plans in substantial conformance with the submitted plans dated 2/14/02 by Soil Engineering Construction. Said plans shall first be approved by the City of Solana Beach and revised to include the following:

- a. Sufficient detail regarding the construction method and technology utilized for constructing a return wall on either side so as to gradually blend into the adjacent natural bluff. The return walls 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 and below-grade upper bluff retention system. Said plans shall confirm, and be of sufficient detail to verify, that the seawall color and texture closely matches the adjacent natural bluffs, including provision of a color board indicating the color of the fill material.
- c. Any existing permanent irrigation system located on the bluff top site shall be removed or capped.
- 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.
- e. 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 (the same as utilized for as-built plans required pursuant to Special Condition #5 below). The plan shall also identify all accessory improvements that will be removed and/or replaced as a result of constructing the below-grade retention system.
- f. During construction of the approved development, disturbance to sand and intertidal areas shall be minimized to the maximum extent feasible. All excavated beach sand shall be redeposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or for any other purpose as construction material.

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.

2. Mitigation for Impacts to 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 \$10,942.23 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 and beach area that will be lost due to the impacts of the proposed protective structure. All interest earned by the account shall be payable to the account for the purposes stated below.

The developed mitigation plan 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 permittee or her 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 for the expected life of the seawall beyond the initial 22 year design life. If within the initial design life of the seawall the permittee or her successor in interest obtains as 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 seawall on shoreline sand supply 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 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 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, geologist or geotechnical engineer for the site, upper bluff retention system and seawall which requires the following:

- a. An annual evaluation of the condition and performance of the upper bluff retention system and lower seawall 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 any exposed areas of the upper bluff retention system 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 both ends of the seawall and at 20-foot intervals (maximum) along the top of the seawall face/bluff face 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 the annual report, for the life of the approved seawall and upper bluff retention system. However, reports shall be submitted in the Spring immediately following either:

1. An "El Niño" storm event – comparable to or greater than a 20-year storm.
2. A tectonic event magnitude 5.5 or greater affecting San Diego County.

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 geologist or geotechnical engineer. 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.

The permittee shall undertake monitoring 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.

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 provide that:

- a. No overnight storage of equipment or materials shall occur on sandy beach or within Fletcher Cove public parking spaces. 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. 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 or holidays 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 restored to its pre-construction condition 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/As-Built 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.

Within 60 days following completion of the project, the permittee shall submit as-built plans of the approved seawall, tiebacks and upper bluff retention device which include measurements of the distance between the residence (and remaining 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 to allow annual measurements to be taken at the same bluff location and to allow accurate measurement of bluff retreat.

In addition, within 60 days following completion of the project, the permittee shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the seawall and upper bluff retention system has been constructed in conformance with the approved plans for the project.

6. Future Response to Erosion. If in the future the permittee seeks a coastal development permit to construct additional bluff or shoreline protective devices, the permittee 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 public 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 structure and the ocean.

7. Future Maintenance/Debris Removal. Within 15 days of completion of construction of the protective devices the permittee shall remove all debris deposited on the bluff, beach or in the water as a result of construction of shoreline protective devices. The permittee shall also be responsible for the removal of debris resulting from failure or damage of the shoreline protective devices in the future. In addition, the permittee shall maintain the permitted seawall, tiebacks and upper bluff below-grade retention system in its approved state. Maintenance of the seawall shall include maintaining the color, texture and integrity. Maintenance of the below-grade upper bluff retention device shall include maintaining the color, texture and integrity of any portions of the device that become exposed in the future. Any change in the design of the project or future additions/reinforcement of the seawall and upper bluff retention system beyond exempt maintenance as defined in Section 13252 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 is necessary, and, if necessary, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance.

8. U.S. Army Corps of Engineers Permit. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director a copy of a U.S. Army Corps of Engineers permit, letter of permission, or evidence that no Corps permit is necessary. Any mitigation measures or other changes to the project required through said permit shall be reported to the Executive Director. Such changes shall not be incorporated into the project until the applicant obtains a Commission approved amendment to this coastal development 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 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. Condition Compliance. WITHIN 90 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION, 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 applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

13. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded 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 (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and 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 applicant's entire parcel or parcels. 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.

#### Special Conditions of 6-02-084-A3:

1. Prior Conditions of Approval. All terms and conditions of the original approval of CDP 6-02-084, as amended, not specifically modified herein, shall remain in full force and effect (Appendix B).
2. Revised Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for review and written approval of the Executive Director, final plans for the proposed mid and upper bluff protection that are in substantial conformance with the submitted plans dated January 3, 2013 by Soil Engineering Construction, Inc. However, the plans shall first be approved by the City of Solana Beach and be revised to include the following:
  - a. Existing and any proposed accessory improvements (i.e., decks, patios, walls, windscreens, etc.) located in the geologic setback area at 357 Pacific Avenue 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 natural bluff edge (as defined by Title 14 California Code of Regulations, Section 13577) 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 all structures on the site. The seaward edge of all existing and proposed accessory improvements shall be located no closer than 5 feet landward of the natural bluff edge or approved reconstructed bluff edge. Any new Plexiglas or other glass wall shall be non-clear, tinted, frosted or incorporate other elements to prevent bird strikes. Any existing improvements located closer than 5 feet landward of the reconstructed or natural bluff edge shall be removed within 60 days of issuance of the coastal development permit.

- b. The geogrid structure shall be constructed to undulate so as to more closely match the appearance of nearby natural bluff face. The geogrid structure shall include variable thicknesses to provide visual undulations that mimic nearby natural bluff conditions. The geogrid structure at 357 Pacific Avenue shall be incorporated, if technically feasible, into the junctions with 355 and 367 Pacific Avenue.
- c. Eliminate any reference to aesthetic and structural treatment of the existing underground upper bluff retention system on the project plans and extend the proposed geogrid structure to the top of the bluff face, at the bluff edge.
- d. Technical details regarding the construction method and technology utilized for undulating the geogrid structure. Said plans shall be of sufficient detail to ensure that the Executive Director can verify that the geogrid structure will closely mimic natural bluff conditions in the vicinity of the site.

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.

3. Revised Final Landscape Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for review and written approval of the Executive Director, final landscape plans for the landscaping on the coastal bluff that are in substantial conformance with the submitted plans received February 28, 2012 by David Reed Landscape Architects. However, the plans shall first be approved by the City of Solana Beach and shall be revised to include the following:
  - a. Only drought tolerant native or non-invasive plant materials may be planted on the subject property. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be planted within the property.
  - b. The landscaping shall be installed in coordination with the properties to the south at 341-355 Pacific Avenue and shall incorporate both container stock and hydroseeding. Temporary irrigation may be used for a maximum of 12 months and all temporary irrigation components shall be removed within 26 months.

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.

**4. ~~Duration of Armoring Approval.~~**

**~~a. Authorization Expiration. The geogrid structure results in an addition/enlargement to an existing shoreline armoring system that includes the existing Commission-approved seawall and underground upper bluff caisson retention system fronting the subject site. This CDP amendment authorizes the mid and upper bluff geogrid structure for twenty years from the date of Commission approval of the CDP amendment. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the property, the Permittee(s) shall apply for a new CDP to remove the protective device or to or modify the terms of its authorization.~~**

**~~b. Modifications. If, during the term of this authorization, the Permittee desires to enlarge the shoreline armoring (mid and upper bluff geogrid structure, lower bluff seawall, or the below-grade upper bluff caisson retention system) or to perform repair work affecting more than 50 percent of the shoreline armoring, the Permittee shall apply for a new CDP. Additional mitigation requirements for the impacts of the enlarged or reconstructed armoring on public views, public recreational access, shoreline processes, and all other affected coastal resources that have not already been mitigated through this permit will be addressed and required at that time.~~**

5. Future Development. No future development, which is not otherwise exempt from coastal development permit requirements, or redevelopment on the bluff top portion of the subject property, shall rely on the permitted armoring system (mid and upper bluff geogrid structure, lower bluff seawall, or the caisson retention system) to establish geologic stability or protection from hazards. Such future development and redevelopment on the site shall be sited and designed to be safe without reliance on shoreline armoring. As used in these conditions, “redeveloped” or “redevelopment” is defined to include: (1) additions; (2) exterior and/or interior renovations, or; (3) demolition which would result in alteration to 50 percent or more of the exterior walls and/or other major structural components, or a 50 percent increase in floor area, both totaled cumulatively over time, as further defined in the certified Solana Beach LCP Land Use Plan.
6. Monitoring and Reporting Program. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and written approval, an updated monitoring program prepared by a licensed civil engineer or geotechnical engineer to monitor the performance of the mid and upper bluff geogrid structure, lower bluff seawall, and the caisson retention system which requires the following:
  - a. An annual evaluation of the condition and performance of the shoreline armoring structures 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 structures compared to the surrounding native bluffs.

- b. Annual measurements of any differential retreat between the face of the geogrid structure 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 intersection. The program shall describe the method by which such measurements shall be taken.

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. In addition, reports shall be submitted in the spring immediately following either:

1. An "El Niño" 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.

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

- c. Each report shall be prepared by a licensed civil engineer, geotechnical engineer or geologist. The report shall contain the measurements and evaluation required in subsections a. and b. above. The report shall also summarize all measurements and analyze trends such as erosion of the bluffs, changes in sea level, the stability of the overall bluff face, including the upper bluff area, and the impact of the structures 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 seawall.
- d. An agreement that, if after inspection or in the event the report required in subsection c above recommends any necessary maintenance, repair, changes or modifications to the project 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 is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance within 90 days of the report or discovery of the problem.

The applicant shall undertake monitoring and reporting in accordance with the approved final monitoring and reporting program. Any proposed changes to the approved final monitoring and reporting program shall be reported to the Executive Director. No changes to the approved final monitoring and reporting 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.

7. Storage and Staging Areas/Access Corridors. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, 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 sandy beach or public parking spaces. 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 structures. Construction equipment shall not be washed on the beach or public parking lots or access roads.
  - b. Construction 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 and plan notes have been incorporated into construction bid documents. The applicant shall remove all construction materials/equipment from the staging site and restore the staging site to its prior-to-construction condition immediately following completion of the development.

The permittees shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the final 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.

8. Water Quality--Best Management Practices. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for review and written approval of the Executive Director, a Best Management Plan that effectively assures no construction byproduct will be allowed onto the sandy beach and/or allowed to enter into coastal waters. All 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.

9. Other Permits. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittees shall provide to the Executive Director copies of all other required local, state or federal discretionary permits, for the development authorized by CDP 6-02-084-A3. 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.

10. Construction Site Documents & Construction Coordinator. DURING ALL CONSTRUCTION:

- a. Copies of the signed coastal development permit and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
- b. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the coordinator's contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with an indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

11. As-Built Plans. WITHIN 90 DAYS OF COMPLETION OF CONSTRUCTION, the Permittees shall submit two copies of As-Built Plans, approved by the City of Solana Beach, showing all development completed pursuant to this coastal development permit; all property lines; and all residential development inland of the structures. The As-Built Plans shall be substantially consistent with the approved project plans described in Special Condition 2 (Revised Final Plans) above, including providing for all of the same requirements specified in those plans, and shall account for all of the parameters of Special Condition 6 (Monitoring and Reporting). The As-Built Plans shall include a graphic scale and all elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD). The As-Built Plans shall include color photographs (in hard copy and jpg format) that clearly show all components of the as-built project, and that are accompanied by a site plan that notes the location of each photographic viewpoint and the date and time of each photograph. At a minimum, the photographs shall be from representative viewpoints from the beaches located directly upcoast, downcoast, and seaward of the project site. The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and processes, acceptable to the Executive Director, verifying that the seawall has been constructed in conformance with the approved final plans.

12. Assumption of Risk, Waiver of Liability and Indemnity. 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 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.

13. Other Special Conditions of the City of Solana Beach Permit #DRP 17-11-21. Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of Solana Beach pursuant to an authority other than the Coastal Act.
14. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and approval, documentation demonstrating that the applicant has 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.

Special Conditions of 6-02-084-A4:

#### **4. Duration of Armoring Approval.**

**a. Authorization Expiration. The geogrid structure results in an addition/enlargement to an existing shoreline armoring system that includes the existing Commission-approved seawall and underground upper bluff caisson retention system fronting the subject site. This CDP amendment authorizes the shoreline armoring system (mid and upper bluff geogrid structure, lower bluff seawall, and the below-grade upper bluff caisson retention system) until the time when the currently existing bluff top structure requiring protection is redeveloped as that term is defined in CDP #6-02-084-A3 Special Condition 5, is no longer present, or no longer requires a protective device. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the property, the Permittee shall apply for a new CDP to remove the protective devices or to modify the terms of their authorization.**

**b. Modifications. If, during the term of this authorization, the Permittee desires to enlarge the shoreline armoring (mid and upper bluff geogrid structure, lower bluff seawall, or the below-grade upper bluff caisson retention system) or to perform repair work affecting more than 50 percent of the shoreline armoring, the Permittee shall apply for a new CDP. Additional mitigation requirements for the impacts of the enlarged or reconstructed armoring on public views, public recreational access, shoreline processes, and all other affected coastal resources that have not already been mitigated through this permit will be addressed and required at that time.**

**15. Deed Restriction. Prior to issuance of this coastal development permit amendment, or within such additional time as the Executive Director may grant for good cause, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has 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, as amended, 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 amended, 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. This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition #14 of Coastal Development Permit #6-02-084-A3, approved on November 14, 2013, which deed restriction is recorded as Instrument No. 2015-0223277 in the official records of San Diego County.**

# Appendix B – Substantive File Documents

- City of Solana Beach certified LUP
- Monitoring report by Soil Engineering Construction, Inc. and The Trettin Company, dated August 2013
- CDP Nos.: F1843, 6-02-002, 6-02-084, 6-02-084-A3, 6-02-130-G, 6-03-008-G, 6-13-025, 6-14-0679

# **Appendix C – CDP #6-02-084**

**CALIFORNIA COASTAL COMMISSION**

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



Page: 1

Date: **March 6, 2003**Permit Application No.: **6-02-084****COASTAL DEVELOPMENT PERMIT**

On **March 4, 2003**, the California Coastal Commission granted to

**Mrs. Ninni Scism**

this permit subject to the attached Standard and Special conditions, for development consisting of

**After-the-fact construction of colored and textured concrete tiedback seawall approximately 35-ft-high, 50-ft-long and 2-ft-wide and underground upper bluff retention system, consisting of approximately nine, 35-ft-deep caissons, tiebacks, and grade-beam.**

more specifically described in the application filed in the Commission offices.

The development is within the coastal zone at

**On beach and bluff fronting 357 Pacific Avenue, Solana Beach (San Diego County)**

Issued on behalf of the California Coastal Commission by

PETER M. DOUGLAS  
Executive Director

By: **Gary Cannon**  
Coastal Program Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part that: "A Public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Permittee

**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.
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. **Revised Final Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director, final seawall, site, landscape, irrigation and drainage plans in substantial conformance with the submitted plans dated 2/14/02 by Soil Engineering Construction. Said plans shall first be approved by the City of Solana Beach and revised to include the following:
  - a. Sufficient detail regarding the construction method and technology utilized for constructing a return wall on either side so as to gradually blend into the adjacent natural bluff. The return walls 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 and below-grade upper bluff retention system. Said plans shall confirm, and be of sufficient detail to verify, that the seawall color and texture closely matches the adjacent natural bluffs, including provision of a color board indicating the color of the fill material.
  - c. Any existing permanent irrigation system located on the bluff top site shall be removed or capped.

- 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.
- e. 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 (the same as utilized for as-built plans required pursuant to Special Condition #5 below). The plan shall also identify all accessory improvements that will be removed and/or replaced as a result of constructing the below-grade retention system.
- f. During construction of the approved development, disturbance to sand and intertidal areas shall be minimized to the maximum extent feasible. All excavated beach sand shall be redeposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or for any other purpose as construction material.

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.

2. Mitigation for Impacts to 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 \$10,942.23 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 and beach area that will be lost due to the impacts of the proposed protective structure. All interest earned by the account shall be payable to the account for the purposes stated below.

The developed mitigation plan 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 permittee or her 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 for the expected life of the seawall beyond the initial 22 year design life. If within the initial design life of the seawall the permittee or her successor in interest obtains as 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 seawall on shoreline sand supply 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 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 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, geologist or geotechnical engineer for the site, upper bluff retention system and seawall which requires the following:

- a. An annual evaluation of the condition and performance of the upper bluff retention system and lower seawall 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 any exposed areas of the upper bluff retention system 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 both ends of the seawall and at 20-foot intervals (maximum) along the top of the seawall face/bluff face 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 the annual report, for the life of the approved seawall and upper bluff retention system. However, reports shall be submitted in the Spring immediately following either:
  1. An "El Niño" storm event – comparable to or greater than a 20-year storm.
  2. A tectonic event magnitude 5.5 or greater affecting San Diego County.

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 geologist or geotechnical engineer. 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.

The permittee shall undertake monitoring 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.

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 provide that:

- a. No overnight storage of equipment or materials shall occur on sandy beach or within Fletcher Cove public parking spaces. 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. 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 or holidays 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 restored to its pre-construction condition 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/As-Built 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.

**Within 60 days following completion of the project**, the permittee shall submit as-built plans of the approved seawall, tiebacks and upper bluff retention device which include measurements of the distance between the residence (and remaining 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 to allow annual measurements to be taken at the same bluff location and to allow accurate measurement of bluff retreat.

In addition, **within 60 days following completion of the project**, the permittee shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the seawall and upper bluff retention system has been constructed in conformance with the approved plans for the project.

6. Future Response to Erosion. If in the future the permittee seeks a coastal development permit to construct additional bluff or shoreline protective devices, the permittee 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 principal 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 public 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 structure and the ocean.

7. Future Maintenance/Debris Removal. Within 15 days of completion of construction of the protective devices the permittee shall remove all debris deposited on the bluff, beach or in the water as a result of construction of shoreline protective devices. The permittee shall also be responsible for the removal of debris resulting from failure or damage of the shoreline protective devices in the future. In addition, the permittee shall maintain the permitted seawall, tiebacks and upper bluff below-grade retention system in its approved state. Maintenance of the seawall shall include maintaining the color, texture and integrity. Maintenance of the below-grade upper bluff retention device shall include maintaining the color, texture and integrity of any portions of the device that become exposed in the future. Any change in the design of the project or future additions/reinforcement of the seawall and upper bluff retention system beyond exempt maintenance as defined in Section 13252 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 is necessary, and, if necessary, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance.**

8. U.S. Army Corps of Engineers Permit. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director a copy of a U.S. Army Corps of Engineers permit, letter of permission, or evidence that no Corps permit is necessary.

Any mitigation measures or other changes to the project required through said permit shall be reported to the Executive Director. Such changes shall not be incorporated into the project until the applicant obtains a Commission approved amendment to this coastal development 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 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. Condition Compliance. **WITHIN 90 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION**, 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 applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

13. Deed Restriction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded 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 (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and 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 applicant's entire parcel or parcels. 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.

6-02-084p

# **Appendix D – CDP #6-02-084-A3**

**CALIFORNIA COASTAL COMMISSION**

San Diego Coast Area Office  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4421  
(619) 767-2370  
[www.coastal.ca.gov](http://www.coastal.ca.gov)



Page: 1

Date: January 20, 2015  
Permit Application No.: 6-02-084-A3

**COASTAL DEVELOPMENT PERMIT AMENDMENT**

On **March 4, 2003**, and as amended on **November 14, 2013**, the California Coastal Commission granted to:

**Ocean Ventures, LLC**

this permit for the development described below

for: **After-the-fact construction of colored and textured concrete tiedback seawall approximately 35-ft-high, 50-ft-long and 2-ft-wide and underground upper bluff retention system, consisting of approximately nine, 35-ft-deep caissons, tiebacks, and grade-beam.**

at: **On bluff fronting 357 Pacific Avenue, Solana Beach (San Diego County)  
APN #263-301-05**

This permit has been amended to include the following changes, subject to the attached Standard and Special Conditions:

**Reconstruction of the mid and upper bluff with a geogrid reinforced structure above an existing seawall.**

This amended permit will become effective upon return of a signed copy of this form to the San Diego Coast District Office. Please note that the original permit conditions are still in effect.

CHARLES LESTER  
Executive Director

By: **ERIC STEVENS**  
Coastal Program Analyst

**ACKNOWLEDGMENT**

I have read and understand the above amendment and agree to be bound by its Conditions and the remaining conditions of Permit No: **6-02-084**.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

## **COASTAL DEVELOPMENT PERMIT AMENDMENT**

Date: January 20, 2015  
Permit Application No.: 6-02-084-A3  
Page 2 of 7

### **SPECIAL CONDITIONS:**

The permit is subject to the following conditions:

1. Prior Conditions of Approval. All terms and conditions of the original approval of CDP 6-02-084, as amended, not specifically modified herein, shall remain in full force and effect (Appendix B).
2. Revised Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for review and written approval of the Executive Director, final plans for the proposed mid and upper bluff protection that are in substantial conformance with the submitted plans dated January 3, 2013 by Soil Engineering Construction, Inc. However, the plans shall first be approved by the City of Solana Beach and be revised to include the following:
  - a. Existing and any proposed accessory improvements (i.e., decks, patios, walls, windscreens, etc.) located in the geologic setback area at 357 Pacific Avenue 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 natural bluff edge (as defined by Title 14 California Code of Regulations, Section 13577) 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 all structures on the site. The seaward edge of all existing and proposed accessory improvements shall be located no closer than 5 feet landward of the natural bluff edge or approved reconstructed bluff edge. Any new Plexiglas or other glass wall shall be non-clear, tinted, frosted or incorporate other elements to prevent bird strikes. Any existing improvements located closer than 5 feet landward of the reconstructed or natural bluff edge shall be removed within 60 days of issuance of the coastal development permit.
  - b. The geogrid structure shall be constructed to undulate so as to more closely match the appearance of nearby natural bluff face. The geogrid structure shall include variable thicknesses to provide visual undulations that mimic nearby natural bluff conditions. The geogrid structure at 357 Pacific Avenue shall be incorporated, if technically feasible, into the junctions with 355 and 367 Pacific Avenue.
  - c. Eliminate any reference to aesthetic and structural treatment of the existing underground upper bluff retention system on the project plans and extend the proposed geogrid structure to the top of the bluff face, at the bluff edge.
  - d. Technical details regarding the construction method and technology utilized for undulating the geogrid structure. Said plans shall be of sufficient detail to ensure that the Executive Director can verify that the geogrid structure will closely mimic natural bluff conditions in the vicinity of the site.

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.



## **COASTAL DEVELOPMENT PERMIT AMENDMENT**

Date: January 20, 2015

Permit Application No.: 6-02-084-A3

Page 3 of 7

3. Revised Final Landscape Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for review and written approval of the Executive Director, final landscape plans for the landscaping on the coastal bluff that are in substantial conformance with the submitted plans received February 28, 2012 by David Reed Landscape Architects. However, the plans shall first be approved by the City of Solana Beach and shall be revised to include the following:
  - a. Only drought tolerant native or non-invasive plant materials may be planted on the subject property. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be planted within the property.
  - b. The landscaping shall be installed in coordination with the properties to the south at 341-355 Pacific Avenue and shall incorporate both container stock and hydroseeding. Temporary irrigation may be used for a maximum of 12 months and all temporary irrigation components shall be removed within 26 months.

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.

4. Duration of Armoring Approval.
  - a. Authorization Expiration. The geogrid structure results in an addition/enlargement to an existing shoreline armoring system that includes the existing Commission-approved seawall and underground upper bluff caisson retention system fronting the subject site. This CDP amendment authorizes the mid and upper bluff geogrid structure for twenty years from the date of Commission approval of the CDP amendment. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the property, the Permittee(s) shall apply for a new CDP to remove the protective device or to modify the terms of its authorization.
  - b. Modifications. If, during the term of this authorization, the Permittee desires to enlarge the shoreline armoring (mid and upper bluff geogrid structure, lower bluff seawall, or the below-grade upper bluff caisson retention system) or to perform repair work affecting more than 50 percent of the shoreline armoring, the Permittee shall apply for a new CDP. Additional mitigation requirements for the impacts of the enlarged or reconstructed armoring on public views, public recreational access, shoreline processes, and all other affected coastal resources that have not already been mitigated through this permit will be addressed and required at that time.
5. Future Development. No future development, which is not otherwise exempt from coastal development permit requirements, or redevelopment on the bluff top portion of the subject property, shall rely on the permitted armoring system (mid and upper bluff geogrid structure, lower bluff seawall, or the caisson retention system) to establish geologic stability or

## COASTAL DEVELOPMENT PERMIT AMENDMENT

Date: January 20, 2015

Permit Application No.: 6-02-084-A3

Page 4 of 7

protection from hazards. Such future development and redevelopment on the site shall be sited and designed to be safe without reliance on shoreline armoring. As used in these conditions, "redeveloped" or "redevelopment" is defined to include: (1) additions; (2) exterior and/or interior renovations, or; (3) demolition which would result in alteration to 50 percent or more of the exterior walls and/or other major structural components, or a 50 percent increase in floor area, both totaled cumulatively over time, as further defined in the certified Solana Beach LCP Land Use Plan.

6. Monitoring and Reporting Program. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and written approval, an updated monitoring program prepared by a licensed civil engineer or geotechnical engineer to monitor the performance of the mid and upper bluff geogrid structure, lower bluff seawall, and the caisson retention system which requires the following:

- a. An annual evaluation of the condition and performance of the shoreline armoring structures 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 structures compared to the surrounding native bluffs.
- b. Annual measurements of any differential retreat between the face of the geogrid structure 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 intersection. The program shall describe the method by which such measurements shall be taken.

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. In addition, reports shall be submitted in the spring immediately following either:

1. An "El Niño" 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.

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

- c. Each report shall be prepared by a licensed civil engineer, geotechnical engineer or geologist. The report shall contain the measurements and evaluation required in subsections a. and b. above. The report shall also summarize all measurements and analyze trends such as erosion of the bluffs, changes in sea level, the stability of the overall bluff face, including the upper bluff area, and the impact of the structures 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 seawall.
- d. An agreement that, if after inspection or in the event the report required in subsection c above recommends any necessary maintenance, repair, changes or modifications to the project 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

## **COASTAL DEVELOPMENT PERMIT AMENDMENT**

Date: January 20, 2015  
Permit Application No.: 6-02-084-A3  
Page 5 of 7

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 within 90 days of the report or discovery of the problem.

The applicant shall undertake monitoring and reporting in accordance with the approved final monitoring and reporting program. Any proposed changes to the approved final monitoring and reporting program shall be reported to the Executive Director. No changes to the approved final monitoring and reporting 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.

7. Storage and Staging Areas/Access Corridors. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, 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 sandy beach or public parking spaces. 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 structures. Construction equipment shall not be washed on the beach or public parking lots or access roads.
  - b. Construction 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 and plan notes have been incorporated into construction bid documents. The applicant shall remove all construction materials/equipment from the staging site and restore the staging site to its prior-to-construction condition immediately following completion of the development.

The permittees shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the final 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.

8. Water Quality--Best Management Practices. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for review and written approval of the Executive Director, a Best Management Plan that effectively assures no construction byproduct will be allowed onto the sandy beach and/or allowed to enter into coastal waters. All 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

## **COASTAL DEVELOPMENT PERMIT AMENDMENT**

Date: January 20, 2015

Permit Application No.: 6-02-084-A3

Page 6 of 7

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.

9. Other Permits. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittees shall provide to the Executive Director copies of all other required local, state or federal discretionary permits, for the development authorized by CDP 6-02-084-A3. 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.
10. Construction Site Documents & Construction Coordinator. DURING ALL CONSTRUCTION:
  - a. Copies of the signed coastal development permit and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
  - b. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the coordinator's contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with an indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
11. As-Built Plans. WITHIN 90 DAYS OF COMPLETION OF CONSTRUCTION, the Permittees shall submit two copies of As-Built Plans, approved by the City of Solana Beach, showing all development completed pursuant to this coastal development permit; all property lines; and all residential development inland of the structures. The As-Built Plans shall be substantially consistent with the approved project plans described in Special Condition 2 (Revised Final Plans) above, including providing for all of the same requirements specified in those plans, and shall account for all of the parameters of Special Condition 6 (Monitoring and Reporting). The As-Built Plans shall include a graphic scale and all elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD). The As-Built Plans shall include color photographs (in hard copy and jpg format) that clearly show all components of the as-built project, and that are accompanied by a site plan that notes the location of each photographic viewpoint and the date and time of each photograph. At a minimum, the photographs shall be from representative viewpoints from the beaches located directly upcoast, downcoast, and seaward of the project site. The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and processes, acceptable to the Executive Director, verifying that the seawall has been constructed in conformance with the approved final plans.

## **COASTAL DEVELOPMENT PERMIT AMENDMENT**

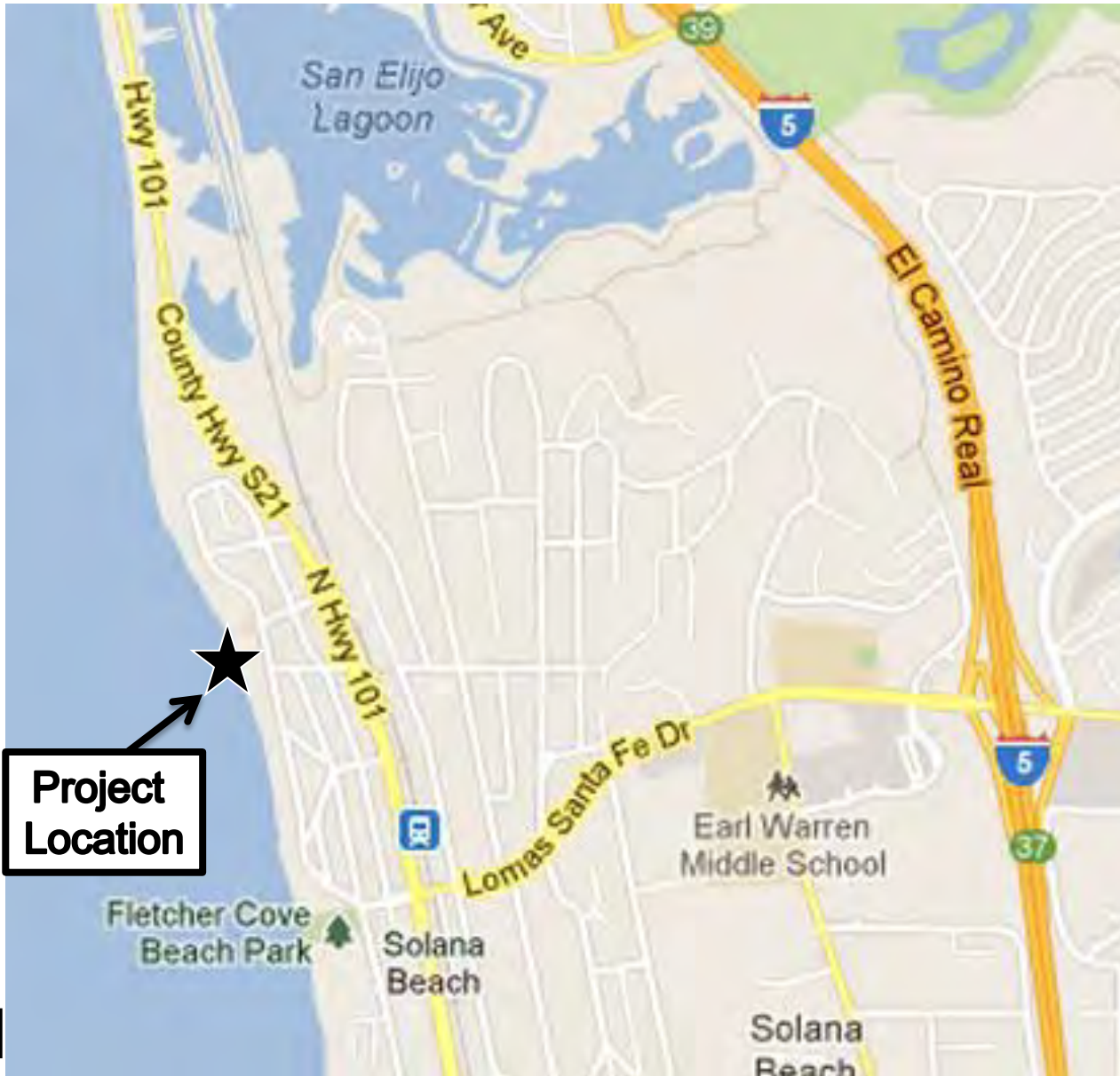
Date: January 20, 2015

Permit Application No.: 6-02-084-A3

Page 7 of 7

12. Assumption of Risk, Waiver of Liability and Indemnity. 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 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.
13. Other Special Conditions of the City of Solana Beach Permit #DRP 17-11-21. Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of Solana Beach pursuant to an authority other than the Coastal Act.
14. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and approval, documentation demonstrating that the applicant has 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.

# PROJECT LOCATION



**Project Location**

Google Maps

EXHIBIT NO. 1
APPLICATION NO. <b>6-02-084-A4</b>
Project Location
 California Coastal Commission



# CDP History

357 Pacific Ave.

355 Pacific Ave.

347 Pacific Ave.

341 Pacific Ave.

Built in 1950

Built 1952/1970

Built 1955

Built 1952  
F1843 (Addition)

Caissons  
6-03-008-G/6-02-084

Underpinning Caissons  
6-05-003-G

Geogrid  
6-02-084-A3  
Under Construction

Geogrid and Keystone Wall  
6-06-037-G/6-13-025

EXHIBIT NO. 2

APPLICATION NO.

**6-02-084-A4**

CDP History

 California Coastal Commission

Seawall  
6-02-130-G/6-02-084

Seawall  
6-05-023-G/6-13-025



# Upcoast Photo of Bluff Armoring

Copyright (C) 2002-2010 Kenneth & Gabrielle Adelman, California Coastal Records Project, [www.Californiacoastline.org](http://www.Californiacoastline.org)

357, 355, 347, and 341 Pacific Ave.

EXHIBIT NO. 3

APPLICATION NO.

**6-02-084-A4**

North Armoring



California Coastal Commission



# Downcoast Photo of Bluff Armoring

Copyright (C) 2002-2010 Kenneth & Gabrielle Adelman, California Coastal Records Project, [www.Californiacoastline.org](http://www.Californiacoastline.org)

357, 355, 347, and 341 Pacific Ave.



EXHIBIT NO. 4

APPLICATION NO.

**6-02-084-A4**

South Armoring



California Coastal Commission