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# W9a

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Staff: C. Batha - SF  
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Hearing Date: 2/11/2015

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 2-14-1562

**Applicants:** Bill and Patricia Barton

**Location:** Toe of the bluff adjacent to the sandy beach at 8 Ocean Avenue in Bolinas, Marin County (APN 193-172-17).

**Project Description:** Restack rock associated with a previously permitted 265-foot long rip-rap revetment.

**Staff Recommendation:** Approval with conditions.

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### SUMMARY OF STAFF RECOMMENDATION

The Applicants propose to repair an existing 265-foot long rip-rap revetment located along the bluff toe at 8 Ocean Avenue in the unincorporated area of Bolinas in Marin County. Using a tracked excavator, rocks from the rip-rap revetment that have slumped onto the beach would be restacked on the revetment within its previously permitted configuration and footprint. The project would have the dual benefits of restoring the revetment to its functional position protecting the existing development on top of the bluff, and restoring lateral public access along the beach. The rip-rap revetment was originally placed against the bluff in 1974 utilizing a Federal Disaster Loan in response to extensive storm-induced erosion, and at the time the project was exempted from the coastal development permit (CDP) review process. In 1978, in response to further storm damage, the Commission approved the re-stacking of the rip-rap revetment in its original 1974 configuration under CDP 188-78 and a Marin County Tidelands Permit. The

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current proposed project is not designed to enlarge, expand, realign, restructure, or otherwise change the revetment that exists, nor its relationship to the inland development that it continues to protect.

This project is not atypical of other revetment repair applications that the Commission has reviewed and acted upon in the past several years. Staff here recommends approval subject generally to the types of conditions applied by the Commission in these past cases. The proposed conditions are designed to offset coastal resource impacts while providing for permitted repair, including: no further seaward encroachment in relation to the approved revetment profile; construction requirements and best management practices to minimize impacts to coastal resources and public access along the beach; and assumption of risk by the property owners. Staff has worked with the Applicants on refining the recommended conditions of approval, and Staff and Applicants are in agreement on them. Thus, as conditioned the repair project is consistent with the hazard, marine resources, and public access policies of the Coastal Act. Staff recommends **approval** of CDP application 2-14-1562 as conditioned. The motion is found on page 4 below.

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## I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a CDP for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission **approve** Coastal Development Permit Number 2-14-1562 pursuant to the staff recommendation, and I recommend a yes vote.*

***Resolution to Approve CDP:** The Commission hereby approves a Coastal Development Permit 2-14-1562 and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with Coastal Act policies. 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.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following 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 Permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 3. 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.
- 4. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittees to bind all future owners and possessors of the subject property to the terms and conditions.
- 5. 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.

## III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

- 1. Approved Project.** Subject to these standard and special conditions, this Coastal Development Permit (CDP) authorizes repair of an existing rip-rap revetment along the 256 feet of bluff toe within the Applicants' parcel (APN #193-172-17) at a 1:1 slope as shown on page 3 of **Exhibit 3**. Changes to the size, footprint, or configuration of the rip-rap revetment, including seaward expansion of the revetment and seaward encroachment of the revetment or any other development, are prohibited. All construction materials, including the excavator, shall be removed from the beach without any contact with tidal waters after every construction day and stored at a designated storage and staging area, preferably the parking lot where Brighton Avenue meets the beach or another area approved by the Executive Director. During construction, the excavator shall remain as close to the bluff toe as possible, avoid moving seaward of the mean high tide line, and it shall be driven directly from the beach access location to the project site and vice versa to minimize disruption to the approximately 1,600 feet of intervening beach.
- 2. Construction Requirements.** All construction shall take place in accordance with the following construction requirements. Minor adjustments to the following construction requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

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- (a) All work shall take place during daylight hours, and lighting of the beach area is prohibited.
- (b) Construction work or equipment operations shall not be conducted below the mean high tide line unless tidal waters have receded from the authorized work areas. Whenever possible, the excavator shall remain above the mean high tide line, and the mechanical extension arm shall be used to retrieve rocks that have slumped below the mean high tide line.
- (c) Grading of intertidal areas is prohibited. Existing rock that has migrated seaward of the revetment, that is naturally exposed, and that can be retrieved without substantial excavation of the surrounding sediments, shall be retrieved and re-stacked.
- (d) When transiting on the beach and performing construction, all construction vehicles shall remain as close to the bluff edge as possible and shall avoid contact with ocean waters.
- (e) All construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from these areas by sunset each day that work occurs, except for construction area boundary fencing where such fencing is necessary for public safety. Fencing shall be placed as close to the toe of the revetment or bluff as possible, may not block lateral access along the beach, and shall only be employed to the minimum extent possible. Construction equipment stored at the designated storage and staging area shall be consolidated such that it takes up the minimum amount of space and does not impact public access to the beach.
- (f) Construction, including but not limited to construction activities, materials and equipment storage, is prohibited outside of the defined construction, staging, and storage areas.
- (g) No work shall occur during weekends or the summer peak months (from the Saturday of Memorial Day weekend through Labor Day) unless the Executive Director authorizes such work. Construction work shall be conducted over a maximum of five days.
- (h) Equipment washing, servicing, and refueling shall not take place on the beach. Appropriate best management practices shall be used to ensure that no spills of petroleum products or other chemicals take place during these activities.
- (i) The construction site shall maintain good construction site housekeeping controls and procedures including measures to clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain, including covering exposed piles of soil and wastes; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; and remove all construction debris from the beach.
- (j) The Permittees shall notify planning staff of the Coastal Commission's North Central Coast District Office at least three working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittees shall undertake construction in accordance with the above construction requirements. Any proposed changes to the above construction requirements shall be reported to the Executive Director. No changes to the above construction requirements shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

- 3. Construction Site Documents.** DURING CONSTRUCTION, copies of each of the following shall be maintained in a conspicuous location at the construction job site at all times. Copies shall be available for public review. Before construction, all workers shall be briefed on the content and meaning of each of the following: (a) the signed CDP; (b) the approved project plans as described in **Special Condition 1**; and (c) the construction requirements and related documents required by **Special Condition 2**. The designated construction coordinator's contact information, including street address, e-mail address, and phone number, shall be conspicuously posted at the job site along with indication that the construction coordinator should be contacted in the case of questions regarding the construction. The construction coordinator shall respond to and make a record of all inquiries within 24 hours.
- 4. Assumption of Risk, Waiver of Liability and Indemnity Agreement.** The Permittees acknowledge and agree, on behalf of themselves and all successors and assigns:

  - (a) that the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, earthquakes, landslides, and the interaction of same;
  - (b) to assume the all risks of injury and damage in connection with this permitted development;
  - (c) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage in connection with this permitted development;
  - (d) 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; and
  - (e) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the property owner.
- 5. State Lands Commission Approval.** PRIOR TO CONSTRUCTION, the Permittees shall submit to the Executive Director for review a copy of the State Lands Commission permit, letter of permission, authorization, or equivalent for the approved project, or evidence that no State Lands Commission authorization is necessary for the approved project. Any changes to the approved project required by the State Lands Commission shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this CDP unless the Executive Director determines that an amendment is not legally required.

- 6. United States Army Corps of Engineers Approval.** PRIOR TO CONSTRUCTION, the Permittees shall submit to the Executive Director for review a copy of the Army Corps of Engineers (ACOE) permit, letter of permission, authorization, or equivalent for the approved project, or evidence that no ACOE authorization is necessary for the approved project. Any changes to the approved project required by the ACOE shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this CDP unless the Executive Director determines that an amendment is not legally required.
- 7. Local Approvals.** PRIOR TO CONSTRUCTION, the Permittees shall submit to the Executive Director for review copies of any local approvals necessary for the approved project, including if necessary, an Encroachment Permit from the Marin County Department of Public Works for the construction materials storage in the public parking lot near the end of Brighton Avenue or other storage area on County property. Any changes to the approved project required by the County shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this CDP unless the Executive Director determines that an amendment is not legally required.
- 8. Future Development of the Site.** Any future development proposed for the project parcel or redevelopment of existing development on the project parcel shall not rely on the permitted revetment to establish geologic stability or protection from hazards. Development and any redevelopment on the project parcel shall be sited and designed to be safe without reliance on shoreline or bluff protective devices. As used in this condition, “development” is as defined in Coastal Act Section 30106 and “redevelopment” as of this date is defined to include alterations including: (1) additions to an existing structure; (2) exterior and/or interior renovations; and/or (3) demolition of an existing 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 CDP approval (i.e. from February 11, 2015).
  - (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 CDP approval (i.e. from February 11, 2015); 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 CDP approval (i.e., on or after February 11, 2015).
- 9. Public Rights.** The Coastal Commission’s approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The Permittees shall not use this permit as evidence of a waiver of any public rights which may exist on the property.

**10. Generic Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### IV. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

##### A. PROJECT LOCATION AND BACKGROUND

The Applicant's property is located at 8 Ocean Avenue in Bolinas, on the east-west trending coast between Bolinas Lagoon and Duxbury Point (**Exhibit 1**). Existing development on the property includes a home and studio space constructed in 1972. The parcel includes land on the bluff top supporting the Applicants' house and associated development, the bluff itself, and part of the sandy beach seaward of the bluff. The proposed project would re-stack rock associated with the existing rip-rap revetment that was originally placed on the sandy beach at the base of the bluff in 1974.

The previous owner of the property, Paul Kayfetz, initially purchased the parcel when there was no shoreline protection at the base of the bluff. A large storm in the winter of 1974 eroded approximately 20 feet of bluff material and left a steep undercut in the bluff toe. A subsequent erosion study report prepared to evaluate the damage noted that the property could lose 23 feet of the backyard at the top of the bluff if the bluff was allowed to erode to its natural 1.6 to 1 incline. The report also stated that the storm was significant enough to undercut the spines of rocky material that act as buttresses for the weaker portions of the slope, increasing the risk of significant bluff failure. Notwithstanding additional large erosion events, the report concluded that a prevailing erosion rate of one foot per year had the potential to cause continued loss of bluff and ultimately to shorten the life of the house.

As a result, Kayfetz installed a rip-rap revetment in 1974 with funding from a Federal Disaster Declaration. At that time, the shoreline protection project qualified for an exemption from the Proposition 20 coastal permit review process. As part of the analysis preceding the installation of the rip-rap, the Army Corps of Engineers (ACOE) reported that the proposed rip-rap revetment was located above the mean higher high water (MHHW) line. In the winter of 1978, another storm damaged the rip-rap revetment and necessitated repairs. Repair of the wall was permitted

by the Coastal Commission under CDP 188-78 as well as in a Marin County Tidelands Permit. CDP 188-78 simply permitted the repair of the existing rip-rap revetment in its original configuration, and did not approve any expansion of the wall.

The Applicant purchased the property in 2002. Over time, some of the rip-rap boulders previously placed against the toe of the bluff have dislodged and fallen down onto the beach, impeding lateral access along the upper beach (**Exhibit 2**). The proposed project is to re-stack these rip-rap boulders into their original configuration as permitted under CDP 188-78 (**Exhibit 3**).

## **B. PROJECT DESCRIPTION**

The Applicant proposes to conduct repair to the existing rip-rap revetment by restacking the rip-rap boulders that have fallen away from their original position. Over an estimated 3-5 days and under the supervision of a contractor, a 12-ton tracked excavator would be used to re-stack the migrated rip-rap during low tide conditions. The excavator would enter the beach from Brighton Avenue, which is the nearest access point at approximately 1,600 feet east of the project site, and traverse the beach above the mean high tide line. The excavator and all other construction materials would be stored out of contact with tidal waters at the end of each day and when not in use, would be stored at a public parking lot near the end of Brighton Avenue or another area approved by the Executive Director.

The rip-rap would be restacked according to the originally permitted configuration and footprint (**Exhibit 3**). The proposed project site includes the entire bluff toe within the Applicant's parcel, which is 256 feet in length. The originally permitted configuration shows the outer slope of the rip-rap at a 1:1 slope and 6 feet in height, with the inner slope at a 2:1 slope. Since the Applicant does not propose adding additional materials to the wall, but rather proposes re-stacking the boulders that were part of the original wall, no new materials will be added to the site.

See **Exhibit 3** for proposed project plans and **Exhibit 1** for the project location.

## **C. STANDARD OF REVIEW**

The proposed project site bisects the area of the Commission's retained CDP jurisdiction, as well as development in an area of CDP jurisdiction delegated to Marin County by the Commission through certification of the County's Local Coastal Program (LCP). Coastal Act Section 30601.3 authorizes the Commission to process a consolidated CDP application in such cases when the local government, the applicant, and the Executive Director all agree to such consolidation. The standard of review for a consolidated CDP application is the policies of Chapter 3 of the Coastal Act. The local government's certified LCP may also be used as non-binding guidance.

The Applicant, the Executive Director, and Marin County have agreed to have the Commission review the entire project as one combined and consolidated CDP application as allowed in Section 30601.3 of the Coastal Act. Thus, the standard of review for the proposed project is the Chapter 3 policies of the Coastal Act, with the Marin County LCP providing guidance.

## **D. REPAIR AND MAINTENANCE**

### **Applicable Policies**

Coastal Act Section 30610(d) generally exempts repair and/or maintenance of structures that do not result in an addition to, or enlargement or expansion of, the structure being repaired or maintained from Coastal Act permitting requirements. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission regulations.

Section 13252 of the Commission administrative regulations (14 CCR 13000 et seq.) provides, in relevant part (emphasis added):

*Section 13252. For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:...*

*(1) Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:....*

*(B) The placement, whether temporary or permanent, of rip-rap, artificial berms or sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries, and lakes or on a shoreline protective work except for agricultural dikes within closed bays or estuaries;...*

*(D) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams.*

### **Analysis**

Although certain types of repair projects are exempt from CDP requirements under the Coastal Act, the proposed project is not one of them. Section 13252 of the regulations requires a CDP for extraordinary methods of repair and maintenance as enumerated in the regulation, including repair and maintenance of a revetment such as this. Here, the proposed project involves placement of rip-rap revetment and construction materials on a sandy beach and the use of mechanized equipment on a sandy beach. Therefore, the proposed repair project requires a coastal development permit under CCR Section 13252.

The proposed project is a repair project because it would restore the rip-rap revetment back to its original, previously approved configuration (under CDP 188-78). The project does not propose to expand the previously permitted footprint or configuration of the revetment, as reflected in **Special Condition 1** (which is further expanded upon in Section F. Shoreline Protective Devices, below).

## **E. SHORELINE PROTECTIVE DEVICES**

### **Applicable Policies**

Coastal Act Section 30235 only permits rip-rap when required to protect existing structures and when designed to eliminate or mitigate impacts to shoreline sand supply as follows:

***Section 30235.** Rip-rap, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Coastal Act Section 30253 states in part that new development minimize risks to life and property in areas of high geologic or flood risk and that the development assure stability and structural integrity:

***Section 30253.** 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.*

### **Analysis**

Coastal Act Section 30235 is satisfied by the proposed project because the existing revetment built in 1974 and repaired in 1978 is a properly permitted existing revetment. The Commission agreed it was necessary to protect existing structures in danger from erosion when it issued CDP 188-78 allowing repairs to the 1974 rip-rap revetment. The same structures exist today. The current proposed project is not designed to enlarge, expand, realign, restructure, or otherwise change the revetment that exists, nor its relationship to the inland development that it continues to protect. In that sense, the proposed project does not raise issues regarding the application of Section 30235 to armoring projects because it is not considered a “new” (or different) shoreline armoring project; it was originally constructed as exempt from Proposition 20 coastal permit requirements and repairs to the existing revetment were permitted under CDP 188-78; and it protects existing structures previously deemed to be in danger from erosion. In addition, the proposed repair project will not result in any new impacts to shoreline sand supply as the repairs will maintain the current revetment footprint. Finally, the proposed project will increase the stability of the revetment by returning it to its approved state.

Marin County has identified the area containing the proposed project site to be an area subject to bluff retreat. While the proposed project is permissible as repair and would return the rip-rap revetment to its permitted configuration, there is still a chance that unforeseen large storms or episodic events could cause erosion and impact the property. Past occurrences statewide have resulted in public costs (through low interest loans, grants, subsidies, direct assistance, etc.) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards, while avoiding placing the economic burden for damages onto the people of the State of California, applicants for coastal development permit approvals by the Commission are regularly required to acknowledge site hazards and agree to waive any claims of liability on the part of the

Commission for allowing the development to proceed. In addition, the construction of shoreline protection structures involving the use of heavy construction equipment and the placement of large boulders is inherently hazardous. Therefore, the Commission includes **Special Condition 4**, which requires the Applicants to assume the risks of erosion, flooding, and other hazards at the site, waive any claim of liability on the part of the Commission for any damage due to these hazards, and agree to indemnify and hold harmless the Commission relative to its approval of the project.

Coastal Act Section 30253 requires new development to assure long-term stability and structural integrity, minimize future risk, and to not use protective devices that would substantially alter natural landforms along bluffs and cliffs measures in the future. When new development is proposed on the blufftop property of the subject parcel, or if the existing development is significantly redeveloped, that new or significant redevelopment project will be subject to CDP review as new development, triggering compliance with Section 30253. Therefore, if the Applicants were to propose new development or redevelopment of their property in the future, the need for shoreline protective devices would be reconsidered by the Commission in light of new studies of erosion, other hazards, and geologic stability. This practice allows the Commission to reassess proposed new development under current environmental conditions and to require the proposed new development (or significant redevelopment) to be sited and designed so as not to require the construction or future maintenance of protective devices that would substantially alter natural landforms. Therefore, **Special Condition 8** states that any future development or redevelopment of the site shall not rely on the permitted revetment to establish geologic stability or protection from hazards.

Coastal Act Section 30253 also requires the current project to assure structural stability without the need for additional, more substantive armoring. Coastal development permittees for new shorefront development are essentially making a commitment to the public (through the approved action of the Commission, and its local government counterparts) that, in return for allowing them to build their desired project, the public will not lose public beach access, sand supply, visual resources, and natural landforms, and that the public will not be held responsible for any future stability problems. This commitment was made when the Commission granted CDP 188-78 in 1978 and the applicant at that time accepted the Commission's CDP action. Any future seaward encroachment would give rise to another level of potential Coastal Act inconsistency inasmuch as it would occupy recreational sandy beach and intensify the amount of rock placed within the beach area public viewshed; in other words, all of the above described impacts in this case would be present as would the additional impact of the loss of existing sandy beach area. Further, to allow a project that would itself require additional armoring seaward of that existing revetment would not be consistent with Section 30253 because stability and structural integrity must be assured without reliance on future armoring.

Therefore, to mitigate against the possibility that additional armoring would be proposed for installation seaward of the revetment, to mitigate for the impacts on beach recreational use due to construction (both loss of useable beach area and degradation of beach going experience), to mitigate for the impacts on beach recreational use due to rock migration (both loss of beach space and degradation of beach recreational area), **Special Condition 1** prohibits development seaward of the existing permitted footprint and profile of the permitted revetment. This applies to the wedge of rock in a 1:1 slope making up the revetment profile (in cross-section) as well as the

seaward toe itself (as shown in **Exhibit 3**). In other words, at no time shall additional rock and/or other development be allowed seaward of any point on the revetment profile.

Therefore, the Commission finds that the project as conditioned, would protect existing structures in danger from erosion, minimize risks to life and property, assure stability and structural integrity of the revetment, and not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. Therefore, the project as conditioned is consistent with Sections 30253 and 30235 of the Coastal Act.

## **F. PUBLIC ACCESS AND RECREATION**

### **Applicable Policies**

Coastal Act Sections 30210 and 30211 specifically protect public access and recreation. Section 30210 requires that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights and natural resource protection. Section 30211 requires that development not interfere with the public's right of access to the sea where access was acquired through use or legislation. In particular:

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

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

These policies protect the beach and shoreline (and access to and along it) and offshore waters for public access and recreation purposes.

### **Analysis**

The proposed project would stop further encroachment by large rip-rap rocks onto the existing public sandy beach by restacking rocks that have fallen off the existing rip-rap revetment to their originally permitted configuration. Therefore, the proposed repair activities would improve and continue to maintain lateral public access along the beach fronting the Applicant's property. Returning the rip-rap rocks to their permitted configuration would improve public access by making lateral access along the beach unimpeded and safer.

The proposed project would temporarily impact public access to the site during the construction phase. The project will require the movement of large equipment, workers, and supplies along the public beach and through a public beach access point to gain access to the project site; involve large equipment operations on the recreational beach area fronting the site; result in the temporary loss of recreational beach area to a construction zone; and generally intrude and negatively impact the aesthetics, ambiance, and serenity of beach users. In order to mitigate for these impacts, **Special Condition 2** limits construction to a maximum of five days during low

use times of the year (avoiding the time period between Memorial Day and Labor Day and on weekends). It also requires the Applicant to minimize the space used in the public parking lot near the end of Brighton Road for construction storage in order to minimize the temporary impacts to public access due to construction activities. Additionally, **Special Condition 3** requires construction documents to be kept on hand at the construction site to ensure that the project plans, construction requirements, and the CDP are readily available to the public. **Special Condition 7** requires the Applicant to obtain any necessary local approvals for the project, including but not limited to an Encroachment Permit from the Marin County Department of Public Works, if it proves to be necessary for the use of the public parking lot near the end of Brighton Avenue or other staging area. Finally, **Special Condition 9** ensures that the project does not constitute a waiver or evidence of a waiver of any public rights which may exist on the property. As conditioned, the project is consistent with the public access and recreation policies of the Coastal Act.

## G. MARINE RESOURCES

### Applicable Policies

The Coastal Act protects marine resources and offshore habitat offshore. Coastal Act Sections 30230 and 30231 provide:

***Section 30230.** Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

***Section 30231.** The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30230 requires that marine resources be maintained and special protections be afforded to areas of special biological or economic significance. Section 30231 of the Coastal Act requires that any adverse effects of runoff be minimized to protect the biological productivity and quality of coastal waters, streams, wetlands, estuaries, and lakes.

### Analysis

The Coastal Act includes strong protections for marine resources and water quality. Projects that take place on the coast, such as the proposed project, have the potential to impact these resources during the construction phase or due to the project itself. The Duxbury Reef State Marine Conservation Area lies less than one mile from the project site, in addition to adjacent sandy

beach and intertidal habitats. This reef and other marine habitats in or adjacent to the project area are important habitats for maintaining recreational and commercial fishing opportunities, recreation, and other forms of public access. Because the rocks are too large and heavy to move by hand, the proposed project necessarily includes the temporary use of machinery on the beach. No other feasible alternative exists to re-stack the rip-rap except for the proposed method of using an excavator. However, re-stacking the rip-rap will improve conditions by restoring areas of sandy beach and intertidal habitats that are currently impacted by the displaced rocks.

In order to minimize and prevent impacts to adjacent coastal resources during construction, **Special Condition 2** includes a number of construction requirements and best practices, including limiting the construction vehicles allowed on the beach to the one tracked excavator currently proposed; ensuring the excavator remains as close to the bluff edge as possible and avoids contact with coastal waters; removing and storing all construction materials and equipment from the beach each day; prohibiting washing and refueling of equipment on the beach, and ensuring that good construction site housekeeping controls and procedures are used. As conditioned, the proposed project meets the marine resource protection requirements of the Coastal Act.

## **H. OTHER AGENCY APPROVALS**

### **California State Lands Commission**

The portion of the fallen rip-rap revetment that is seaward of the mean high tide line may be located on state tidelands. The State Lands Commission (SLC) must authorize the proposed revetment project or provide evidence that no authorization is needed. The Applicant intends to submit an application to the SLC to complete this process. Therefore, this permit is conditioned to require written evidence either of SLC approval of the project or evidence that such approval is not required (see **Special Condition 5**).

### **Army Corps of Engineers**

Portions of the project could be located within the jurisdiction of the U. S. Army Corps of Engineers (ACOE). Accordingly, this permit approval is conditioned to ensure that the project (as conditioned and approved by this CDP) has received all necessary authorizations (or evidence that none are necessary) from the ACOE (see **Special Condition 6**).

### **Marin County approvals**

Use of the proposed construction staging and storage area may require an Encroachment Permit from the Marin County Department of Public Works. Therefore, this permit approval is conditioned to require written evidence of either Marin County Department of Public Works approval or evidence that such approval is not required (see **Special Condition 7**).

## **I. CALIFORNIA ENVIRONMENTAL 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 which the activity may have on the environment.

Marin County, acting as lead agency, found that the project was categorically exempt from CEQA requirements. 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 findings discuss the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above, which are incorporated herein in their entirety by reference. The Commission finds that as modified and conditioned by this permit, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. As so modified, 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 – SUBSTANTIVE FILE DOCUMENTS**

1. CDP 188-78, Coastal Commission CDP for rip-rap repairs in 1978.
2. CDP 299-78, Coastal Commission CDP for neighboring property to install rip-rap with the same specifications as the rip-rap permitted in CDP 188-78, above.
3. Kayfetz Property Erosion Study, Bolinas, CA. Prepared for Paul Kayfetz (former parcel owner) in 1973 by Woodward-Lundgren & Associates, Consulting Engineers and Geologists.



1979  
2,000 TONS  
of ROCK



1979



1979



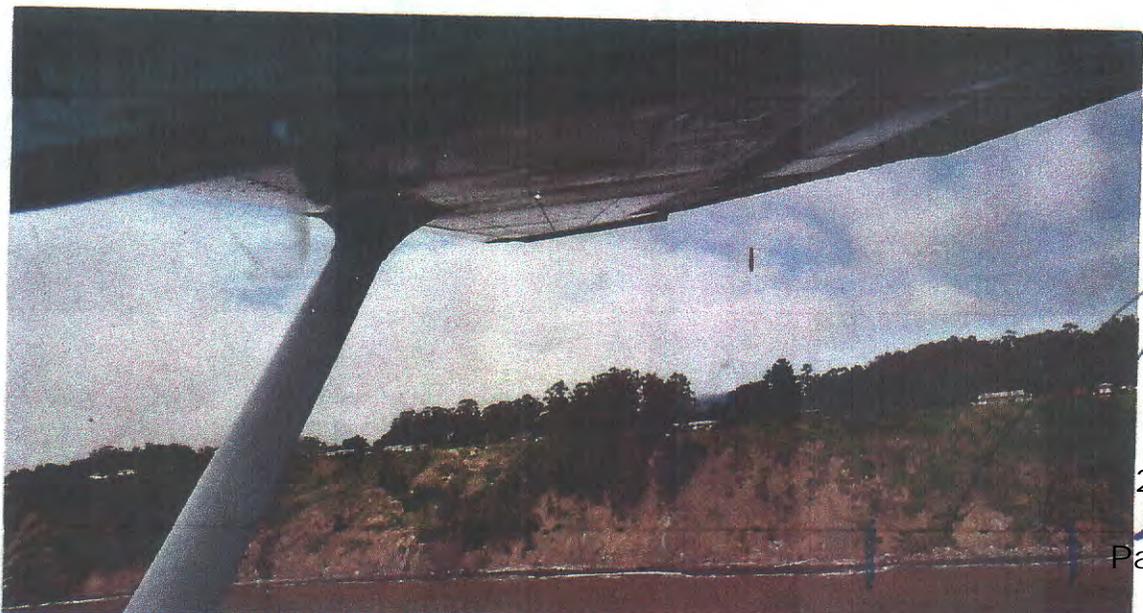
1978



1979



2003



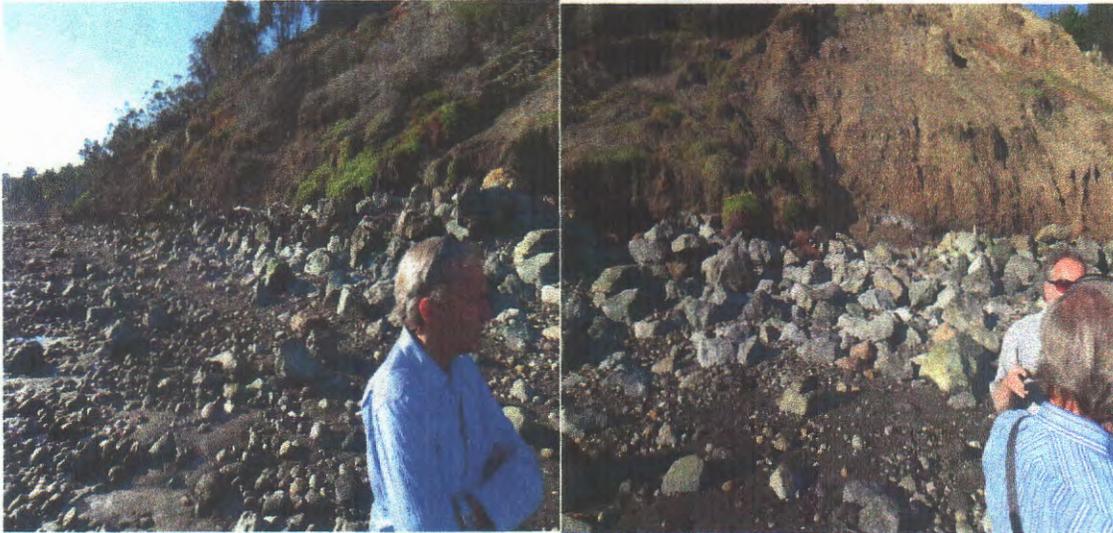
BASE of  
8 Ocean  
Ave. Palini

*[Signature]*  
2003

Current View 2014

Bill and Pat Barton's Base of Cliff  
8 Ocean Avenue. Bolinas

Photos Taken Late January, 2014 with Ron Noble



We walked the beach at mid-low tide. We would like to lift these original rocks and place against the toe of our cliff, which have pulled away over the past few years. The darker green rocks looking east in the last photo are mostly at the base of our neighbors, Ralph Garside at 20 Ocean Avenue. Many of his have also pulled away and impede beach visitors in walking the beach.

Parcel: 193 172-17

October 2, 1978

Mr. Ralph Garside  
P. O. Box 867  
Bolinás, California 94924

Dear Mr. Garside:

**RIPRAP PLACEMENT  
AT 20 OCEAN AVENUE  
Bolinás, California**

We have reviewed the September 6, 1978 letter to you from Mr. Irving Schwartz, Land Development Engineer of Marin County. We are herewith forwarding our comments and recommendations.

The riprap placed at the beach toe of Mr. Kayfetz' sea cliff in 1974 has performed well, and similar riprap placement along your beach would greatly benefit your property also. The primary function of the riprap is to minimize wave undercutting at the knickpoint of the beach; this in turn mitigates removal of the support of the sea cliff during storms. While the riprap protects the slope toe, it should not be construed solely as a gravity buttress against block gliding already well developed along easterly portions of your property. On the other hand, to not place riprap simply invites continued rapid and early loss of your seacliff.

In conclusion, we believe a riprap placement similar to Mr. Kayfetz', extending from this easterly termination east past your property to as close to the creek as you can afford to go will mitigate sea cliff erosion by waves. We therefore believe that the plans given to Mr. Kayfetz on May 9, 1974 do also apply to your property and may be used to accomplish your repair.

Sincerely yours,

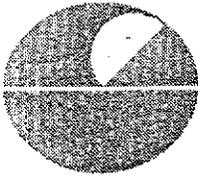
  
Edward Margason  
Associate

ek

Enclosure - May 9, 1974 report

2-14-1562  
Exhibit 3  
Page 1 of 3





## WOODWARD-LUNDGREN & ASSOCIATES

CONSULTING ENGINEERS AND GEOLOGISTS  
AN AFFILIATE OF WOODWARD-CLYDE CONSULTANTS

2730 Adeline Street  
Oakland, Ca 94607  
(415) 444-1256  
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Raymond Lundgren  
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Lloyd S. Cluff  
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William T. Black  
Edward Margeson  
Mehmut Otus  
C.J. Van Til  
Ulrich Luscher  
Bernard B. Gordon  
I.M. Idriss

May 9, 1974

Project: S-12846

Mr. Paul Kayfetz, Attorney at Law  
Terrace Avenue  
Bolin, California 94924

Dear Sir:

ALTERNATE RIP RAP REPAIR RECOMMENDATIONS  
KAYFETZ EROSION STUDY  
Bolin, California

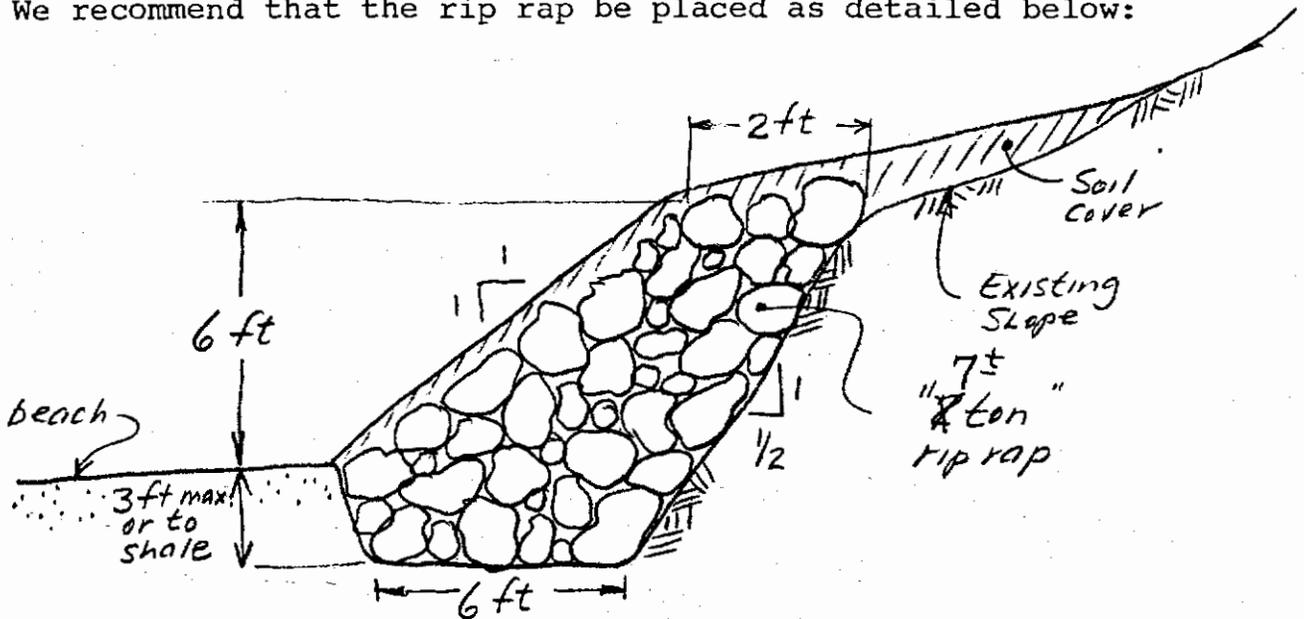
In accordance with our recent conversation with you, we have reviewed our report to you dated June 5, 1973. The purpose of this review is to ascertain if an alternate erosion repair recommendation can be made. This letter contains the results of our review.

After studying the problem further, we believe that the eroded slope area above the surfline of the beach can be repaired and replaced to its original pre-storm condition by using rip rap instead of a concrete bin wall as originally recommended. It is specifically recommended that the rip rap be "two-ton" rock of state test quality placed at essentially the same location as the original bin wall was to be placed. The rip rap should extend about 225 feet along the toe of the eroded slope and should be keyed well into the rock spines at each property line, see Figure 1 of our June 1973 report.

2-14-1562  
Exhibit 3  
Page 2 of 3

May 9, 1974

We recommend that the rip rap be placed as detailed below:



After the rip rap is in place as recommended, we suggest that it be thinly backfilled over and somewhat above the rip rap as shown with a soil cover to restore the original slope appearance. Soil from the site should be used to be sure of a natural appearance when the repair is completed.

In conclusion, we feel the above recommended repair will replace the slope to its pre-storm condition. If there are any questions concerning this letter, please call the undersigned Associate. We would like to be notified when repairs begin.

Very truly yours,

Edward Margason  
Associate

EM:sb