

CALIFORNIA COASTAL COMMISSION

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



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original staff report

W30a

Addendum

March 10, 2015

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **W30a**, Coastal Commission Permit Application
#6-14-0679 (WJK Trust), for the Commission Meeting of March 11, 2015

Staff recommends the following changes be made to the above-referenced staff report:

1. On Page 1 of the staff report, the last incomplete paragraph shall be revised as follows:

Staff is recommending denial of the proposed addition and remodel and denial of the after-the-fact authorization for alterations of the western wall of the existing single family residence. The existing home was built in 1952 and is currently located approximately 10 ft. from the bluff edge at its closest point (Exhibit 10). The Commission has not approved any past modifications or additions to the 63 year old home. The bluff fronting the existing home is fully armored by a lower bluff seawall, a mid and upper bluff geogrid structure, and three unpermitted caissons below the western edge of the foundation (Exhibit 11). The Commission's approval of the coastal development permit (CDP) for the existing seawall and mid and upper bluff geogrid only authorized the shoreline armoring for a twenty year period. The permit further required that prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the property, the Permittee must apply for a new CDP to remove the shoreline armoring or to modify the terms of its authorization.

2. On Page 2 of the staff report, the second and third complete paragraphs shall be revised as follows:

Section 30253 of the Coastal Act requires that new development assure stability, 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 shoreline protective devices that would substantially alter natural landforms along bluffs and cliffs. Furthermore, Policy 4.18 of the Land Use Plan (LUP) requires that bluff retention devices not be factored into setback calculations. On the subject site, the Commission's geologist determined that for development to be stable throughout its useful life and not require a seawall or other protective device, it must be set back

a minimum of 83 ft. from the edge of the bluff. Therefore, in order to protect the proposed addition located at 51 feet from the bluff edge from landslides and erosion, the project includes construction of a below grade caisson retention system. Inconsistent with Section 30253 of the Coastal Act and Policy 4.18 of the LUP, the proposed caisson foundation ~~would be~~ is a bluff/shoreline protection device that would allow new development to be sited in a location that would otherwise not meet the bluff top stability standards.

The City's LUP defines "bluff retention devices" as including all forms of shoreline protection, from seacave infills, to seawalls, to mid and upper bluff protection. The term "shoreline protection" is also used throughout the LUP to generically refer to all forms of shoreline and bluff structures used to protect blufftop structures from erosion. The proposed bluff retention device (caisson foundation) would substantially alter the natural landform of the coastal bluff. The American Geological Institute Glossary of Geology defines a bluff, in part, as "A high bank or bold headland with a broad, precipitous, sometimes rounded cliff face overlooking a plain or a body of water..." The natural bluff here and bluff systems in general are more than just the exposed face of the bluffs; the landform extends from the bluff face through the property. Although the proposed bluff retention device may not become exposed during the next 75 years, the boring of twelve 30-inch diameter holes a minimum of 5 to 25 feet deep and the construction of the concrete caissons will change the geologic integrity of the coastal bluff. Furthermore, as evidenced by the existing unpermitted caissons at the subject site, once caissons are installed, they are nearly impossible to remove without further destroying the natural landform of the coastal bluff. In recognition of the substantial alteration to coastal bluffs caused by caisson foundations, this type of bluff retention device is only permitted under specific circumstances. The Solana Beach LUP does allow for the use of caissons for new development, but only when the project includes removal or relocation of the at risk portions of the structure, and as an alternative to bluff-altering protective devices. These LUP policies encourage blufftop property owners to rebuild a new safe structure rather than maintaining or improving an existing structure in a hazardous location that perpetuates the need for the bluff retention devices and requires alteration of the public bluffs. Approval of the proposed addition and substantial alterations to the existing home without addressing removal of the seaward portions of the home which are at risk, is not consistent with the intent of allowing caissons to support new development and as an alternative to bluff retention devices. ~~would effectively eliminate the opportunity for managed retreat in the future at this site.~~

3. On page 8 of the staff report, Solana Beach Land Use Plan (LUP) Policy 4.18 shall be added following LUP Policy 4.17:

Policy 4.18: *A legally permitted bluff retention device shall not be factored into setback calculations. Expansion and/or alteration of a legally permitted bluff retention device shall include a reassessment of the need for the shoreline protective device and any modifications warranted to the protective device to eliminate or reduce any adverse impacts it has on coastal resources or public*

access, including but not limited to, a condition for a reassessment and reauthorization of the modified device pursuant to Policy 4.53.

4. On Page 11 of the staff report, the third complete paragraph shall be revised as follows:

The LUP requires that the erosion rate be determined based on historic erosion, erosion trends, aerial photographs, land surveys, or other acceptable techniques (Ref: LUP Policies 4.25 and 4.51 and LUP Appendix A). The LUP also states that the approximate erosion rate averages 0.4 feet per year, but that erosion rates may vary depending on multiple factors, such as wave action, winter storms, potential sea level rise predictions, and upper bluff irrigation runoff. Through the development of the Implementation Plan portion of the City's Local Coastal Plan, it is likely that a City wide erosion rate will be developed. The applicant did not provide any rationale or site specific information to justify using the lower erosion rate. Therefore, the Commission's geologist, Dr. Mark Johnsson, determined that the appropriate erosion rate is 0.47 feet per year. Thus, based on the combination of slope stability analyses and the estimated erosion rate, the geologic setback, or the location where new development would have to be sited in order to assure stability and structural integrity and not be in danger from erosion is 83 ft. landward of the edge of the bluff.

5. On Page 12 of the staff report, the first and second complete paragraphs shall be revised as follows:

However, Section 30253 of the Coastal Act prohibits the construction of new development that requires the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed addition cannot meet the standard for stability and cannot be sited safely on the subject site in the proposed location without the use of caissons, a bluff/shoreline protective device, inconsistent with Section 30253 of the Coastal Act and Policy 4.18 of the LUP.

The proposed bluff retention device (caisson foundation) would substantially alter the natural landform of the coastal bluff. The natural bluff here and bluff systems in general are more than just the exposed face of the bluffs; the landform extends from the bluff face and through the property. Although the proposed bluff retention device may not become exposed during the next 75 years, the boring of twelve 30-inch diameter holes a minimum of 5 to 25 feet and the construction of the concrete caissons deep will change the geologic integrity of the coastal bluff. Furthermore, as evidenced by the existing unpermitted caissons at the subject site, once caissons are installed they are nearly impossible to remove without further destroying the natural landform of the coastal bluff. In recognition of the substantial alteration to coastal bluffs caused by caisson foundations, ~~the~~ the City of Solana Beach certified LUP identifies specific circumstances under which a caisson foundation may be permitted. The LUP requires that development be designed so that it will neither be subject to nor contribute to bluff instability, and is sited to not require construction of protective devices that would alter the natural landforms of the bluffs. However, Policy 4.23 of the LUP provides that a caisson foundation may be permitted when it would allow a new home to be sited further inland, if the development would avoid the need for mid

and upper bluff stabilization, alteration of the natural landform of the bluffs, and when the structure requiring protection is relocated to at least 40 ft. inland of the bluff edge. The intent of this policy is to encourage, incentivize, and require blufftop property owners to evaluate rebuilding a new safe structure, rather than maintaining or improving an existing structure in a hazardous location that requires alteration of the public bluffs. Approval of caissons to support a new addition on the inland side of an existing structure that is at risk could potentially be supported if the non-conforming seaward portion of the structure is removed, thus reducing or eliminating the need for future protection.

6. On Page 15 of the staff report, the second complete paragraph shall be revised as follows:

The Coastal Act and the City's certified LUP encourage locating structures in areas that will not result in adverse impacts to public access from the construction or retention of shoreline armoring. If the seaward portions of the existing structure were moved landward and stabilized by a caisson foundation, some or all of the existing shoreline armoring fronting the site may no longer be needed for stability. Even if this home were to be moved landward away from the bluff edge or removed in its entirety, the existing shoreline armoring fronting the subject site would likely only be able to be removed as adjacent homes in the area reached the end of their economic lives and also retreated landward. However, over the long term, the policies of the LUP prohibiting new development that requires bluff/shoreline protection will result in existing structures being relocated or removed, reducing the need and amount of bluff/shoreline protection. Over the longer run, a more comprehensive strategy to address shoreline erosion and the impacts of armoring may be developed (e.g. ~~planned or managed retreat~~, relocation of structures inland, abandonment of structures, etc.) that would allow the shoreline to retreat and contribute to the sand supply of the region. It is also possible that the ocean itself may one day destroy the existing shoreline armoring in this area. Approval of the proposed addition and substantial alteration to all of the major structural components of the existing home without addressing the seaward portions of the home would effectively eliminate the opportunity ~~for managed retreat in the future to reduce the need for future protection~~ at this site.

7. On Page 16 of the staff report, the last complete paragraph shall be revised as follows:

The proposed residential addition and the after-the-fact alterations to the home's western wall cannot assure structural stability over its lifetime so as to not require bluff/shoreline protection. The project could only be sited in the proposed location with the construction of a caisson foundation, inconsistent with Section 30253 of the Coastal Act and Policy 4.18 of the LUP, which does not allow new development that requires bluff/shoreline protective devices. In addition to creating a more permanent structure, the proposed project also represents a substantial economic investment in a property that already requires bluff/shoreline protection, thereby extending the life of the structure and the need for the substantial amount of shoreline armoring that fronts the subject site. The proposed caisson foundation would result in a substantial

alteration of the bluff and make it significantly less likely that the structure, which is nearing the end of its economic life, would be able to be relocated or removed in the future. Approval of the proposed addition and substantial alteration to all of the major structural components of the existing home without addressing the seaward portions of the home would effectively eliminate the opportunity ~~for managed retreat in the future at this site~~ to reduce the need for future protection at this site. Therefore, the proposed development is not consistent with Section 30253 and 30235 of the Coastal Act or the policies of the certified LUP and must be denied.

8. On Page 26 of the staff report, the first and second complete paragraphs shall be revised as follows:

Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d) (2) (A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect that the activity may have on the environment. The City of Solana Beach found that the proposed development was categorically exempt pursuant to 15301(e).

As previously stated, the proposed development would result in adverse impacts to coastal resources. Installation of the proposed caisson foundation would ~~result in significant alteration of the~~ substantially alter the natural landform of the coastal bluff and the proposed and existing development is proposed in an unsafe location which requires the use of a bluff/shoreline protective device (the caisson foundation), and over time would require the retention of existing shoreline armoring...

9. The applicant's response letter to this staff report, received March 9, 2015, asserts that the application was filed as complete on September 5, 2015. The applicant's assertion is incorrect. Commission staff sent the applicant a non-filing letter on August 15, 2014 requesting additional information that was required before the application would be filed as complete. The applicant did not submit any information in response to the August 15, 2014 non-filing letter until October 2, 2014. On October 20, 2014, Commission staff sent the applicant a letter indicating that the application was filed as complete on October 3, 2014 (Filing Letter). The Filing Letter from Commission staff is included in this addendum.

10. Comment letters from the applicant and from the Surfrider Foundation are also included in this addendum.

11. Ex-parte email communication between Commissioner Vargas and staff at the Surfrider Foundation is also included in this addendum.

CALIFORNIA COASTAL COMMISSION

San Diego Coast District Office
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San Diego, California 92108-4402
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FILE COPY

**APPLICATION STATUS LETTER
FILED COMPLETE**

DATE: October 20, 2014

WJK Trust C/O Argos Partners
7733 Forsyth Blvd., Suite 1375
St Louis, MO 63105

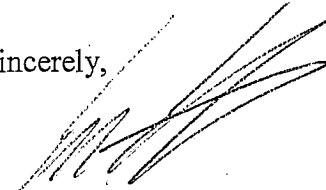
RE: **Application No. 6-14-0679**

Dear WJK Trust C/O Argos Partners:

Your Coastal Commission application was filed on 10/3/2014. Written notification of final scheduling of the hearing, along with a copy of the staff report, will be mailed to you approximately 10 days prior to the hearing.

If you have any questions regarding your application, please contact me at the address and phone number listed above.

Sincerely,


Eric Stevens
Coastal Program Analyst

PETERSON & PRICE

A PROFESSIONAL CORPORATION

LAWYERS

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PAUL A. PETERSON
Retired

SOL PRICE
1916 - 2009

March 6, 2015

File No. 7789.001

Chairman Steve Kinsey and Members of
the California Coastal Commission
Board of Supervisors
3501 Civic Center Dr #329
San Rafael, CA 94903-4193

Wednesday, March 11, 2015
Agenda Item 30a.

California Coastal Commission
45 Fremont St. Suite 2000
San Francisco, CA 94105

THIS WRITTEN MATERIAL IS SUBMITTED TO THE CALIFORNIA
COASTAL COMMISSION IN ACCORDANCE WITH THE EXPARTE
COMMUNICATION REQUIREMENTS OF PUBLIC RESOURCES
CODE SECTIONS 30319-30324. THIS MATERIAL IS A
MATTER OF PUBLIC RECORD AND HAS BEEN SUBMITTED TO
ALL COASTAL COMMISSIONERS, THEIR ALTERNATIVES, AND
THE COASTAL COMMISSION STAFF.

Re: Koman Minor Addition
Application No. 6-14-0679
355 Pacific Avenue

Dear Chairman Kinsey and Members of the California Coastal Commission:

We represent Amy and William Koman with regard to their 1620 sq. f.t home and the above referenced request for a small 750 sq. ft. addition (185 sq. ft. 1st floor, 173 sq. ft. garage, and 392 sq. ft. upstairs bedroom).

Procedural Matter

It would appear that Staff has not complied with the 180 day permit processing requirement. We filed the Coastal Development Permit application at the San Diego

District Commission Office on April 25, 2014. Staff then provided us with a response on May 21, 2014. After a meeting that we had with Staff responding to their initial questions on June 12, 2014, Staff requested additional information. We supplied that information on July 15, 2014 and July 17, 2014. Staff then had additional questions on August 15th, 2014. We prepared yet another response and answered all remaining questions on September 5th, 2014. At that time, the application was complete. All requests for additional information after September 5, 2014 was for information that was already contained within the extensive filing, the plans, reports, and studies that had already been submitted.

Therefore, the application was complete on or before September 5th, 2014 and by operation of law has been approved. As such, we will proceed with the hearing under protest and reserving our Clients' rights as stated above.

Background

It is important to understand that our Client has been in the process of trying to build a minor addition to their small home since November 2012. (2 years and 4 months) Through this long and expensive process there were multiple iterations of draft Land Use Plans (LUP) proposed by CCC Staff and considered by the City. At each stage, the restrictions and requirements became more complicated, confusing, and onerous. Because the goal line was constantly changing, I advised my Clients to design the bare minimum that they would need for their small home to comply with all of the regulations in effect at the time. Rather than placing the second story addition at the 40ft bluff edge setback as allowed, I directed them to place it 50ft back, in anticipation of additional regulations and/or concerns that Staff was trying to address in the multiple iterations of the Draft LUP.

After nearly a year and a half of processing the applications at the City, on April 9, 2014, the Solana Beach City Council unanimously approved the minor addition, because it did not qualify as Bluff Top Redevelopment or Reconstruction and the project was in compliance with the LUP (See Attached City Staff Report **Tab 1**). If you review the City Staff Report, you will note that the City Staff, its independent 3rd party Geologist, and ultimately the City Council all determined that the small addition was in compliance with LUP and all other City regulations.

There was no opposition from any of the neighbors (because my Clients and their architects had worked diligently to address all concerns). Additionally, there was no member of the public at large that had any concerns with the proposed minor addition. (See **Tab 2 Aerial**)

We know that your Staff subsequently changed many provisions within the Draft LUP and is still recommending other changes as the City prepares its LCP. However, the project was, and still is in compliance with all of the rules and regulations that were in effect when the application was filed, deemed complete, and approved by the City Council unanimously almost a year ago. We do not believe that it is fair or appropriate to impose new LUP provisions or new Staff "interpretations" on a project that is approved within "the pipeline". Further, it is evident from reviewing the Staff Report that many of the new regulations that Staff wants to impose are not even in the current draft LUP as evidenced by Staff's use of words such as "intent". If it was Staffs' intent that no home could ever do any remodel or addition, then Staff should have clearly stated that in the many iterations of the LUP that it gave to the City.

Our Clients' proposed minor addition complies with all of the City rules and regulations and the LUP that were in effect at the time the application was approved at

the City. Please note that the Staff Report concludes on page 25 that the City's most current LCP is not even certified!

Errors and Misstatements in the Staff Report

There are many inconsistencies and errors contained within the Staff Report. Attached as **Tabs 3 and 4** are detailed summaries of those errors and inconsistencies prepared by GeoSoils Inc. and Bob Trettin of some.

The proposed project does not result in a "substantial renovation of all of the major structural components of the existing house". Staff requested specific studies and diagrams indicating which features would remain, and which features would not. Staff's request was well beyond what the LUP required. Even utilizing Staff's new criteria, the proposed project did not qualify as Bluff Top Redevelopment or Reconstruction. Clearly the addition of 358 sq. ft. to the first floor and only 392 sq. ft. as a second floor bedroom (at over 51 ft. landward off the bluff edge) does not involve a "substantial renovation of all major structural components of the existing house".

Sliding Glass Doors

The Staff Report also indicates that there was "significant alteration to the western wall of the home undertaken without first obtaining a Coastal Development Permit", the implication being that my Clients knowingly did something without the required permits or approvals.

When our Clients purchased the home, the western wall of the existing home had already been modified by the previous owners with completely new and additional windows and new sliding glass doors. My Clients were not informed that there was any

violation or that a permit was required. Because of a lack in the quality associated with those replacement windows and sliding doors, our Client installed proper sliding glass doors (completely within the existing development envelope and with no expansion of, or alteration to, the structural components of the existing wall). At that time, the City's policy was that owners could replace windows and doors provided that there was no expansion of the development envelope, and no change to structural elements of the exterior walls. As recently as a month ago, this was again confirmed by City Staff. Regardless, merely replacing windows and sliding glass doors does not "significantly extend the life of a non-conforming structure".

In fact, your own Staff reached the exact opposite conclusion when they recommended, and the CCC approved the extensive renovations at the Fletcher Cove Community Center (replacement of windows, the complete replacement of the westerly and southerly walls including structural elements, new and larger doors, replacement of the entire roof including a westerly extension of the roof, new slabs, walkways and fencing with 5ft. Bluff edge setback, and other improvements -- See **Tab 5** Staff Report dated June 16, 2010; CDP Application No. 6-10-29). As with the Community Center, residents should also be able to do normal and customary repair, replacement, and maintenance activities.

Bluff Setback

Staff's desire that all homes should respect an 80 to 100 ft. setback from the bluff edge is not realistic, would result in a taking of private land for public use, and it is inconsistent with its own findings and recommendations concerning the Community Center CDP.

Further, Staff's goal to achieve "managed retreat" at my Clients' property is also unfounded. The Commission has already approved multiple seawalls, tie backs, and mid and upper bluff stabilization along this stretch of the beach, and at our Clients' site, all of which has effectively eliminated retreat. Again, if you were to take Staff's recommendation to its logical extreme, there would be no homes along the west side of Pacific Ave. in Solana Beach. As you know Staff recommended approval of the Community Center with little or no concern about "managed retreat" despite Staff's conclusion that the Community Center would, in fact, be in jeopardy within 5-10 years! (See **Tab 5**)

It is perplexing to note that the CCC Geologist now recommends a minimum setback of 83ft. from the edge of the bluff for this site despite the fact that there is an engineered and CCC approved seawall and mid and upper bluff stabilization that creates an acceptable FOS for both the house and the proposed minor addition.

That recommended setback is all the way back at the sidewalk which would allow no house at all! Second, the LUP, clearly states that you can build a house at the 40ft. setback with caissons. There seems to be a disconnect between how Staff "interprets" Chapter 3 of the Coastal Act, and how your Staff now interprets the "intent" of the current LUP.

Finally, the Staff indicates that a feasible alternative for this 1620 sq. ft. home is a "no project" and justifies that by indicating that the minor addition will result in impacts to public access, recreational opportunities, and sand contribution. However, the proposed project (358 sq. ft. to the first floor including garage and 392 sq. ft. as a second story master bedroom all of which is setback at nearly 51 feet from the bluff) would not in any way adversely affect public access, recreational opportunities, or sand contribution.

Caissons

The Staff Report says numerous times that the proposed caisson foundation is "required" for the minor addition and that the caissons constitute a seawall or shoreline erosion device in conflict with Section 30253. Staff is incorrect. Caissons are not classified as bluff/shoreline erosion protection measures and a violation of Section 30253 (See CCC Staff Report Definitions on page 10 and **Tabs 3 and 4**). As the Staff is also aware, the caissons are not necessary for the proposed minor addition. The Geotechnical and engineering reports conclude that the proposed addition can be supported with a slab foundation. However, because of Staff's concerns expressed to me personally by Lee McEachern in 2013, our Clients decided to voluntarily implement caissons as an additional safety measure to address any potential for "future loss of support" that CCC Staff seemed so concerned about. (See **Tab 6** sheets 1 and 2 and Staff Report pg. 10).

No Precedent

If Staff is concerned about setting a precedent, that concern is unfounded. Based upon the multiple modifications to the LUP (after our Client's project was deemed complete and approved by the City), no other property would be allowed an addition unless they filed their applications before 2013 and received final approvals from the City before the most recently adopted LUP.

Not Bluff Top Redevelopment

Both the City and the CCC Staff agreed to definition of "Bluff Top Redevelopment" and "Reconstruction" within the LUP (See Attached **Tab 6** sheet 2). This project is not Bluff Top Redevelopment or Reconstruction. Much of the discussion

within the Staff Report as to why the minor addition should not be approved is based upon Staff's subjective opinion that the improvements "collectively" should be classified as Bluff Top Redevelopment. However, Staff admits on page 14 of its report, that the project does not meet the thresholds to be classified as Bluff Top Redevelopment or Reconstruction. Staff should not now impose its unwritten "intent" as the basis for recommending denial of a small addition that complies with all of the applicable provisions of the LUP.

In one of its many iterations of the LUP when our project was processing its plans at the City Staff, included the language as contained within **Tab 6** (sheets 1 and 2). As you can see, the proposed minor addition complies with all of those provisions as written by your Staff. Staff established a 40ft. setback from the bluff edge, provided that it could be demonstrated that it would remain stable for 75 years without reliance upon existing or future bluff retention devices, other than caisson foundation. (Emphasis Added) Staff also clearly defined what would not be classified as Bluff Top Redevelopment. Therefore, at the time that this project was and approved at the City, Staff was supportive of a 40 ft. setback if caisson foundations were utilized. (Also see **Tabs 3 and 4**)

Previously Approved Seawall

Finally, there is a large discussion in the Staff Report concerning the existing seawall and mid and upper bluff stabilization which was approved by the Coastal Commission. Most of that discussion is not relevant to this minor addition because the Coastal Commission already made the findings and approved of the CDP for that project. Additionally, there is nothing in the Seawall CDP that precludes this minor addition. The reference in the Staff Report that there are existing "unpermitted caissons" within the bluff is also not relevant. The Commission approved those by

Emergency Permit, and Staff has indicated to Mr. Trettin that they will not require that those caissons be removed because it will end up unnecessarily damaging the bluff stabilization already done, will result in damage to the coastal bluff. Simply put, the removal would serve no purpose.

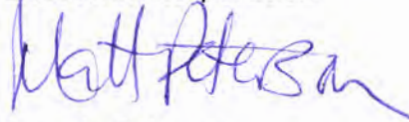
Conclusion

This minor addition is in compliance with all the applicable regulations of the Solana Beach LUP when the application was deemed complete and unanimously approved by the City Council. The project will not result in any adverse impacts to Coastal Resources and it is not precedent setting.

Therefore, would respectfully request that you approve of Coastal Development Application 6-14-0679 for this addition to this small home. Thank you for your consideration.

Sincerely,

PETERSON & PRICE
A Professional Corporation



Matthew A. Peterson

cc: Eric Stevens
Jamee Jordan Patterson, State Attorney General



STAFF REPORT CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: David Ott, City Manager
MEETING DATE: April 9, 2014
ORIGINATING DEPT: Community Development Department
SUBJECT: **DRP and SDP for 355 Pacific Avenue**
(Case # 17-12-37 Applicant: WJK Trust)

BACKGROUND

The Applicant, WJK Trust, are seeking the Council's approval of a Development Review Permit (DRP) and administrative Structure Development Permit (SDP) to remodel an existing 1,380 square foot, single story, single family residence with an attached 240 square foot garage located on the coastal bluff at 355 Pacific Avenue. The total square footage of the proposed remodeled residence will be 2,370 square feet, including livable area and the attached garage. As designed, 185 square feet of living area and 173 square feet of garage space will be added to the first floor as well as a new 392 square foot second level. Caissons would be installed 50 feet east of the bluff edge to support the new square footage. The maximum height of the proposed residence will be 24 feet and 8 inches above the existing finished grade.

The issue before the Council is whether to approve, approve with conditions, or deny the Applicant's request.

DISCUSSION

The subject property is located on the west side of Pacific Avenue, between Solana Vista Drive on the north and Clark Street on the south. The legal lot size is 4,252 square feet, but the western side of the site (bluff edge) has eroded over time and the current lot size measures 3,948 square feet in area. The site is currently developed with a single-family residence with an attached garage. The proposed development consists of remodeling the single story residence and includes a new second story with attached garage. The project plans are provided in Attachment 1.

The property is not located within any of the City's Specific Plan areas; however, it is located within the boundaries of the Scaled Residential Overlay Zone (SROZ). The project has been evaluated to be in conformance with the policies contained in the City's certified Local Coastal Program (LCP) Land Use Plan (LUP), regulations of the SROZ, and the Solana Beach Municipal Code (SBMC) which are discussed further later

CITY COUNCIL ACTION:

in this report. As a condition of project approval, the Applicant will be required to obtain a Coastal Development Permit from the California Coastal Commission (CCC) prior to the issuance of a building permit by the City.

Local Coastal Program (LCP) Land Use Plan (LUP)

The City's LUP applies citywide as the entire City is located within the Coastal Zone. This project is the first bluff top residential remodel project to come before the City Council since the LUP was effectively certified by the City Council in February 2013. In addition to compliance with the City's SBMC and General Plan, the project's conformance with the certified LUP is also required. Compliance with the LUP Amendment (LUPA) is not required for this project as the project application was deemed complete on April 17, 2013, which is prior to the date the Council took action to endorse the draft LUPA and forward it to the CCC for processing on May 22, 2013. The LUPA has yet to be certified.

The LUP contains specific policies and provisions related to bluff top development projects including those related to setbacks, development thresholds, use of caissons for new square footage, including additions, and the removal of permanent irrigation systems if located within 100 feet of the bluff edge. The key relevant LUP policies which apply to this project are listed below in italics:

Policy 4.14: *Existing, lawfully established structures that are located between the sea and the first public road paralleling the sea (or lagoon) built prior to the adopted date of the LUP that do not conform to the provisions of the LCP shall be considered legal non-conforming structures. Such structures may be maintained and repaired, as long as the improvements do not increase the size or degree of non-conformity. Minor additions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the current policies and standards of the LCP. Demolition and reconstruction or bluff top redevelopment is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP.*

Policy 4.17: *New development shall be set back a safe distance from the bluff edge, with a reasonable margin of safety, to eliminate the need for bluff retention devices to protect the new improvements. All new development, including additions to existing structures, on bluff property shall be landward of the Geologic Setback Line (GSL) as set forth in Policy 4.25. This requirement shall apply to the principal structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems, etc. Accessory structures such as decks, patios, and walkways, which are at-grade and do not require structural foundations may extend into the setback area no closer than five feet from the bluff edge. On lots with a legally established bluff retention device, the required geologic analysis shall describe the condition of the existing seawall; identify any impacts it may be having on public access and recreation, scenic views, sand supply and other coastal resources; and evaluate opportunities to modify or replace the existing protective device in a manner that would eliminate or reduce those impacts.*

Policy 4.23: *Where setbacks and other development standards could preclude the construction of a home the City may consider options including but not limited to reduction of the two car onsite parking space requirement to a one car onsite parking requirement or construction within five feet of the public right of way front yard setback for all stories as long as adequate architectural relief (e.g., recessed windows or doorways or building articulation) is maintained as determined by the City. The City may also consider options including a caisson foundation with a minimum 40 foot bluff top setback to meet the stability requirement and avoid alteration of the natural landform along the bluffs. A condition of the permit for any such home shall expressly require waiver of any rights to new or additional bluff retention devices which may exist and recording of said waiver on the title of the bluff property.*

Policy 4.25: *All new bluff property development shall be set back from the bluff edge a sufficient distance to ensure that it will not be in danger from erosion and that it will ensure stability for its projected 75-economic life. To determine the GSL, applications for bluff property development must include a geotechnical report, from a licensed Geotechnical Engineer or a certified Engineering Geologist that establishes the Geologic Setback Line (GSL) for the proposed development. This setback line shall establish the location on the bluff top stability where can be reasonably assured for the economic life of the development. Such assurance will take the form of a quantitative slope analysis demonstrating a minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer), using shear strength parameters derived from relatively undeformed samples collected at the site. In no case shall the setback be less than 40 feet from the bluff edge, and only if it can be demonstrated that the structure will remain stable, as defined above, at such a location for its 75-year economic life and has been sited safely without reliance on existing or future bluff retention devices, other than a caisson foundation.*

Policy 4.26: *With respect to bluff properties only, the City will require the removal or capping of any permanent irrigation system within 100 feet of the bluff edge in connection with issuance of discretionary permits for new development, redevelopment, or shoreline protection, or bluff erosion, unless the bluff property owner demonstrates to the satisfaction of the Public Works Director, or the CCC if the project is appealed, that such irrigation has no material impact on bluff erosion (e.g., watering hanging plants over hardscape which drains to the street).*

In addition to the LUP Policies listed above, Chapter 8 of the LUP (Definitions) contains a defined development threshold which is listed below to be used for evaluating whether a proposed bluff top remodel project is considered a minor remodel or whether it exceeds the threshold of "Bluff Top Redevelopment" referenced in LUP Policy 4.14 above.

Bluff Top Redevelopment shall apply to structures located between the sea and the inland extent of the sea and the first public road paralleling the sea (or lagoon)

that consist of (1) additions; (2) exterior and/or interior renovations; (3) or demolition of an existing bluff home or other principal structure which results in:

(1) Alteration of 50% or more of an existing structure, including but not limited to, alteration of 50% or more of exterior walls, interior load-bearing walls, or a combination of both types of walls, or a 50% increase in floor area.; or

(2) Demolition, renovation or replacement of less than 50% of an existing structure where the proposed remodel would result in cumulative alterations exceeding 50% or more of the existing structure from the date of certification of the LUP.

Table 1, below, provides a synopsis of the applicable LUP and Solana Beach Municipal Code (SBMC) specific minimum and maximum requirements of the zoning regulations for the development of the property compared to the Applicant's proposed design. As shown, the proposed height, setbacks, and floor area ratio (FAR) for the proposed structure are in compliance with the regulations of the SBMC.

Table 1

PROJECT AND PARCEL INFORMATION	
Property Address: 355 Pacific Avenue	Maximum Building Height: 25 ft.
Legal Lot Size: 4,252 ft ²	Proposed Building Height: 24 ft. 8in.
Actual Lot Size: 3,948 ft ²	Applicable Overlay Zone: SROZ
Maximum SROZ FAR: 1,974 ft ²	Zone: Medium Residential (MRd)
Proposed FAR: 1,970 ft ²	Density Allowed: 1 Dwelling Unit
Below Max. FAR by: 4 ft ²	Density Requested: 1 Dwelling Unit
LUP Allowed SF increase: 690 ft ²	Setbacks Required: Front: 5 ft.
Proposed SF increase: 577 ft ²	Side : 5 ft.
(Inc. 185 on 1st floor & 392 on 2 nd floor)	Rear: 40 ft.
Below Max. LUP FAR by: 113 ft ²	Setbacks Provided: The proposed additions will be setback a minimum of 5 feet from the front property line and setback a minimum of 6 feet from the side property line.
PROPOSED PROJECT INFORMATION	
Proposed Square Footage Breakdown:	Required Permits:
First Floor Living Area: 1,565 ft ²	DRP- For an increase of 500 ft ² of floor area in a residential zone and grading in excess of 50 cubic yards.
Second Floor Living Area: 392 ft ²	
Attached Garage: 413 ft ²	SDP- For construction in excess of 16 feet in height measured from pre-existing grade.
Subtotal: 2,370 ft ²	
Required Parking Exemption: - 400 ft ²	
Total: 1,970 ft ²	

Total Grading: 75 cubic yards of cut to be exported off-site for the following
Site Excavation: 30 cu.yds. **Slab/Footings:** 20 cu.yds. **Caissons:** 25 cu. yds.

Proposed Parking: 2 garage spaces

Proposed Fences and Walls: Yes

Proposed Accessory Living Unit: No

Proposed Accessory Structure: No

As noted in Table 1 above, the structure has a required front yard setback of 5 feet and a rear yard (bluff edge) setback which is 40 feet for new development. Pursuant to LUP Policy 4.23 (contained on Page 3 of this Staff Report), where setbacks and other development standards could preclude the construction of a home, the City may consider options including, but not limited to, reduction of the two car onsite parking space requirement to a one car onsite parking requirement or construction within five feet of the public right of way front yard setback for all stories as long as adequate architectural relief is maintained. The City may also consider options including a caisson foundation with a minimum 40 foot bluff top setback to meet the stability requirement and avoid alteration of the natural landform along the bluffs.

The proposed project incorporates caissons to provide an alternative geological setback line (GSL) consistent with LUP Policy 4.23. Geopacifica, the City's third party geotechnical consultant, has reviewed the proposed project design and the geotechnical report provided to the Applicant and has concluded that the project, as proposed, is consistent with the City's LUP and SBMC geotechnical requirements. The letter report from Geopacifica is included in Attachment 2.

The project is also below the "Bluff Top Redevelopment" thresholds for both changes to existing exterior and interior walls and new floor area as required by the LUP as shown in Table 2 below, as well as on plan sheet T-1 and A-1.1 (Attachment 1). The LUP defines "Floor Area" as follows: the enclosed interior space inside a bluff home, excluding required parking of 200 square feet per parking space, both before and/or after completion of any remodel. Therefore, while the additional 13 square feet of garage space (above the SBMC exempted 400 square feet) counts towards the FAR under the City's SROZ ordinance as shown in Table 1 above, it is not included in the LUP calculation below. It is anticipated that reconciliation between these two calculations will occur in the context of the City's LCP Local Implementation Plan (LIP).

Table 2

**LUP "BLUFF TOP REDEVELOPMENT" THRESHOLD COMPARISON
EXISTING EXTERIOR AND INTERIOR WALLS**

Existing

Exterior Walls:	206' 5"
Interior Load Bearing Walls:	140' 6"
Total existing combined Exterior and Interior Walls:	346' 11"

Removed (Proposed)

Existing Exterior Walls:	14' 10"
Existing Interior Load-Bearing Walls:	19' 7"

Total Exterior and Interior Load-Bearing Walls:	34' 5"
Total percent change from existing:	9.9%
LUP Bluff Top Redevelopment Threshold: (e.g., allowed change to exterior and interior load-bearing walls)	> 50% change
LUP Threshold Exceeded?	No.
Retained (Proposed)	
Existing Exterior Walls:	191' 7" (92.8% retained)
Existing Interior Load-Bearing Walls:	120' 11" (86% retained)
LUP "BLUFF TOP REDEVELOPMENT" THRESHOLDS COMPARISON FLOOR AREA	
Existing Interior Enclosed Floor Area:	1,380 ft ²
Proposed Interior Enclosed Floor Area increase:	577 ft ²
• 185 ft ² on 1st floor	
• 392 ft ² on 2 nd floor	
LUP Bluff Top Redevelopment Threshold: (e.g., allowed increase in interior enclosed floor area)	> 690 ft ²
LUP Threshold Exceeded?	No.

Pursuant to SBMC section 17.20.030.D.1. for development pursuant to a DRP, front yards for lots in the (MR) Zone along the west side of Pacific Avenue may be reduced to 10 feet to compensate for required coastal bluff rear yard setbacks. Second stories shall be set back 15 feet from the street right-of-way. Garages shall be allowed within front yards; provided a five-foot minimum setback is maintained between the garage and the street right-of-way. Incremental variations in the first and second floor setbacks, not to exceed five feet, may be allowed; provided the average setback is maintained and no portion of the building is located within five feet of the right-of-way.

In the case of setbacks, the LUP allows for a reduced front yard setback to five feet to further offset the required 40-foot minimum coastal bluff edge setback. The proposed project is 5 feet from the front yard setback.

The property has the required 5 foot side yard setbacks along the north and south property lines and a 50 foot rear yard/bluff edge setback which exceeds the required 40 foot minimum setback. The proposed project will comply with the required SBMC setbacks for the property.

The Applicant is requesting that the Council consider the approval of a DRP and an administrative SDP. The project includes an increase of floor area of greater than 500 square feet in a residential zone and for grading in excess of 50 cubic yards which necessitates the Council's review of a DRP. A SDP is required because the Applicant is proposing construction in excess of 16 feet in height above pre-existing grade. Resolution 2014-025 (Attachment 3) provides the full text of the pertinent regulations.

Staff has prepared draft findings for approval of the project for Council's consideration based upon the information in this report and Staff's analysis of the proposed project. It provides the applicable LUP and SBMC sections in italicized text. Conditions from the Planning, Engineering and Fire Departments have been incorporated into the Resolution of Approval. The Council may direct Staff to modify the Resolution to reflect the findings and conditions as it deems appropriate as a part of the public hearing process. If the Council determines the project is to be denied, Staff will prepare a Resolution of Denial for an action to be taken at a subsequent Council meeting.

The following is a discussion of the findings for a DRP and administrative SDP as each applies to the proposed project, as well as a discussion of the development plans and recommended conditions as contained in the attached Resolution.

Development Review Permit Compliance:

In addition to meeting zoning requirements, the project must also be found in compliance with development review criteria. A DRP is required for any new construction, including replacement of an existing structure or structural additions to existing development, totaling an increase of floor area by 500 square feet or more in residential zones (SBMC Section 17.68.040). The following is a list of the development review criteria topics:

1. Relationship with Adjacent Land Uses
2. Building and Structure Placement
3. Landscaping
4. Roads, Pedestrian Walkways, Parking and Storage Areas
5. Grading
6. Lighting
7. Usable Open Space

The Council may approve, or conditionally approve, a DRP only if all of the findings listed below can be made. Resolution 2014-025 (Attachment 3) provides the full discussion of the findings.

1. The proposed development is consistent with the general plan and all applicable requirements of the zoning ordinance including special regulations, overlay zones, and specific plans.
2. The proposed development complies with the development review criteria.
3. All required permits and approvals have been obtained prior to or concurrently with the development review permit.

If the above findings cannot be made, the Council shall deny the DRP. The following is a discussion of the applicable development review criteria as they relate to the proposed project.

Relationship with Adjacent Land Uses

The property is located within the Medium Residential (MRd) Zone on the west side of Pacific Avenue along the City's coastal bluffs. The properties immediately adjacent to the north, south, and east are also located within the MRd Zone. Surrounding properties are developed with single story and two story single-family residences. The project, as designed, is consistent with the permitted uses for the MRd Zone as described in SBMC Sections 17.20.010 and 17.12.020, and is also consistent with the General Plan, which designates the property as Medium Density Residential. The proposed development is consistent with the objectives of the General Plan as it encourages the development and maintenance of healthy residential neighborhoods, the stability of transitional neighborhoods, and the rehabilitation of deteriorated neighborhoods.

Building and Structure Placement

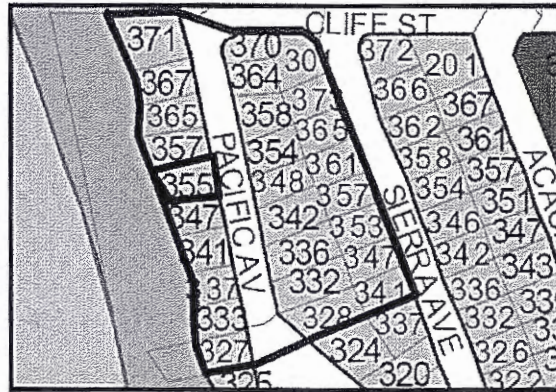
The remodeled residence, as viewed from Pacific Avenue, will appear as a contemporary two-story residence similar to other recent remodeled residences in the neighborhood. There is an existing garage roof overhang and other public encroachments such as a landscape planter that will be allowed to remain and the Applicant will be required to sign an encroachment agreement with the City.

The proposed project, as designed, is below the maximum allowable SROZ FAR for the property and is consistent with applicable LUP policies including required setbacks and caissons and is below all defined "Bluff Top Redevelopment" thresholds as shown in Table 2 below.

The new square footage will be sited on caissons in compliance with LUP Policies 4.23 and 4.25 above and will be located more than 50 feet from the coastal bluff edge. In addition, the second story includes an uncovered deck on the west side of the residence that is "cantilevered" 10 feet west of the 50 foot setback line and the locations of the caissons. While the Certified LUP does not specifically address cantilevered designs, the City's LUP Amendment included a definition of "cantilever" with the intent that the City would allow designs incorporating a cantilever element up to a maximum of 10 feet west of the 40 foot bluff edge setback.

Neighborhood Comparison

Staff compared the proposed project to 26 properties within the surrounding area located along both sides of Pacific Avenue and the west side of South Sierra Avenue as shown on the following Zoning Map:



All of the properties evaluated in this comparison are located within the Medium Residential (MRd) Zone and also located within the Scaled Residential Overlay Zone (SROZ); therefore, they have a maximum FAR allowance using a tiered calculation of .50 for the first 6,000 square feet of lot area, .175 for the next 9,000 square feet, .10 for the next 5,000 square feet and .05 for the remainder of the lot. The maximum allowable for this 3,948 square foot lot is calculated as follows:

$$.05 \text{ for the } 3,948 \text{ ft}^2 \text{ lot} = 1,974 \text{ ft}^2$$

Max. Allowable FAR = 1,974 ft²

The existing homes range in size from 780 square feet to 3,702 square feet, according to the County Assessor records. It should be noted that the County Assessor does not include the garage, covered porch area, unfinished basement or accessory building area in their total square footage. Accordingly, the building area of the proposed project has been calculated for comparison purposes by deleting the area of the garage space as follows:

Project Gross Building Area:	2,370 ft ²
Delete Attached Garage Area:	- 413 ft ²
Project Area for Comparison to Assessor's Data	1,957 ft ²

Table 3 is based upon the County Assessor's data and SanGIS data. It contains neighboring lot sizes, the square footage of existing development and the maximum allowable square footage for potential development on each lot.

Table 3						
#	Property Address	Lot Size in ft ² (SanGis)	Recently Approved ft ²	Existing ft ² (Assessor)	Max. Allowable ft ² S.R.O.Z.	Zone
1.	371 PACIFIC AVE.	7,266		1,928	3,222	MR
2.	367 PACIFIC AVE.	4,276		3,158	2,138	MR
3.	365 PACIFIC AVE.	4,317		3,702	2,159	MR
4.	357 PACIFIC AVE.	4,617		2,912	2,309	MR

5.	355 PACIFIV AVE.	3,948		1,380	1,974	MR
6.	347 PACIFIC AVE.	3,688		848	1,844	MR
7.	341 PACIFIC AVE.	3,459		2,177	1,730	MR
8.	337 PACIFIC AVE.	3,122		2,170	1,561	MR
9.	333 PACIFIC AVE.	3,522		1,245	1,761	MR
10.	327 PACIFIC AVE.	3,594		2,913	1,797	MR
11.	370 PACIFIC AVE.	2,823		1,651	1,412	MR
12.	364 PACIFIC AVE.	3,467		1,879	1,734	MR
13.	373 N. SIERRA AVE.	3,848		1,034	1,924	MR
14.	365 N. SIERRA AVE.	3,682		780	1,841	MR
15.	361 S. SIERRA AVE.	3,825		874	1,913	MR
16.	357 N. SIERRA AVE.	3,667		874	1,834	MR
17.	353 N. SIERRA AVE.	3,892		1,481	1,946	MR
18.	347 N. SIERRA AVE.	3,429		840	1715	MR
19.	341 N. SIERRA AVE.	3,805		1,402	1,903	MR
20.	337 S. SIERRA AVE.	4,278		918	2,139	MR
21.	328 PACIFIV AVE.	5,388		1,541	2,694	MR
22.	332 PACIFIC AVE.	5,260		3,512	2,630	MR
23.	336 PACIFIC AVE.	5,669		2,289	2,835	MR
24.	354 PACIFIC AVE.	4,153		1,045	2,077	MR
25.	358 PACIFIC AVE.	4,467		1,842	2,234	MR
26.	301 W CLIFF ST.	4,850		923	2,425	MR
27.	342 PACIFIC AVE.	5,314		1,171	2,657	MR

Fences, Walls and Retaining Walls

Within the front yard setback area, the SBMC allows for fences and walls or any combination thereof, to be no higher than 42 inches in height as measured from existing grade, except for an additional two feet of fence that is at least 80% open to light. Fences, walls and retaining walls located within the rear and interior side yards are allowed to be up to six feet in height with an additional 24 inches that is 50% open to light and air. The plans indicate that a new side gate is proposed along the southern property lines that will be 75% open to light and air. The existing side gate on the northern side yard will not be modified. As a condition of project approval, the Applicant will be required to show that the retaining walls and any combination of fence, wall or railing added to the retaining walls, will not exceed the maximum heights allowed within the required side yard setbacks according to SBMC Section 17.20.040 during the building permit process.

Landscape

The project is not subject to the water efficient landscaping regulations of SBMC 17.56 because the project is an existing single family residence with less than 2,500 SF of landscaped area. The project has been conditioned, however, to comply with LUP Policy 4.26 which requires the removal or capping of any permanent irrigation system within 100 feet of the bluff edge in connection with issuance of discretionary permits for new development, redevelopment, or shoreline protection, or bluff erosion, unless the

bluff property owner demonstrates to the satisfaction of the Public Works Director, or the CCC if the project is appealed, that such irrigation has no material impact on bluff erosion (e.g., watering hanging plants over hardscape which drains to the street). In addition, the project is conditioned to comply with LUP Policy 4.27, which requires that all bluff property landscaping for new development to consist of native, non-invasive, drought-tolerant, fire-resistant, and salt-tolerant species.

Parking

The proposed project includes an attached 413 SF garage at the northeast corner of the residence that is accessed from Pacific Avenue. SBMC Section 17.52.040 and the Off-Street Parking Design Manual (OSPDM) require each single-family residence to provide two parking spaces that are 9' X 19' clear. If the spaces are provided in a garage, up to 200 square feet per required parking space is exempt from the SROZ calculation of the FAR. The proposed attached garage provides two parking spaces that are in compliance with the regulations and, therefore, 400 square feet has been exempted from the calculation of maximum FAR and 13 SF of the garage are included in the FAR calculation.

Grading

A total of 75 yards of material will be excavated and exported off-site as part of this project as shown in Table 1 above and on plan sheet T-6. 30 cubic yards of excavation are proposed for the site work in the front of the existing residence. Caissons are proposed to be installed that will require an additional 25 cubic yards of material that would be removed in order to install the caissons below grade into the coastal bluff. Five cubic yards of soil will be removed for the proposed footings and 15 cubic yards will be removed and recompact for the proposed slab.

Lighting:

A condition of project approval includes that all new exterior lighting fixtures comply with the City-Wide Lighting Regulations of the Zoning Ordinance (SBMC 17.60.060). All light fixtures shall be shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities as to be detrimental to the surrounding area.

Useable Open Space:

The project consists of a remodel to an existing single-family residence, attached garage and associated site improvements, therefore, usable open space and recreational facilities are not required according to SBMC 17.20.040.

Structure Development Permit Compliance:

The proposed residence will exceed 16 feet in height from the pre-existing grade, therefore, the project must comply with all of the requirements of SBMC Chapter 17.63 (View Assessment) and the Applicant must complete the SDP process. A Story Pole Height Certificate was issued by a licensed land surveyor on September 26, 2013, which showed a maximum building height of 24 feet 8 inches. The highest story pole was certified at 101.08 feet above Mean Sea Level (MSL) as measured from the existing grade.

Notices were mailed to all property owners and residents within 300 feet of the property and the deadline to file for View Assessment was December 16, 2013. No applications for View Assessment were received. Therefore, the requirements for the approval of a SDP have been met. The SDP will be issued administratively with the DRP should the Council determine that the findings can be made to approve the project.

As a condition of project approval, once construction has begun, the Applicant will be required to submit a height certification, prior to the framing inspection, for the tallest portion of the residence and also the highest point above MSL. The Height Certification will be signed by a licensed land surveyor and will verify that the framing materials and the proposed roofing materials will not exceed the maximum building heights approved by the SDP.

Notice of the City Council Public Hearing for this project was published in the Union Tribune more than 10 days prior to the public hearing. The same public notice was mailed to property owners and occupants within 300 feet of the proposed project site on March 27, 2014. As of the date of preparation of this staff report, Staff has not received any letters, phone calls, or emails from neighbors or interested parties in support of, or in opposition to, the proposed project.

In conclusion, the proposed project, as conditioned, meets the requirements of the LUP, Zoning Ordinance, is consistent with the General Plan, and could be found to meet the findings required to approve a DRP and administratively issue a SDP.

CEQA COMPLIANCE STATEMENT:

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(e) of the State CEQA Guidelines which is an exemption for additions to existing structures provided the addition is less than 50% of the floor area before the addition.

FISCAL IMPACT: N/A

WORKPLAN: N/A

OPTIONS:

- Approve Staff recommendation adopting the attached Resolution 2014-025.
- Approve Staff recommendation subject to additional specific conditions necessary for the City Council to make all required findings for the approval of a DRP and administrative SDP.
- Deny the project if all required findings for the DRP cannot be made.

DEPARTMENT RECOMMENDATION:

The proposed project meets the minimum objective requirements under the LUP, SBMC, is consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP and administratively issue a SDP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15301(e) of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt Resolution 2014-025 conditionally approving a DRP and an administrative SDP to remodel an existing single-family residence to add 185 SF to the first floor living area, 177 SF to the existing garage and a new 398 SF second level at 355 Pacific Avenue.

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation.



David Ott, City Manager

Attachments:

1. Project Plans
2. Letter report from Geopacifica
3. Resolution 2014-025



EXISTING



PROPOSED

SMALL MINOR ADDITION
 185 S.F. FIRST FLOOR LIVING AREA ADDITION
 173 S.F. GARAGE ADDITION
 392 S.F. SECOND STORY ADDITION
 750 S.F. TOTAL ADDITION

SET BACK 50' FROM THE BLUFF TOP EDGE



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March 4, 2015

W.O. 6391-A5-SC

Mr. Bill Koman
c/o **Matthew Peterson**
530 B Street, Suite 180
San Diego, California 92101

Subject: Response to Errors and Inconsistencies in the CCC Staff report dated 2/27/15 for the Koman Minor Addition, CDP 6-14-0679, 355 Pacific Avenue, Solana Beach, San Diego County, California

Dear Mr. Peterson:

In accordance with your request and authorization, GeoSoils, Inc. (GSI) has prepared this letter summarizing our response to the comments by the California Coastal Commission (CCC) regarding the subject site. The scope of our services has included a review of the subject staff report, analysis of data, and preparation of this summary letter. For ease of review, the CCC comments are repeated below in **bold**, followed by GSI's response.

REVIEW COMMENTS AND RESPONSE

Comment No. 1

Pg. 2 Second complete paragraph, 2nd sentence: **"On the subject site, the Commission's geologist determined that for development to be stable throughout its useful life and not require a seawall or other protective device, it must be set back a minimum of 83 ft. from the edge of the bluff."**

Response to Comment No. 1

As stated in our letter dated June 14, 2013 for the proposed additions (which are set back over 50 feet from the edge of the Coastal Bluff), "GSI finds no geotechnical basis or other justification for which a setback greater than 40 feet from the bluff top wall is warranted on a bluff erosion, or FOS determination basis."

Comment No. 2

Pg. 2 Second complete paragraph, last sentence: **"Inconsistent with Section 30253, the proposed caisson foundation would be a bluff/shoreline protection device that would allow new development to be sited in a location that would otherwise not meet the bluff top stability standards."**

Response to Comment No. 2

This statement is inconsistent with the definition staff included in the report on pg 10:

"Caisson Foundation: Means a subsurface support structure. A Caisson is a shaft or shafts of steel reinforced concrete placed under a building column, foundation or wall and extending down to hardpan, bedrock or competent material as defined or approved by a soils engineer or geologist. Caissons, for this definition, are drilled into position and are used to carry surface building loads and/or to carry surface building loads from anticipated future loss of support (i.e. "slope failure"). Also known as a pier foundation."

Caissons are not classified or built as "bluff retention or shoreline erosion control measures" and their use for this minor addition does not violate Section 30253.

As stated in numerous reports submitted to CCC staff, the proposed minor addition does not require the caisson system. Standard slab construction would, in our opinion, be adequate. However, because of CCC staff (Lee McEachern) concerns expressed to the applicant in February 2013, the owner elected to be more conservative and voluntarily design and implement a caisson system set back 51 feet landward of the coastal bluff edge. The Draft LUP that existed at that time, allowed for a 40 foot setback with implementation of caissons.

Comment No. 3

Pg. 2, last paragraph, last sentence: **"In addition, the proposed caisson foundation would result in a substantial, permanent alteration of the bluff, and make it significantly less likely that the structure, which is nearing the end of its economic life, would be able to be relocated or removed in the future."**

Response to Comment No. 3

The proposed caissons are not going on the face of the bluff, and are well setback from such (over 50 feet). As such there will be no alteration of the bluff.

Comment No. 4

On Pg. 7, Section 30253 (b) they quote: **"...or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."**

Response to Comment No. 4

"Landforms" are not altered by caissons. "Forms" are what one sees.

Comment No. 5

Pg. 11 last sentence: **"Therefore, the applicant is proposing to construct a new caisson foundation to support the addition in order to achieve a 1.5 factor of safety for new development over 75 years."**

Response to Comment No. 5

See response # 2 above. As demonstrated in 2012 GSI's report, which was approved by the City's 3rd party consultant and provided to CCC staff, the FOS is well in excess of 1.5 for the existing home, and the proposed project minor addition. Staff's statement is not factual or accurate.

Comment No. 6

Pg. 16, under Summary: **"....The proposed caisson foundation would result in a substantial alteration of the bluff...."**

Response to Comment No. 6

No alteration of the bluff is proposed, or will result with implementation of the elective caisson system.

Comment No. 7

Pg. 22, first incomplete paragraph, first incomplete sentence: **"rate of sea level rise can be expected to accompany this increase in temperature (some shoreline experts have indicated that sea level could rise by as much as 5.5 feet by the year 2100). Mean sea level affects shoreline erosion in several ways, and an increase in the average sea level will exacerbate all these conditions."**

Response to Comment No. 7

This argument in the "Fixing the back beach" section, uses the upper end of Sea Level Rise (SLR), which is unreasonable. The 2013 CCC Draft Sea-Level Rise Policy Guidance has adopted the National Research Council 2012 SLR estimates of 16.56 inches to 65.76 inches over the time period from 2000 to 2100. Based on that document, it is clear that while there is some agreement over the next 30 years, beyond 30 years from now there is little agreement on SLR projections as evidenced by the large range of SLR in the

year 2100. The statement above by the CCC chooses the most onerous conditions to support opinions that are not reasonably foreseeable.

Comment No. 8

Pg. 26, last paragraph: **"Installation of the proposed caisson foundation would result in significant alteration of the bluff and the proposed and existing development is proposed in an unsafe location which requires the use of a bluff/shoreline protective device (the caisson foundation), and over time would require the retention of existing shoreline armoring."**

Response to Comment No. 8

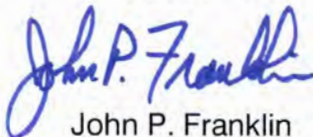
A caisson foundation is not a bluff/shoreline protective device and the proposed caissons at over 50 feet landward of the top of bluff will not result in any alteration of the bluff. The proposed minor addition would not be at risk, and because of the existing and CCC approved seawall, mid, & upper bluff improvements, the existing home will also not be at risk.

CLOSURE

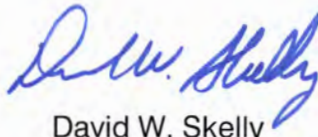
The opportunity to be of service is sincerely appreciated. If you should have any questions, please do not hesitate to contact our office.

Respectfully submitted,

GeoSoils, Inc.



John P. Franklin
Engineering Geologist, CEG 1340



David W. Skelly
Civil Engineer, RCE 47857



JPF/DWS/jh

Distribution: (3) Addressee

The Trettin Company
Government Relations Project Development

March 4, 2015

TO: Mr. Matthew Peterson
 530 B Street, Suite 180
 San Diego, California 92101

FROM: Bob Trettin, Principal
 The Trettin Company

RE: Comments / Corrections on California Coastal Commission staff report for
 the Koman Minor Remodel and Addition; CDP Application #6-14-0679;
 355 Pacific Avenue, Solana Beach CA

Having represented clients before the Coastal Commission since 1991, and having served as the agent of record for this property's fully permitted coastal bluff protective measures, I have noticed the following inconsistencies in the current staff report as compared to Coastal staff's past recommendations and the Commission's past actions:

****** In the current report, Coastal staff has emphasized that the existing structure is 63 years old and nearing the end of its economic life. Using this rationale, they argue that the proposed remodel would extend the life of the existing structure. This is not accurate.

Staff is fully aware that, upon completion of the seawalls (under Coastal Emergency Permit) the existing residential structure was returned to a factor of safety of 1.5 and could be recertified to have a minimum economic life of 75 years. The remaining economic life of any structure can be constantly re-appraised based on its condition. The existing structure at 355 Pacific is in excellent condition.

As an example of Coastal staff's full awareness of this fact, just a few years in the past the City of San Diego issued a Coastal Development Permit for construction of a seawall to protect the primary residential structure at 4837 Bermuda Avenue in Ocean Beach. This project was thoroughly reviewed with Coastal staff and received their support. The subject residential structure at that site is 102 years old – and it too could be certified at present as having a minimum economic life of 75 years.

****** In establishing a "safe" setback of 83 feet from the top of bluff, Dr. Mark Johnson is using an argument that has been presented to the Commission in the past – and rejected by the Commission in its deliberations on prior project(s).

Dr. Johnson's proposed setback would attempt to assure that the proposed remodel would have a FOS of 1.5 at the end of a projected 75-year economic life. That is not a state standard, which requires structures to have a FOS of 1.5 at the time of development and to certify that they will have a minimum 75-year economic life.

Under the high-end erosion rate of .47 feet annually that is utilized by Dr. Johnson (and not included in the Solana Beach LUP), the bluff (without benefit of coastal bluff protective measures) would erode back 35.25 feet over the next 75 years. That means the proposed caissons would remain setback over 15 feet from the projected top of bluff at the end of the 75-year period. They would not be serving as a bluff protective measure, nor, being buried, would they have any impact on natural bluff characteristics or aesthetics.

Therefore, in theory, Dr. Johnson's presumption is not accurate. Further, in reality, the seawall authorized by the California Coastal Act and approved by the California Coastal Commission will, with routine maintenance, protect the existing residential structure for at least the next 75 years. This means that the caissons included in the proposed remodel, set back 51 feet from the existing top of bluff, will remain setback 51 feet from the top of bluff for the minimum 75 year life of the structure.

** Coastal staff stipulates that the proposed remodel / addition cannot be sited 51 feet from the top of bluff without relying on caissons. Therefore the caissons, per staff, constitute coastal bluff protection for new development. Coastal staff notes that this would place the project in non-conformance with Section 30253 of the Coastal Act.

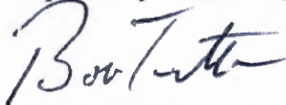
This determination is markedly inconsistent with past staff recommendations and Coastal Commission actions. For example, in 2006 the Commission approved a new home located at 629 Fourth Street in Encinitas (Albani; CDP A-6-ENC-06-101; cover attached). Coastal staff determined that "*... the project will incorporate the use of shear pin / pier caissons imbedded approximately 40 feet in depth beneath the western side of the residence.*" Coastal staff further noted "*... without the use of deepened foundations, a setback of approximately 64 feet from the edge of bluff would be necessary to assure no shoreline protective devices would be needed over the lifetime of the residence.*" The Commission, which had originally appealed the City of Encinitas approval of this project, acted on the de novo staff recommendation to approve the project, which was set back 46 feet from the bluff edge. Similar to the Koman proposal, the caissons in the Albani project would not be exposed during the certified 75-year life of the residence. In approving the project, the Commission found the project to be in full conformance with Chapter 3 of the Coastal Act.

** Staff notes that the three (3) caissons placed under the southwest area of the existing residential structure at 355 Pacific Avenue (under Emergency Coastal Permit) cannot be safely removed now that they are no longer necessary. Staff uses this as a reason not to support the caissons proposed in the current proposal.

This argument is inaccurate and irrelevant to the current proposed remodel. The existing caissons no longer serve a function as the seawall and bluff reconstruction have been completed. If, however, the city were to act under some program of managed bluff retreat to acquire the property and remove the residence, then the seawall and caissons could ultimately be removed (presuming that adjacent residential structures to the north and south that experience some benefit from the 355 Pacific seawall were concurrently being acquired and removed). The argument that existing, buried caissons can't be removed at this time is specious, as they pose no concern to coastal bluff stability or coastal bluff aesthetics.

My observation, through 24 years of representing clients before the California Coastal Commission, is that the Commission has always been vigilant in administering the protections afforded our state's coastline by the policies of the California Coastal Act --- but past and present Commissions have also strived to be consistent in their rulings. I would anticipate that inconsistencies in the Coastal staff report would be corrected in a final Commission action to approve this minimal remodel / addition.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Bob Trettin". The signature is fluid and cursive, with the first name "Bob" being more prominent than the last name "Trettin".

BOB TRETTIN, Principal
The Trettin Company

CALIFORNIA COASTAL COMMISSION

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



Staff: Gary Cannon-SD
Staff Report: January 26, 2007
Hearing Date: February 14-16, 2007

Thu 18e

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Encinitas

DECISION: Approval with Conditions

APPEAL NO.: A-6-ENC-06-101

APPLICANTS: Salvatore Albani

PROJECT DESCRIPTION: Demolish an existing single-family residence and construct an approximately 3,962 sq. ft. two-story single-family residence with pool on an approximately 10,000 sq. ft. blufftop lot.

PROJECT LOCATION: 629 Fourth St., Encinitas, San Diego County.
APN No. 258-151-23

STAFF NOTES:

At its October 11, 2006 hearing, the Commission found Substantial Issue exists with respect to the grounds on which the appeal was filed. This report represents the de novo staff recommendation.

Summary of Staff's Preliminary Recommendation:

Staff recommends the Commission approve the de novo permit with several special conditions. The primary issue raised by the subject development relates to the appropriate siting of the home and pool such they will be safe from threat in the future. The project involves construction of a single-family home set back approximately 46 ft. from the edge of the bluff that will incorporate the use of a row of shear pin/pier caissons imbedded approximately 40 ft. in depth beneath the western side of the residence. The use of the deepened caisson foundation will assure stability for the residence such that the proposed residence will not require shoreline protection over its lifetime.

Since the Commission's action in finding Substantial Issue, the applicant revised his application request to include the use of caisson/pier foundation. Without the use of deepened foundations, a setback of approximately 64 ft. from the edge of the bluff would be necessary to assure no shoreline protective devices would be needed over the lifetime of the residence. In addition, the application has been revised to include a pool that is proposed to be located along the western side of the home but landward 40 ft. from the edge of the bluff. With the proposed caisson foundation, both the proposed residence and

the pool will not require shoreline protection over their lifetime. The Commission's staff geologist and coastal engineer have reviewed the project and concur. Other conditions include requirements that the applicant waive all future rights to shoreline protection for the residence and pool, assume all risks associated with development, prohibit the use of permanent irrigation devices, requires that the pool be of double-walled construction and contain automatic leak-detection and shutoff devices, require the applicant to apply for a coastal development permit for all future development on the site, and require that the bluff face portion of the property be conserved in open space.

Standard of Review: Certified City of Encinitas LCP and Chapter 3 Policies of the Coastal Act relating to public access and recreation.

Substantive File Documents: Certified City of Encinitas Local Coastal Program; Appeal Applications by Commissioners Patrick Kruer and Steve Padilla dated 8/25/06; City of Encinitas Case #05-068/DR/CDP; "Report of Preliminary Geotechnical Investigation" by Christian Wheeler Engineering dated 6/14/04; "Response to Initial Review of Application for a Design Review and Coastal Development Permit" by Christian Wheeler dated 1/30/06; Shear Pins Recommendation to Stabilize Existing Coastal Bluff, Proposed Single-Family Residence, 629 4th St." by Christian Wheeler Engineering dated November 8, 2006.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-ENC-06-101 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified LCP and the public access policies of Chapter 3 of the Coastal Act. 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

CALIFORNIA COASTAL COMMISSION

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



F18a

Filed: May 5, 2010
49th Day: June 23, 2010
180th Day: November 1, 2010
Staff: G. Cannon-SD
Staff Report: June 16, 2010
Hearing Date: July 7-9, 2010

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-10-29

Applicant: City of Solana Beach

Agent: Luella Greco

Description: Remodel existing 1,237 sq. ft. one-story community center to include new roof, demolish and replace interior and exterior finishes, new windows and doors, restroom/kitchen remodeling, new ADA parking with access ramps and retaining walls, and 365 cu. yds. of balanced grading on a 60,984 sq. ft. blufftop lot.

Lot Area	60,984 sq. ft.
Building Coverage	1,237 sq. ft. (2%)
Pavement Coverage	2,851 sq. ft. (5%)
Landscape Coverage	37,297 sq. ft. (61%)
Unimproved Area	19,602 sq. ft. (32%)
Parking Spaces	2
Zoning/	
Plan Designation	Open Space and Recreation
Ht abv fin grade	16 feet

Site: 133 Pacific Avenue, Solana Beach, San Diego County
APN 298-101-65

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval, with conditions, of the proposed development. The main issue raised by the proposed development relates to the status of the existing community center as a legal nonconforming structure in that the structure is located within 26 feet of the edge of the bluff, within the required geologic setback area. As proposed, the applicant will leave all exterior walls of the existing community center structure in place, although the interior and exterior finishes will be replaced. The other improvements, such as new windows,

doors, roof and remodeling of the restrooms and kitchen facilities and ADA access improvements will not increase the size of the existing structure or affect bluff stability.

While the proposed improvements are substantial and clearly go beyond normal repair and maintenance, the proposed improvements do not result in a greater risk to the existing nonconforming structure over that which currently exists, as there is no new floor area being added and the footprint of the structure remains the same. Therefore, the proposed improvements to the existing blufftop structure will not result in the need for shoreline protection any more than the need that currently exists with the present structure.

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

Substantive File Documents: City of Solana Beach General Plan and Zoning Ordinance; "Initial Study & Mitigated Negative Declaration 133 Pacific Avenue Fletcher Cove Community Center" dated March 2010; "Limited Geotechnical Investigation/Evaluation For Fletcher Cove Community Center" by TerraCosta Consulting Group dated February 11, 2010; "Response to Coastal Commission Review Comments" dated 5/4/2010 by TerraCosta Consulting Group; CDP Nos. 6-87-391/Childs; 6-92-82/Victor, 6-92-212/Wood, 6-93-181/Steinberg, 6-97-165/Wood, Lucker; 6-98-148/City of Solana Beach; 6-99-91/Becker; 6-99-95/City of Solana Beach, 6-99-100/Presnell, et.al., 6-99-103/ Coastal Preservation Association, 6-00-66/Pierce, Monroe and 6-02-84/Scism, 06-03-33/Surfsong, 6-04-83/Cumming, Johnson 6-05-72/Las Brisas and 6-07-124/Brehmer, Caccavo.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-10-29 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as 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.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. **Final Plans.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final site and building plans that have been approved by the City of Solana Beach and that substantially conform with the plans by Stephen Dalton Architect dated August 28, 2009, but shall be revised to include the following:

- a. Any existing permanent irrigation system located on the bluff top site shall be removed or capped and no new permanent irrigation system shall be installed.
- b. All runoff from the community center and impervious surfaces on the site shall be collected and directed away from the bluff edge towards the street.
- c. The community center and accessory improvements (i.e., fencing walkways, walls, parking, etc.) proposed and/or remaining on the site shall be detailed and drawn to scale on a site plan. No new fencing or other accessory structures shall be located closer than 5 feet landward of the natural bluff edge.

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. **Final Landscape Plans.** **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written

approval of the Executive Director, a final landscaping plan for the Solana Beach Community Center development that incorporates the following:

- a. A plan showing the type, size, extent and location of all plant materials on the site.
- b. All new plant material shall consist of drought tolerant native, non-invasive plant materials. 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 utilized within the property. New trees shall be prohibited in areas that affect public views of the ocean.
- c. No new permanent irrigation system shall be installed.
- d. The use of rodenticides is prohibited.
- e. A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- f. Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved landscape plans shall be reported to the Executive Director. No changes to the landscape 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. Assumption of Risk, Waiver of Liability and Indemnity Agreement

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, bluff retreat and erosion; (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.
- B. **PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record 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 restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special 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.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

4. Future Response to Erosion. If in the future the permittee seeks a coastal development permit to construct bluff or shoreline protective devices, the permittee shall include in the permit application information concerning alternatives to the proposed bluff or shoreline protection that will eliminate impacts to scenic visual resources, public access and recreation and shoreline processes. Alternatives shall include but not be limited to: relocation of portions of the principal structures that are threatened, structural underpinning, and other remedial measures capable of protecting the principal structures 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 shoreline protective devices shall be constructed in order to protect ancillary improvements (patios, decks, fences, landscaping, etc.) located between the principal structures and the ocean.

5. Future Development. This permit is only for the development described in coastal development permit No. 6-10-29. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply. Accordingly, any future improvements to the existing structure other than those authorized by coastal development permit No. 6-10-29, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code section 30610(d) and Title 14 California Code of Regulations section 13252(a)-(b), shall require an amendment to permit No. 6-10-29 from the California Coastal Commission.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project involves remodeling of an existing 1,237 sq. ft. one-story community center and construction of ADA access improvements on a 60,984 sq. ft. blufftop lot that is part of Fletcher Cove Beach Park, the city's primary beach access area. The project site is located at 133 Pacific Avenue, just northwest of the western terminus of Lomas Santa Fe Drive in the City of Solana Beach. Based on the submitted plans, the existing community center is located approximately 26 ft. from the bluff edge at its closest point, with approximately 1/3 of the structure located within 40 ft. of the bluff edge. In addition to the community center, the existing site includes a shuffleboard court covered by trellis, landscaping and a chain link fence along the west side of the site approximately 10 feet inland of the bluff edge. The project will not add any new floor area or change the footprint of the existing community center. However, pursuant to Section 13253(b)(1) of the Commission's Code of Regulations, because the project involves improvements where both the improvements and the existing structure are located within 50 ft. of the edge of the bluff, a coastal development permit is required.

Based on the plans by Stephen Dalton Architect dated August 28, 2009 submitted with this application, the following improvements are proposed:

Interior Changes: The interior changes consist of: removal and replacement of interior finishes and fixtures along with remodeling of the restrooms and kitchen to include new plumbing and electrical wiring.

Exterior Changes: The exterior changes consist of: removal and replacement of the exterior finishes; removal and replacement of all doors and windows; door widening; roof

replacement. No new foundation footings are proposed, however, six tie-down concrete blocks are proposed to be poured for bolting the existing structure to the underlying foundation consistent with current building code requirements.

Other Improvements: Construction of driveway, two ADA parking spaces, ADA paths/ramps, a decomposed granite pedestrian path, a 4 to 8 ft.-high retaining wall along the north side of ADA parking area, an approximate 4 ft.-high keystone wall along the west side of the ADA parking area, demolition of existing shuffle board court and trellis shading, installation of outdoor patio area, and new landscaping. These improvements will require 365 cu. yds. of balanced grading. An existing chain link fence along the west side of the existing lot is proposed to be removed and a new lightweight see-through fence is proposed.

The City of Solana Beach does not yet have a certified Local Coastal Program (LCP) and, therefore, Chapter 3 of the Coastal Act is the standard of review.

2. Improvements to Blufftop Structures. Coastal Act sections 30240(b) and 30253 are applicable to the proposed development and state, in part:

30240(b)

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

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.

[...]

A. Blufftop Stability.

Both the above cited sections are applicable to the Commission's review of new blufftop development and improvements to existing blufftop development such as that proposed. The policies are designed to assure that development in such hazardous locations and adjacent to parks and recreation areas, such as the public beach, are sited and designed to reduce risks and to prevent impacts which would significantly degrade those areas. In review of blufftop development in nonconforming locations, i.e. with insufficient geologic setbacks, the Commission must assure any development which is approved will not contribute to the destruction of the site or the surrounding area, in this case the public parkland comprised of the bluffs and beach. Approved development must also be designed to prevent impacts to those areas. One means to assure such protection of public beach recreational areas is to assure, to the extent possible, that improvements or new development will not require protective devices that substantially alter the natural landforms along bluffs and adversely impact visual quality, coastal processes and public access along the shoreline.

The site of the proposed development is on top of an approximately 80 ft. high coastal bluff in the City of Solana Beach. Because of the natural process of continual bluff retreat, coastal bluffs in this area and at the subject site are considered a hazard area. A recent geotechnical letter prepared for the site identifies that the bluff face seaward of the community center is subject to erosion to a greater extent than elsewhere along the Solana Beach shoreline:

The Community Center is approximately 26 feet landward of the bluff edge at the northwest corner of the building. In the absence of a protective sand beach, and due in part to the more erodible older Pleistocene-age lagoonal deposits that comprise the lower portion of the bluff, the bluff along the back of Fletcher Cove has an average annual erosion rate approaching 1 foot. As such we would expect upwards of 5 to 10 feet of retreat over the next 5 to 10 years. The principal building is not in imminent danger now and is not expected to be in the next five to ten years. ("Response to Coastal Commission Review Comments" dated 5/4/2010 by TerraCosta Consulting Group)

The Commission's Technical Services division has reviewed the applicant's geotechnical documents and has confirmed that the proposed improvements, as conditioned, will not have any adverse impact on bluff stability.

A number of significant bluff failures have occurred along this stretch of coastline, including several slides on the bluffs below the subject site as well as both north and south of the subject site. In addition, documentation has been presented in past Commission actions concerning the unstable nature of the bluffs in this area of the coast (ref. CDP Nos. 6-87-391/Childs; 6-92-82/Victor, 6-92-212/Wood, 6-93-181/Steinberg, 6-97-165/Wood, Lucker; 6-98-148/City of Solana Beach; 6-99-91/Becker; 6-99-95/City of Solana Beach, 6-99-100/Presnell, et.al, 6-99-103/ Coastal Preservation Association, 6-00-

66/Pierce, Monroe and 6-02-84/Scism, 06-03-33/Surfsong, 6-04-83/Cumming, Johnson 6-05-72/Las Brisas and 6-07-124/Brehmer, Caccavo.) In addition, projections of sea level rise continue to be updated, with the latest reports estimating a significant rise in sea level over the next 100 years. Clearly, the potential exists for significant bluff retreat in this area.

In response to slope stability problems found in Solana Beach and Encinitas, in the past the Commission typically required that all new development observe a minimum setback of 40 feet from the top of the bluff, with a reduction to 25 feet allowed, subject to the finding of a certified engineering geologist that bluff retreat will not occur to the extent that the principal permitted structure would be endangered within its economic life (75 years). When the County of San Diego had jurisdiction over the area, the County adopted the Coastal Development Area regulations as part of its LCP Implementing Ordinances, which had similar requirements. In its local permitting process, the City of Solana Beach has also utilized a 40 foot setback, which may be reduced to 25 feet following a discretionary review process which finds that the construction will not be subject to foundation failure during the economic life of the structure. However, due to the number of slope collapses in the area and, in the case of Solana Beach, the recent discovery of a mid-bluff layer of clean sands within the bluffs, the Commission now typically requires that a minimum 40-foot setback be maintained for new development in Solana Beach. In addition, the Commission has required a geologist's certification that bluff retreat will not occur to the extent that a seawall or other shoreline protective device would be required to protect the new development within the economic life of the structure. This has actually resulted in the necessary setback to assure structural stability to be far greater than 40 ft. in some cases in Solana Beach and Encinitas.

In the case of the subject community center, the existing structure is sited as close as 26 ft. from the bluff edge, and according to the applicant's geotechnical engineer, the bluff is receding at a rate of approximately 1 foot per year. From the preceding discussion, it would appear that the existing community center, while not currently threatened, will be threatened by coastal erosion within its lifetime and, as such, it raises the issue of how the proposed improvements can be found consistent with section 30253 of the Coastal Act in that they consist of new blufftop development that will likely require shoreline protection within its lifetime. To address these concerns, the Commission must look at the site specific circumstances to determine whether or not the proposed improvements themselves will significantly contribute to the need for existing or future shoreline protection at the subject site.

B. Retention of Nonconforming Structures.

The existing community center structure is non-conforming with respect to the City of Solana Beach Zoning Ordinance regarding setback requirements for blufftop developments. While this zoning ordinance is not the standard of review for this project, it can provide guidance on how non-conforming structures are analyzed and addressed within Solana Beach. Section 17.72.120 of the City's Municipal Code defines a nonconforming structure as a building, structure or improvement that:

1. Does not conform to the development standards described in this title, together with all building standards including, without limitation, height, setbacks, density, parking, type of building, or coverage of lot by structure; and
2. Did comply with the development standards contained in this title in effect at the time the building, structure or improvement was constructed or structurally altered and was lawfully constructed.

The existing structure is located as close as 26 feet from the edge of an approximately 80 ft. high coastal bluff. The City's municipal code requires that blufftop structures be setback at a minimum of 40 feet landward of the bluff edge unless an engineering geology report is prepared that certifies a setback of less than 40 feet (but not less than 25 feet) is adequate to assure the structure will be safe from erosion over an estimated 70 years. The applicant's geotechnical report states that most of the existing structure, located as close as 26 feet of the bluff edge, is not currently threatened by erosion, and based on an estimated site specific erosion rate of approximately 1 foot per year, is unlikely to be threatened by erosion within the next 5 to 10 years. However, with an erosion rate approaching 1 ft. per year, the existing community center is expected to be threatened in less than 70 years. Additionally, by City standards, the existing structure is nonconforming in that it does not maintain a 40 ft. setback from the edge of the bluff.

Section 30253 of the Coastal Act requires that new development be setback to a safe location so as not to require shoreline protection in the future which would result in adverse effects to the natural bluff and beach. The goal of Section 30253 is to avoid construction of upper and lower bluff stabilization devices that alter natural landforms and coastal processes. The question raised by this proposal is how much the existing nonconforming structure can be revised or improved without increasing the geologic risk. In this case, the City's current zoning ordinances relating to nonconforming structures provide some guidance in interpreting when that threshold has been exceeded

The City's nonconforming structure regulations at Section 17.16.040 of the City's Municipal Code identify the type of work that can be done without triggering a requirement to bring a nonconforming structure into conformance with current standards. The regulations indicate "[r]outine internal and external maintenance and repairs may be performed on a nonconforming structure." In addition, Section 17.16.110E states:

Replacement, repair or reinforcement of existing structural components within the existing building envelope of principal residential structures and related accessory structures is allowed as necessary to repair damage from fire, earthquake, flood, weather, sunlight, mold, mildew, termites, accidental or natural causes. Further, reinforcement, augmentation or strengthening of existing structural components within the existing building envelope of these structures when necessary to support fire safety or building safety code improvements shall be allowed.

Additionally, Section 17.16.060 of the City's Municipal Code allows additions to occur to nonconforming structures as long as the addition does not "increase the size or degree of the existing nonconformity." The purpose of these regulations is to limit the type and extent of work that can be performed on nonconforming structures. And as Section 17.16.060 specifically identifies, "[t]his section shall not be interpreted to allow the reconstruction of a nonconforming structure". Thus, using these guidelines, the issue is whether the proposed project constitutes "routine internal and external repairs" which do not "increase the size or degree of the existing nonconformity" and whether or not the proposed development represents the "reconstruction of a nonconforming structure". In the context of proposals to enlarge and reconstruct existing non-conforming structures, the Commission has in some cases required these structures to be brought into conformity with the shoreline hazard policies of the Coastal Act or certified LCPs (ref. CDP #A-6-LJS-99-160/Summit Resources).

As stated, one of the goals of the Coastal Act is to protect natural bluffs and beaches. New development or reconstruction of a nonconforming structure which has inadequate setbacks to protect it from erosion over its lifetime, will likely result in demands for shoreline protection which can result in adverse impacts to the bluffs and beach. In light of this goal, the Commission finds that the term "repair" is intended to mean minor activities that allow a nonconforming structure to be kept in habitable condition. This term does not include demolition, expansion, construction of additions, and such other work that results in reconstruction of the nonconforming structure. To interpret this term otherwise would allow new development that would conflict with the goals of the Coastal Act.

In the case of the proposed development, the Commission finds that the proposed project results in improvements to a non-conforming structure, allowing the structure to remain in a non-conforming location for a longer period of time. In addition, the Commission finds the proposed interior and exterior improvements and other renovations to the site to be more than routine repair and maintenance, but also not full reconstruction of the structure. Thus, the remaining question is whether the project increases the degree of nonconformity and/or results in an additional threat to the community center structure.

C. Does the Project Increase the Degree of Nonconformity.

The purpose of any nonconforming structure regulations is to allow continued use of existing legal nonconforming structures which were legally constructed but have become nonconforming due to changes beyond the property owner's control, provided the degree of nonconformity is not increased or expanded. These types of regulations are not intended to allow redevelopment of a property solely in reliance on the nonconforming regulations without regard to other requirements for discretionary permits, community land use policies and current zoning requirements. The Commission has found that increasing the size of a nonconforming structure with an inadequate geologic setback increases the degree of nonconformity and extends the time period that the nonconformity will exist, thereby increasing the risk to the structure.

As previously described, the proposed project to renovate and improve the existing community center is not a repair or an addition to a nonconforming structure. The question is whether or not the proposed improvements are so substantial that the project essentially consists of rebuilding the community center in its existing non-conforming location, thus resulting in an increase in the degree of non-conformity. However, neither the Coastal Act, nor the City's Municipal Code provide a means to make this determination. What has been done in some coastal jurisdictions is to determine if more than 50% of the exterior walls are being demolished. If more than 50% of the exterior walls are being demolished, then the project is not a remodel and is considered new development. In regards to residential structures, some local governments have adopted a method based on a ratio of the cost of the proposed improvements to the value of the existing home. If, based on this valuation method, the proposed improvements exceed 50% of the value of the home, then the project is no longer considered a remodel and instead is considered new development and must therefore meet all current code requirements relative to setbacks, height, etc. However, the City of Solana Beach does not have either of these provisions in its municipal code and as such, this analysis was not provided.

In this particular case, while the proposed improvements are substantial and clearly go beyond normal repair and maintenance, none of the exterior walls are being demolished, and the Commission finds that the proposed improvements do not result in a greater risk to the existing nonconforming structure over that which currently exists since the footprint of the structure will remain the same. Therefore, the proposed improvements to the existing structure will not result in the need for shoreline protection any more than the need that currently exists.

The existing community center is in a hazardous location, however, and the proposed development will likely increase the amount of time that the structure will remain in its hazardous location. The Commission must therefore ensure that any approved development is conditioned to at least reduce this existing risk. Special Condition #1 has been attached which requires the applicant to submit final plans for the project that demonstrate that all runoff on the top of the bluff is collected and directed away from the bluff and that all permanent irrigation on the blufftop be removed or capped. In review of any development in a blufftop location, the Commission has required implementation of such measures to reduce risk and assure that overall site conditions which could adversely impact the stability of the bluff have been addressed.

Also, due to the inherent risk of developing on an eroding blufftop, as documented by the applicants' geotechnical report, Special Condition #2 requires the applicant to waive any claim of liability against the Commission and to indemnify the Commission against damages that might result from the proposed development. Given that the applicant has chosen to construct the proposed project despite these risks, the applicant must assume the risks. Only as conditioned can the proposed project be found consistent with Sections 30235, 30240 and 30253 of the Coastal Act.

The subject site is subject to erosion which may, over time, threaten the existing structure and may result in a request for shoreline protection which would have an adverse impact on the surrounding natural bluffs and the adjacent beach. Special Condition #3 has been attached which requires the applicant to acknowledge that alternative measures which do not result in additional impacts to public property must be analyzed and implemented, if feasible, on the applicant's blufftop property should the need for further stabilization of the community center structure occur. With this condition, current and potential future property owners are put on notice that the site is in a hazardous location and measures on the subject property which would reduce risk to the principal structure should be considered, to provide stability and avoid further impacts to the adjacent public parkland.

Special Condition #4 has been attached which requires that an amendment be approved for any future additions to the structure or other development as defined by the Coastal Act on the subject site. Requiring an amendment for all future development allows the Commission to insure that such development will not create or lead to the instability of the coastal bluffs, impacts to public access, adverse visual impacts or result in the construction or enlargement of the existing structure in a high risk area.

Because erosion and landslides are caused by a variety of factors, including over-watering on the blufftop and inappropriate drainage, Special Condition #1a prohibits the applicant from having permanent irrigation devices on top of the bluff. In addition, landscaping that is not drought-tolerant may require irrigation that could contribute to erosion of the blufftop. Special Condition #2 has been attached to address this risk by requiring any future landscaping on the site be limited to drought-resistant, native or non-invasive species, which will help serve to reduce the need for irrigation.

In summary, based on the geotechnical report submitted by the applicant, a significant portion of the existing community center is located seaward of the 40 ft. setback line and will likely be threatened by erosion within the next 70 years and thus, is non-conforming. While the Commission is concerned that remodeling and improvements to existing nonconforming blufftop structures not result in an increase of the nonconformity in a way that would heighten the risk or require new or additional shoreline protection in the future, such is not the case here. Although much of the existing structure is in a location where the Commission could not now authorize new development, due to the threat from shoreline erosion and bluff failure, the proposed development represents improvements to a non-conforming blufftop structure, without increasing the degree of non-conformity or resulting in an additional or increased threat to the existing structure. The proposed development, therefore, does not warrant requiring the entire existing structure to be brought into conformance with the blufftop setback requirements for new development. Therefore, the Commission finds the subject development, as conditioned, consistent with Section 30240 and 30253 of the Coastal Act.

3. Visual Resources. Sections 30251, and 30240 f the Coastal Act require that the scenic and visual qualities of coastal areas be protected, that new development adjacent to park and recreation areas be sited so as to not degrade or impact the areas and that new

development not significantly adversely affect coastal resources. These sections specifically provide:

Section 30251

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

Section 30240

[. . .]

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

The subject development involves improvements to an existing one-story blufftop structure (community center). The development site is located within a public park and adjacent to a residential neighborhood consisting of single-family homes of similar bulk and scale to the proposed development. The proposed development does not include any change to the footprint or height of the existing structure. Although the existing structure is not visible from the beach below, the proposed development will improve the exterior appearance of the structure, but not enlarge it in any way and as such, no public views will be blocked. In addition, views across the site to the shoreline are not currently available. Therefore, it is not anticipated that the proposed development will have any adverse effect on scenic or visual resources, and the project, as proposed, may be found consistent with Section 30251 of the Coastal Act.

4. Runoff/Water Quality. Section 30231 of the Coastal Act requires that the biological productivity of coastal waters be maintained by, among other means, controlling runoff. Specifically, it reads:

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 entrapment, controlling runoff,

The proposed development will be located at the top of the bluffs overlooking the Pacific Ocean. As such, drainage and run-off from the development could potentially affect

water quality of coastal waters as well as adversely affect the stability of the bluffs. To reduce the risk associated with unattended running or broken irrigation systems, Special Condition #1a restricts the applicant from installing permanent irrigation devices and requires the removal or capping of any existing permanent irrigation systems. In addition, in order to protect coastal waters from the adverse effects of polluted runoff, the Commission has typically required that all runoff from impervious surfaces be directed through landscaping as a filter mechanism prior to its discharge into the street. In this case, however, directing runoff into blufftop landscape areas could have an adverse effect on bluff stability by increasing the amount of ground water within the bluff material that can lead to bluff failures. Therefore, in this case, reducing the potential for water to be retained on the site will be more protective of coastal resources. Special Condition 1B is therefore required to ensure that runoff from the property is collected and directed towards the street, not the bluff. In addition, the restriction on irrigation will minimize the amount of polluted runoff from the property to the extent feasible. Therefore, the Commission finds the proposed project consistent with Sections 30231 of the Coastal Act.

5. Public Access. Section 30212 of the Coastal Act requires, 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, or, . . .

The subject site is located between the Pacific Ocean and the first public roadway, which in this case is Pacific Avenue. The project site is located between a developed single-family residential neighborhood and Fletcher Cove Beach Park on an approximately 80 ft.-high coastal blufftop lot. Vertical access through the site is not necessary nor warranted, given the fragile nature of the bluffs. Adequate public vertical access is provided immediately south of the subject site at Fletcher Cove Beach Park. Therefore, the proposed project will have no impact on public access, consistent with the public access policies of the Coastal Act.

6. 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 was previously in the County of San Diego's jurisdiction, but is now within the boundaries of the City of Solana Beach. The City has submitted a Land Use Plan for Commission review which is expected to be heard by the Commission sometime in the near future. The draft LUP initially contained some innovative components,

including a proposal to develop a plan to remove seawalls over time and retreat the line of structures and/or acquire blufftop properties. However, such a comprehensive program must include a combination of measures that address proper design and siting of new development and additions to existing development to avoid both perpetuation of lower seawalls and total armoring of the bluff. A combination of anticipated lower bluff stabilization, along with measures to reduce the size of blufftop structures and move the line of development inland, could avoid the need for mid- and upper bluff stabilization in some cases.

In the case of the subject development, the proposed improvements to the existing community center structure, as conditioned, have been found to be consistent with the Chapter 3 policies of the Coastal Act in that the proposed development will not result in reconstruction of an existing structure within the geologic setback area such that, as a result of the proposed improvements, new or additional bluff and/or shoreline protection would be necessary in the future. It is expected that the City's LCP will include ordinances to address the issues associated with improvements to existing nonconforming structures in order to meet the requirements of the Coastal Act.

The location of the proposed development is designated for open space and recreation uses in the City of Solana Beach Zoning Ordinance and General Plan, and was also designated for those uses under the County LCP. As conditioned, the subject development is consistent with these requirements. Based on the above findings, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the ability of the City of Solana Beach to complete a certifiable local coastal program. However, these issues of shoreline planning will need to be addressed in a comprehensive manner in the future through the City's LCP certification process.

7. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing assumption of risk, future development and submittal of final project plans will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-

damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

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.

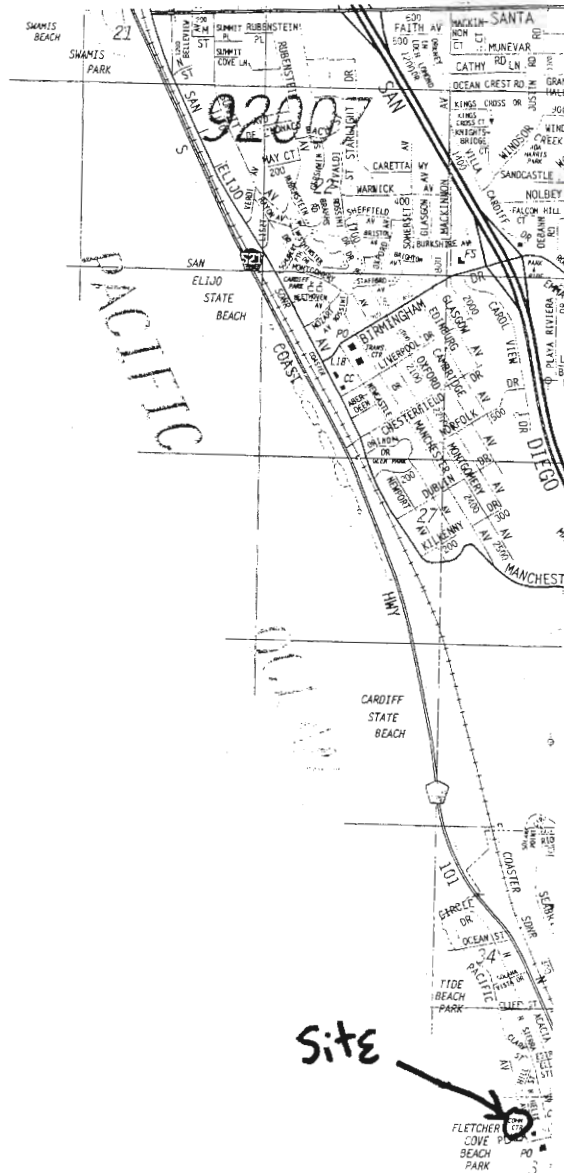
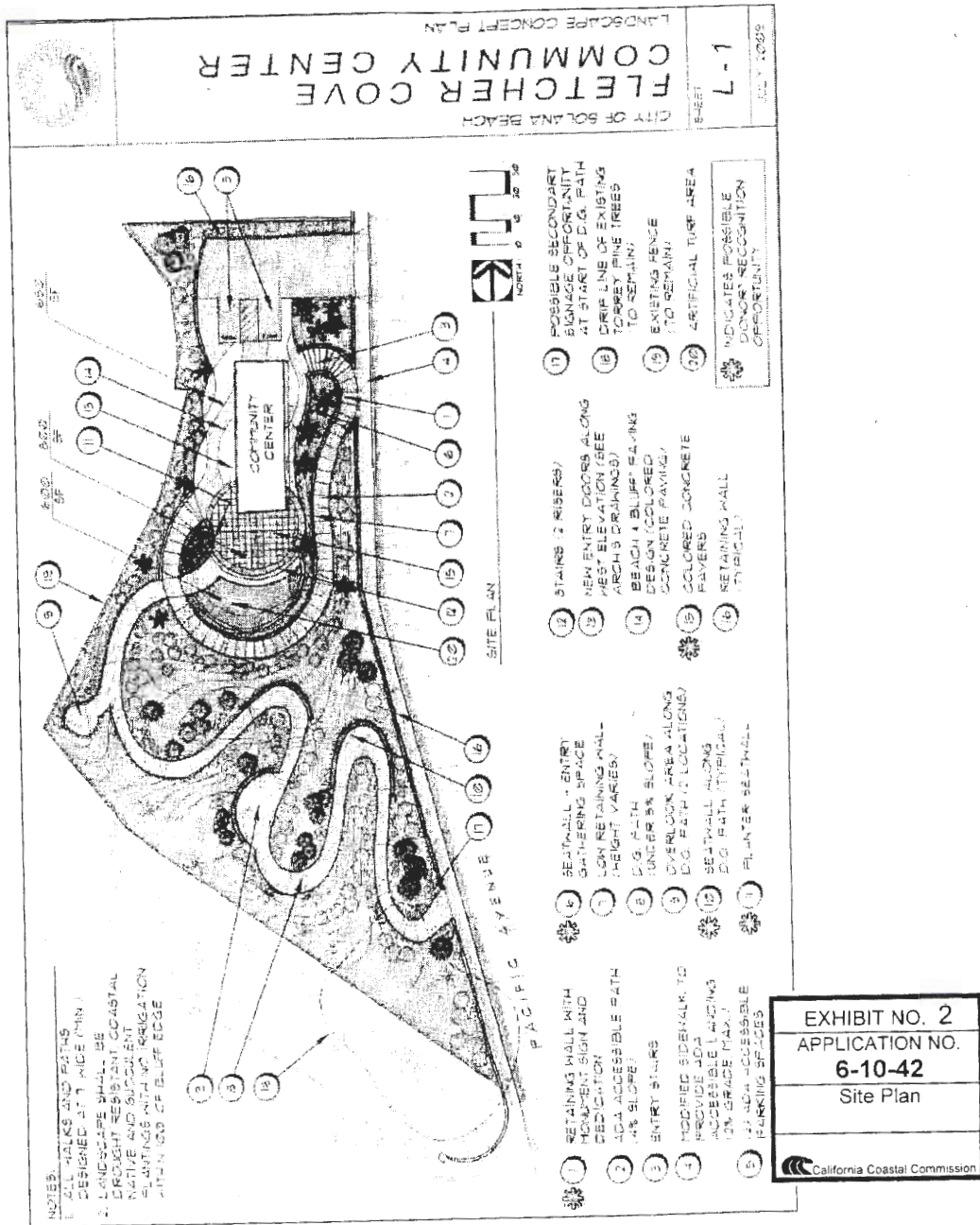


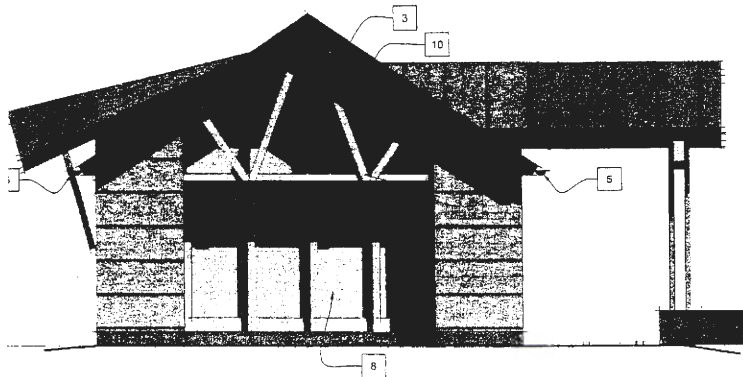
EXHIBIT NO. 1
APPLICATION NO.
6-10-42
Location Map
California Coastal Commission

Exhibit 2 - Proposed Site Plan and Landscape Concept Plan






4 NORTH ELEVATION
1/4" = 1'-0"



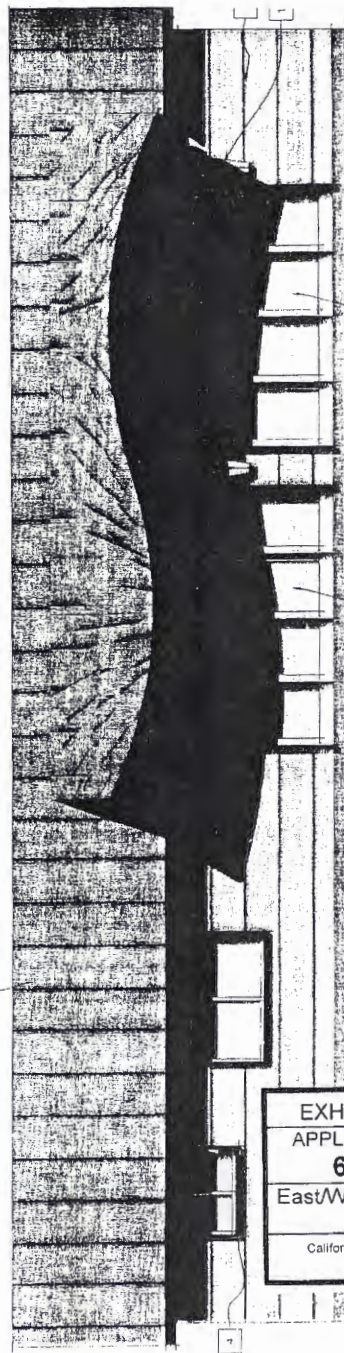
2 SOUTH ELEVATION
1/4" = 1'-0"

EXHIBIT NO. 3
APPLICATION NO.
6-10-29
North/South Elevations
 California Coastal Commission



3 EAST ELEVATION

1/4" = 1'-0"



West elevation

EXHIBIT NO. 4
APPLICATION NO.
6-10-29
East/West Elevation
California Coastal Commission

CCC Modified Policy 4.27 (March 2012)

Policy 4.7: All new bluff property development shall be set back from the bluff edge a sufficient distance to ensure that it will not be in danger from erosion and that it will ensure stability for its projected 75-year economic life. To determine the GSL, applications for bluff property development must include a geotechnical report, from a licensed Geological Setback Line (GSL) for the proposed development. This setback line shall establish the location on the bluff top stability where can be reasonably assured for the economic life of the development. Such assurance will take the form of a quantitative slope analysis demonstrating a minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer), using shear strength parameters derived from relatively undeformed samples collected at the site. In no case shall the setback be less than 40 feet from the bluff edge, and only if it can be demonstrated that the structure will remain stable, as defined above, at such a location for its 75-year economic life and has been sited safely without reliance on existing or future bluff retention devices, other than a caisson foundation.

Bluff Top Redevelopment shall apply to structures located between the sea and the inland extent of the sea and the first public road paralleling the sea (or lagoon) that consist of (1) additions; (2) exterior and/or interior renovations; or (3) demolition of an existing ~~bluff top home~~ or other principal structure which result in: ~~1. A~~ alteration of 50% or more of a single major structural component including the foundation, the floor framing, the exterior wall framing, or the roof framing ~~an existing structure, including but not limited to, alteration of 50% or more of exterior walls, interior load-bearing walls, or a combination of both types of walls; or a 50% increase in floor area.~~ Alterations are not additive or cumulative between individual major structural components (e.g., roof changes are not additive to foundation changes); however, changes to individual major structural components (e.g., exterior wall framing alterations over time) are cumulative over time from the date of certification of the LUP.

~~2. Demolition, renovation or replacement of less than 50% of an existing structure where the proposed remodel would result in cumulative alterations~~

February 25, 2013
Page 10 of 11

City of Solana Beach Draft Local Coastal Program Land Use Plan - Proposed Changes

~~exceeding 50% or more of the existing structure from the date of certification of the LUP.~~

Caisson Foundation means a permanent subsurface support structure. A Caisson is a shaft or shafts of steel reinforced concrete placed under a building column, foundation or wall and extending down to hardpan, bedrock or competent material as defined or approved by a soils engineer or geologist. Caissons, for this definition, are drilled into position and are used to carry surface building loads and/or to carry surface building loads from anticipated future loss of support (i.e. "slope failure"). Also known as pier foundation.

The Trettin Company
Government Relations Project Development

March 10, 2015

TO: Eric Stevens
 California Coastal Commission
 San Diego Office

FROM: Bob Trettin, Principal
 The Trettin Company

RE: Condition Compliance for William Koman;
 CDP # 6-13-025

As you know, the revised findings for the above-referenced project were not approved by the Coastal Commission until June, 2014. Further, the final language for the deed restriction was not completed by Coastal's legal staff until later in the year and the permit signed by Mr. Koman was revised and reissued due to an incorrect hearing date. We also needed to return to the City of Solana Beach to obtain formal City Council action to accept the Public Access and Beach Recreation mitigation deposits associated with the project.

While we recognize that the Special Conditions were initially required to be completed within six months of permit approval, we believe Coastal staff realizes that this would have been impossible in the case of CDP #6-13-025, and we note that these conditions do carry the written caveat of being completed within 180 days "... or within such additional time as the Executive Director may grant for good cause ...". We appreciate Coastal staff's diligence and willingness to work with the applicant's representatives to assure that all conditions of approval are completed in the appropriate manner. Relative to Mr. Koman's pending CDP application for a minor remodel / addition at 355 Pacific Avenue (CDP App #6-14-0679), the Surfrider Foundation has raised some issue on the status of the conditions associated with the Commission's approval of CDP #6-13-025. As indicated below, progress has been ongoing and these conditions have now been completed.

The attached materials provided in compliance with Special Conditions attached to Coastal Development Permit #6-13-025 for William Koman, WJK Trust; 355 Pacific Avenue, Solana Beach, CA 92075, are as follows:

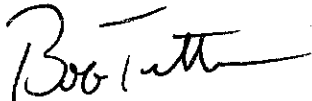
Condition #2	Final Landscape Plans.
Condition #3a.....	City of Solana Receipt for \$50,000; Mitigation deposit for Impact to Public Access and Recreation (355 Pacific Avenue share of total payment).

- Condition #3b SANDAG Receipt for \$5,589.31; Mitigation for Sand Impact (355 Pacific Avenue share of total payment).
- Condition #6 Monitoring and Reporting Program.
- Condition #8 Water Quality – Best Management Practices.
- Condition #9 Storm Design.
- Condition #10 Deed Restriction (Signed and notarized; submitted for final review prior to recordation per current staff practices).

If possible, I would request a meeting within the next two weeks to obtain your final sign-off on these conditions and to determine if Coastal staff believes there are any outstanding conditions requiring completion.

Thank you, in advance, for your review of the attached materials related to Coastal Development Permit #6-13-025.

Respectfully submitted,



BOB TRETTIN, Principal
The Trettin Company
Applicant's Permitting Agent; CDP 6-13-025

cc: Honorable Chair and Commissioners,
California Coastal Commission



RECEIPT

No 0912

All prices of taxable items include sales tax
reimbursement computed to the nearest mill.

03-10-15 10:04 FILE

401 B Street, Suite 800

San Diego, CA 92101

(619) 699-1900

Fax (619) 699-1905

www.sandag.org

Date _____

Name WILLIAM J KOWANAddress 355 PACIFIC AVENUECity SOLANA BEACH Zip 92075

ITEM DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
BEACH SAND MITIGATION FUND - FEE PAYMENT			\$5,589.31
COASTAL DEVELOPMENT PERMIT # 6-13-025			

Received By: Cheri Butler

☐ Cash
☒ Check 0439263
☐ Money Order

Postage ☒
TOTAL \$5,589.31

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

(619) 767-2370



Send to:

San Diego Association of Governments
Attn: Accounts Receivable
401 B Street, Suite 800
San Diego, CA 92101

Re: Beach Sand Mitigation Fund - Fee Payment
Coastal Development Permit # 6-13-025

The enclosed cashier's check or money order in the amount of \$5,589.31 paid to the order of the San Diego Association of Governments (SANDAG), as trustee of the Beach Sand Mitigation Fund, is hereby submitted in compliance with Special Condition #3 of the above referenced coastal development permit for a seawall on property located at 355 Pacific Avenue, Solana Beach.

Signed (payer):

Handwritten signature of Bill Koman in black ink.

Bill Koman
Permittee

Received at SANDAG by

Handwritten signature of Cheri Butler in black ink.

Date: 3/10/15

Check No. 0439263

Bank Bank of America

SANDAG staff to FAX completed form to Coastal Commission at (619) 767-2384 as confirmation of payment of fee by permittee



Cashier's Check

No. 0439263

Notice to Endorser: In the event this check is lost, misplaced or stolen, a sworn statement and 90 day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Date 03/04/2015

30.1/11.40
NTX

Banking Center 7220002011

WILLIAM J. KOMAN
Remitter (Purchased By)

PAYEE: 11555555

\$ 5,589.31

Pay
To
The
Order
Of
SAN DIEGO ASSOC. OF GOVTS.

Authorized Signature

Bank of America, N.A.
San Antonio, Texas

Rem + #6-13-025

⑈0439263⑈ ⑆114000019⑆ 001641004779⑈

THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK

CITY OF SOLANA BEACH

RECVD BY: AG FN000014821

PAYOR: WILLIAM & AMY KOMAN

TODAY'S DATE: 03/10/15

REGISTER DATE: 03/10/15 TIME: 11:25

DESCRIPTION AMOUNT

CUST ID: SBGR-169/355 PACIFIC AVE

CASH SECURITY DEPOSIT \$50,000.00

TOTAL DUE: \$50,000.00

TENDERED: \$50,000.00

CHANGE: \$.00

2CHECK : \$50,000.00

REF NUM: 15031

ENGINEERING DEPARTMENT REQUEST FOR RECEIPT

PAYMENT RECEIVED FROM:

TRETTIN COMPANY FOR WILLIAM J. KURIAN

DATE:

3/10/2015

PROJECT ADDRESS:

355 Pacific Ave

PROJECT NAME AND NUMBER:

AS PART OF SBGR-279 AND SBGR-169

BUILDING PERMIT EXTENSION - PERMIT NO. _____

BUILDING:

001-4321

DEVELOPER DEPOSITS _____

ENCROACHMENT PERMIT _____

ENCROACHMENT PERMIT _____ DEPOSIT

ENGINEERING PERMIT _____

GRADING PERMIT SBGR _____

GRADING PERMIT SBGR _____ DEPOSIT

SUBDIVISION FEES

CONSTRUCTION INSPECTION FEES

PLAN CHECK FEES

BID SPECIFICATIONS

ENGINEERING:

001-2240

001-4734

001-2257

001-4730

001-4736

001-2230

001-4731

001-4732

001-4733

001-4850

ANNUAL SEWER SERVICE CHARGE

CONSTRUCTION INSPECTION

SWR CNCT-FUTURE CAPACITY (\$2,254.00) (50%)

SWR CNCT-OCEAN OUTFALL (\$1,215.00) (27%)

SWR CNCT-EXISTING FACILITY (\$1,031.00) (23%)

SANITATION:

509-4781

509-4783

509-4785

509-4786

509-4787

GOLF CART PERMIT _____

COPIES: 1.00 for 1st page/10¢ for ea addtl

OTHER:

001-4352

001-4850

SEAWALL/BLUFF:

SAND MITIGATION DEPOSIT DRP 17- _____

BEACH RECREATION/LAND LEASE _____

MARINE SAFETY AND RAMP FEES _____

GEOTECH FEES - DEPOSIT ACCOUNT _____

\$50,000

TOTAL AMOUNT DUE:

\$50,000

RECEIPT REQUESTED BY:

D. G. 03-95

RECEIVED BY:

[Signature]

RECEIPT #:

**SOIL
ENGINEERING
CONSTRUCTION INC.**

March 9, 2015

Mr. Eric Stevens
California Coastal Commission
7575 Metropolitan Drive, Ste. 103
San Diego, Ca. 92108

**Re.: Notice of Intent to Issue Permit, No. 6-13-025
Monitoring & Reporting Program – Lower Coastal Seawall, Mid-bluff Geogrid
Structure, Upper Bluff Landscaping, and Lateral Keystone Wall
Koman, Mariani, & Upp - 355, 347, 341 Pacific Avenue
Solana Beach, Ca. 92075**

Dear Mr. Stevens:

Per the requirements of the Coastal Development Permit dated January 8, 2014, Soil Engineering Construction, Inc. (SEC) has prepared the following monitoring program for the subject properties located at: 355, 347, 341 Pacific Avenue, Solana Beach. This monitoring program report shall be submitted to the Executive Director of the California Coastal Commission on May 1 of each year, for the 20 years for which this seawall is approved.

This Monitoring Program includes 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 will 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 natural bluff or 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:

**SOIL
ENGINEERING
CONSTRUCTION_{INC.}**

1. An "El Nino" 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 event in any given year.

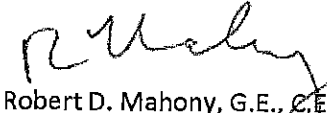
- C. Each report shall be prepared by a licensed civil engineer, geotechnical engineer, or geologist. The report shall contain the measurements and evaluation required in subsections A. and B. above. The report shall also summarize all measurements and analyze trends such as erosion of the bluffs, changes 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 structures.
- 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 bluffs, the permittee shall contact the Executive Director to determine whether a coastal development permit of an amendment to this permit is legally required, and, if required, shall subsequently apply for a coastal development permit of permit amendment for the required maintenance within 90 days of the report or discovery of the problem.

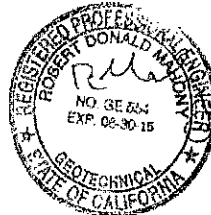
The applicant shall undertake monitoring and reporting in accordance with the approved final monitoring and reporting program. Any proposed changes to the approved final monitoring and reporting program shall be reported to the Executive Director. No changes to the approved final monitoring and reporting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

Sincerely,


John W. Niven, P.E.




Robert D. Mahony, G.E., C.E.G.



**SOIL
ENGINEERING
CONSTRUCTION_{INC.}**

March 9, 2015

Mr. Eric Stevens
California Coastal Commission
7575 Metropolitan Drive, Ste. 103
San Diego, Ca. 92108

**Re.: Storm Certification Statement
Development Permit No. 06-13-025
Koman, Mariani, & Upp - 355, 347, 341 Pacific Avenue
Solana Beach, Ca 92075**

Dear Mr. Cannon:


Soil Engineering Construction, Inc. (SEC) has prepared this letter to satisfy special conditions #9 of the Coastal Development Permit. SEC certifies that the 150'-0" long, approximately 35'-0" high lower coastal bluff seawall is designed to withstand storms comparable to the winter storms of 1982-83.

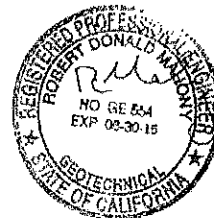
If you should have any questions regarding this submittal, please call us at (760) 633-3470.

Sincerely,


John W. Niven, P.E.




Robert D. Mahony, G.E., C.E.G.



**SOIL
ENGINEERING
CONSTRUCTION_{INC.}**

STORMWATER POLLUTION CONTROL PROGRAM

For

355, 347, 341 Pacific Avenue, Solana Beach, Ca

Prepared for:

**Koman, Mariani, Upp
355, 347, 341 Pacific Ave
Solana Beach, CA 92075**

Project Site Address:

**355, 347, 341 Pacific Ave
Solana Beach, CA**

SWPCP Prepared by:

**Soil Engineering Construction, Inc.
560 N. Hwy 101, Suite 5
Encinitas, CA 92024
(760) 633-3470**

SWPCP Preparation Date:

March 9, 2015

Contents

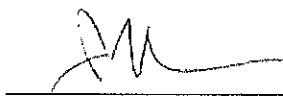
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Section 1.0 SWPCP Certification and Approval

1.1 CONTRACTOR'S CERTIFICATION AND APPROVAL BY RESIDENT ENGINEER

CONTRACTOR'S CERTIFICATION OF SWPCP

"I certify under a penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted, to the best of my knowledge and belief is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."



Signature

3/9/15

Date

John W Niven, P.E.

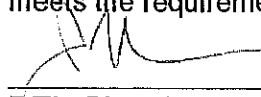
Name and Title

760-633-3470

Telephone Number

RESIDENT ENGINEER'S APPROVAL OF SWPCP

I, and/or personnel acting under my direction and supervision, have reviewed this SWPCP and find that it meets the requirements set forth in the California Stormwater BMP Handbook.



RE's Signature

3/9/15

Date of SWPCP Approval

John W Niven, P.E.

RE's Name (printed)

760-633-3470

RE's Phone Number



Section 2.0 Project Information

2.1 INTRODUCTION AND PROJECT DESCRIPTION

The project consists of construction of a lower coastal seawall, mid to upper bluff geogrid reconstruction, and associated landscape improvements.

The site (area of work) is located north of Fletcher Cove, south of Tide Park, and west of Pacific Avenue in the City of Solana Beach. Single family, two-story residences occupy the three subject properties. The project is bounded on the east by Pacific Avenue, single family residences on the north and south, and on the west by an approximately 80 foot high, steeply sloping westerly facing sea bluff. Access to the work site will be secured by using flagmen. The remaining areas surrounding the project consist of public beach. Mid and upper bluff work will be performed from private property. The project site location is illustrated on the project plans, "Repairs to Lower Coastal Bluff, 355, 347, 341 Pacific Avenue, Solana Beach, Ca., prepared by Soil Engineering Construction, Inc. (SEC), dated 1/10/05", and Bluff Reconstruction, 355 and 347 Pacific Avenue, Solana Beach, Ca., prepared by Soil Engineering Construction, Inc. (SEC) dated 5/2/05".

No vehicle cleaning or vehicle repair will be conducted on site. No hazardous or potentially hazardous materials will be stored permanently on site. Access to the project site will occur from 355 Pacific Avenue. The entire site will be secured during the work by the use of flagmen. BMPs will be implemented to control pollutants from entering Ocean. A representative from Soil Engineering Construction Inc. (SEC) will inspect the site in accordance with the schedule defined in Table 3.3-1 to ensure that BMPs are properly implemented and maintained.

2.2 PROJECT SCHEDULE

The project will begin once permits are obtained by performing submittals, administrative work, and meeting with City officials. It is expected that this work will take approximately two to three months.

2.3 POTENTIAL POLLUTANT SOURCES

The construction project site activities that have the potential to pollute stormwater include:

- a) Oil and grease, petroleum hydrocarbons, sanitary waste, brake dust, anti-freeze, battery acid, chlorinated solvents, and metals associated with parked vehicles.
- b) Sediment from the removal of concrete and dirt spoils.
- c) General project site litter.
- d) Concrete and cement from concrete truck and pumping clean outs.

Section 3.0 Pollution Sources and Control Measures

3.1 SOIL STABILIZATION PRACTICES

This is a construction project, therefore typical temporary soil stabilization BMPs during construction activities are applicable. Soil stabilization techniques that will be implemented during construction are provided below. Table 3-1 identifies soil stabilization BMPs that will be implemented at the site. Descriptions of the selected soil stabilization BMPs are provided in Appendix A.

Table 3-1

TEMPORARY SOIL STABILIZATION BMPs				
BMP No.	BMP	CHECK IF USED	CHECK IF NOT USED	Notes
EC-1	Scheduling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Inspection and implementation
EC-2	Preservation of Existing Vegetation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Observe & maintain vegetation
EC-3	Hydraulic Mulch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not necessary. Minimal soil disturbing activities.
EC-4	Hydroseeding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Necessary after finishing wall repairs.
EC-5	Soil Binder	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not necessary. Minimal soil disturbing activities.
EC-6	Straw Mulch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not necessary. Minimal soil disturbing activities.
EC-7	Geotextiles, Plastic Covers, & Erosion Control Blankets/Mats	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Necessary at the base of the shotcrete area, under concrete pump trucks, leaking vehicles and to cover slope due to rains, or as deemed necessary by SEC.
EC-8	Wood Mulching	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not necessary. Minimal soil disturbing activities.
Temporary Concentrated Flow Conveyance Controls				
EC-9	Earth Dikes/Drainage Swales & Lined Ditches	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Silt fences will be installed below the work areas in the mid bluff area and along top of seawall.
EC-10	Outlet Protection/Velocity Dissipation Devices	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No outlets on project site will require to be protected.

3.2 SEDIMENT CONTROL PRACTICES

Typical temporary sediment control BMPs during construction activities are applicable and will be implemented as necessary. Sediment controls BMPs that will be implemented during construction of the project site include broom sweeping, wetting to control dust during the concrete removal operations, if necessary. If necessary, sand bags will be used to control off-site runoff. Table 3-2 identifies sediment control BMPs that will be implemented at the site.

Table 3-2

TEMPORARY SEDIMENT CONTROL BMPs				
BMP No.	BMP	CHECK IF USED	CHECK IF NOT USED	IF NOT USED, STATE REASON
SE-1	Silt Fence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Silt fences will be installed directly below the work areas.
SE-2	Sediment Basin	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not Applicable
SE-3	Sediment Trap	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not Applicable
SE-4	Check Dam	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not Applicable
SE-5	Fiber Rolls	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As required.
SE-6	Sand Bag Berm	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sand bags may be used if excessive runoff is observed to be problematic.
SE-7	Sweeping, Vacuuming & Wetting	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sweeping, vacuuming & wetting shall be conducted on an as-needed basis. Criteria for street sweeping include: observable tracking of sediment from the project site onto the public roadway, accumulation of sediment on the public roadway adjacent to the project site entrance/exit points, and/or during ground or concrete disturbing activities. (e.g., if a release occurs and requires soil removal).
SE-8	Sandbag Barrier	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not Applicable
SE-9	Straw Bale Barrier	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not Applicable

3.3 TRACKING CONTROL AND ENTRANCE/EXIT STABILIZATION

The project site entrance/exit location at 355 Pacific Avenue is relatively flat. Therefore, appropriate BMPs are not recommended at this site. Pacific Avenue BMP's will be necessary on an as needed basis.

3.4 WIND EROSION CONTROLS

Wind erosion controls include the use of water, on an as-needed basis, to prevent nuisance dust. Criteria for wind erosion control include: observable dust, periods of increased vehicle or equipment traffic, and/or during ground disturbing activities that remove the concrete surfacing and expose the underlying soil (e.g., if a release occurs and requires soil removal). Table 3-4 identifies wind erosion control BMPs that will be implemented at the site. Descriptions of the selected wind erosion control BMPs are provided in Appendix A.

Table 3-4

NON-STORM WATER MANAGEMENT BMPs				
BMP No.	BMP	CHECK IF USED	CHECK IF NOT USED	Notes
WE-1	Wind Erosion Control	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Use of water for dust control.

3.5 NON-STORM WATER MANAGEMENT BMPs

The project will include the following activities that have the potential to generate non-stormwater discharges:

- Watering the site for dust control.
- Potential releases from parked vehicles and equipment.

No vehicle cleaning or maintenance activities will be conducted at project site however it is possible that fueling operations will occur for the limited equipment used at the site. Table 3-5 identifies non-storm water management BMPs that will be implemented at the site. Descriptions of the selected non-storm water management BMPs are provided in Appendix A.

Table 3-5

NON-STORM WATER MANAGEMENT BMPs				
BMP No.	BMP	CHECK IF USED	CHECK IF NOT USED	Notes
NS-1	Water Conservation Practices	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Minimal onsite water will be used and will be managed so that no runoff into the Ocean.
NS-2	Dewatering Operations	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable unless it is determined that it is necessary
NS-3	Seawall Preparation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Concrete saw cutting and concrete demo work will implement slurry pick up and disposal, wetting, and sweeping
NS-4	Temporary Stream Crossing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable
NS-5	Clear Water Diversion	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable
NS-6	Illicit Connection/Discharge	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable
NS-7	Potable Water/Irrigation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable
Vehicle and Equipment Operations				
NS-8	Vehicle and Equipment Cleaning	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No vehicle or equipment cleaning will be conducted at the project site.
NS-9	Vehicle and Equipment Fueling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Limited equipment fueling will occur and it will require that secondary containment around the fueling operation.
NS-10	Vehicle and Equipment Maintenance	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No vehicle or equipment maintenance will be conducted at the project site.

3.6 WASTE MANAGEMENT AND MATERIALS POLLUTION CONTROL BMPs

The project site will be secured during working hours using flagmen. No hazardous materials, solid or liquid waste will be stored at project site. Small quantities of potentially hazardous materials or liquid waste may be released as a result of drips from parked vehicles or equipment. Spill prevention and control will be conducted in accordance with WM-4. Drip pans and/or plastic tarps will be placed under older vehicles or vehicles that are not scheduled for immediate removal from the site. If oil or other automotive fluid accumulates in a drip pan it will be properly recycled or disposed of offsite in accordance with WM-6. If a release occurs and impacts soil, then the impacted soil will be removed and properly disposed of. Waste Management and Pollution Prevention BMPs that will be implemented include emptying waste containers on a regular basis, and removal of obsolete equipment on an as-needed basis. The following materials and wastes that have the potential to contact storm water runoff include:

- Oil and grease, petroleum hydrocarbons, sanitary waste, brake dust, anti-freeze, battery acid, chlorinated solvents, and metals associated with parked vehicles.
- General litter
- Obsolete equipment
- Trash/Garbage stored in receptacles

Table 3-6 identifies waste management and materials pollution control BMPs that will be implemented at the site.

Table 3-6

WASTE MANAGEMENT AND MATERIALS POLLUTION CONTROL BMPs				
BMP No.	BMP	CHECK IF USED	CHECK IF NOT USED	Notes
WM-1	Material Delivery and Storage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Will be performed in a neat and orderly fashion so as to not adversely affect the site.
WM-2	Material Use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Containment of concrete delivery truck clean outs will be performed using a suitable containers.
WM-3	Stockpile Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Stockpiles of concrete debris and/or soil will be maintained for short periods of time and in the event of rain or wind the piles will be protected with plastic sheeting.
WM-4	Spill Prevention and Control	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Plastic tarps and/or drip pans will be placed beneath parked vehicles
WM-5	Solid Waste Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Regular trash pick-up will be performed
WM-6	Hazardous Waste Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Leaked fluids from parked vehicles/equipment will be properly cleaned and disposed.
WM-7	Contaminated Soil	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Any soil contaminated by leaking vehicles will be

	Management			removed and properly disposed.
WM-8	Concrete Waste Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Containment of concrete delivery truck clean outs will be performed using suitable containers. Stockpiles of concrete debris and/or soil will be maintained for short periods of time and in the event of rain or wind the piles will be protected with plastic sheeting.
WM-9	Sanitary/Septic Waste Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Removal of septic waste from portable toilets will occur on a regular basis.
BMP-032	Dispose of Obsolete Equipment, Inoperable Vehicles, and Surplus Materials	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Obsolete equipment and vehicles will be removed and properly disposed.

3.7 CONSTRUCTION BMP MAINTENANCE, INSPECTION, AND REPAIR

The inspection, maintenance and repair program is summarized in Table 3-7.

Table 3-7

WPCP INSPECTION, MAINTENANCE, AND REPAIR PROGRAM			
BMP	Inspection Frequency		Maintenance/Repair Measures
	Rainy (Oct. 1 – May 31)	Non-Rainy (June 1 – Sept. 31)	
EC-1	NA	NA	NA
EC-2	Weekly, and prior, during, and after rain events	Every two weeks, and prior, during, and after rain events	Maintain as necessary.
EC-7	Weekly, and prior, during, and after rain events	Every two weeks, and prior, during, and after rain events	If required, maintain as necessary. Replace damaged plastic sheeting.
EC-10	Weekly, and prior, during, and after rain events	Every two weeks, and prior, during, and after rain events	Repair as necessary.
SE-6	Weekly, and prior, during, and after rain events	Every two weeks, and prior, during, and after rain events	If gravel bags are used then inspect and maintain them in accordance with the specified frequency. Replace any damaged gravel bags.
SE-7	Daily when active ingress and egress, otherwise weekly; Prior, during, and after rain events	Daily when active ingress and egress, otherwise every two weeks, and prior, during, and after rain events	Sweep or vacuum any tracked material.

**WPCP
INSPECTION, MAINTENANCE, AND REPAIR PROGRAM**

BMP	Inspection Frequency		Maintenance/Repair Measures
TC-1	Daily when active ingress and egress, otherwise weekly; Prior, during, and after rain events	Daily when active ingress and egress, otherwise every two weeks, and prior, during, and after rain events	Replace gravel to stabilize exit as needed.
TC-2	Weekly, and prior, during, and after rain events	Every two weeks, and prior, during, and after rain events	Replace gravel to stabilize travel ways within project site as needed.
WE-1	Daily when activities are being performed, otherwise weekly; Prior, during, and after rain events	Daily when activities are being performed, otherwise weekly; Prior, during, and after rain events	Apply water to control dust for stockpiles and areas exposed to erosion within project site as needed. Inspect and control runoff from wind erosion control activities.
NS-3	Daily when activities are being performed, otherwise weekly; Prior, during, and after rain events	Daily when activities are being performed, otherwise weekly; Prior, during, and after rain events	Inspect vacuuming equipment and disposal procedures as well as run off from wetting operations.
NS-9	Daily when activities are being performed, otherwise weekly; Prior, during, and after rain events	Daily when activities are being performed, otherwise weekly; Prior, during, and after rain events	Inspect containment containers for any leaks and assure proper removal of spillage liquids.
WM-1	Daily when active ingress and egress, otherwise weekly; Prior, during, and after rain events	Daily when active ingress and egress, otherwise every two weeks, and prior, during, and after rain events	Maintain deliveries and storage as necessary.
WM-2	Daily when active ingress and egress, otherwise weekly; Prior, during, and after rain events	Daily when active ingress and egress, otherwise every two weeks, and prior, during, and after rain events	Maintain as necessary.
WM-3	Daily when active ingress and egress, otherwise weekly; Prior, during, and after rain events	Daily when active ingress and egress, otherwise every two weeks, and prior, during, and after rain events	Maintain plastic sheeting as necessary.

WPCP
INSPECTION, MAINTENANCE, AND REPAIR PROGRAM

BMP	Inspection Frequency		Maintenance/Repair Measures
WM-4	Daily when active ingress and egress, otherwise weekly; Prior, during, and after rain events	Daily when active ingress and egress, otherwise every two weeks, and prior, during, and after rain events	Contain any leaked material using drip pans or plastic sheeting. Properly dispose of leaked material.
WM-5	Weekly, and prior, during, and after rain events	Every two weeks, and prior, during, and after rain events	Remove trash when receptacles are nearly full.
WM-6	Daily when active ingress and egress, otherwise weekly; Prior, during, and after rain events	Daily when active ingress and egress, otherwise every two weeks, and prior, during, and after rain events	Contain any leaked material using drip pans or plastic sheeting. Properly dispose of leaked material.
WM-7	Daily when active ingress and egress, otherwise weekly; Prior, during, and after rain events	Daily when active ingress and egress, otherwise every two weeks, and prior, during, and after rain events	Remove any soil contaminated from leaking vehicles and properly dispose.
WM-8	Daily when active ingress and egress, otherwise weekly; Prior, during, and after rain events	Daily when active ingress and egress, otherwise every two weeks, and prior, during, and after rain events	Inspect concrete containment containers for leaks and review disposal procedures. Inspect plastic sheeting for wear during use.
WM-9	Daily when active ingress and egress, otherwise weekly; Prior, during, and after rain events	Daily when active ingress and egress, otherwise every two weeks, and prior, during, and after rain events	Review disposal removal intervals and adjust as deemed necessary.
BMP-032	Weekly, and prior, during, and after rain events	Every two weeks, and prior, during, and after rain events	Properly dispose of obsolete equipment and vehicles.

1 RECORDING REQUESTED BY:

2 WHEN RECORDED MAIL TO:
3 California Coastal Commission
725 Front Street, Suite 300
4 Santa Cruz, CA 95060-4508
Attn: Legal Division
5
6
7
8

9 **DEED RESTRICTION**

10
11 I. WHEREAS, WILLIAM J. KOMAN TRUSTEES OF THE WJK TRUST
12 DATED 03-16-06 (hereinafter referred to as "Owner(s)") is/are the record owner(s) of
13 the real property described in Exhibit A, attached hereto and incorporated herein by reference
14 (hereinafter referred to as the "Property"); and

15 II. WHEREAS, the California Coastal Commission (hereinafter referred to as the
16 "Commission") is a public agency created and existing under the authority of section 30300 of the
17 California Public Resources Code (hereinafter referred to as the "PRC"), a section of the California
18 Coastal Act of 1976 (Division 20 of the PRC; hereinafter referred to as the "Act"); and

19 III. WHEREAS, the Property is located within the coastal zone as defined in the Act (PRC
20 § 30103); and

21 IV. WHEREAS, pursuant to section 30600(a) of the PRC, Owner(s) applied to the
22 Commission for a coastal development permit to undertake development, as defined in the Act (PRC
23 § 30106), on the Property; and

24 V. WHEREAS, on NOVEMBER 14, 2013, the Commission conditionally approved
25 coastal development permit number 6-13-025 (hereinafter referred to as the "Permit"),
26 subject to, among other conditions, the conditions listed under the heading "Special Conditions" in the
27 Corrected Coastal Development Permit dated SEPTEMBER 16, 2014, attached hereto as

1 EXHIBIT B and incorporated herein by reference (hereinafter referred to as the "Special Conditions"),
2 for the reasons stated in the "Findings and Declarations" adopted by the Commission in support of its
3 action, which findings and declarations (along with any other documents that the Permit required to be
4 submitted to the Commission and with which the Permit requires compliance) are available from the
5 Commission upon request; and

6 VI. WHEREAS, the Commission found that, but for the imposition of the Special
7 Conditions, the proposed development could not be found consistent with the provisions of the Act and
8 that a permit could therefore not have been granted; and

9 VII. WHEREAS, Owner(s) has/ve elected to comply with the Special Conditions, which
10 require, among other things, execution and recordation of this Deed Restriction, so as to enable
11 Owner(s) to undertake the development authorized by the Permit;

12 NOW, THEREFORE, in consideration of the issuance of the Permit to Owner(s) by the
13 Commission, the undersigned Owner(s), for himself/herself/themselves and for his/her/their heirs,
14 assigns, and successors-in-interest, hereby irrevocably covenant(s) with the Commission that the Special
15 Conditions (shown in Exhibit B hereto) shall at all times on and after the date on which this Deed
16 Restriction is recorded constitute for all purposes covenants, conditions and restrictions on the use and
17 enjoyment of the Property that are hereby attached to the deed to the Property as fully effective
18 components thereof.

19 1. DURATION. (a) This Deed Restriction shall remain in full force and effect and shall
20 bind Owner(s) and all his/her/their assigns or successors-in-interest during the period that either the
21 development authorized by the Permit, or any part or modification thereof, or the Permit, or any
22 modification or amendment thereof, remains in existence on or with respect to, and thereby confers
23 benefit upon, the Property.

24 (b) Furthermore, in the event of a termination or extinguishment of this Deed Restriction
25 other than pursuant to a Commission-approved amendment to the Permit, the Special Conditions shall,
26 notwithstanding any such termination or extinguishment, continue to restrict the use and enjoyment of
27 the Property as they did prior to that termination or extinguishment and to bind Owner(s) and

1 his/her/their successors-in-interest, so long as either or both of the conditions described in paragraph (a)
2 continue to exist on or with respect to the Property.

3 2. TAXES AND ASSESSMENTS. It is intended that this Deed Restriction is irrevocable
4 and shall constitute an enforceable restriction within the meaning of a) Article XIII, section 8, of the
5 California Constitution; and b) section 402.1 of the California Revenue and Taxation Code or successor
6 statute. Furthermore, this Deed Restriction shall be deemed to constitute a servitude upon and burden to
7 the Property within the meaning of section 3712(d) of the California Revenue and Taxation Code, or
8 successor statute, which survives a sale of tax-deeded property.

9 3. RIGHT OF ENTRY. The Commission or its agent may enter onto the Property at times
10 reasonably acceptable to Owner(s) to ascertain whether the use restrictions set forth above are being
11 observed.

12 4. REMEDIES. Any act, conveyance, contract, or authorization by Owner(s) whether
13 written or oral which uses or would cause to be used or would permit use of the Property contrary to the
14 terms of this Deed Restriction will be deemed a violation and a breach hereof. The Commission and
15 Owner(s) may pursue any and all available legal and/or equitable remedies to enforce the terms and
16 conditions of this Deed Restriction. In the event of a breach, any forbearance on the part of either party
17 to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding
18 any subsequent breach.

19 5. SEVERABILITY. If any provision of these restrictions is held to be invalid, or for any
20 reason becomes unenforceable, no other provision shall be affected or impaired.

21
22 Dated: 3/10, 2015

23 Business Name (if property is owned by a business): WJK TRUST DATED 03-16-06

24
25 Signed: William J. Koman

26 William J. Koman, Trustee
27 PRINT/TYPE NAME & CAPACITY OF ABOVE
OF THE WJK TRUST dated 03-16-06

Signed: _____

PRINT/TYPE NAME & CAPACITY OF ABOVE

1 ** NOTARY ACKNOWLEDGMENT ON THE NEXT PAGE **

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Notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Diego

On 3/10/2015, before me, S.M. Whittenberg a Notary Public, personally appeared William Koman who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

A handwritten signature in black ink, appearing to be "S.M. Whittenberg", written over a horizontal line.

(Seal)

EXHIBIT A

(Legal Description of Property)

RECORDING REQUESTED BY:
First American Title

AND WHEN RECORDED MAIL TO:
AND MAIL TAX STATEMENT TO:
WJK Trust
C/O Argos Partner
7733 Forsyth Blvd, Ste 1375
St. Louis, MO 63105
Order No. 3833899-16
Escrow No. 104-12176-SC
Parcel No. 263-301-06-00

DOC # 2012-0173998



MAR 26, 2012 3:50 PM 9627

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
Ernest J. Dronenburg, Jr., COUNTY RECORDER
FEES: 2075.00
OC: OC

PAGES: 1



SPACE ABOVE THIS LINE IS RESERVED FOR FUTURE RECORDS

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S) THAT DOCUMENTARY TRANSFER TAX IS \$2,860.00

X computed on full value of property conveyed, or
 computed on full value less liens or encumbrances remaining at the time of sale.
 unincorporated area: X City of Solana Beach

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
KO ACH REALTY, LLC., a California Limited Liability Company

hereby GRANTS to William J. Koman, Trustees of the W J K Trust dated 03-16-06

the following described real property in the County of San Diego, State of California:
Lot 31 in Block 23 of Solana Beach, in the City of Solana Beach, County of San Diego, State of
California, according to Map thereof No. 1749, filed in the Office of the County Recorder of San
Diego County on March 5, 1923. EXCEPTING THEREFROM any portion lying below the mean high
tide line of the ocean.

Date March 2, 2012

KO ACH REALTY, LLC.

By: Bennet G. Bloom, Manager

By: Kari Bloom, Manager

STATE OF CALIFORNIA

COUNTY OF

San Diego

On

3/22/12

before me,

Deanna McMurdo

Notary Public, personally appeared

Bennet G. Bloom and Kari Bloom

who

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed
to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the
entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Deanna McMurdo (Seal)

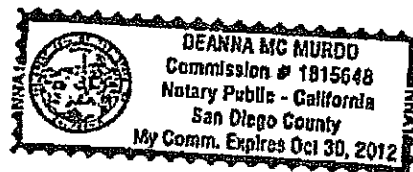


EXHIBIT B

**(Corrected Coastal Development
Permit)**

CALIFORNIA COASTAL COMMISSION

San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421
(619) 767-2370
www.coastal.ca.gov



Page: 1

Date: September 16, 2014

Permit Application No.: 6-13-025

CORRECTED COASTAL DEVELOPMENT PERMIT

On November 14, 2013, the California Coastal Commission granted to:

William Koman, Marjorie Marianni and Robert Upp

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

Approval of a 150 ft. long (35 ft. high) lower coastal bluff seawall, a geogrid structure on the mid and upper bluff with landscaping and a 36 ft. long lateral keystone wall as follow-up to multiple emergency permits

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

The development is within the coastal zone at

341, 347 & 355 Pacific Avenue, Solana Beach (San Diego County) 263-301-06, 263-301-07, 263-301-08

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

Issued on behalf of the California Coastal Commission by

 **CHARLES LESTER**
Executive Director

By: **ERIC STEVENS**
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.

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014

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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:

This permit is granted subject to the following special conditions:

1. **Revised Final Plans.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit for review and written approval of the Executive Director, final plans for the mid and upper bluff geogrid structure and the lateral wall that are in substantial conformance with the submitted plans dated August 10, 2005 (seawall), January 5, 2007 (geogrid structure and lateral wall), and September 12, 2013 (geogrid structure and lateral wall) by Soil Engineering Construction, Inc. The revised plans shall first be approved by the City of Solana Beach and be revised to include the following:
 - a. Any existing permanent irrigation system located on the subject properties shall be removed or capped.
 - b. All runoff from impervious surfaces on the top of the bluff shall be collected and directed away from the bluff edge towards the street and into the City's stormwater collection system.

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014

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- c. Existing and any proposed accessory improvements (i.e., decks, patios, walls, windscreens, etc.) located in the geologic setback area at 341, 347, and 355 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 approval of the coastal development permit.
- d. The geogrid structure on the bluff face fronting 347 and 355 Pacific Avenue shall be constructed to undulate to closely match the appearance of the nearby natural bluff face. The geogrid structure shall include variable thicknesses to provide visual undulations that mimic the nearby natural bluff conditions. At a minimum, the geogrid structure at 347 and 355 Pacific Avenue shall include 5 non-evenly spaced, tapered, undulating drainage features, with non-linear edges, that are approximately 2 feet deep and approximately 5 feet wide. The geogrid structure at 355 Pacific Avenue shall be incorporated, if technically feasible, into the junction with 357 Pacific Avenue.
- e. The lateral wall on the northern property line of 355 Pacific Avenue shall be lowered to maximize undulations that mimic the nearby natural bluff conditions.
- f. 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.
- g. The revised plans shall clearly state the three concrete underpinning caissons at 355 Pacific Avenue are unpermitted and a CDP shall be required if in the future the caissons are proposed to be retained or are proposed or required to be removed.

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

- 2. **Final Landscape Plans.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants 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. The revised plans shall first be approved by the City of Solana Beach before submittal for the Executive Director's review and approval and 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

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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 property to the north at 357 Pacific Avenue and shall incorporate both container stock and hydroseeding. Temporary low pressure 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.

3. Mitigation for Impacts to Public Access and Recreation and Sand Supply.

- a. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that the full interim mitigation fee of \$150,000, required by the Commission to address adverse impacts to public access and recreational use, has been deposited in a Shoreline Account established by the City of Solana Beach.

Within 180 days of the Commission's certification, as part of the certified LCP, a program addressing the impacts associated with shoreline devices and its method of calculating such fees, the applicants shall submit to the Executive Director for review and written approval, documentation of the final mitigation fee amount required by the City to address impacts of the proposed shoreline protection on public access and recreation for the shoreline armoring structure's design life of 20 years. If the amount differs from the interim amount required above, then the applicants shall submit an application for an amendment to this permit to adjust the mitigation fee to be paid to the City to address adverse impacts to public access and recreational use resulting from the proposed development.

- b. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that a fee of \$21,864.72 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 structures. All interest earned by the account shall be payable to the account for the purposes stated below.

The purpose of the account shall be to establish a beach sand replenishment fund to aid SANDAG, or an alternate entity approved by the Executive Director, 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 an alternate entity approved by the Executive Director, 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 Executive Director may appoint an alternate entity to administer the fund for the purpose of restoring beaches within San Diego County.

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4. Duration of Armoring Approval.

- a. **Authorization Expiration.** This CDP authorizes the bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) for twenty years from the date of Commission approval of the CDP. 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 Permittees desire to enlarge the shoreline armoring 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.
- c. **Amendment Required Proposing Mitigation for Retention of Armoring Beyond the 20 Year Design-Life.** If the Permittees intend to keep the armoring in place after April 13, 2025, the Permittees must submit a complete CDP amendment application prior to April 13, 2025 proposing mitigation for the coastal resource impacts associated with the retention of the armoring beyond 20 years.

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 (geogrid structure, seawall, or the lateral wall) 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.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and written approval, a monitoring program prepared by a licensed civil engineer or geotechnical engineer to monitor the performance of the seawall, geogrid structure, and lateral wall 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 of bluff material between the face of the natural bluff or 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, for the 20 years for which

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this seawall is approved. In addition, reports shall be submitted in the spring immediately following either:

1. An "El Nifio" 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 sections 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 applicants 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.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants 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.

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Date: September 16, 2014

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- d. The applicants shall submit evidence that the approved plans and plan notes have been incorporated into construction bid documents. The applicants 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.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants 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 applicants 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. **Storm Design.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director, for review and approval, certification by a registered civil engineer that the proposed shoreline protective devices have been designed to withstand storms comparable to the winter storms of 1982-83 that took place in San Diego County.
10. **Other Permits.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, 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 6-13-025. The applicants shall inform the Executive Director of any changes to the project required by other local, state or federal agencies. Such changes shall not be incorporated into the project until the applicants obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.
11. **State Lands Commission Approval.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, 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 applicants with the State Lands Commission for the project to proceed without prejudice to the determination.

COASTAL DEVELOPMENT PERMIT

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12. **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.
13. **As-Built Plans.** within 180 days of completion of construction, or within such additional time as the Executive Director may grant for good cause, 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 revised project plans described in Special Condition 1 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 shoreline armoring has been constructed in conformance with the approved final plans.
14. **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. By acceptance of this permit, the applicants acknowledge, on behalf of himself/herself and his/her successors in interest, that issuance of the permit and construction of the permitted development shall not constitute a waiver of any public rights which may exist on the property.
15. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from erosion and coastal bluff collapse (ii) to assume the risks to the applicants 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

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Date: September 16, 2014

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incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

16. **Other Special Conditions of the City of Solana Beach Permit Nos. 17-04-13 CUP and 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.
17. **Condition Compliance.** Within 180 days of approval of this CDP, or within such additional time as the Executive Director may grant for good cause, the applicants shall have complied with all of the Special Conditions of this permit. Within 270 days of approval of this CDP, or within such additional time as the Executive Director may grant for good cause, the applicants shall have completed the contouring of the geogrid structure and the lowering of the lateral wall as detailed in the revised final plans for the subject site. Failure to comply with this condition may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.
18. **Deed Restriction.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.



Surfrider Foundation San Diego County Chapter

9883 Pacific Heights Blvd, Suite D

San Diego, CA 92121

Phone: (858) 622-9661 Fax: (858) 622-9961

March 5, 2015

Delivered via email

To: Eric Stevens
California Coastal Commission
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Re: Application 6-14-0679, WJK Trust, W30a

Dear Mr. Stevens,

The Surfrider Foundation San Diego County Chapter recognizes beaches as a public resource held in the public trust. Surfrider Foundation is an organization representing 250,000 surfers and beach-goers worldwide that value the protection and enjoyment of oceans, waves and beaches. For the past decade, San Diego Chapter has reviewed and commented on coastal construction projects and policy in San Diego County. We appreciate the opportunity to provide comments to the California Coastal Commission about these important issues.

We fully support the staff recommendation for denial of this remodel and addition, as it is inconsistent with Coastal Act policies 30253, 30235 and the LUP. The proposed changes would significantly extend the economic life of the current structure, and this is the very type of situation that caused the Commission so much pause when wrestling with the definition of the "redevelopment" in the LUP. Furthermore, we would ask that this residence be subject to an enforcement action immediately based on that fact that they are not in compliance with the 2013 permit requirements to record a deed restriction or to pay mitigation fees or any other conditions from that permit.

within 180 days of Commission approval (by May 13, 2014). The Commission subsequently approved the revised findings for the CDP on June 12, 2014. It has now been more than a year since the Commission originally approved the CDP and more than six months since the Commission acted on the revised findings and the applicant has not completed any of the 12 Special Conditions that were approved with a timing requirement. The Special Conditions addressed Revised Final Plans, Final Landscaping Plans, Mitigation for Impacts to Public Access and Recreation and Sand Supply, Monitoring and Reporting Program, Staging and Storage Areas/Access Corridors, Water Quality – Best Management Practices, Storm Design, Other Permits, State Lands Commission Approval, As-Built Plans, Condition Compliance, and Deed Restriction. Enforcement staff will evaluate further actions to address this non-compliance ([Exhibit 19](#)).

The Surfrider Foundation is a non-profit grassroots organization dedicated to the protection and enjoyment of our world's oceans, waves and beaches through a powerful activist network. Founded in 1984 by a handful of visionary surfers in Malibu, California, the Surfrider Foundation now maintains over 250,000 supporters, activists and members worldwide. For an overview of the Surfrider Foundation San Diego Chapter's current campaigns, programs and initiatives go to www.surfridersd.org or contact us at info@surfridersd.org or (858) 622-9661.



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There are environmentally superior alternatives available at this site, which include removing the landward portions of the home so that the existing extensive bluff retention devices would no longer be necessary. The applicant has already committed three separate violations, including replacing almost the entire western wall of the home without a CDP. The applicant has not acted in good faith, and this proposal violates the Coastal Act and the LUP. The only prudent course of action is to deny this application. No amount of mitigation can replace the precious beach resources below, this site already has extensive armoring, and that should not be perpetuated as this structure is nearing the end of its economic life.

Thank you for your time and consideration.

Sincerely,

Julia Chunn-Heer
Policy Manager
San Diego County Chapter of the Surfrider Foundation

Kristin Brinner
Beach Preservation Committee Member
San Diego County Chapter of the Surfrider Foundation
Resident of Solana Beach

The Surfrider Foundation is a non-profit grassroots organization dedicated to the protection and enjoyment of our world's oceans, waves and beaches through a powerful activist network. Founded in 1984 by a handful of visionary surfers in Malibu, California, the Surfrider Foundation now maintains over 250,000 supporters, activists and members worldwide. For an overview of the Surfrider Foundation San Diego Chapter's current campaigns, programs and initiatives go to www.surfridersd.org or contact us at info@surfridersd.org or (858) 622-9661.

Stevens, Eric@Coastal

From: Mark Vargas <mark@mark-vargas.com>
Sent: Monday, March 09, 2015 10:54 AM
To: Julia Chunn
Cc: Mark Vargas; Stevens, Eric@Coastal
Subject: Re: W30a and W31b

Follow Up Flag: Follow up
Flag Status: Flagged

Great!

mv

On Mon, Mar 9, 2015 at 10:49 AM, Julia Chunn <julia@surfridersd.org> wrote:
Hi Mark,

I will forward this to our California Policy Manager, Stefanie Sekich, and let her respond as she handles the report card.

Best Regards,
Julia

On Mon, Mar 9, 2015 at 9:30 AM, Mark Vargas <mark@mark-vargas.com> wrote:
Do you know if this vote is going to count toward your voting chart? It would be helpful to know ahead of time which votes you'll be tallying and which ones you're going to disregard.

Thanks
mv

On Thu, Mar 5, 2015 at 3:57 PM, Julia Chunn <julia@surfridersd.org> wrote:
Dear Commissioner Vargas,

Please find comment letters from Surfrider San Diego attached here, detailing our concerns with agenda items W30a and W31b. Please let me know if I can provide any additional information. These letters have been provided to CCC staff, and they are cc'd here.

Best Regards,

--

Julia Chunn-Heer
San Diego County Policy Manager
Surfrider Foundation
julia@surfridersd.org

[Help protect your oceans, waves and beaches by becoming a Surfrider Foundation member today!](#)

--

Mark Vargas

PS: Note the new E-mail Address: Mark@mark-vargas.com

--

Julia Chunn-Heer
San Diego County Policy Manager
Surfrider Foundation
julia@surfridersd.org

[Help protect your oceans, waves and beaches by becoming a Surfrider Foundation member today!](#)

--

Mark Vargas

PS: Note the new E-mail Address: Mark@mark-vargas.com

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
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W30a

Filed: 10/02/14
180th Day: 4/01/15
Staff: E.Stevens-SD
Staff Report: 2/27/15
Hearing Date: 3/11/15

STAFF REPORT: REGULAR CALENDAR

Application No.: 6-14-0679

Applicant: WJK Trust

Agent: Matthew Peterson

Location: 355 Pacific Avenue, Solana Beach, San Diego County (APN: 263-301-06).

Project Description: Construction of a 750 sq. ft. one and two story addition supported by a caisson foundation and remodel to an existing one story 1,380 sq. ft. single-family residence with an attached 240 sq. ft. garage on a 4,252 sq. ft. bluff top lot. After-the-fact approval of alterations to the western wall of the home.

Staff Recommendation: Denial

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the proposed addition and remodel and after-the-fact authorization for alterations of the western wall of the existing single family residence. The existing home was built in 1952 and is currently located approximately 10 ft. from the bluff edge at its closest point ([Exhibit 10](#)). The Commission has not approved any past modifications or additions to the 63 year old home. The bluff fronting the existing

home is fully armored by a lower bluff seawall, a mid and upper bluff geogrid structure, and three unpermitted caissons below the western edge of the foundation ([Exhibit 11](#)).

The proposed project involves the construction of a 750 sq. ft. first and second floor addition to an existing 1,380 sq. ft. single family residence with an existing attached 240 sq. ft. garage, on a 4,252 sq. ft. blufftop lot in the City of Solana Beach ([Exhibits 2-9](#)). The addition would be located as close as 51 feet from the bluff edge. As proposed, the addition would be supported by a concrete slab foundation and a caisson and grade beam foundation. The project also includes a substantial renovation of all of the major structural components of the existing house, and after-the-fact approval for a significant alteration to the western wall of the home undertaken without first obtaining a Coastal Development Permit, which resulted in the replacement of 22 ft. of the 28 ft.-long western wall of the home ([Exhibits 15 and 16](#)).

Section 30253 of the Coastal Act requires that new development assure stability, 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 shoreline protective devices that would substantially alter natural landforms along bluffs and cliffs. On the subject site, the Commission's geologist determined that for development to be stable throughout its useful life and not require a seawall or other protective device, it must be set back a minimum of 83 ft. from the edge of the bluff. Therefore, in order to protect the proposed addition located at 51 feet from the bluff edge from landslides and erosion, the project includes construction of a below grade caisson retention system. Inconsistent with Section 30253, the proposed caisson foundation would be a bluff/shoreline protection device that would allow new development to be sited in a location that would otherwise not meet the bluff top stability standards.

The Solana Beach LUP does allow for the use of caissons for new development, but only when the project includes removal or relocation of the at risk portions of the structure, and as an alternative to bluff-altering protective devices. These LUP policies encourage blufftop property owners to rebuild a new safe structure rather than maintaining or improving an existing structure in a hazardous location that requires alteration of the public bluffs. Approval of the proposed addition and substantial alterations to the existing home without addressing the seaward portions of the home would effectively eliminate the opportunity for managed retreat in the future at this site.

The proposed project extends the life of the structure and the need for the substantial amount of shoreline armoring that fronts the subject site. As proposed, the project would result in a 43% increase to the existing floor area of the home. The proposed development also includes alterations to all of the major structural components of the home, including alteration to 42% of the existing exterior walls, 9% of the existing floor structure, 49% of the existing roof structure, and 10% of the existing foundation ([Exhibits 12-14](#)). In addition, the proposed caisson foundation would result in a substantial, permanent alteration of the bluff, and make it significantly less likely that the structure, which is nearing the end of its economic life, would be able to be relocated or removed in the future.

The applicant already has reasonable use of the existing property in the form of an existing single-family home. A feasible alternative to the subject project is the no project alternative which would allow continued use of the property without increasing adverse impacts to public access, recreational opportunities and sand contribution. Another feasible alternative would be to remove the seaward portions of the existing non-conforming structure and rebuild the structure further landward from the bluff edge, such that the new home may no longer require the existing shoreline armoring which results in substantial alteration of the public bluff.

The proposed project and development for which the applicant is requesting authorization after-the-fact is not consistent with Section 30253 and 30235 of the Coastal Act and the policies of the certified LUP and must be denied.

Commission staff recommends **denial** of coastal development permit application 6-14-0679.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Proposed Site Plan

Exhibit 3 – Existing Elevation Plan

Exhibit 4 – Proposed East and South Elevation Plans

Exhibit 5 – Proposed West and North Elevation Plans

Exhibit 6 – Proposed East Elevation Perspective

Exhibit 7 – Proposed Northeast Elevation Perspective

Exhibit 8 – Proposed North Elevation Perspective

Exhibit 9 – Proposed South Elevation Perspective

Exhibit 10 – Aerial Site Photo 1

Exhibit 11 – Aerial Site Photo 2

Exhibit 12 – Proposed Exterior Wall Alterations

Exhibit 13 – Proposed Roof Structure Alterations

Exhibit 14 – Proposed Foundation and Floor Structure Alterations

Exhibit 15 – Unpermitted Development (2010 Aerial Photo)

Exhibit 16 – Unpermitted Development (2013 Aerial Photo)

Exhibit 17 – Upcoast Photo of Bluff

Exhibit 18 – Downcoast Photo of Bluff

Exhibit 19 – Special Conditions of CDP #6-13-025/Koman et al.

Exhibit 20 – Emergency CDP #6-05-003-G/Island Financial Corporation

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-14-0679 for the development proposed by the applicant.*

Staff recommends a **NO** vote on the foregoing motion. Failure of this motion will result in denial of the permit 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 denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act, and will 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 would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project involves the construction of a 750 sq. ft. addition to an existing 1,380 sq. ft. single family residence with an existing attached 240 sq. ft. garage on a 4,252 sq. ft. blufftop lot in the City of Solana Beach. As proposed, the addition consists of a 185 sq. ft. first floor addition, a 173 sq. ft. first floor garage addition, and a 392 sq. ft. second floor addition. The applicant also proposes to construct an approximately 300 sq. ft. second story cantilevered deck, and approximately 14% of the existing interior walls are proposed to be demolished. The proposed addition will be located 51 to 74 ft. from the bluff edge. As proposed, the addition will be supported by a partial 5 in. thick concrete slab foundation and a drilled pier and grade beam foundation (also referred to as a caisson foundation). The proposed drilled pier and grade beam foundation consists of twelve 30 inch diameter piers connected by 24 inch by 24 inch concrete beams also located 51 to 74 feet from the bluff edge ([Exhibits 2-9](#)).

In its review of the subject addition, Commission staff determined that significant alterations had been undertaken to the western wall of the existing residence sometime between 2010 and 2013. The alterations consisted of the installation of multiple sliding glass doors, which resulted in the replacement of 22 ft. of the 28 ft.-long western wall of the home ([Exhibits 15 and 16](#)). Improvements to single-family structures within 50 ft. of

the edge of a coastal bluff require a Coastal Development Permit (CDP) (see Section 13250(b) (1) of the California Code of Administrative Regulations) due to the risk of adverse environmental effects. Thus, the alteration to the exterior western wall of the home, which is approximately 10 feet from the bluff edge, required a CDP. No CDP was obtained for this development. The applicant is now requesting after-the-fact approval for the previous alterations to the western wall of the home.

The subject development is proposed to be located on a blufftop lot on an approximately 80 ft.-high coastal bluff. 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 ([Exhibit 1](#)).

Site History/Past Permits

As detailed below, various Coastal Development Permits (CDPs) for shoreline armoring have been approved on the bluff fronting the home.

In February of 2005, the Executive Director authorized an emergency permit to construct three concrete caisson underpinnings (approximately 2 ft. in diameter, 30 ft. in length) located in the southwest corner of the same existing residence at 355 Pacific Avenue (CDP #6-05-003-G/Island Financial Corporation) ([Exhibit 20](#)).

In April of 2005, the Executive Director authorized an emergency permit for the construction of an approximately 150 foot long, 2 foot wide, 35 foot-high tiedback concrete seawall located at the base of the bluff below 341, 347, and 355 Pacific Avenue (CDP #6-05-023-G/Upp, Reichert, & Island Financial Corporation).

In June of 2006, the Executive Director authorized an emergency permit for the reconstruction of the bluff face fronting 347 Pacific Avenue and the subject house at 355 Pacific Avenue through the installation of a geogrid soil reinforced structure incorporating the use of soil nails, and installation of erodible concrete directly behind and not extending above the existing approximately 150 foot-long, 35 foot-high seawall with a small section of erodible concrete (approx. 15 feet in length) that extends up to approximately 5 feet above the seawall at its southern end. The project also included the installation of an approximately 36 foot-long keystone retaining wall extending from the north end of the existing seawall to the top of the bluff along the northern property of 355 Pacific Avenue (CDP #6-06-037-G/Totten and Reichert).

In November of 2013, the Commission approved a follow-up permit for the emergency construction of the seawall and the bluff reconstruction (CDP #6-13-025/Komen). Pursuant to this CDP, the applicants are required to lower the existing lateral keystone wall to the south approximately 16 inches at the bottom portion and approximately 52 inches at the top portion in order to create a more natural appearance and the applicants must install native landscaping on the geogrid structure. This work has not yet occurred. More details regarding this requirement are contained in Section E, Unpermitted Development, of this staff report. Removal or retention of the three existing rear yard caissons on the property constructed under emergency permit #6-05-003-G were not

included in the follow-up permit for the rest of the emergency work. Thus, the existing caissons remain unpermitted development (CDP #6-13-025/Koman et al).

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 STABILITY/BLUFFTOP DEVELOPMENT

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.

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

Section 30235

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

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:

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.*

[. . .]

In addition, the following certified City of Solana Beach Land Use Plan (LUP) language provides additional guidance regarding geologic hazards and development on blufftop property:

Policy 4.14: Existing, lawfully established structures that are located between the sea and the first public road paralleling the sea (or lagoon) built prior to the adopted date of the LUP that do not conform to the provisions of the LCP shall be considered legal non-conforming structures. Such structures may be maintained and repaired, as long as the improvements do not increase the size or degree of non-conformity. Additions and improvements to such structures that are not considered Bluff Top Redevelopment, as defined herein, may be permitted provided that such additions or improvements themselves comply with the current policies and standards of the LCP. Bluff Top Redevelopment is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP...

Policy 4.17: New development shall be set back a safe distance from the bluff edge, with a reasonable margin of safety, to eliminate the need for bluff retention devices to protect the new improvements. All new development, including additions to existing structures, on bluff property shall be landward of the Geologic Setback Line (GSL) as set forth in Policy 4.25. This requirement shall apply to the principal structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems, etc. Accessory structures such as decks, patios, and walkways, which are at-grade and do not require structural foundations may extend into the setback area no closer than five feet from the bluff edge. On lots with a legally established bluff retention device, the required geologic analysis shall describe the condition of the existing seawall; identify any impacts it may be having on public access and recreation, scenic views, sand supply and other coastal resources; and evaluate options to mitigate any previously unmitigated impacts of the structure or modify, replace or remove the existing protective device in a manner that would eliminate or reduce those impacts. In addition, any significant alteration or improvement to the existing structure shall trigger such review (i.e., the analysis of the seawall) and any unavoidable impacts shall be mitigated.

Policy 4.23: Where setbacks and other development standards could preclude the construction of a home.... The City may also consider options including a caisson foundation with a minimum 40 foot bluff top setback to meet the stability requirement and avoid alteration of the natural landform along the bluffs. A condition of the permit for any such home shall expressly require waiver of any rights to new or additional bluff retention devices which may exist and recording of said waiver on the title of the bluff property.

Policy 4.25: All new bluff property development shall be set back from the bluff edge a sufficient distance to ensure that it will not be in danger from erosion and that it will ensure stability for its projected 75-economic life. To determine the GSL, applications for bluff property development must include a geotechnical report, from a licensed Geotechnical Engineer or a certified Engineering Geologist, that establishes the Geologic Setback Line (GSL) for the proposed development. This setback line shall establish the location on the bluff top where stability can be reasonably assured for the economic life of the development.

Such assurance will take the form of a quantitative slope analysis demonstrating a minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer), using shear strength parameters derived from relatively undeformed samples collected at the site. In no case shall the setback be less than 40 feet from the bluff edge, and only if it can be demonstrated that the structure will remain stable, as defined above, at such a location for its 75-year economic life and has been sited safely without reliance on existing or future bluff retention devices, other than a caisson foundation.

Furthermore, all new development including, but not limited to principal structures, additions, and ancillary structures, shall be specifically designed and constructed such that it could be removed in the event of endangerment.

The predicted bluff retreat shall be evaluated considering not only historical bluff retreat data, but also acceleration of bluff retreat made possible by continued and accelerated sea level rise, future increase in storm or El Niño events, the presence of clean sands and their potential effect on the pattern of erosion at the site, an analysis of the ongoing process of retreat of the subject segment of the shoreline, and any known site-specific conditions. To the extent the MEIR or geology reports previously accepted by the City address the issues referenced above and remain current, technical information in the MEIR and previously accepted geology reports may be utilized by an applicant. Any such report must also consider the long-term effects of any sand replenishment and/or retention projects to the extent not addressed in the MEIR or the EIR for the specific application.

Policy 4.29: *A bluff home may continue its legal non-conforming status; however, a Bluff Top Redevelopment shall constitute new development and cause the pre-existing non-conforming bluff home to be brought into conformity with the LCP. Entirely new bluff homes shall also conform to the LCP.*

Policy 4.51: *The erosion rate, being critical to the fair and accurate calculation of the Sand Mitigation Fee shall be reviewed, after notice and public hearing, at least every ten years, and more often if warranted by physical circumstances, such as major weather events, or large-scale sand replenishment projects and possible changes in coastal dynamics due to, among others, climate change, and future changes in sea level. If warranted, the erosion rate should be adjusted by the City with input from a licensed Civil or Geotechnical Engineer based upon data that accurately reflects a change in the rate of erosion of the bluff. Any such change shall be subject to the public hearing and a vote of the City Council.*

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.

Caisson Foundation: Means a subsurface support structure. A Caisson is a shaft or shafts of steel reinforced concrete placed under a building column, foundation or wall and extending down to hardpan, bedrock or competent material as defined or approved by a soils engineer or geologist. Caissons, for this definition, are drilled into position and are used to carry surface building loads and/or to carry surface building loads from anticipated future loss of support (i.e. "slope failure"). Also known as a pier foundation.

Floor Area means the enclosed interior space inside a bluff home, excluding required parking of 200 square feet per parking space, both before and/or after completion of any remodel.

Geologic Setback Area (GSA) is that portion of the bluff property located between the bluff edge and the Geologic Setback Line.

Geologic Setback Line (GSL) is the line marking the distance from the bluff edge that will assure stability for new development, to be determined on a case-by-case basis for each bluff property.

Shoreline Protection and Landform Alteration

Due to the natural process of continual bluff retreat, coastal bluffs in this area of San Diego County are considered a hazardous area. To find a proposed blufftop residential addition consistent with Section 30253, it must be sited such that it will not require a seawall or other bluff/shoreline protective device that would substantially alter natural landforms along the bluffs throughout its useful life. To make these findings, developments must be set back a safe distance from the bluff edge as determined by a site specific geotechnical report documenting that the residence or residential additional will not require the construction of bluff/shoreline protection over its lifetime. As evidenced by the extensive armoring of the bluff fronting the subject site, the existing home is clearly in a hazardous location and could not be sited safely in its current location without shoreline armoring (Exhibits [10](#), [11](#), [17](#), and [18](#)).

The applicant has submitted a geotechnical report for the subject site relating to the proposed single-family residential addition that includes site-specific quantitative slope stability analyses and an estimation of the long-term erosion rate for the area. The slope stability analysis measures the likelihood of a landslide at the subject site. The factor of safety is an indicator of slope stability and a value of 1.5 is the industry-standard value for new development. In theory, failure will occur when the factor of safety drops to 1.0, and no slope should have a factor of safety less than 1.0. According to the applicant's geotechnical report of June 4, 2014, the minimum factor of safety of 1.5 against a landslide occurring at the subject site occurs at approximately 48 ft. landward from the bluff edge. That is, a structure would need to be setback approximately 48 ft. from the edge of the bluff to be safe from the threat of landslides.

In addition to the landslide potential, the bluff is also subject to long-term erosion and retreat, and establishing the required geologic setback includes estimating this retreat rate as well. The applicant's geotechnical report asserts that the historic long-term erosion rate for the area is approximately 0.40 ft. per year and that given an estimated 75-year design life; about 30 feet of erosion might be expected to occur at the subject site based on this historic long-term erosion rate. However, the estimated average bluff recession rate that the Coastal Commission typically applies to the calculation of setbacks for new bluff top development in this portion of Solana Beach is 0.47 feet per year. The erosion rate used by the Commission is the upper bound of the historic rate (1932-1994) measured by Benumof and Griggs (1999) in a peer-reviewed FEMA-funded study making use of the then state of the art photogrammetric techniques. The upper bound is used as a proxy for the average rate expected over the life of proposed new bluff top development (75 years) to account for increases in bluff retreat rate due to sea level rise. The estimated bluff recession over a period of 75 years at a rate of 0.47 feet per year is approximately 35 feet.

The LUP requires that the erosion rate be determined based on historic erosion, erosion trends, aerial photographs, land surveys, or other acceptable techniques. The applicant did not provide any rationale or site specific information to justify using the lower erosion rate. Therefore, the Commission's geologist, Dr. Mark Johnson, determined that the appropriate erosion rate is 0.47 feet per year. Thus, based on the combination of slope stability analyses and the estimated erosion rate, the geologic setback, or the location where new development would have to be sited in order to assure stability and structural integrity and not be in danger from erosion is 83 ft. landward of the edge of the bluff.

The subject addition, including the proposed caisson foundation, is proposed to be located approximately 51 ft. from the bluff edge at its closest point, and, therefore would be sited at a location that would likely be threatened over the next 75 years, requiring the construction of bluff/shoreline protection within its lifetime. The distance between the bluff edge and the eastern property line of the site is approximately 74 on the southern side and 82 ft. on the northern side. Thus, there is no room on the site to construct an addition that would not be at risk. Therefore, the applicant is proposing to construct a new caisson foundation to support the addition in order to achieve a 1.5 factor of safety for new development over 75 years.

However, Section 30253 of the Coastal Act prohibits the construction of new development that requires the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed addition cannot meet the standard for stability and cannot be sited safely on the subject site in the proposed location without the use of caissons, a bluff/shoreline protective device, inconsistent with Section 30253.

The City of Solana Beach certified LUP identifies specific circumstances under which a caisson foundation may be permitted. The LUP requires that development be designed so that it will neither be subject to nor contribute to bluff instability, and is sited to not require construction of protective devices that would alter the natural landforms of the bluffs. However, Policy 4.23 of the LUP provides that a caisson foundation may be permitted when it would allow a new home to be sited further inland, if the development would avoid the need for mid and upper bluff stabilization, alteration of the natural landform of the bluffs, and when the structure requiring protection is relocated to at least 40 ft. inland of the bluff edge. The intent of this policy is to encourage, incentivize, and require blufftop property owners to evaluate rebuilding a new safe structure, rather than maintaining or improving an existing structure in a hazardous location that requires alteration of the public bluffs.

In contrast, the proposed project would construct an addition to an existing residence, including a construction of a substantial below-grade retention system, while maintaining and upgrading the non-conforming portions of the structure. As proposed, the non-conforming portions of the home would remain as close as 10 ft. from the bluff edge. The proposed project represents a substantial economic investment in a property that already requires bluff/shoreline protection, thereby extending the life of the structure and the need for the substantial amount of shoreline armoring that currently fronts the subject site. Unlike the alternative envisioned in the LUP, the proposed project would not remove the seaward most portions of the home currently at risk, nor allow the existing mid and upper bluff protection to be removed.

In addition, the construction of caissons substantially alters the natural landform of the bluffs, and makes it significantly less likely that the residence will be able to be relocated or removed in the future. The proposed caissons would consist of twelve concrete piers with a minimum diameter of 30 inches. The caissons are proposed to extend at least five feet into unweathered paralic/terrace deposits and will be a minimum of 25 feet deep closest to the ocean and a minimum of five feet deep closest to the street. The caissons are proposed to be constructed by drilling cylindrical holes on the bluff top lot and casting the caissons in place. It is extremely difficult to remove below grade structures once they are installed without causing additional damage to the bluffs. The existing caissons on the subject site are an example. As noted above, the applicants installed three caissons in rear yard of the site under an emergency permit. Although the Commission subsequently determined that the caissons were not necessary to protect the structure from erosion, the caissons cannot be removed without damaging the bluffs. The proposed project would further permanently alter the bluff and establish the improved residence in a hazardous location dependent upon the continuing presence of bluff/shoreline protection.

Additions, Improvements, and Redevelopment

The existing home was built in 1952 and is currently located approximately 10 ft. from the bluff edge at its closest point ([Exhibit 10](#)). The Commission has not approved any past modifications or additions to the 63 year old home. The bluff fronting the existing home is fully armored by a lower bluff seawall and a mid and upper bluff geogrid structure ([Exhibit 11](#)). Close scrutiny of improvements to an existing blufftop residence that already requires a bluff retention device to protect it from erosion is particularly important. Retention of development too close to the bluff edge can lead to further landform alteration and impacts to public resources. Improvements that increase the economic life of the structure in a non-conforming and hazardous location can also reduce the incentive to move the structure landward to reduce risk and the need for protection. Therefore, significant improvements that extend the life of the structure in its current location should be limited.

The definition of Bluff Top Redevelopment in the City's LUP is intended to identify and prohibit redevelopment projects that essentially consist of rebuilding existing structures in hazardous, non-conforming locations, unless the entire structure is brought into conformance. The definition allows a reasonable amount of changes to an existing structure, including up to a 50% increase in the size of the structure, but would not allow the familiar practice of stripping a house to the studs, or gutting the entire interior, or demolishing everything but one wall, and still characterizing the structure as "existing," thereby allowing the unlimited perpetuation of a non-conforming structure. Further refinement of how to implement the definition of "redevelopment" is expected to occur in the future when the City's Implementation Plan is developed. At this point, using the LUP for guidance, in order to determine whether or not an improvement is considered redevelopment (that is, a new structure), it is necessary to examine both the size of the proposed addition, and the extent of modifications proposed to the major structural elements of the existing structure.

The Bluff Top Redevelopment policy defines the major structural elements of the home. These major structural elements include exterior walls, the structural components of the floor and roof, and the foundation of an existing home. The definition provides that alterations to major structural components are not additive between individual major structural components, while alterations to individual major structural components are cumulative over time from the date of certification of the LUP. Additions are also cumulative over time from the date of certification of the LUP, such that an initial 25% addition would not be considered redevelopment, however, if in the future a subsequent 25% addition was proposed, that would result in a cumulative 50% increase in floor area and would thus constitute redevelopment.

The proposed development will result in alterations to all of the major structural components of the home ([Exhibits 12-14](#)). Based on plans submitted by the applicant, the proposed project will result in the following alteration of existing major structural components:

- **Exterior Walls:** Alteration of approximately 87 linear ft. of the existing 206 linear ft. of exterior walls (42%). As calculated in this case, the total existing exterior wall alteration is a combination of exterior walls altered through demolition or replacement, exterior walls becoming interior walls, exterior walls altered through removal or resizing of windows or doors, and exterior walls altered through installation of the new foundation system components.
- **Floor Structure:** Alteration of approximately 100 sq. ft. of the existing 1,110 sq. ft. of floor structure (9%). The altered floor structure area consists of the existing floor structure area that will be modified to accommodate the proposed additions and new caisson, grade beam, and slab foundation.
- **Roof Structure:** Alteration of approximately 977 sq. ft. of the existing 2,010 sq. ft. of roof structure (49%). The altered roof structure area consists of the existing roof structure area that will be modified to accommodate the proposed additions and the new roof deck.
- **Foundation:** Alteration of approximately 63 sq. ft. of the existing 623 sq. ft. foundation (10%). The altered foundation area consists of the foundation elements that will be modified to accommodate the proposed additions and new caisson, grade beam, and slab foundation. As calculated in this case, the existing foundation consists of the existing slab foundation at the eastern side of the home, the existing spread footings, and the existing perimeter foundation.

In addition to the substantial alterations to the existing major structural components of the home, the proposed development will result in significant expansion to the major structural components of the home. The City's LUP, which is used for guidance, excludes the garage area when determining Floor Area. In addition, the definition of Bluff Top Redevelopment in the City's LUP limits additions to existing bluff top structures to 50% of the existing Floor Area. The Floor Area of the existing home is 1,380 sq. ft. (excluding existing garage area). The applicant proposes to add 590 sq. ft. of new Floor Area (excluding proposed garage area). The addition results in a 43% increase to the existing Floor Area of the home.

Thus, as submitted, the proposed addition is slightly less than 50% of the existing floor area of the structure, and it appears that while the proposed alterations are substantial and effect every structural element of the home, (exterior walls, floor and roof structure, and foundation) they do not exceed 50% of any one component. Nevertheless, although the revisions may not meet the threshold for redevelopment in the LUP, the extent of alterations to the existing non-conforming structure located as close as 10 ft. from the bluff edge is a concern, especially when viewing the alterations to the existing major structural components and proposed new addition as a whole. The substantial improvements, including the after-the-fact replacement of the westernmost wall of the home, would almost certainly extend the life of the home. This is particularly so given that the subject residence was constructed in 1952 and is thus 63 years old. Policy 4.25 of the certified LUP defines a structure's economic life as 75 years. As evidenced by the current proposal to substantially modify the existing structure, this blufftop home is nearing the end of its economic life. Extending the life of a non-conforming structure

located in a hazardous location without resolving the non-conformity is exactly the type of development that the Solana Beach LUP is intended to prevent.

Policy 4.14 of the LUP allows non-conforming bluff top structures to be maintained and repaired only if the improvements do not increase the size or degree of non-conformity. The proposed addition and substantial remodel results in substantial changes to all of the major structural components (as defined by the City's certified LUP) of the home. Although as submitted, the proposed addition is less than 50% of the existing floor area of the structure and it appears that alterations to the existing major structural components do not exceed 50% (exterior walls, floor and roof structure, and foundation), the extent of the proposed changes to the existing non-conforming structure is significant, especially when viewing the alterations to the existing major structural components and proposed new major structural components as a whole. The proposed remodel to the existing home would extend the time that the home will be located in its current non-conforming location and the proposed addition cannot be sited without depending on a caisson foundation to meet bluff top stability standards. Therefore the proposed development is inconsistent with the current policies and standards of the LCP, including Policy 4.14.

The Coastal Act and the City's certified LUP encourage locating structures in areas that will not result in adverse impacts to public access from the construction or retention of shoreline armoring. If the seaward portions of the existing structure were moved landward and stabilized by a caisson foundation, some or all of the existing shoreline armoring fronting the site may no longer be needed for stability. Even if this home were to be moved landward away from the bluff edge or removed in its entirety, the existing shoreline armoring fronting the subject site would likely only be able to be removed as adjacent homes in the area reached the end of their economic lives and also retreated landward. However, over the long term, the policies of the LUP prohibiting new development that requires bluff/shoreline protection will result in existing structures being relocated or removed, reducing the need and amount of bluff/shoreline protection. Over the longer run, a more comprehensive strategy to address shoreline erosion and the impacts of armoring may be developed (e.g. planned or managed retreat, relocation of structures inland, abandonment of structures, etc.) that would allow the shoreline to retreat and contribute to the sand supply of the region. It is also possible that the ocean itself may one day destroy the existing shoreline armoring in this area. Approval of the proposed addition and substantial alteration to all of the major structural components of the existing home without addressing the seaward portions of the home would effectively eliminate the opportunity for managed retreat in the future at this site.

Existing Bluff/Shoreline Protection

Policy 4.17 of the City's LUP addresses when new development or significant alteration or improvement to existing structures on blufftop lots with legally-established bluff retention devices is proposed. A geologic analysis is required to describe the condition of the existing shoreline armoring, to identify any impacts the shoreline armoring may be having on public access and recreation, scenic views, sand supply and other coastal resources; and to evaluate options to mitigate any previously unmitigated impacts of the

structure or modify, replace or remove the existing protective device in a manner that would eliminate or reduce those impacts.

In this particular case, the existing shoreline armoring was extensively reviewed by the Commission on November 14, 2013, pursuant to CDP #6-13-025, which authorized the retention of the mid and upper bluff geogrid structure and the seawall fronting the subject site. Pursuant to CDP #6-13-025, the Commission identified that the shoreline armoring resulted in significant impacts to public access and recreation, scenic views, and sand supply. To mitigate these impacts, the Commission required that the applicant make an in-lieu payment for impacts to sand supply and public access and recreation over a 20 year period. As such, the existing shoreline armoring does not have any previously unmitigated impacts at this time.

The Commission also found that the existing shoreline armoring was required to protect the existing blufftop structure and could not be modified, replaced, or removed at that time. The Commission approved the shoreline armoring fronting the subject site for a period of 20 years from the date that it was constructed (April 13, 2005 through April 13, 2025). Prior to the completion of the 20-year authorization period, the applicant is required to obtain a CDP amendment to assess the continued impacts on public access and sand supply as a result of the shoreline armoring built on the publicly-owned beach and bluff. This re-assessment will include all of the approved bluff/shoreline protection of the subject site, including the seawall and the geogrid structure/lateral return wall.

Subsequent to the approval of CDP #6-13-025, the City's LUP was amended to require that retention of shoreline armoring be tied to the life of the bluff top structure it is approved to protect. Thus, it is possible that the applicant could return to the Commission in the future for an amendment to CDP #6-13-025 to replace the 20-year authorization of the existing armoring with a condition that ties the armoring to the existing structure.

Summary

The proposed residential addition and the after-the-fact alterations to the home's western wall cannot assure structural stability over its lifetime so as to not require bluff/shoreline protection. The project could only be sited in the proposed location with the construction of a caisson foundation, inconsistent with Section 30253, which does not allow new development that requires bluff/shoreline protective devices. In addition to creating a more permanent structure, the proposed project also represents a substantial economic investment in a property that already requires bluff/shoreline protection, thereby extending the life of the structure and the need for the substantial amount of shoreline armoring that fronts the subject site. The proposed caisson foundation would result in a substantial alteration of the bluff and make it significantly less likely that the structure, which is nearing the end of its economic life, would be able to be relocated or removed in the future. Approval of the proposed addition and substantial alteration to all of the major structural components of the existing home without addressing the seaward portions of the home would effectively eliminate the opportunity for managed retreat in the future at this site. Therefore, the proposed development is not consistent with Section 30253 and 30235 of the Coastal Act or the policies of the certified LUP and must be denied.

C. VISUAL RESOURCES

Sections 30251, 30240, and 30250 of the Coastal Act require that the scenic and visual qualities of coastal areas be protected, that new development adjacent to park and recreation areas be sited so as to not degrade or impact the areas and that new development not significantly adversely affect coastal resources:

Section 30251

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

Section 30240

[. . .]

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

Section 30250

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

In addition, the following certified City of Solana Beach Land Use Plan (LUP) language provides additional guidance regarding protection of scenic resources:

Policy 6.3: *Public views to the beach, lagoons, and along the shoreline as well as to other scenic resources from major public viewpoints, as identified in Exhibit 6-1 shall be protected. Development that may affect an existing or potential public view shall be designed and sited in a manner so as to preserve or enhance designated view opportunities. Street trees and vegetation shall be chosen and sited so as not to block views upon maturity.*

Policy 6.4: *Locations along public roads, railways, trails, parklands, and beaches that offer views of scenic resources are considered public viewing areas. Existing public*

roads where there are major views of the ocean and other scenic resources are considered Scenic Roads and include:

- *Highway 101/Pacific Coast Highway and Railway Corridor*
- *I-5*
- *Lomas Santa Fe Drive*

Public views to scenic resources from Scenic Roads shall also be protected.

Policy 6.9: *The impacts of proposed development on existing public views of scenic resources shall be assessed by the City prior to approval of proposed development or redevelopment to preserve the existing character of established neighborhoods. Existing public views of the ocean and scenic resources shall be protected.*

The subject development involves an addition to an existing single-story blufftop residence. The existing home and proposed addition are located in a residential neighborhood consisting of single-family homes of similar bulk and scale to the proposed development. There is currently an approximately five foot wide public view corridor of the ocean from Pacific Street along the southern side of the home that would remain if the proposed addition was constructed. Public ocean views along the northern side yard of the existing home are currently blocked with a solid approximately six foot high privacy gate. However, in a letter to Commission staff dated July 21, 2014, the applicant stated that the project plans would be modified to install a gate that is 75% open, which would create an approximately five ft. wide ocean view corridor along the northern side yard. Therefore, it is not anticipated that the proposed addition would have any adverse effect on scenic or visual resources. The recommendation of denial is based on inconsistencies with other policies of the Coastal Act as described herein.

D. PUBLIC ACCESS/RECREATION

Coastal Act Sections 30210, 30211, 30212, 30212.5, and 30221 require that public access and use of the coast shall be maximized, that development shall not interfere with the public's right to access the coast and use of dry sand beaches, and that oceanfront land suitable for recreational activities shall be protected. The physical encroachment of a protective structure on the beach reduces the beach area available for public use and is therefore a significant adverse impact. Furthermore, when the back beach is fixed with a shoreline armoring device, passive erosion is halted and additional public beach area can no longer be created.

Section 30210

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

Section 30211

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

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or, (3) Agriculture would be adversely affected. Dedicated accessways shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway. [...]

Section 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30221

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

The subject site is located between the Pacific Ocean and the first public roadway, which in this case is Pacific Avenue. The site is located within a developed single-family residential neighborhood on an approximately 80 ft.-high coastal blufftop lot. Vertical access through the site is not necessary nor warranted, given the fragile nature of the bluffs. Adequate public vertical access is provided approximately 500 feet north of the site at the Tide Beach Park public access stairway and approximately ¼ mile to the south of the site at Fletcher Cove, the City's central beach access park. However, since the project would not be sited at a safe location and may extend the economic life of the existing non-conforming blufftop home, the necessity of bluff/shoreline protection could be significantly extended. By their nature, structures on the beach impede public access.

Bluff/Shoreline protective devices have many adverse impacts on public access and recreation. The existing seawall fronting the subject site extends 2 ft. seaward of the toe of the bluff for a length of 50 ft. The beach along this area of the coast is narrow, and at high tides and winter beach profiles, the public may be forced to walk virtually at the toe of the bluff, and at times the area could be impassable. In addition, were it not for the

existing shoreline armoring, the seaward face of the bluff would naturally recede, making additional beach area available for public use. As such, an encroachment of any amount onto the sandy beach reduces the small beach area available for public use and is therefore a significant adverse impact. Over time, if the remaining unprotected bluffs in the vicinity of the project site are not permitted to recede, and seawalls are also constructed along the entire shoreline, such structures will likely impede or completely eliminate public access to the beach at the subject site.

There are three major components that the Commission has historically analyzed when determining impacts on public access.

Shoreline Processes

Beach sand material comes to the shoreline from inland areas, carried by rivers and streams; from offshore deposits, carried by waves; and from coastal dunes and bluffs, becoming beach material when the bluffs or dunes lose material due to wave attack, landslides, surface erosion, gullying, etc. Many coastal bluffs are marine terraces – ancient beaches that formed when land and sea levels differed from current conditions. Since the marine terraces were once beaches, much of the material in the terraces is often beach-quality sand or cobble, and is a valuable contribution to the littoral system when it is added to the beach. While beaches can become marine terraces over geologic time, the normal exchange of material between beaches and bluffs is for bluff erosion to provide beach material. Bluff retreat and erosion is a natural process resulting from many different factors such as erosion by wave action causing cave formation, enlargement and eventual collapse of caves, saturation of the bluff soil from groundwater causing the bluff to slough off, and natural bluff deterioration. When the back-beach or bluff is protected by a bluff/shoreline protective device, the natural exchange of material either between the beach and dune or from the bluff to the beach will be interrupted and, if the shoreline is eroding, there will be a measurable loss of material to the beach. Since sand and larger grain material are the most important components of most beaches, only the sand portion of the bluff or dune material is quantified as sandy beach material.

These natural shoreline processes affecting the formation and retention of sandy beaches can be significantly altered by the construction of shoreline armoring structures because bluff retreat is one of several ways that beach quality sand is added to the shoreline, and is also one of the critical factors associated with beach creation and retention. Bluff retreat and erosion are natural processes that result from the many different factors described above. Shoreline armoring directly impedes these natural processes.

The project site is located in Solana Beach where average annualized bluff erosion rates are best estimated at 0.15 to 0.47 feet per year (Benumof and Griggs, 1999). This is an average annualized rate; actual erosion is more episodic, and can increase dramatically as a result of winter storm events and sections of bluff material can slough several feet at a time. This erosion rate may be re-evaluated at a future date. This sandy beach material is carried off and redistributed through wave action along the shoreline and serves to nourish the beaches.

Some of the effects of engineered armoring structures on the beach (such as scour, end effects and modification to the beach profile) are temporary or are difficult to distinguish from all the other actions that modify the shoreline. Others are more qualitative (e.g., impacts to the character of the shoreline and visual quality). Some of the effects that a shoreline structure may have on natural shoreline processes can be quantified, however, including: (1) the loss of the beach area on which the structure is located; (2) the long-term loss of beach that will result when the back-beach location is fixed on an eroding shoreline; and (3) the amount of bluff material that would have been supplied to the littoral system if the back-beach or bluff were to erode naturally to renourish beach areas nearby with eroded bluff material.¹

Encroachment on the Beach

Shoreline protective devices are all physical structures that occupy space. When a shoreline protective device is placed on a beach area, the underlying beach area cannot be used as beach. This generally results in the privatization of the public beach and a loss of space in the public domain such that the public can no longer access that public space. The encroachment also results in a loss of sand or areas from which sand generating materials can be derived. The area where the structure is placed will be altered from the time the protective device is constructed, and the extent or area occupied by the device will remain the same over time, until the structure is removed or moved from its initial location. The beach area located beneath a shoreline protective device, referred to as the encroachment area, is the area of the structure's footprint. In this case, the existing 50 ft.-long seawall covers approximately 100 sq. ft. (50 ft.-long by 2 ft.-wide) of sandy beach area.

Fixing the back beach

Where the shoreline is eroding and armoring is installed, the armoring will eventually define the boundary between the sea and the upland. On an eroding shoreline, a beach will exist between the shoreline or waterline and the bluff as long as sand is available to form a beach. As bluff erosion proceeds, the profile of the beach also retreats and the beach area migrates inland with the bluff. This process stops, however, when the backshore is fronted by a hard protective structure such as a revetment or a seawall. While the shoreline on either side of the armor continues to retreat, shoreline in front of the armor eventually stops at the armoring. This effect is also known as passive erosion. The beach area will narrow, being squeezed between the moving shoreline and the fixed backshore. Eventually, there will be no available dry beach area and the shoreline will be fixed at the base of the structure. In the case of an eroding shoreline, this represents the loss of a beach as a direct result of the armor.

In addition, sea level has been rising for many years. Also, there is a growing body of evidence that there has been an increase in global temperature and that acceleration in the

¹ The sand supply impact refers to the way in which the project impacts creation and maintenance of beach sand. Although this ultimately translates into beach impacts, the discussion here is focused on the first part of the equation and the way in which the proposed project would impact sand supply processes.

rate of sea level rise can be expected to accompany this increase in temperature (some shoreline experts have indicated that sea level could rise by as much as 5.5 feet by the year 2100)². Mean sea level affects shoreline erosion in several ways, and an increase in the average sea level will exacerbate all these conditions. On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore, leading to a faster loss of the beach as the beach is squeezed between the landward migrating ocean and the fixed backshore.

Such passive erosion impacts can be calculated over the time. The passive erosion impacts of the seawall, or the long-term loss of beach due to fixing the back beach, is equivalent to the footprint of the bluff area that would have become beach due to erosion and is equal to the long-term average annual erosion rate multiplied by the width of property that has been fixed by a resistant shoreline protective device.³ In this case, the existing seawall is 50 linear ft. For purposes of determining the impacts from fixing the back beach; it is assumed that new beach area would result from landward retreat of the bluff.

The area affected by passive erosion can be approximated by multiplying the 50 linear feet of bluff, which is armored, by the annual expected erosion rate. At the time that the Commission approved the seawall fronting the subject site in 2013, the applicant's geotechnical consultant estimated the average bluff recession for this site at 0.3 feet per year. Every year that the proposed seawall extension is in place would result in a loss of 15 sq. ft. of beach that would have been created if the back beach had not been fixed by the seawall.

Retention of Potential Beach Material

If natural erosion were allowed to continue (absent shoreline armoring structures), some amount of beach material would be added to the beach at this location, as well as to the larger littoral cell sand supply system fronting the bluffs. The volume of total material that would have gone into the sand supply system over the lifetime of the shoreline structure would be the volume of material between (a) the likely future bluff-face location with shoreline protection; and (b) the likely future bluff-face location without shoreline protection. Since the main concern is with the sand component of this bluff material, the total material lost must be multiplied by the percentage of bluff material which is beach sand, giving the total amount of sand that would have been supplied to the littoral system for beach deposition if the proposed device were not installed.

Qualitative Social Benefits of Beaches

² The 2012 National Research Council's Report, Sea Level Rise for the Coasts of California, Oregon and Washington: Past Present and Future, is currently considered the best available science on sea-level rise for California. The NRC report predicts that for areas south of Cape Mendocino, sea level may increase between 16.56 and 65.76 inches between 2000 and 2100 (NRC, 2012).

³ The area of beach lost due to long-term erosion (A_w) is equal to the long-term average annual erosion rate (R) times the number of years that the back-beach or bluff will be fixed (L) times the width of the property that will be protected (W). This can be expressed by the following equation: $A_w = R \times L \times W$. The annual loss of beach area can be expressed as $A_w' = R \times W$.

In addition to the quantitative impacts from seawalls, there are qualitative social benefits of beaches (recreational, aesthetic, habitat values, etc.). Beaches also provide significant direct and indirect revenues to local economies, the state, and the nation. The loss of sandy beach area in an urban area such as Solana Beach represents a significant impact to public access and recreation, including a loss of the social and economic value of this recreational opportunity.

Mitigation Measures

When bluff/shoreline protection cannot be avoided and have been reduced to the maximum extent feasible, mitigation for any remaining adverse impacts of the development on access and public resources is required. When physical impediments adversely impact public access and create a private benefit for the property owners, the Commission has found in numerous cases (See CDP Nos. 4-87-161/Pierce Family Trust & Morgan, 6-87-371/Van Buskirk, 5-87-576/Miser and Cooper, 3-02-024/Ocean Harbor House, 6-05-72/Las Brisas, 6-07-133/Li, 6-07-134/Caccavo, 6-03-33-A5/Surfsong, 6-08-73/DiNoto, et.al, 6-08-122/Winkler, 6-09-033/Garber et al., 6-13-025/Koman et al., 6-13-0437/Presnell) that a public benefit must arise through mitigation conditions in order for the development to be consistent with the access policies of the Coastal Act, as stated in Sections 30210, 30211, and 30212.

In the case of the existing seawall fronting the subject site, the Commission required that the applicant pay a sand mitigation fee of \$5,598.31 for the impacts of the seawall on sand supply during its initial 20-year period. In addition, the Commission required that the applicant pay a public access and recreation mitigation fee of \$50,000 into the City's interim fee deposit program for the impacts of the seawall on public access and recreation during its initial 20 year period. However, the Commission's approval of the existing seawall found that the impacts of the seawall on coastal resources cannot be fully offset by the required mitigation fee since the beach itself cannot be replaced.

As stated previously, the proposed addition and changes to the existing home will not be sited at a safe location and may extend the economic life of the existing non-conforming blufftop home, bluff/shoreline protection will continue to be necessary and will likely result in the need for continued placement of structures on the beach that will impede public access. Therefore, the proposed project is expected to have impacts on public access, inconsistent with the public access policies of the Coastal Act and the certified LUP.

E. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without the required coastal development permits. The property is subject to three separate violations. First, nearly the entirety of the western wall of the existing home was replaced without first obtaining a CDP; second, the applicant has not completed any of the twelve Special Conditions of CDP #6-13-025 that the Commission required be completed before May 13, 2014; and third, the applicant is in non-compliance with Emergency CDP #6-05-003-G, which required a

follow-up regular coastal development permit to either authorize the three below-grade underpinning caissons as permanent development or remove the structures subject to a specific time line. Each of these three violations is described in detail, below.

Staff has confirmed that alterations consisting of installation of multiple sliding glass doors, which resulted in the replacement of 22 ft. of the 28 ft.-long western wall of the home has occurred ([Exhibits 15 and 16](#)) without the necessary coastal development permit. Improvements to single-family structures within 50 ft. of the edge of a coastal bluff require a CDP (see Section 13250(b) (1) of the California Code of Administrative Regulations). Thus, the alteration to the exterior western wall of the home, which is approximately 10 feet from the bluff edge, required a CDP. No CDP was obtained for the development. The applicant is requesting after-the-fact approval of the alteration to the western wall through this application. Staff is recommending that the Commission deny the applicant's request for after-the-fact approval of the alteration. In that event, enforcement staff will evaluate further actions to address the unpermitted alteration of the western wall.

On November 14, 2013, the Coastal Commission approved after-the-fact construction of a 150-foot long (35-foot high) lower coastal bluff seawall on the beach and bluff fronting 341, 347, and 355 Pacific Avenue, a geogrid structure on the mid and upper bluff face fronting 347 and 355 Pacific Avenue, and a lateral 36-foot long keystone wall on the northern border of 355 Pacific Avenue. The permit was issued upon Commission approval, but included 12 Special Conditions that were required to be complied with within 180 days of Commission approval (by May 13, 2014). The Commission subsequently approved the revised findings for the CDP on June 12, 2014. It has now been more than a year since the Commission originally approved the CDP and more than six months since the Commission acted on the revised findings and the applicant has not completed any of the 12 Special Conditions that were approved with a timing requirement. The Special Conditions addressed Revised Final Plans, Final Landscaping Plans, Mitigation for Impacts to Public Access and Recreation and Sand Supply, Monitoring and Reporting Program, Staging and Storage Areas/Access Corridors, Water Quality – Best Management Practices, Storm Design, Other Permits, State Lands Commission Approval, As-Built Plans, Condition Compliance, and Deed Restriction. Enforcement staff will evaluate further actions to address this non-compliance ([Exhibit 19](#)).

Special Condition 4 of emergency permit #6-05-003-G required a follow-up regular coastal development permit to authorize the three below-grade underpinning caissons as permanent development or remove the structures subject to a specific time line. The deadline for obtaining a follow up CDP to the emergency permit passed almost ten years ago ([Exhibit 20](#)).

Specifically, Special Condition 4 of 6-05-003-G states:

The emergency work carried out under this permit is considered TEMPORARY work done in an emergency situation. In order to have the emergency work become a permanent development a regular coastal

development permit must be obtained and issued from the Commission within 120 days (i.e., by May 18, 2005) of the date of this permit. Failure to comply with this deadline will result in a violation of the subject emergency permit and the commencement of enforcement proceedings.

In addition, the applicant acknowledged the following through acceptance of emergency permit 6-05-003-G:

In acceptance of this emergency permit, I acknowledge that any work authorized under an emergency permit is temporary and subject to removal if a regular Coastal Permit is not obtained to permanently authorize the emergency work...

Since the three caissons were not a part of the development proposed pursuant to CDP #6-13-025, which authorized some of the work approved pursuant to emergency permits, they persist as unpermitted development. Enforcement staff will evaluate further actions to address this matter.

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based upon the policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of any development undertaken on the subject site without a coastal permit, or that all aspects of the violation have been fully resolved.

F. 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 cannot be made.

The Commission has recently approved the City's Local Coastal Program Land Use Plan. In addition, the Commission recently approved an amendment to the LUP to modify some of the key provisions relating primarily to blufftop development and bluff/shoreline protection, including policies related to modifications and redevelopment of blufftop structures. The City has not yet completed, nor has the Commission reviewed any implementing ordinances. Thus, the City's LCP is not certified.

The location of the proposed residential addition is designated for residential uses in the City of Solana Beach Zoning Ordinance and the certified LUP. The proposed development is inconsistent with the Chapter 3 policies of the Coastal Act and the certified LUP, in that the home addition will not be sited to assure structural stability, does not meet required geologic setback standards, and would result in an increase in the degree of non-conformity of an existing structure located in a hazardous area. Therefore,

the Commission finds that approval of the proposed development would prejudice the ability of the City of Solana Beach to complete a certifiable local coastal program.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

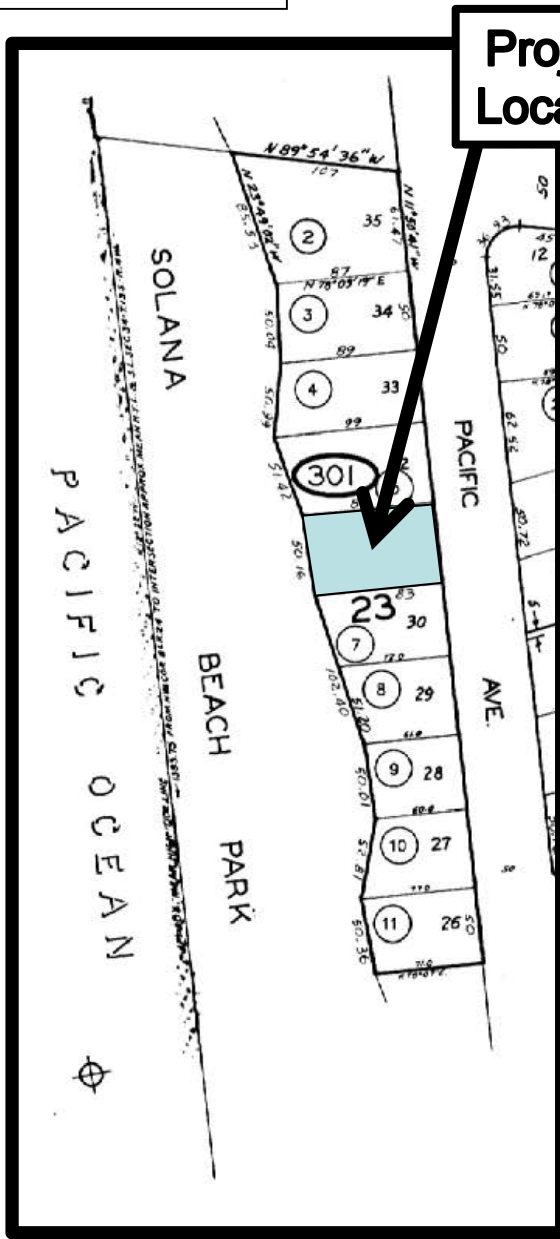
Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d) (2) (A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect that the activity may have on the environment.

As previously stated, the proposed development would result in adverse impacts to coastal resources. Installation of the proposed caisson foundation would result in significant alteration of the bluff and the proposed and existing development is proposed in an unsafe location which requires the use of a bluff/shoreline protective device (the caisson foundation), and over time would require the retention of existing shoreline armoring. The retention of existing shoreline armoring could have adverse impacts to public access and recreational opportunities and could adversely affect the contribution of sand that would otherwise erode from the natural bluff at the subject site. The applicant has reasonable use of the existing property in the form of an existing single-family home. A feasible alternative to the subject project is the no project alternative which would allow continued use of the property without increasing adverse impacts to public access, recreational opportunities and sand contribution. Another feasible alternative would be to remove the seaward portions of the existing non-conforming structure and rebuild the structure further landward from the bluff edge, such that the new home may no longer require the existing shoreline armoring which results in substantial alteration of the public bluff. Therefore, as currently proposed, the Commission finds the proposed project is not the least environmentally damaging feasible alternative and cannot be found consistent with the requirements of the Coastal Act to conform to CEQA.

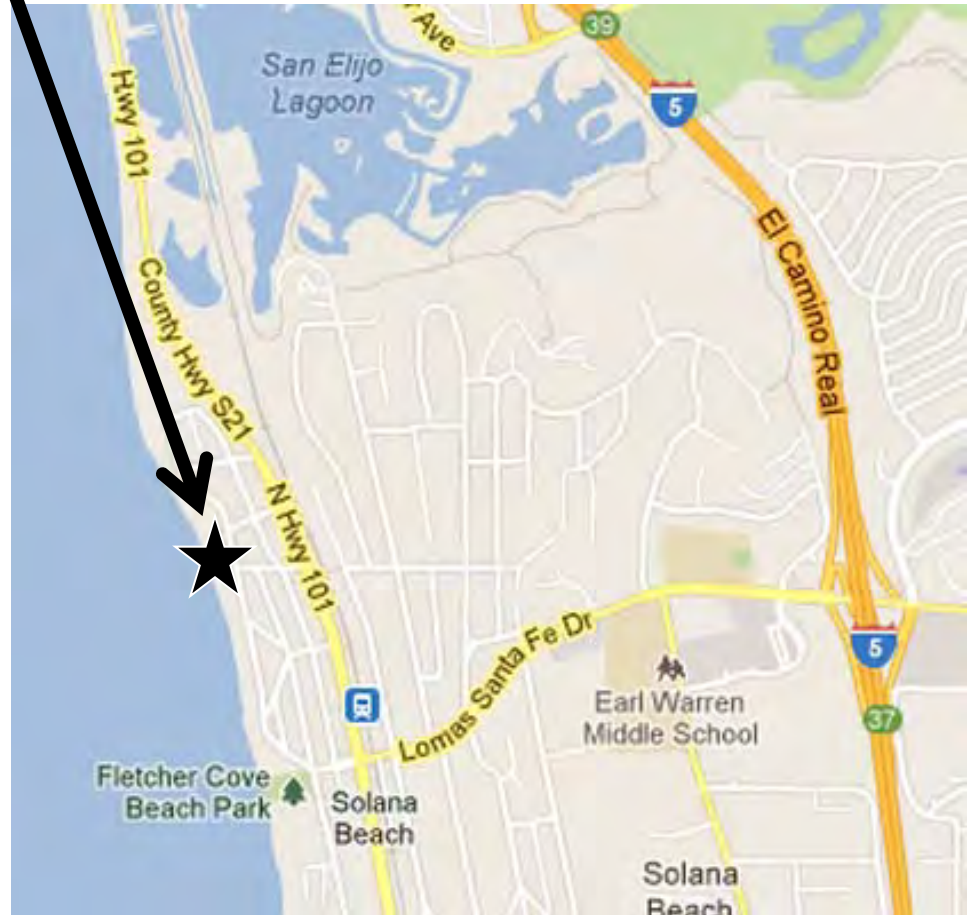
Appendix A – Substantive File Documents

- City of Solana Beach certified LUP
- City of Solana Beach General Plan and Zoning Ordinance
- City of Solana Beach Resolution 2014-025 approved April 9, 2014
- Determination of Setback Line from Bluff Edge and Preliminary Foundation Recommendations dated June 4, 2014, by GeoSoils, Inc.
- Project plans by Solomon Ferguson Architecture + Design, received July 15, 2014
- Project plans by Solomon Ferguson Architecture + Design, received October 2, 2014
- Project plans by Solomon Ferguson Architecture + Design, received October 31, 2014
- LCPA #SOL-MAJ-1-13
- CDP Nos.:
 - 4-87-161/Pierce Family Trust & Morgan
 - 6-87-371/Van Buskirk
 - 5-87-576/Miser and Cooper
 - 3-02-024/Ocean Harbor House
 - 6-03-33-A5/Surfsong
 - 6-05-003-G/Island Financial Corporation
 - 6-05-023-G/Upp, Reichert, & Island Financial Corporation
 - 6-06-037-G/Totten and Reichert
 - 6-05-72/Las Brisas
 - 6-07-133/Li
 - 6-07-134/Caccavo
 - 6-08-73/DiNoto, et.al
 - 6-08-122/Winkler
 - 6-09-033/Garber et al.
 - 6-09-061/Di Noto
 - 6-13-025/Koman et al.
 - 6-13-0437/Presnell


PROJECT LOCATION



**Project
Location**



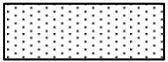
Google Maps

 California Coastal Commission	EXHIBIT NO. 1 APPLICATION NO. 6-14-0679 Project Location
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PROPOSED SITE PLAN



Proposed Addition Building Footprint

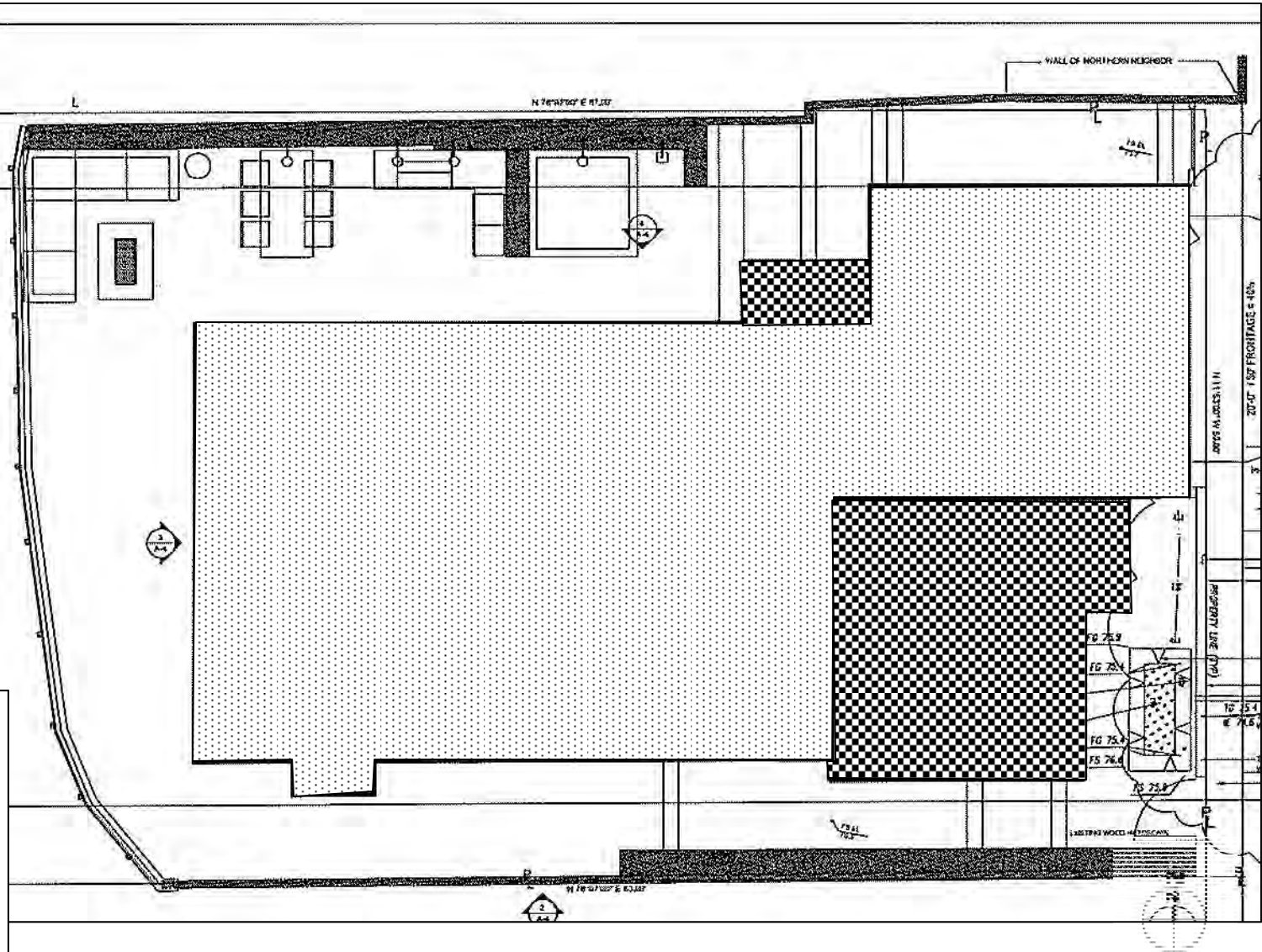



Existing Building Footprint

OCEAN

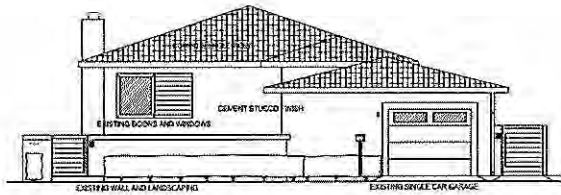
PACIFIC OCEAN

STREET

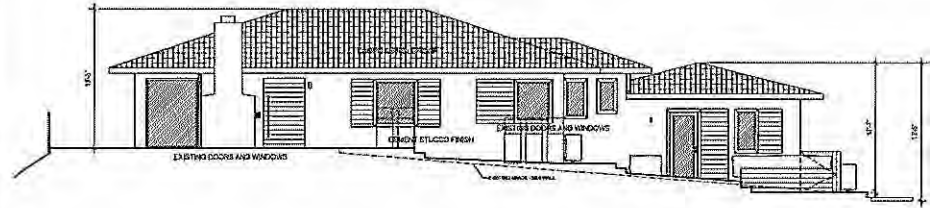


 California Coastal Commission	EXHIBIT NO. 2
	APPLICATION NO. 6-14-0679
	Proposed Site Plan

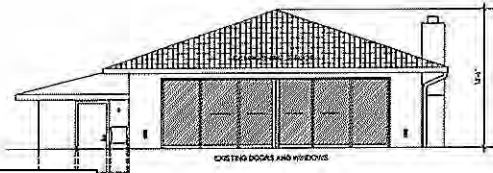
EXISTING ELEVATION PLANS



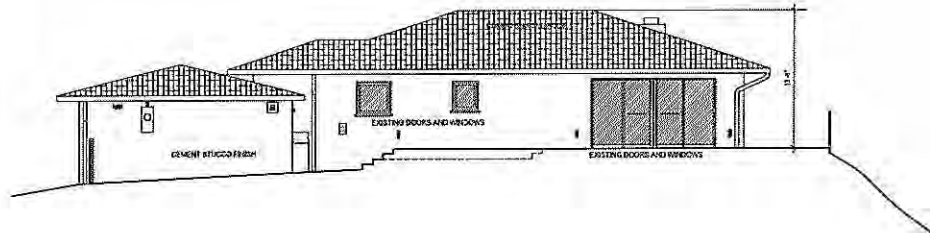
2 EXISTING EAST ELEVATION SCALE: 3/16" = 1'-0"



1 EXISTING SOUTH ELEVATION SCALE: 3/16" = 1'-0"



3 EXISTING WEST ELEVATION SCALE: 3/16" = 1'-0"



4 EXISTING NORTH ELEVATION SCALE: 3/16" = 1'-0"



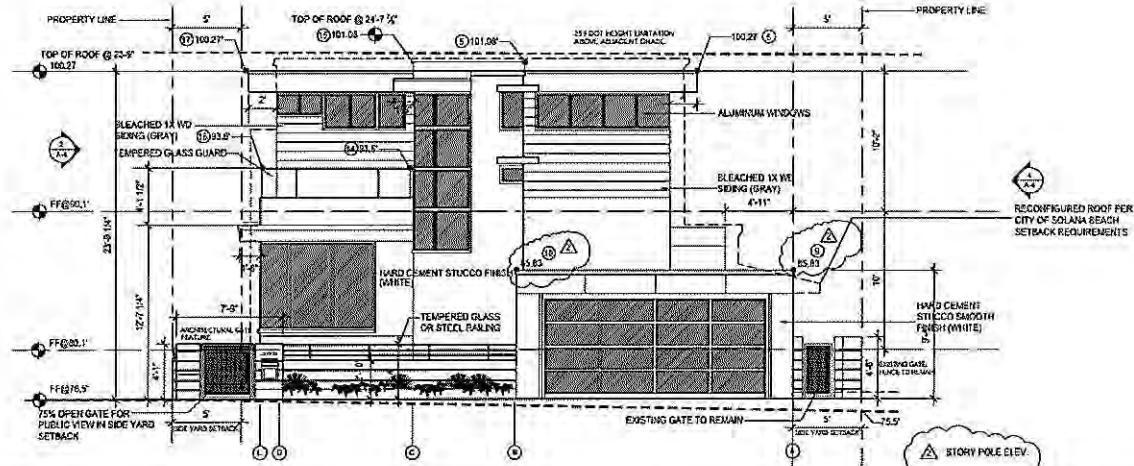
California Coastal Commission

Existing Elevations

APPLICATION NO.
6-14-0679

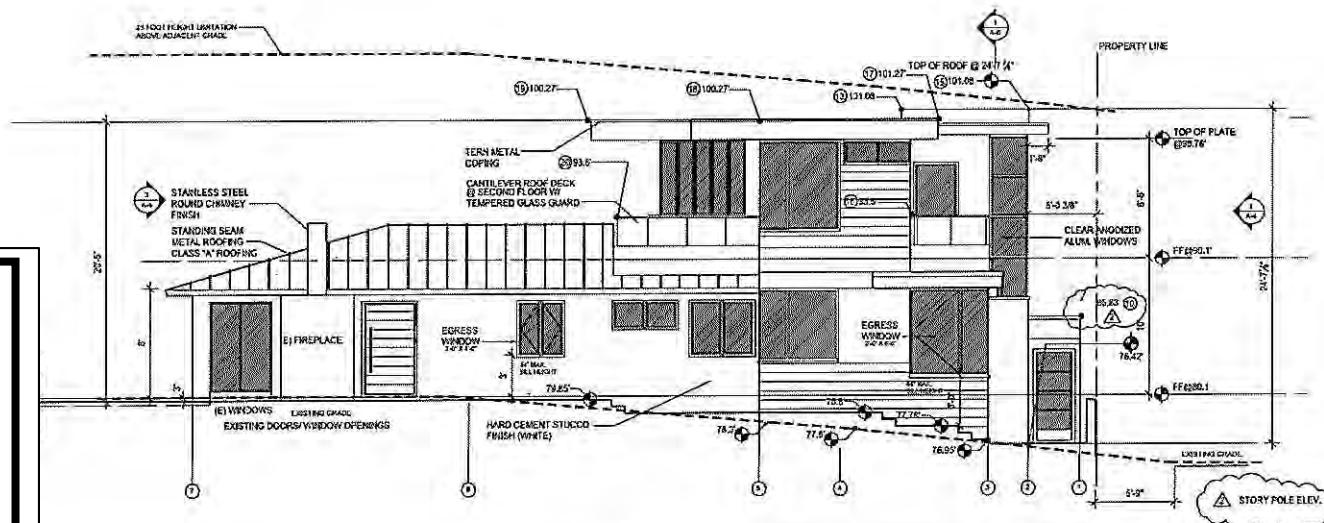
EXHIBIT NO. 3

PROPOSED EAST AND SOUTH ELEVATION PLANS



1 EAST ELEVATION

SCALE: 1/4" = 1'-0"



2 SOUTH ELEVATION

SCALE: 1/4" = 1'-0"



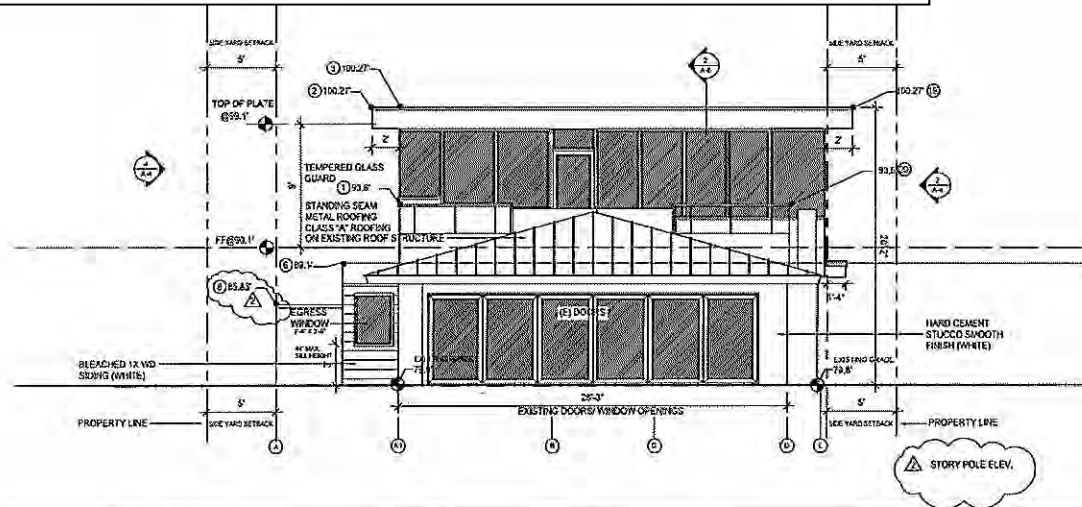
California Coastal Commission

E & S Elevations

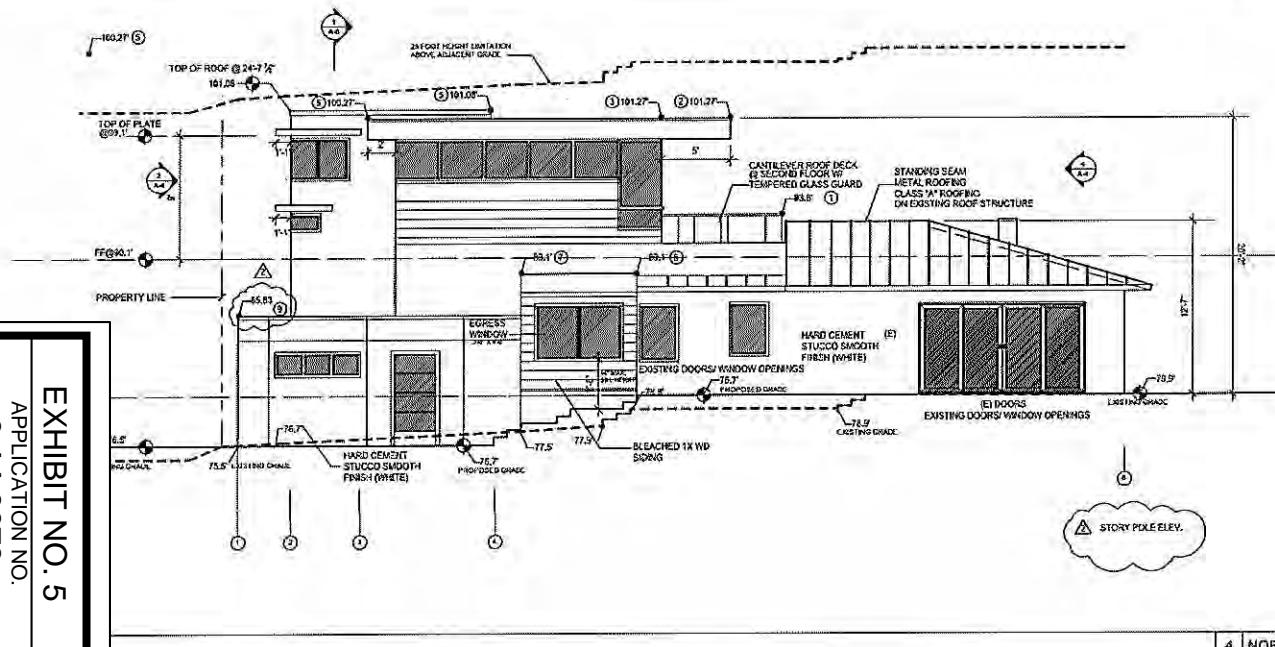
APPLICATION NO.
6-14-0679

EXHIBIT NO. 4

PROPOSED WEST AND NORTH ELEVATION PLANS



3 WEST ELEVATION SCALE: 1/4" = 1'-0"



4 NORTH ELEVATION SCALE: 1/4" = 1'-0"



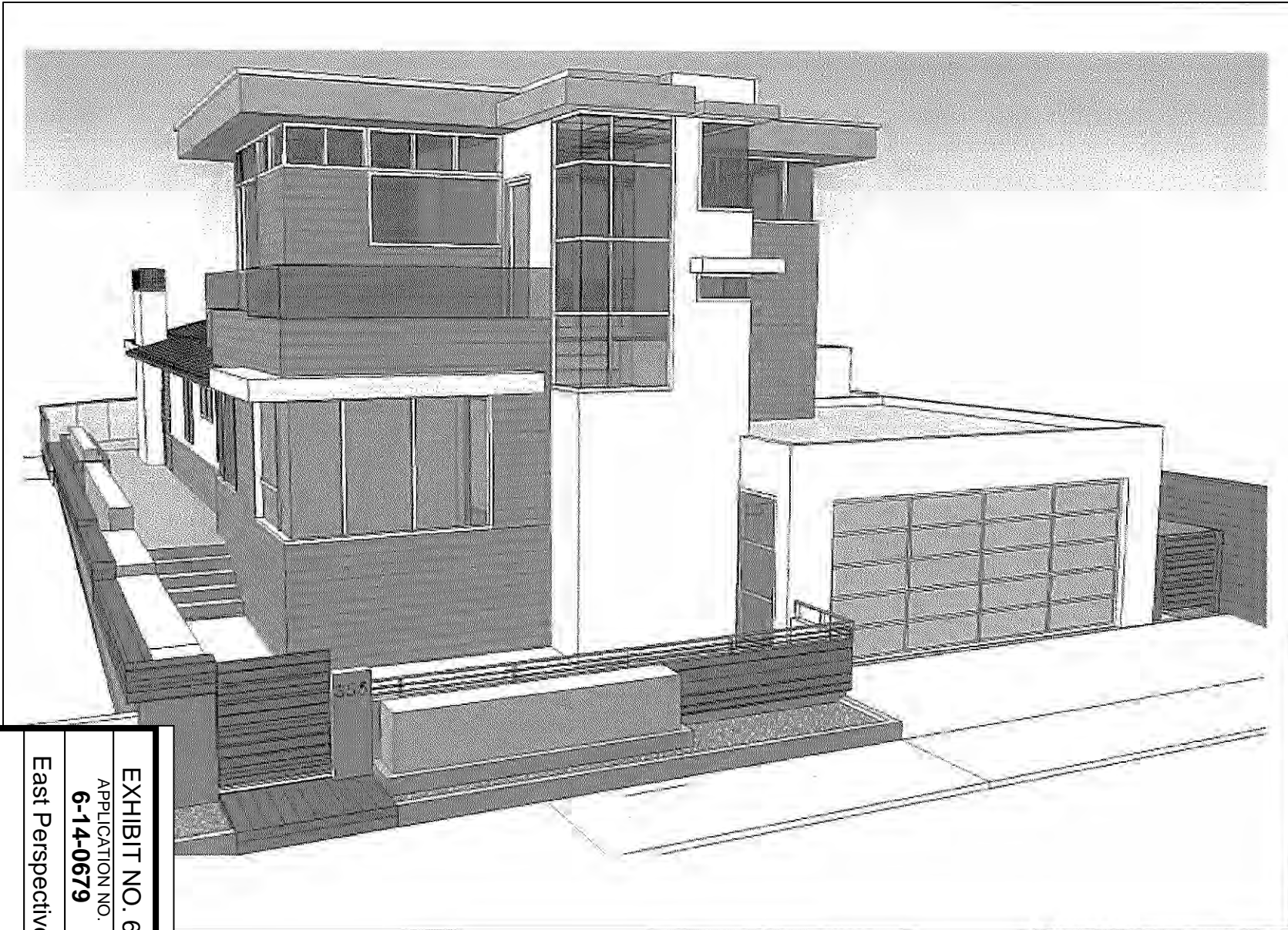
California Coastal Commission

W & N Elevations

APPLICATION NO.
6-14-0679

EXHIBIT NO. 5

PROPOSED EAST ELEVATION PERSPECTIVE



California Coastal Commission

EXHIBIT NO. 6

APPLICATION NO.

6-14-0679

East Perspective

PROPOSED NORTHEAST ELEVATION PERSPECTIVE



1 NORTH-EAST ELEVATION PERSPECTIVE



California Coastal Commission

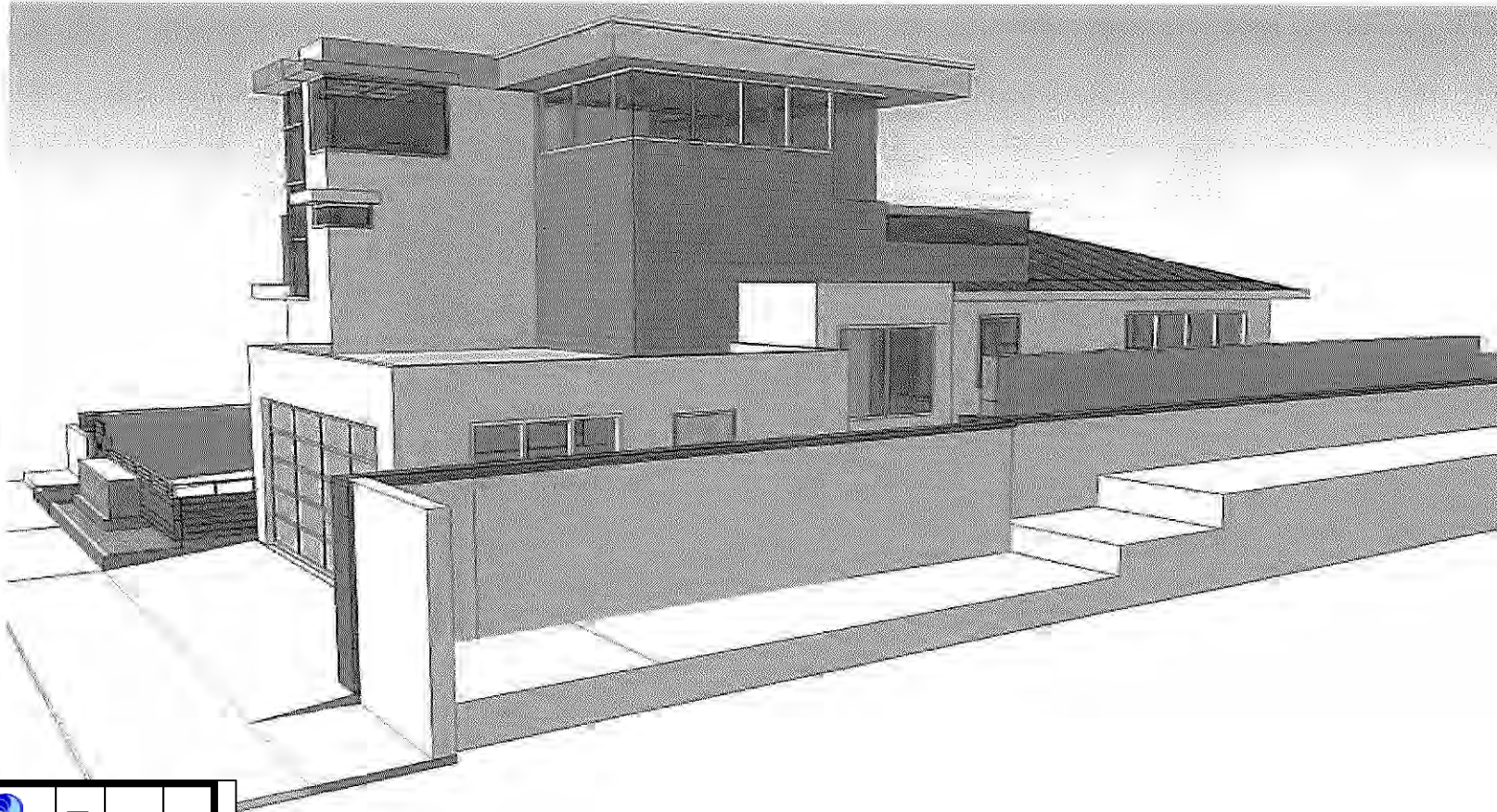
EXHIBIT NO. 7

APPLICATION NO.

6-14-0679

Northeast Perspective

PROPOSED NORTH ELEVATION PERSPECTIVE



California Coastal Commission

North Perspective

6-14-0679

APPLICATION NO.

EXHIBIT NO. 8

1 NORTH ELEVATION PERSPECTIVE



solomon farguson
architects - interior design
1001 10th Street
A. 1001 10th Street
D. 1001 10th Street
Solomon Farguson, Inc. 1001 10th Street
Solomon Farguson, Inc. 1001 10th Street



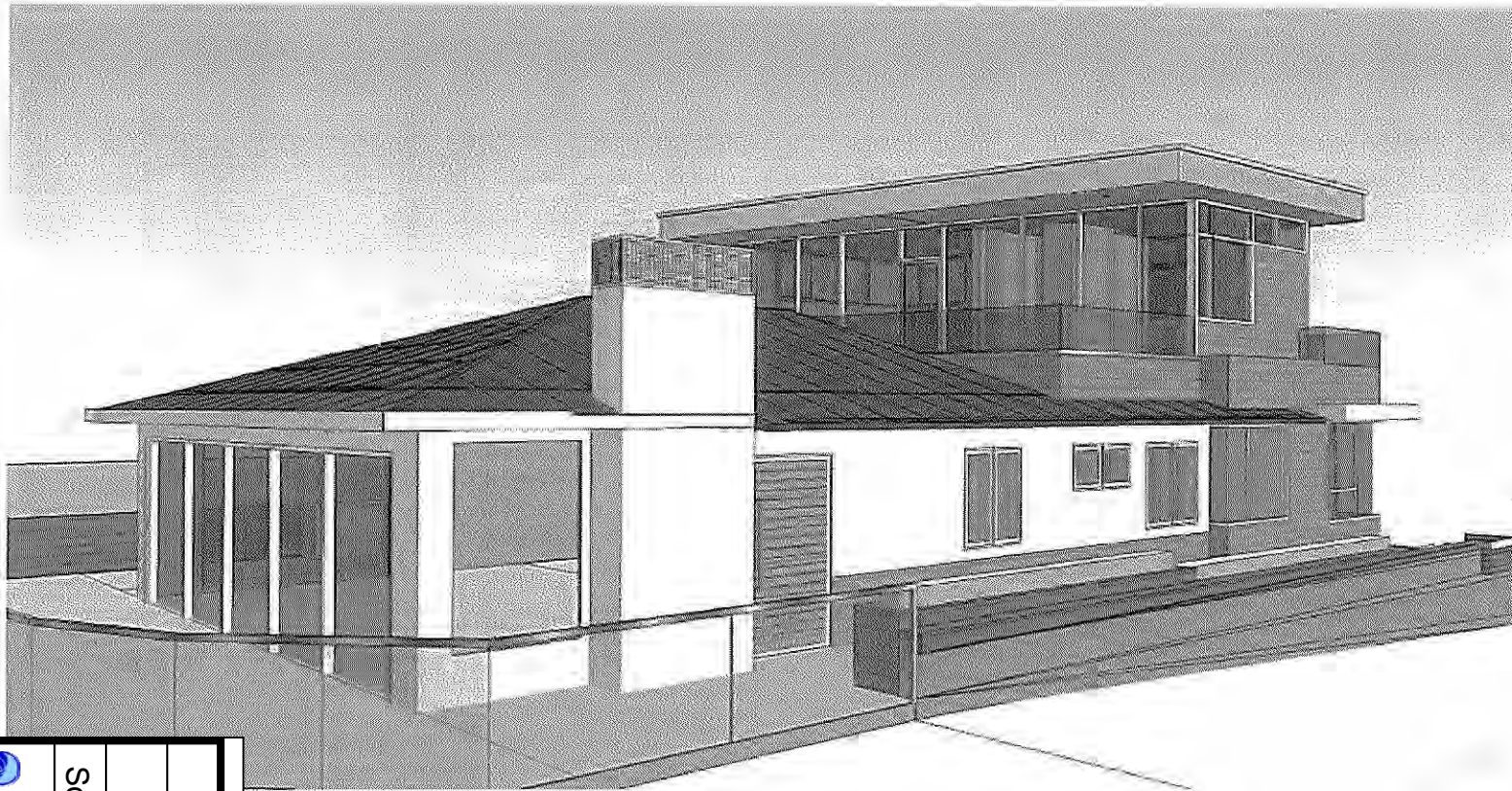
1001 10th Street
A. 1001 10th Street
D. 1001 10th Street
Solomon Farguson, Inc. 1001 10th Street
Solomon Farguson, Inc. 1001 10th Street

WJK TRUST MINOR ADDITION
355 PACIFIC AVENUE
SOLANA BEACH, CA 92075

JCS: HCU
DATE: 11 MARCH 2014
DRAWN BY:
FILE NAME:
REVISIONS:

SHEET:
A-11

PROPOSED SOUTH ELEVATION PERSPECTIVE



solomon ferguson
architects - interior design
1000 10th Street
San Francisco, CA 94103
415.774.1100
www.sfolia.com



THESE PLANS HAVE BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND I AM A LICENSED ARCHITECT IN THE STATE OF CALIFORNIA. I CERTIFY THAT I AM A MEMBER OF THE CALIFORNIA ARCHITECTURAL BOARD AND I AM CURRENTLY IN GOOD STANDING THEREIN.

WJK TRUST MINOR ADDITION
355 PACIFIC AVENUE
SOLANA BEACH, CA 92075

JOB NO.
DATE 11 MARCH 2014
DRAWN BY
FILE NAME
FOLDER
SHEET

A-12



California Coastal Commission

South Perspective

6-14-0679

APPLICATION NO.

EXHIBIT NO. 9

1 | SOUTH ELEVATION PERSPECTIVE

AERIAL SITE PHOTO 1

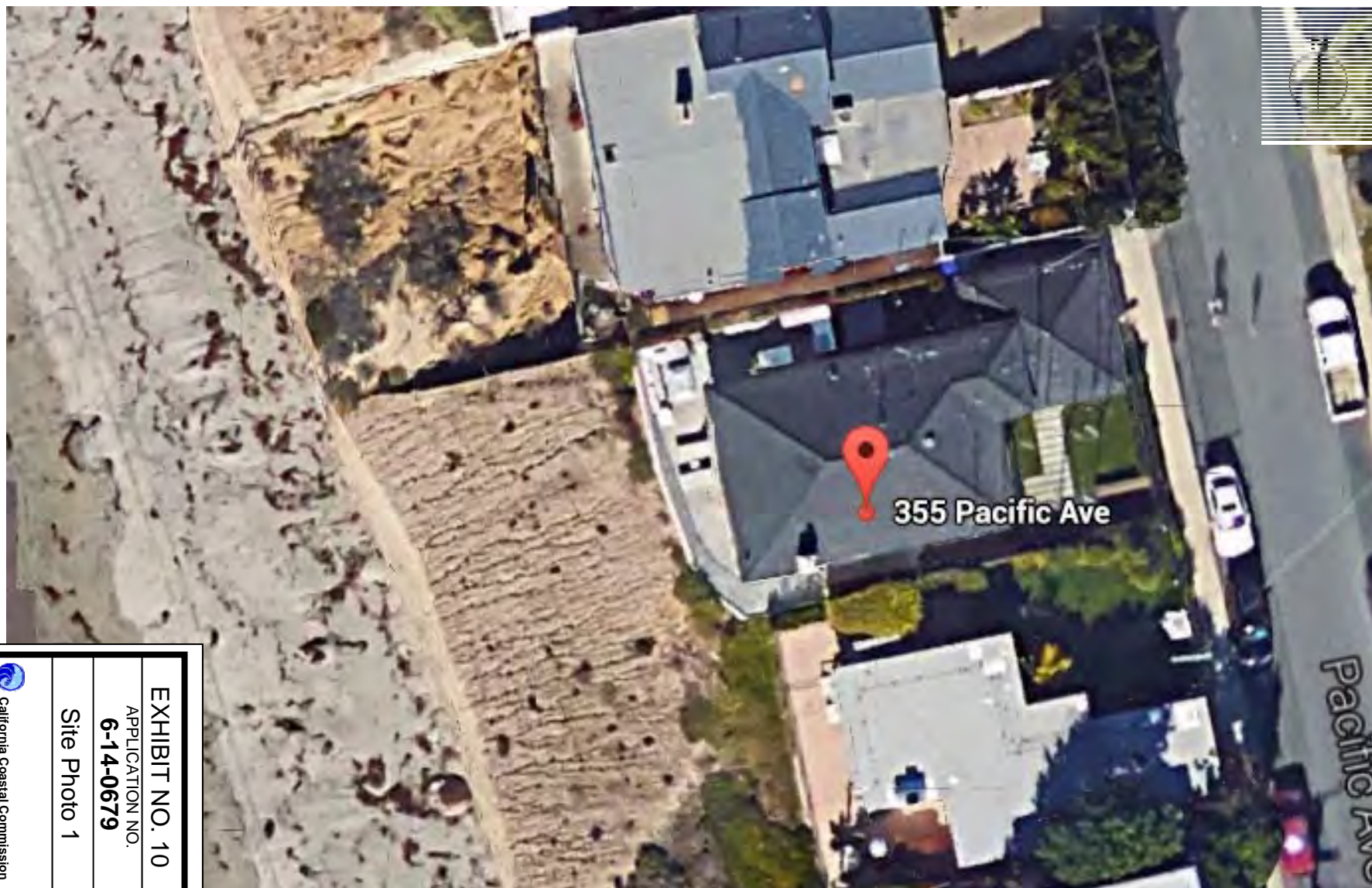


	EXHIBIT NO. 10
California Coastal Commission	APPLICATION NO. 6-14-0679
	Site Photo 1

Google Maps

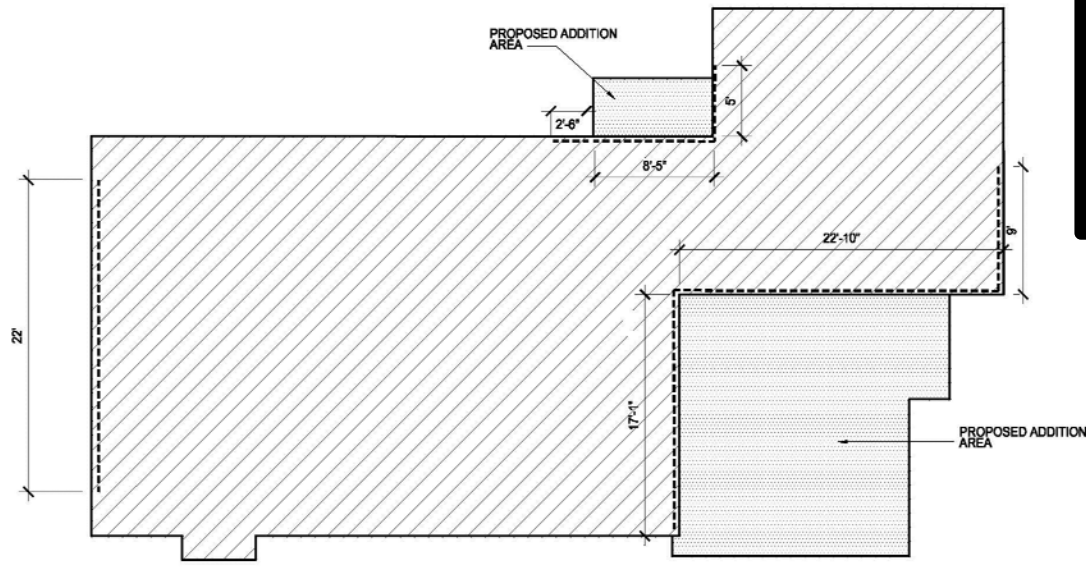
AERIAL SITE PHOTO 2



PROPOSED EXTERIOR WALL ALTERATIONS

355 PACIFIC PROPOSED EXTERIOR WALL ALTERATIONS

(EXTERIOR WALLS ALTERED THROUGH DEMOLITION OR REPLACEMENT, EXTERIOR WALLS BECOMING INTERIOR WALLS, EXTERIOR WALLS ALTERED THRU REMOVAL OR RESIZING OF WINDOWS OR DOORS, AND EXTERIOR WALLS ALTERED THROUGH INSTALLATION OF FOUNDATION SYSTEM.



Dashed Line Shows
Exterior Walls
Proposed to be
Altered

EXISTING FLOOR AREA
ALTERED WALL AREAS

EXISTING EXTERIOR WALL LENGTH = 206'-5"
EXTERIOR WALL TO BE ALTERED = 86'-11"
EXTERIOR WALL TO REMAIN UNALTERED = 119'-6"
 $86'-11"/206'-5" = 42.1\%$ OF EXISTING WALL ALTERED

OCEAN

STREET

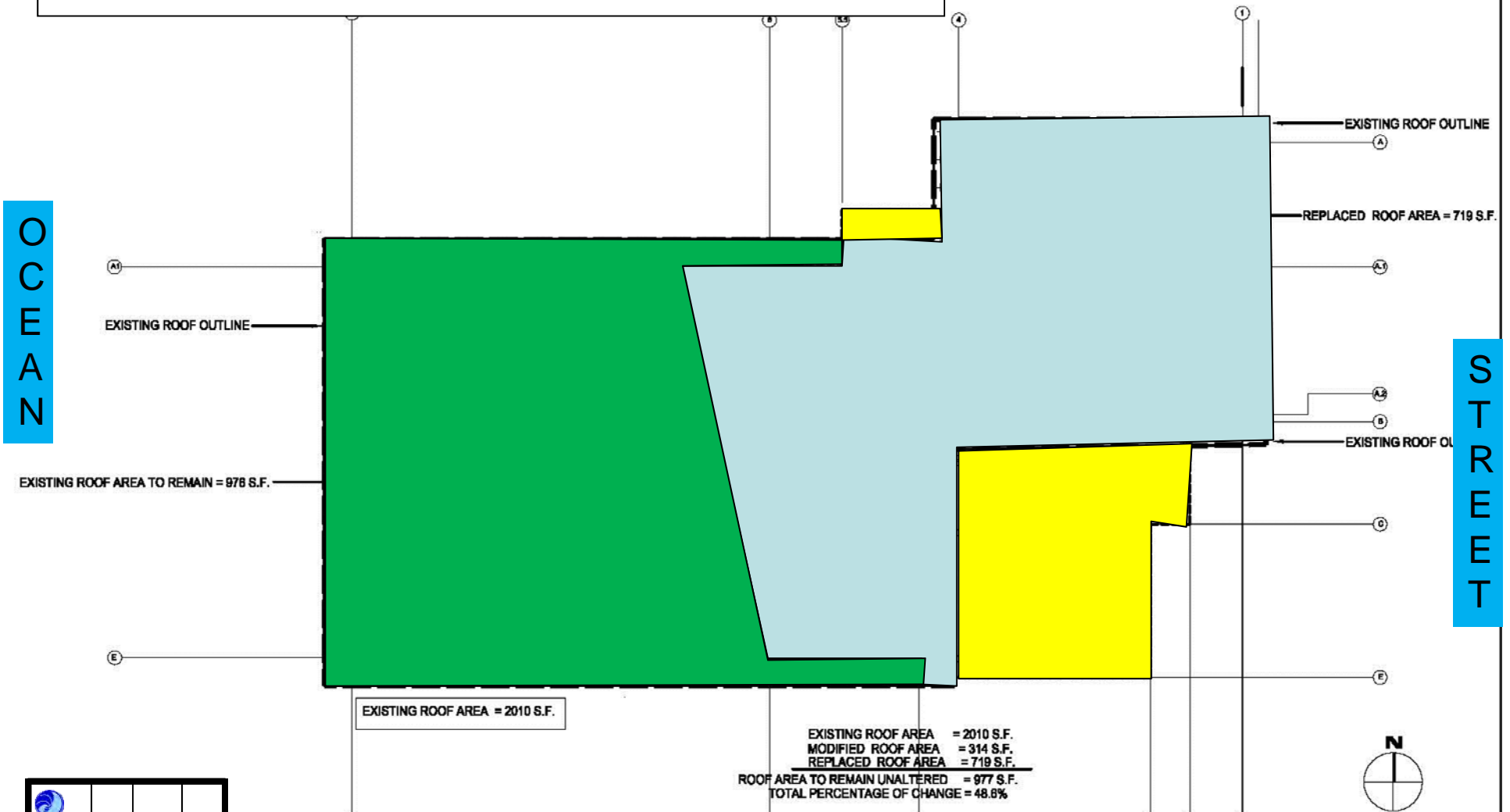
California Coastal Commission

EXHIBIT NO. 12
APPLICATION NO.
6-14-0679
Ext. Wall Alterations



30 OCTOBER 2014

PROPOSED ROOF STRUCTURE ALTERATIONS



Altered Existing Roof Structure Area

Unaltered Existing Roof Structure Area

New Roof Structure Area

1 MODIFIED ROOF AREAS SCALE: 3/16" = 1'-0"



California Coastal Commission

Roof Alterations

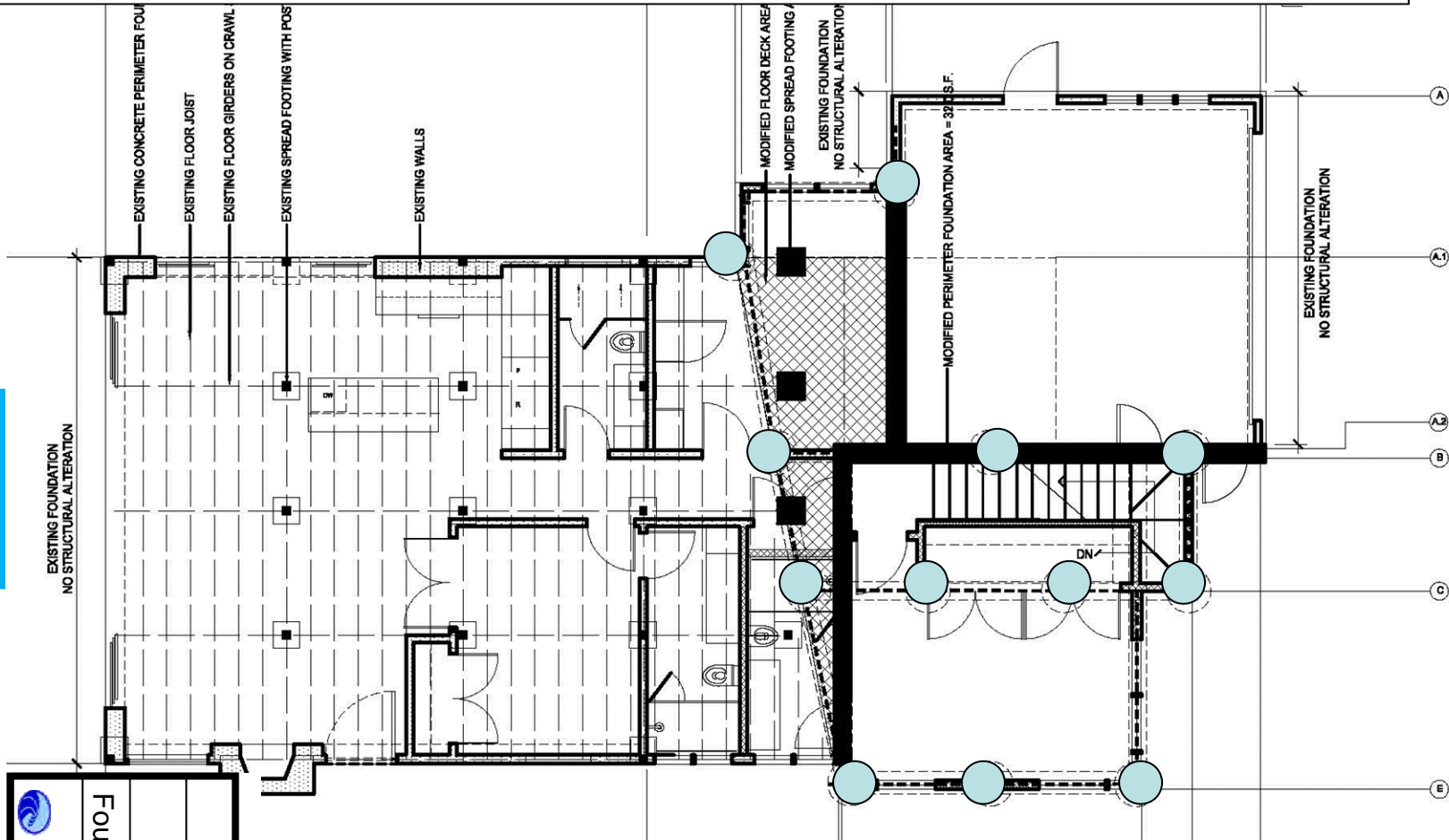
APPLICATION NO.
6-14-0679

EXHIBIT NO. 13

PROPOSED FOUNDATION AND FLOOR STRUCTURE ALTERATIONS



OCEAN



FIRST FLOOR FOUNDATION CONCEPT PLAN 80

STREET



KEY:

- Blue Circles Show the Proposed caissons
- Dashed Black Line Between Caissons Shows Proposed Grade Beams
- Heavy Black Lines and Black Squares Show Areas where the Existing Foundation will be Modified
- Hatched Area shows Existing Floor Structure that will be modified



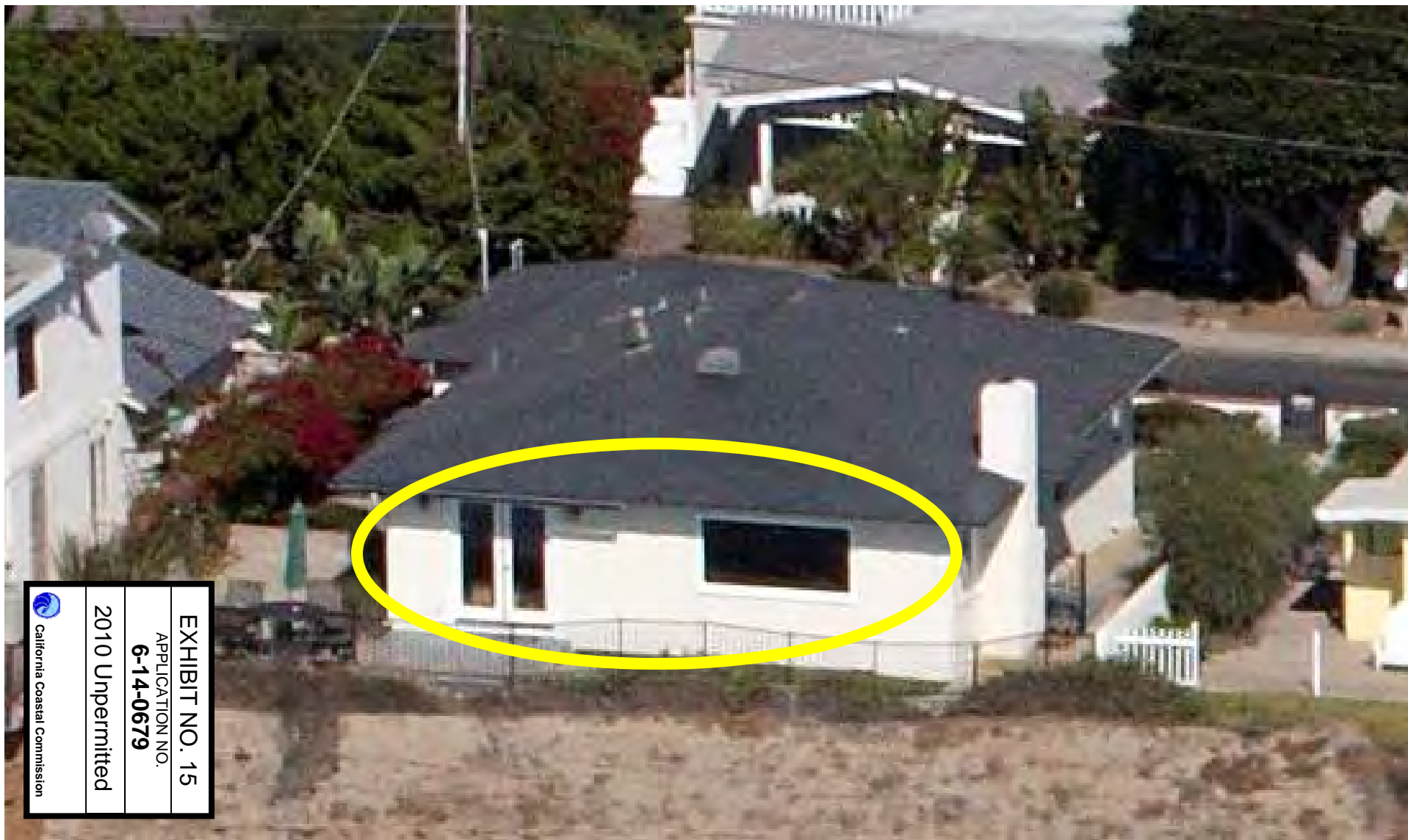
California Coastal Commission


Foundation/Floor Alterations

APPLICATION NO.
6-14-0679

EXHIBIT NO. 14

UNPERMITTED DEVELOPMENT (2010 AERIAL PHOTO)



 California Coastal Commission	EXHIBIT NO. 15 APPLICATION NO. 6-14-0679 2010 Unpermitted
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UNPERMITTED DEVELOPMENT (2013 AERIAL PHOTO)



UPCOAST PHOTO OF BLUFF



355 Pacific Ave.



California Coastal Commission

Upcoast Bluff

APPLICATION NO.
6-14-0679

EXHIBIT NO. 17

DOWNCOAST PHOTO OF BLUFF



355 Pacific Ave.



California Coastal Commission

Downcoast Bluff

6-14-0679

APPLICATION NO.

EXHIBIT NO. 18

SPECIAL CONDITIONS OF CDP#6-13-025/KOMAN ET AL.

EXHIBIT NO. 19

APPLICATION NO.
6-14-0679

6-13-025 Conditions



California Coastal Commission

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014
Permit Application No.: 6-13-025
Page 2 of 9

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:

This permit is granted subject to the following special conditions:

1. **Revised Final Plans.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit for review and written approval of the Executive Director, final plans for the mid and upper bluff geogrid structure and the lateral wall that are in substantial conformance with the submitted plans dated August 10, 2005 (seawall), January 5, 2007 (geogrid structure and lateral wall), and September 12, 2013 (geogrid structure and lateral wall) by Soil Engineering Construction, Inc. The revised plans shall first be approved by the City of Solana Beach and be revised to include the following:
 - a. Any existing permanent irrigation system located on the subject properties shall be removed or capped.
 - b. All runoff from impervious surfaces on the top of the bluff shall be collected and directed away from the bluff edge towards the street and into the City's stormwater collection system.

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014
Permit Application No.: 6-13-025
Page 3 of 9

- c. Existing and any proposed accessory improvements (i.e., decks, patios, walls, windscreens, etc.) located in the geologic setback area at 341, 347, and 355 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 approval of the coastal development permit.**
- d. The geogrid structure on the bluff face fronting 347 and 355 Pacific Avenue shall be constructed to undulate to closely match the appearance of the nearby natural bluff face. The geogrid structure shall include variable thicknesses to provide visual undulations that mimic the nearby natural bluff conditions. At a minimum, the geogrid structure at 347 and 355 Pacific Avenue shall include 5 non-evenly spaced, tapered, undulating drainage features, with non-linear edges, that are approximately 2 feet deep and approximately 5 feet wide. The geogrid structure at 355 Pacific Avenue shall be incorporated, if technically feasible, into the junction with 357 Pacific Avenue.
- e. The lateral wall on the northern property line of 355 Pacific Avenue shall be lowered to maximize undulations that mimic the nearby natural bluff conditions.
- f. 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.
- g. The revised plans shall clearly state the three concrete underpinning caissons at 355 Pacific Avenue are unpermitted and a CDP shall be required if in the future the caissons are proposed to be retained or are proposed or required to be removed.

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

- 2. **Final Landscape Plans.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants 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. The revised plans shall first be approved by the City of Solana Beach before submittal for the Executive Director's review and approval and 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

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014
Permit Application No.: 6-13-025
Page 4 of 9

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 property to the north at 357 Pacific Avenue and shall incorporate both container stock and hydroseeding. Temporary low pressure 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.

3. Mitigation for Impacts to Public Access and Recreation and Sand Supply.

- a. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that the full interim mitigation fee of \$150,000, required by the Commission to address adverse impacts to public access and recreational use, has been deposited in a Shoreline Account established by the City of Solana Beach.

Within 180 days of the Commission's certification, as part of the certified LCP, a program addressing the impacts associated with shoreline devices and its method of calculating such fees, the applicants shall submit to the Executive Director for review and written approval, documentation of the final mitigation fee amount required by the City to address impacts of the proposed shoreline protection on public access and recreation for the shoreline armoring structure's design life of 20 years. If the amount differs from the interim amount required above, then the applicants shall submit an application for an amendment to this permit to adjust the mitigation fee to be paid to the City to address adverse impacts to public access and recreational use resulting from the proposed development.

- b. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that a fee of \$21,864.72 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 structures. All interest earned by the account shall be payable to the account for the purposes stated below.

The purpose of the account shall be to establish a beach sand replenishment fund to aid SANDAG, or an alternate entity approved by the Executive Director, 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 an alternate entity approved by the Executive Director, 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 Executive Director may appoint an alternate entity to administer the fund for the purpose of restoring beaches within San Diego County.

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014
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4. Duration of Armoring Approval.

- a. **Authorization Expiration.** This CDP authorizes the bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) for twenty years from the date of Commission approval of the CDP. 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 Permittees desire to enlarge the shoreline armoring 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.
- c. **Amendment Required Proposing Mitigation for Retention of Armoring Beyond the 20 Year Design-Life.** If the Permittees intend to keep the armoring in place after April 13, 2025, the Permittees must submit a complete CDP amendment application prior to April 13, 2025 proposing mitigation for the coastal resource impacts associated with the retention of the armoring beyond 20 years.

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 (geogrid structure, seawall, or the lateral wall) 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.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and written approval, a monitoring program prepared by a licensed civil engineer or geotechnical engineer to monitor the performance of the seawall, geogrid structure, and lateral wall 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 of bluff material between the face of the natural bluff or 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, for the 20 years for which

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this seawall is approved. 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 sections 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 applicants 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.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants 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.

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014
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- d. The applicants shall submit evidence that the approved plans and plan notes have been incorporated into construction bid documents. The applicants 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.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants 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 applicants 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. **Storm Design.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director, for review and approval, certification by a registered civil engineer that the proposed shoreline protective devices have been designed to withstand storms comparable to the winter storms of 1982-83 that took place in San Diego County.
10. **Other Permits.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, 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 6-13-025. The applicants shall inform the Executive Director of any changes to the project required by other local, state or federal agencies. Such changes shall not be incorporated into the project until the applicants obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.
11. **State Lands Commission Approval.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, 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 applicants with the State Lands Commission for the project to proceed without prejudice to the determination.

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014
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12. **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.
13. **As-Built Plans.** within 180 days of completion of construction, or within such additional time as the Executive Director may grant for good cause, 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 revised project plans described in Special Condition 1 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 shoreline armoring has been constructed in conformance with the approved final plans.
14. **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. By acceptance of this permit, the applicants acknowledge, on behalf of himself/herself and his/her successors in interest, that issuance of the permit and construction of the permitted development shall not constitute a waiver of any public rights which may exist on the property.
15. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from erosion and coastal bluff collapse (ii) to assume the risks to the applicants 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

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014
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incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

16. **Other Special Conditions of the City of Solana Beach Permit Nos. 17-04-13 CUP and 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.
17. **Condition Compliance.** Within 180 days of approval of this CDP, or within such additional time as the Executive Director may grant for good cause, the applicants shall have complied with all of the Special Conditions of this permit. Within 270 days of approval of this CDP, or within such additional time as the Executive Director may grant for good cause, the applicants shall have completed the contouring of the geogrid structure and the lowering of the lateral wall as detailed in the revised final plans for the subject site. Failure to comply with this condition may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.
18. **Deed Restriction.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

EMERGENCY CDP #6-05-003-G/ ISLAND FINANCIAL CORPORATION

EXHIBIT NO. 20

APPLICATION NO.

6-14-0679

6-05-003-G



California Coastal Commission

CALIFORNIA COASTAL COMMISSION

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



EMERGENCY PERMIT

FILE COPY

Applicant: **Island Financial Corporation**
Attn: Don Totten
355 Pacific Avenue
Solana Beach, Ca 92075

Date: January 18, 2005Agent: **Bob Trettin**Emergency Permit No. 6-05-003-G

LOCATION OF EMERGENCY WORK: 355 Pacific Avenue, Solana Beach, San Diego
County. APN No. 263-301-06

WORK PROPOSED: Construction of three concrete caisson underpinnings
(approximately 2 ft. diameter, 30 ft. in length) to be located in the southwest
corner of the existing residence below the foundation slab. [This permit is a
re-issuance of an emergency permit issued in September, 2004 (EP #6-04-63-G)
which the applicant was unable to implement before the permit expired on
November 23, 2004.]

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurrence in the form of upper and mid-bluff collapse requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director of the Coastal Commission hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of this permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows;
- (c) As conditioned, the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the conditions listed on the attached page.

Sincerely,

PETER M. DOUGLAS
Executive Director


By: DEBORAH LEE
Deputy Director

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the PROPERTY OWNER and returned to our office within 15 days.
2. Only that work specifically described in this permit and for the specific property listed above is authorized. The construction, placement, or removal of any accessory or protective structures, including but not limited to, seawall, notch/seacave infills, stairways or other access structures, walls, fences, etc. not described herein, are not authorized by this permit. Any additional work requires separate authorization from the Executive Director. **If during construction, site conditions warrant changes to the approved plans, the San Diego District office of the Coastal Commission shall be contacted immediately prior to any changes to the project in the field.**
3. The work authorized by this permit must be completed within 90 days of the date of this permit (i.e., by April 18, 2005).
4. The emergency work carried out under this permit is considered TEMPORARY work done in an emergency situation. **In order to have the emergency work become a permanent development a regular coastal development permit must be obtained and issued from the Commission within 120 days (i.e., by May 18, 2005) of the date of this permit. Failure to comply with this deadline will result in a violation of the subject emergency permit and the commencement of enforcement proceedings.**
5. The subject emergency permit is being issued in response to a documented emergency condition where action needs to be taken faster than the normal coastal development permit process would allow. By approving the proposed emergency measures, the Executive Director of the Coastal Commission is not certifying or suggesting that the structures constructed under this emergency permit will provide necessary protection for the blufftop residential structures. Thus, in exercising this permit, the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g. U.S. Army Corps of Engineers, State Lands Commission.)
7. Prior to the commencement of the construction, the applicant shall submit to the Executive Director, evidence that the project has been reviewed and approved by the City of Solana Beach. Said plans shall be in substantial conformance with the plans submitted for this application on 7/23/04 by Soil Engineering Construction, Inc. **In addition, Note 3 under "General Notes" on Soil Engineering Construction, Inc. plans submitted on 7/23/04 shall be revised to say "Exact location of drilled piers for partial foundation underpinnings may be adjusted as field conditions require, but shall not be located any further seaward than shown on the plans of 7/23/04." (See attached Exhibit No. 3).**
8. No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces at Fletcher Cove. Construction materials or debris shall not be stored 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. Construction equipment shall not be washed on the beach or in the Fletcher Cove parking lot.

• **Emergency Permit Number: 6-05-003-G**
Date: 1/18/05

9. Pre-construction site conditions shall be documented through photographs of the bluff at the time of construction and submitted to the San Diego District office **prior to commencement of construction.**

If you have any questions about the provisions of this emergency permit, please call the Commission's San Diego Coast Area Office at the address and telephone number listed on the first page.

(\\Tigershark1\Groups\San Diego\Emergency\6-05-003-G Island Financial.doc)

CALIFORNIA COASTAL COMMISSION

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

**EMERGENCY PERMIT ACCEPTANCE FORM**

TO: CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370

RE: **Emergency Permit No. 6-05-003-G**

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the San Diego Coast Area Office within 15 working days from the permit's date.

Background

The City of Solana Beach is currently in the process of developing its Local Coastal Program which will include policies relating to development located in hazardous locations such as coastal bluffs and include comprehensive measures that address bluff erosion. Planning for comprehensive protective measures should include a combination of approaches including limits on future bluff development, removal of threatened portions of a residence, underpinning existing structures, ground and surface water controls, beach replenishment, and protective measures involving all portions of the bluffs. Decisions regarding future shoreline protection should be done through a comprehensive planning effort that analyzes the impact of approving shoreline protection on the entire City's shoreline.

Acknowledgement

In acceptance of this emergency permit, I acknowledge that any work authorized under an emergency permit is temporary and subject to removal if a regular Coastal Permit is not obtained to permanently authorize the emergency work. I also acknowledge and understand that a regular coastal development permit would be subject to all of the provisions of the Coastal Act and may be conditioned accordingly. These conditions may include, but not be limited to, provisions for long term maintenance and monitoring of the structure, a requirement that a deed restriction be placed on the property assuming liability for damages incurred from bluff failures, and restrictions on future construction of additional shore or bluff protection.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

Island Financial Corporation

Name

Address

Date of Signing

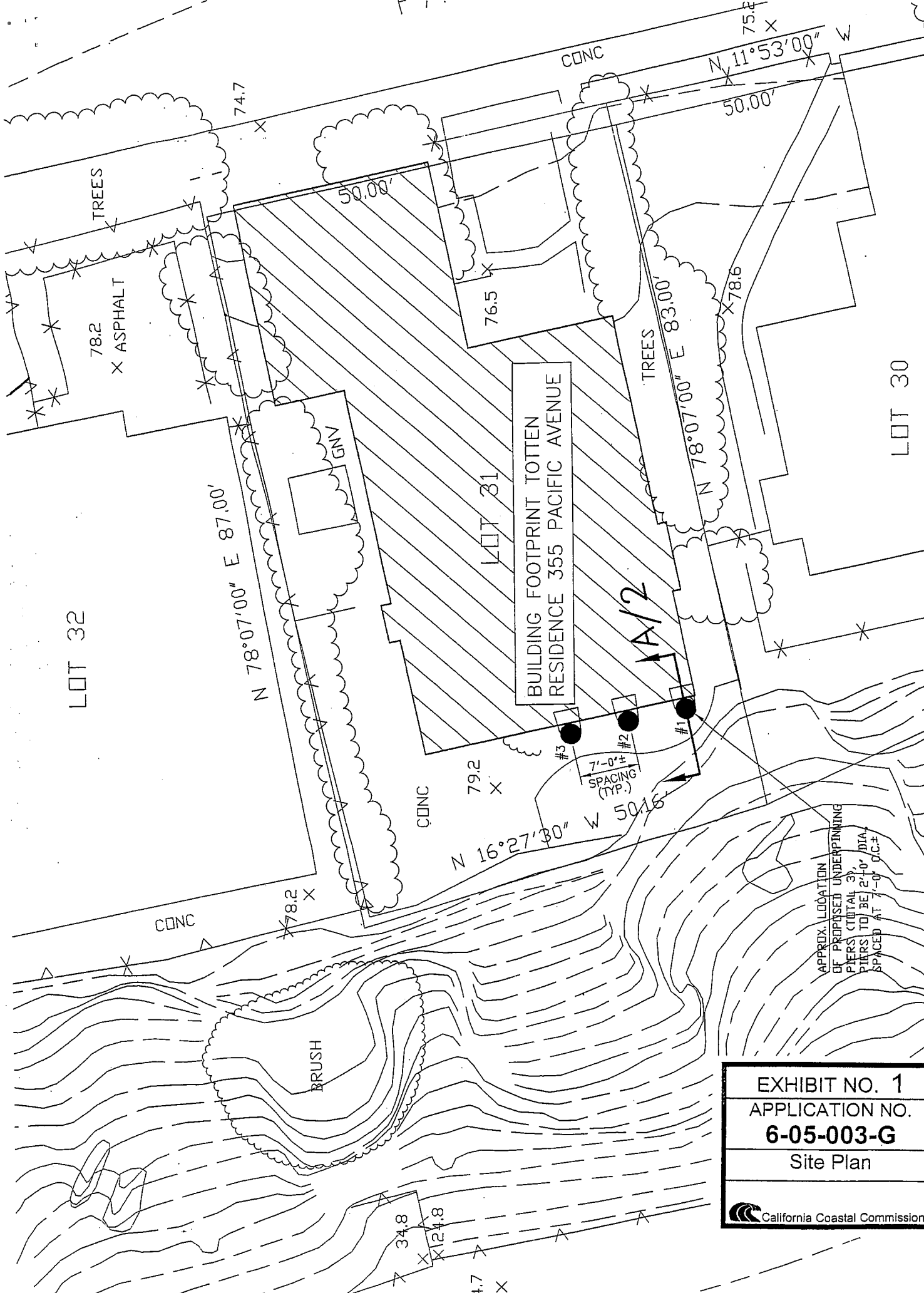


EXHIBIT NO. 1
APPLICATION NO.
6-05-003-G
Site Plan
 California Coastal Commission

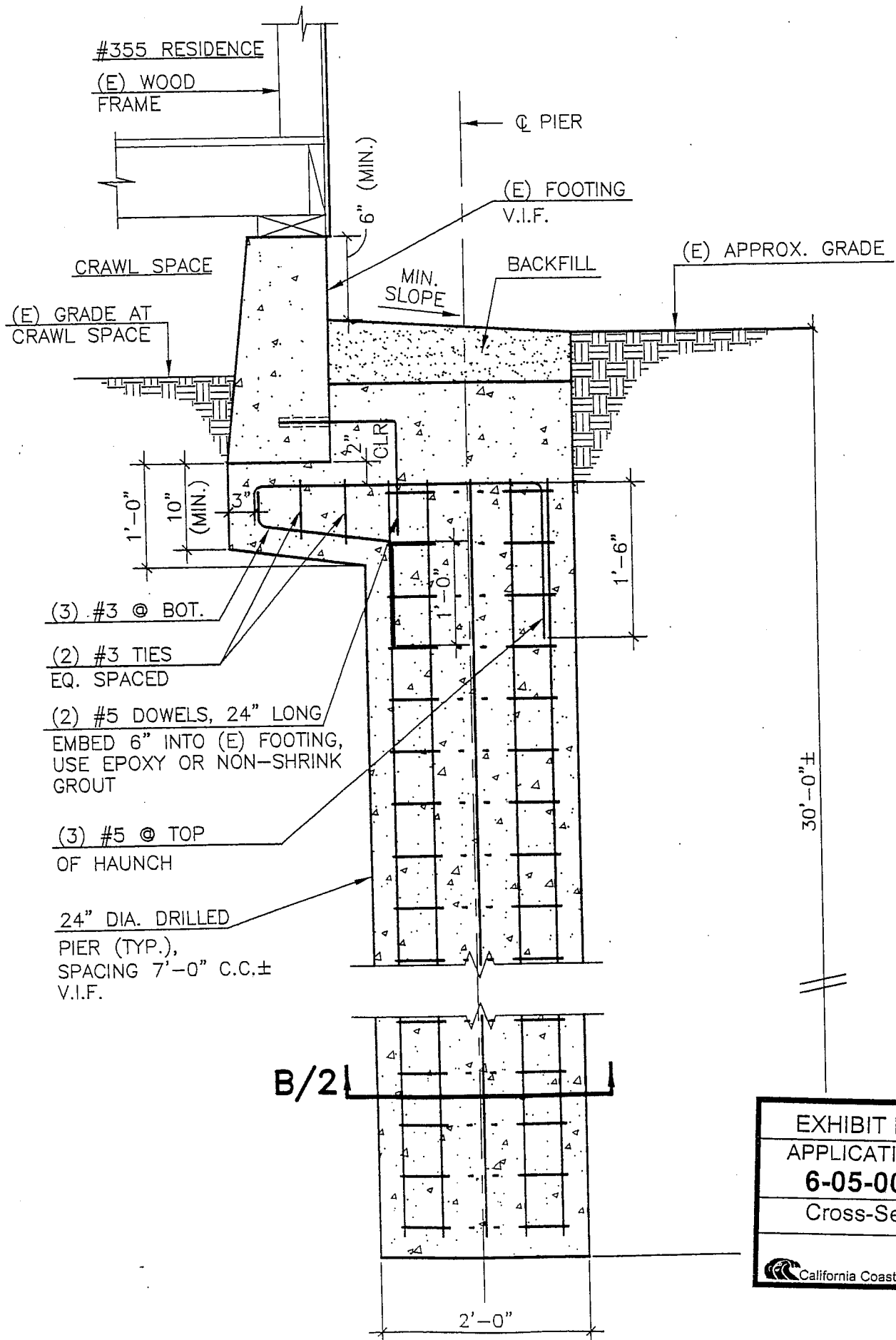


EXHIBIT NO. 2
 APPLICATION NO.
6-05-003-G
 Cross-Section

GENERAL NOTES:

1. Design and construction to be in accordance with 1997 UBC, CBC as adopted by State of California, and all applicable local Codes.
2. All dimensions, conditions and location of facilities to be verified and determined in field.
3. Exact location of drilled piers for partial foundation underpinning may be adjusted as field conditions require, *but shall not be located any further seaward*
4. All cast-in-place concrete shall have minimum compressive strength of 3,000 psi at 28 days, *than shown on the plans of 7/23/04.*
U.N.O..
5. Steel members, if any, shall be:
all wide flange steel members shall conform to ASTM A572, grade 50,
miscellaneous channels, angles, and plates shall conform to ASTM A36.
6. Reinforcing steel shall conform to ASTM A615, grade 60 for #4 bars and above.
7. All exposed steel, if any, to be galvanized or coated with corrosion inhibiting paint.
8. Special inspection is required for installation of drilled piers.
(UBC 1701.5.12).
9. Section at construction joint, if any, make rough or form key.
10. Reinforcement cover (sec. 1907.7.1):
A. Concrete cast against and permanently exposed to earth shall have minimum 3" concrete cover.
B. Concrete exposed to earth or weather shall have minimum 2" concrete cover for #6 bars and above, 1-1/2" for #5 bars and below.

SOIL ENGINEERING CONSTRUCTION, INC.
SOIL ENGINEERING CONSTRUCTION, INC.

LICENSE # A-268082
560 N. HIGHWAY 101, SUITE 5, ENCINITAS, CA 92024



EXHIBIT NO. 3
APPLICATION NO.
6-05-003-G
General Notes
California Coastal Commission