

**CALIFORNIA COASTAL COMMISSION**

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# Th16a

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Staff: E.Stevens-SD  
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## **STAFF REPORT AND RECOMMENDATION ON APPEAL SUBSTANTIAL ISSUE & DE NOVO**

**Local Government:** City of San Diego

**Decision:** **Approved with Conditions**

**Appeal Number:** **A-6-OCB-16-0086**

**Applicant:** **Nover Living Trust**

**Location:** 1759-1765 Oceanfront Street, Ocean Beach, San Diego, San Diego County (APN No. 448-070-05)

**Project Description:** Construction of an approximately 25 to 50 ft. long, approximately 30 ft. high, 9 in. thick mid and upper protection in the form of reinforced shotcrete armoring with tied back anchors to protect two detached approximately 400 sq. ft. multi-family residences on two adjacent bluff top lot totaling 0.13 acre.

**Appellants:** Commissioners Bochco & Shallenberger

**Staff Recommendation:** Substantial Issue and Approval with Conditions on De Novo

### **IMPORTANT HEARING PROCEDURE NOTE**

The Commission will not take testimony on this "substantial issue" recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General, or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

## **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

The proposed project involves the removal of various failed wooden retaining walls on the coastal bluff and the construction of new mid and upper bluff protection in the form of reinforced shotcrete armoring with tied back anchors to protect two detached multi-family residences, both constructed in the 1920's, on two adjacent bluff top lots in the Ocean Beach community of San Diego. The proposed shoreline armoring device would encompass the entire mid and upper bluff from approximate elevation 19 ft. Mean Sea Level (MSL) to 49 ft. MSL and is approximate 25 ft. wide at its base and 50 ft. wide at the top of the bluff. The new armoring would be located, in part, on public property and connect to an existing six foot high seawall, which was constructed in the 1950's. The uppermost portion of the coastal bluff is located within the applicant's private property boundaries, while the remainder of the bluff area is within public ownership (Exhibit 4).

The City found that the subject project is consistent with the public access, public recreation, and coastal bluff development provisions of the certified Local Coastal Program (LCP). However, the development, as approved by the City, raises several LCP consistency issues with regard to the shoreline armoring authorization term, mitigation for impacts to coastal resources, and analysis of future sea level rise.

The City's approval fails to tie the proposed shoreline armoring device to the existing structures that it is designed to protect, as required by the certified LCP. The proposed shoreline armoring is located, in part, on a publicly owned bluff and will result in some amount of bluff material not reaching the littoral cell. However, the City approval does not require any mitigation for impacts to coastal resources resulting from the new shoreline armoring, or require periodic assessments of the shoreline armoring in the future to assess the need for additional mitigation and changed site conditions, both of which are required by the LCP.

In addition, the City's certified LCP requires that Coastal Development Permit review for shoreline armoring devices consider changes to geologic conditions, changes to beach width relative to Sea Level Rise, implementation of beach replenishment programs and all ongoing impacts to coastal resources. However, the City approval did not include a thorough analysis of potential impacts on the proposed shoreline armoring device from changing sea level rise conditions predicted to occur over the life of the proposed structure.

The precedential value of the local government's decision for future interpretations of its LCP is also important with regard to this project because this is the first local approval of a shoreline armoring device since the Commission recently approved a significant update to the Ocean Beach Community Plan Land Use Plan (LUP) (adopted by the City on November 9, 2015). The type and extent of analysis and evaluation of mitigation for this project is expected to set a precedent for future projects under the certified LCP.

Because of the above-described inconsistencies with the LCP and the Coastal Act, staff recommends that the Commission determine that the project raises a substantial issue regarding conformance with the certified LCP and the Chapter 3 policies of the Coastal Act.

Staff also recommends that the Commission **approve** the de novo permit with several special conditions. The primary issue raised by the subject development relates to the need for shoreline armoring, and mitigating for the impacts of any required protection. The Commission's geologist and engineer have reviewed the geotechnical information provided by the applicant and concur that the proposed shoreline armoring is necessary to protect the two seaward residential structures on the subject site and that the armoring has been adequately designed to minimize its encroachment on public property. However, it is important to limit the life of the shoreline armoring to that of the structure it is required to protect. Thus, Special Condition 2 limits the duration of the subject CDP approval to when the bluff top structures requiring protection are redeveloped (as defined in Special Condition 3), are no longer present (i.e. demolished), or no longer require the shoreline armoring approved under this CDP, whichever occurs first. Special Condition 7 requires that the applicant pay a sand mitigation fee to address the sand volume impacts from denial of sand to the littoral cell as a result of passive erosion. In addition, Special Condition 3 prohibits future development that is not otherwise exempt from coastal development permit requirements, including additions or redevelopment of the structures on the subject blufftop property, from relying on the permitted shoreline armoring to establish geologic stability or protection from hazards. **The applicant has reviewed the Special Conditions of this CDP and is in full agreement.**

Standard of Review: Certified City of San Diego Local Coastal Program and the public access and recreation policies of Chapter 3 of the Coastal Act.

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## APPENDICES

[Appendix A – Substantive File Documents](#)

## EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Site Plan](#)

[Exhibit 3 – Project Photograph](#)

[Exhibit 4 – Project Simulation](#)

[Exhibit 5 – Commission Staff Comment Letter Dated November 19, 2015](#)

[Exhibit 6 – Sand Mitigation Letter](#)

[Exhibit 7 – City Resolution of Approval](#)

[Exhibit 8 – Appeals](#)

## **I. APPELLANTS CONTEND**

The project as approved by the City does not conform to the City of San Diego's certified Local Coastal Program (LCP). Commissioners Bochco and Shallenberger appealed, and contend that 1) the City approval did not tie the proposed shoreline protection device to the existing structures that it was permitted to protect and the City did not include any findings about the feasibility of removing the shoreline armoring if the bluff top structures were to be redeveloped, demolished or no longer need protection; 2) the City approval did not require any mitigation for impacts to coastal resources resulting from the new shoreline armoring or require periodic assessments of the shoreline armoring in the future; and 3) the City approval did not include a thorough analysis of potential impacts on the proposed shoreline protection device from changing sea level rise conditions predicted to occur over the life of the proposed structure.

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## **II. LOCAL GOVERNMENT ACTION**

The coastal development permit was approved by the City of San Diego Hearing Officer on August 10, 2016 (Ref: City of San Diego Resolution No. HO-6951). Specific conditions were attached which, among other things, require the use of Best Management Practices to control and filter polluted runoff and implementation of grading and drainage controls, a waiver of liability against the City for any proceedings, damages, judgements, or costs against the City related to the issuance of the permit, the requirement to obtain an Encroachment Maintenance and Removal Agreement with the City for private improvements located within the City's right-of-way.

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## **III. APPEAL PROCEDURES**

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30603(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project, then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, those allowed to testify at the hearing will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project then, or at a later date, reviewing the project de novo in accordance with sections 13057-13096 of the Commission's regulations. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable standard of review for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program (LCP).

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also applicable Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question as to conformity with the certified local coastal program" or, if applicable, the public access and public recreation policies of Chapter 3 of the Coastal Act (Cal. Code Regs., tit. 14 section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;

4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

The City of San Diego has a certified Local Coastal Program (LCP), and the subject site is located in an area where the Commission retains appeal jurisdiction because it is located between the first public road and the sea. Therefore, before the Commission considers the appeal de novo, the appeal must establish that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603. In this case, for the reasons discussed further below, the Commission exercises its discretion to determine that the development approved by the City raises substantial issue with regard to the appellant's contentions regarding coastal resources.

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#### **IV. SUBSTANTIAL ISSUE MOTION AND RESOLUTION**

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission determine that Appeal No. A-6-OCB-16-0086 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

**STAFF RECOMMENDATION:**

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

**RESOLUTION:**     *The Commission hereby finds that Appeal No. A-6-OCB-16-0086 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

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## **V. SUBSTANTIAL ISSUE FINDINGS AND DECLARATION**

The Commission finds and declares as follows:

### **A. PROJECT DESCRIPTION**

The project approved by the City of San Diego on August 10, 2016 consists of the removal of various failed wooden retaining walls currently located on a coastal bluff, and the construction of new mid and upper bluff protection in the form of reinforced shotcrete armoring with tied back anchors to protect two detached multi-family residences on two adjacent bluff top lots at 1759 -1765 Oceanfront Street in the Ocean Beach community of San Diego. There are a total of four detached residential structures on the subject blufftop property, but only the two structures on the seaward portion of the lot are threatened by bluff erosion. The existing residential structures were constructed between 1926 and 1927, prior to the Coastal Act's enactment and pre-Proposition 20. The new armoring would be located, in part, on public property and would connect to an existing six foot high retaining wall located at the base of the bluff. The uppermost portion of the coastal bluff is located within the applicant's private property boundaries, while the remainder of the bluff area is within public ownership (Exhibit 4). The existing seawall was constructed in the 1950's and was rehabilitated in the early 1980's as part of the Sunset Cliffs Stabilization Project (Ref: CDP F9620). The proposed shoreline armoring device would encompass the entire mid and upper bluff from approximate elevation 19 ft. Mean Sea Level (MSL) to 49 ft. MSL and would be approximate 25 ft. wide at its base and 50 ft. wide at the top of the bluff.

Shotcrete and gunite have been used for many years in San Diego to cover bluffs for erosion protection. Some early applications consisted of a thin, one to two inch thick application of concrete mix over a light-weight steel mesh and today some of these structures have cracked, lost parts of the concrete facing, or have detached from the bluff face. In many situations, these structures often received little, if any design review prior to construction. Design standards for shotcrete walls exist and the proposed tie-back wall with reinforced shotcrete facing has been designed to meet City of San Diego building code requirements. It should perform as intended, without major cracking or flaking, when exposed to the examined design conditions.

The subject site is located on the west side of Oceanfront Street, approximately 600 ft. south of the Ocean Beach Pier in the Ocean Beach community of the City of San Diego (Exhibits 1-4). The standard of review is the certified City of San Diego Local Coastal Program and the public access and recreation policies of the Coastal Act.



## **B. LCP CONSISTENCY**

### Authorization Term

The appellants contend that the development as approved by the City is inconsistent with Policy 7.3.5 of the Ocean Beach Community Land Use Plan (LUP). Policy 7.3.5 requires that shoreline protective devices be tied to the life of the structures they are permitted to protect and that the feasibility of removing shoreline armoring be addressed when the structure that the armoring is authorized to protect is demolished, redeveloped, or no longer requires a protective device. Policy 7.3.5 also requires that mitigation for impacts to coastal resources be assessed and that periodic assessments of the need for additional mitigation and of changed site conditions to may warrant removal or changes to the armoring be undertaken.

Ocean Beach Community Plan LUP Policy 7.3.5 states, in part:

*Develop and implement shoreline management strategies to ensure all shoreline development will provide long term protection of the coastal bluffs, beaches, and public coastal access in the community.*

*[...]*

- b. Tie a shoreline protective device to the life of the structure it has been permitted to protect and address the feasibility of removing such devices when the structure it is authorized to protect is demolished, redeveloped, or no longer requires a protective device, whichever occurs first. Include mitigation for shoreline armoring, if allowed, for coastal resource impacts, including but not necessarily limited to ecological impacts and impacts to shoreline sand supply and public access and recreation over the life of the protective device. Require periodic assessment of the need for additional mitigation and of changed site conditions that may warrant removal or modification of the protective device...*

The subject project is the first local approval of a shoreline armoring device since the Commission recently approved a significant update to the Ocean Beach Community Plan Land Use Plan (LUP) (adopted by the City on November 9, 2015). As a part of early coordination, Commission staff reviewed the proposed development during the project design phase and provided a letter to the City identifying potential concerns with the project that could create inconsistency with the City's LCP (Ref: CCC staff letter dated November 19, 2015, Exhibit 5). The City's approval did not tie the proposed shoreline armoring device to the existing structures that it is designed to protect, inconsistent with LUP Policy 7.3.5, which specifically requires that any new shoreline armoring devices be tied to the life of the structure that they are permitted to protect. Furthermore, the City did not include any findings about the feasibility of removing the shoreline armoring if the bluff top structures were to be redeveloped, demolished or no longer need protection, as required by the LUP. The uncertainty about future shoreline conditions in the face of anticipated sea level rise further emphasizes the importance of not allowing new

development to rely on shoreline armoring designed to protect structures that have been removed or redeveloped. Because the City failed to tie the authorization term of the shoreline armoring device to the structures that the device was permitted to protect, the appellants have raised a substantial issue of conformity with the certified LCP.

#### Mitigation and Sea Level Rise Analysis

The appellants also contend that the development as approved by the City is inconsistent with Policies 7.3.7 and 7.6.3 of the Ocean Beach Community Land Use Plan (LUP). Policy 7.3.7 requires that Coastal Development Permit review for shoreline armoring devices consider changes to geologic conditions, changes to beach width relative to Sea Level Rise, implementation of beach replenishment programs, and any ongoing impacts to coastal resources. Policy 7.3.7 also requires that subsequent reviews of shoreline armoring devices reassess the need for the device and provide options for ultimate removal of the device. Policy 7.6.3 requires that review of Coastal Development Permits for shoreline armoring assess vulnerability to Sea Level Rise based on the best available science and site-specific geotechnical reports.

Ocean Beach Community Plan LUP Policy 7.3.7 states:

*In the review of any Coastal Development Permits for bluff or shoreline armoring devices, implementation should consider the following factors: an assessment of changes to geologic site and beach conditions, changes in beach width relative to sea level rise, implementation of any long-term large scale sand replenishment or shoreline restoration programs, and any ongoing impacts to coastal resources and public access and recreation from the existing device. Include in the permit review a reassessment of the need for the protective device, and provide options for the ultimate removal of the protective device.*

Ocean Beach Community Plan LUP Policy 7.6.3 states, in part:

*Use best available science and site-specific geotechnical reports as needed, to assess public and private projects for their vulnerability to impacts from sea level rise and, if vulnerable, propose a reasonable adaptation strategy. Analyze options for removal or relocation of structures that become threatened by coastal hazards. Use best available adaptation strategies that do not rely on shoreline protective devices in accordance with the California Coastal Act (see Coastal Act text boxes).*

The City's LCP requires that shoreline armoring approvals include mitigation for coastal resource impacts including ecological impacts, impacts to shoreline sand supply, and impacts to public access and recreation over the life of the protective device. In addition, LUP Policies 7.3.5 and 7.3.7 require periodic assessment of the need for additional mitigation and of changed site conditions that may warrant removal or modification of the protective device. The City approval did not require any mitigation for impacts to coastal resources resulting from the new shoreline armoring. In addition, the City did not require periodic assessments of the shoreline armoring in the future. The proposed shoreline armoring is located, in part, on a publicly owned bluff and will result in some amount of bluff material not reaching the littoral cell. The primary rationale provided by

the City for not requiring mitigation was the existence of the lower seawall. However, the existing lower seawall is very old and may be removed or redeveloped in the future. Furthermore, the City did not include findings to describe the relationship between the new proposed mid and upper bluff armoring and the existing seawall. Specifically, no information was included in the City's findings about whether or not the new proposed shoreline armoring was dependent on the existing seawall. Thus, reassessment of the new shoreline armoring and a thorough alternatives analysis should have been required to account for potential changed site conditions in the future.

The proposed project also did not include a thorough analysis of potential impacts on the proposed shoreline armoring device from changing sea level rise conditions predicted to occur over the life of the proposed structure. LUP Policy 7.6.3 requires analysis of private and public projects for their vulnerability to impacts from sea level rise, and if vulnerable, proposal of reasonable adaptation strategies, as well as an analysis of options for removal or relocation of structures that become threatened by coastal hazards. Given the subject project's location and dependence on an existing lower seawall, this level of analysis is critical in order to ensure that the proposed design alternative is sited and designed appropriately.

Because the City approval did not require any mitigation for impacts to coastal resources resulting from the proposed shoreline armoring device or periodic reassessments of the need for additional mitigation and because no analysis of Sea Level Rise impacts was undertaken, the appellants have raised a substantial issue of conformity with the certified LCP.

## **C. CONCLUSION**

Based on the information cited above, the City approval of the construction of a new shoreline armoring device may be inconsistent with various sections of the City's certified LUP relating to authorization terms, mitigation, and Sea Level Rise. Therefore, the Commission finds that a substantial issue exists with respect to the consistency of the local government action with the City's certified Local Coastal Program.

## **D. SUBSTANTIAL ISSUE FACTORS**

As discussed above, there is inadequate factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission usually considers when evaluating whether a local government's action raises a substantial issue also support a finding of substantial issue. While the extent and scope of the particular development is a single shoreline armoring device, the objections to the project suggested by the appellants raise substantial issues of regional and statewide significance due to the continued push to armor the state's coastal bluffs. The decision creates a poor precedent with respect to the proper interpretation of the City's LCP, as the City's failure to adhere to the requirements of the LCP could set an

adverse precedent elsewhere along the coast. In addition, the coastal resources affected by the decision are significant.

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## **STAFF RECOMMENDATION ON THE COASTAL PERMIT**

### **VI. MOTION AND RESOLUTION ON DE NOVO**

The staff recommends the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve Coastal Development Permit No. A-6-OCB-16-0086 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 certified LCP and the public access policies 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 mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

### **VII. STANDARD CONDITIONS**

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the 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 of 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.

## VIII. SPECIAL CONDITIONS

The permit is subject to the following conditions:

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, one full-size set of the revised final plans, that substantially conform with the plans submitted to the Commission, titled Nover Bluff Repair, by Soil Engineering Construction, dated August 15, 2016, except that they shall be modified to reflect all of the following:
  - (a) Any existing permanent irrigation system located on the subject site that drains anywhere on or over the bluff top/face 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.
  - (c) A final site plan shall be submitted that includes the bluff top structures and square footage of all bluff top structures and property lines for the subject sites. In addition, all existing accessory improvements (i.e., decks, patios, walls, windscreens, etc.) located in the geologic setback area on the residential sites shall be detailed and drawn to scale on the final approved site plan and shall include measurements of the distance between the accessory improvements and the bluff edge (as defined by Section 13577, Title 14 of the California Code of Regulations) taken at three or more locations. The locations for these measurements shall be identified through permanent markers, benchmarks, survey position, written description, or other method that enables accurate determination of the location of structures on the site. No modifications or removal or replacement of any existing accessory structures is authorized by this permit and any such actions shall require a separate coastal development permit or permit amendment.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

**2. Shoreline Structure Authorization, Design, Monitoring and Maintenance.**

(a) Shoreline Structure Terms. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a final revised plan for the authorized shoreline structure. The revised plans shall, prior to submittal to the Executive Director, be reviewed and certified by a licensed civil or geotechnical engineer to ensure they are consistent with the Commission's approval and the following specific requirements:

- i. Authorization Terms. This CDP authorizes the shoreline structure pursuant to all of the following terms:
  - A. Expiration. This authorization expires when either of the two detached residential structures at 1759-1765 Oceanfront Street is redeveloped as defined in Special Condition 3; (2) is no longer present; or (3) no longer requires shoreline armoring, whichever occurs first. No later than 180 days prior to the anticipated expiration of the permit or in conjunction with redevelopment of the property, the permittee shall apply for a new CDP or amendment to this CDP to remove the shoreline armoring or to modify the terms of its authorization, including with respect to any necessary mitigation pursuant to the analysis required by subsection a.i.B.1 of this condition.
  - B. Extension of Authorization and Mitigation. If the permittee intends to keep the shoreline structure in place beyond the 20 year mitigation period (beginning from February 8-10, 2017 - the date of Commission approval, and ending February 8-10, 2037), the permittee shall submit a complete application for a CDP or amendment to this CDP to reassess mitigation for the on-going impacts of the structure, including an evaluation of actions to reduce or eliminate those impacts. The complete application shall be submitted no later than 180 days prior to the end of the mitigation period. Provided a complete application is filed before the 20-year permit expiration, the expiration date shall be automatically extended until the time the Commission acts on the application. Any amendment application shall conform to the Commission's permit filing regulations at the time and shall also include the following at a minimum:
    1. An analysis, based on the best available science and updated standards, of beach erosion, wave run-up, sea level rise, inundation, and flood hazards prepared by a licensed civil engineer with expertise in coastal engineering, and a slope stability analysis prepared by a licensed Certified Engineering Geologist, Geotechnical Engineer, or Registered Civil Engineer with expertise in soils;

2. An evaluation of alternatives that will increase stability of the existing principal structures for their remaining life or site any new development to an inland location, such that further alteration of natural landforms or impact to adjacent City-owned bluffs and beach, tidelands, or public trust lands is avoided;
3. An analysis of the condition of the existing shoreline armoring and any impacts it may be having on public access and recreation, scenic views, sand supply, and other coastal resources;
4. An evaluation of the opportunities to remove or modify the existing seawall in a manner that would eliminate or reduce the identified impacts, taking into consideration the requirements of the LCP and all applicable Chapter 3 policies of the Coastal Act;
5. For amendment applications to extend the authorization period, a proposed mitigation program to address unavoidable impacts identified by the analysis required in subsection 3 above; and
6. A legal description and graphic depiction of all subject property lines and the mean high tide line surveyed by a licensed surveyor within the past two years, along with written evidence of consent to the amendment application by all landowners, including the City of San Diego and the State Lands Commission, and any other entity. If application materials indicate that development may impact or encroach on tidelands or public trust lands, written authorization from the underlying public trust lands trustee (City of San Diego or the State Lands Commission, as applicable) of the proposed amendment shall be required prior to issuance of the permit amendment to extend the authorization period.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

- (b) Structure Color and Texture. The color and texture of the structure shall be compatible with the nearby unarmored natural bluffs, including, at a minimum, that:
- i. the structure will be designed, including shaped, contoured and textured, as necessary to match the adjacent landforms; and
  - ii. the color, contours, and texture will be maintained throughout the life of the structure.

(c) Monitoring and Maintenance.

- i. **Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a monitoring plan, prepared by a licensed geologist, civil engineer, or geotechnical engineer for the review and written approval of the Executive Director. The plan shall be sufficient to assess the condition of the shoreline armoring and shall include at a minimum:
  - A. A description of the approved shoreline armoring device;
  - B. A discussion of the goals and objectives of the plan, which shall include observations of whether the shoreline armoring remains in its approved state;
  - C. Provisions for taking measurements of the distance between each of the bluff top structures protected by the shoreline armoring and the top of the shoreline armoring, including identification of exactly where such measurements will be taken, e.g. by reference to benchmarks, survey positions, points shown on an exhibit, etc. and the frequency with which such measurements will be taken;
  - D. Provisions for submission of “as-built” plans, showing the permitted structure in relation to the existing topography and showing the measurements described in subsection c.i.C. of this condition, within 30 days after completion of construction.
- ii. **Monitoring Requirement.** By May 1 of each third year since the date of approval, for the life of the structure, the permittee shall submit a monitoring report that has been prepared by a licensed geologist, civil engineer, or geotechnical engineer. Each monitoring report shall contain the following at a minimum:
  - A. An evaluation of the condition and performance of the approved shoreline armoring device, including an assessment of whether any weathering or damage has occurred that could adversely impact future performance of the device;
  - B. All measurements taken in conformance with the approved monitoring plan;
  - C. An analysis of erosion trends, annual retreat, or rate of retreat of the bluff based upon the measurements and in conformance with the approved monitoring plan; and
  - D. Recommendations for repair, maintenance, modifications or other work to the device.



If the monitoring report contains recommendations for repair, maintenance or other work, including maintenance of the color of the structure 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.

3. **Reliance on Permitted Shoreline Armoring.** No future development that is not otherwise exempt from coastal development permit requirements, including additions to or redevelopment of the structures on the subject blufftop property, may rely on the permitted shoreline armoring 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.

- (a) As used in this condition, “redevelopment” means development that consists of alterations including additions to an existing structure, exterior and/or interior renovations, and/or demolition or replacement of an existing home or other principal structure, or portions thereof, which results in:
- i. Destruction, demolition, or removal of 50% or more of the structure’s exterior walls; destruction, demolition, or removal of 50% or more of the capacity of the lateral or vertical load resisting system of the structure; or a 50% increase in gross floor area;

OR

- ii. Destruction, demolition, or removal of less than 50% of the structure’s exterior walls or removal of less than 50% of the capacity of the lateral or vertical load resisting system of the structure, where the proposed alteration would result in cumulative alterations exceeding 50% or more of the exterior walls or capacity of the lateral or vertical load resisting system of the structure, taking into consideration previous alterations approved on or after October 6, 2016; or an alteration that constitutes less than 50% increase in gross floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the gross floor area, taking into consideration previous additions approved on or after October 6, 2016.
4. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (1) that the site may be subject to hazards, including but not limited to waves, storms, flooding, landslide, bluff retreat, erosion, and earth movement, many of which will worsen with future sea level rise; (2) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (3) 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 (4) 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.

5. **Other Agency Approvals.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide to the Executive Director a copy of necessary permits issued by the City of San Diego, or letters of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the City of San Diego. Such changes may not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
6. **Future Response to Erosion.** If in the future the permittee seeks a coastal development permit to construct additional bluff or shoreline protective devices, the permittee agrees, by acceptance of this permit, to include in the permit application information concerning specific alternatives to the proposed bluff or shoreline armoring 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 all or portions of the principal structures that are threatened; structural underpinning; and other known remedial measures capable of protecting the principal residential structures and allowing reasonable use of the property without constructing additional bluff or shoreline stabilization devices. The information concerning these alternatives must be sufficiently detailed to enable the Coastal Commission or the applicable local government implementing a certified Local Coastal Plan to evaluate the feasibility of each alternative and whether each alternative is capable of protecting the relevant existing principal structures for the remainder of their economic lives. No additional bluff or shoreline protective devices may be constructed unless the alternatives required above are demonstrated to be infeasible. No additional shoreline protective devices may be constructed in order to protect ancillary improvements (patios, decks, fences, landscaping, etc.) located between the principal residential structures and the ocean. Any future redevelopment on the lots may not rely on the subject shoreline protective devices to establish geological stability or protection from hazards.
7. **Mitigation for Impacts to Sand Supply.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide evidence, in a form and content acceptable to the Executive Director, that a payment of \$1,352 has been deposited in the Sand Supply Mitigation Fund, an interest bearing account established at SANDAG, or other account designated by the Executive Director, in-lieu of providing sand to replace the sand that will be retained landward of the shoreline armoring device over 20 years resulting from the placement of the structure on the public bluff. All interest earned by the account shall be payable to the account for the purposes stated below.

The required mitigation payment covers impacts only through the identified 20-year mitigation period of the shoreline armoring. Within 180 days before expiration of this permit, the permittee or his or her successor in interest shall apply for and obtain an amendment to this permit that either requires the removal of the shoreline armoring device within its initial permit life or requires mitigation for the effects of the shoreline armoring device on shoreline sand supply, for the expected life of the shoreline armoring device beyond the initial 20 year permit life. If within the initial permit life of the shoreline armoring device the permittee or his or her successors in interest obtain a coastal development permit or an amendment to this permit to enlarge or reconstruct the shoreline armoring device or perform repair work that extends the expected life of the shoreline armoring device, the permittee shall provide mitigation for the effects of the additional size of the shoreline armoring device or the extended effects of the existing shoreline armoring device on shoreline sand supply for the expected life of the shoreline armoring device beyond the initial 20 year permit life.

The purpose of the account shall be to establish a beach sand replenishment fund to aid SANDAG, or a Commission-approved alternate entity, in the restoration of the beaches within San Diego County. The funds shall be used solely to implement projects which provide sand to the region's beaches, not to fund operations, maintenance or planning studies. The funds in the account 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 Memoranda of Understanding (MOU) between SANDAG, or a Commission-approved alternate entity, and the Commission; setting forth terms and conditions to assure that the in-lieu fee will be expended in the manner intended by the Commission. If the MOU is terminated, the Commission may appoint an alternate entity to administer the fund.

8. **Storage and Staging Areas/Access Corridors.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that, at a minimum:
  - (a) No overnight storage of equipment or materials may occur on sandy beach or public parking spaces. During the demolition and construction stages of the project, the permittee may 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 may be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to construct the shoreline armoring device. Construction equipment may 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 may occur on the beach of bedrock shelf seaward of the existing seawall on weekends or holidays or between Memorial Day and Labor Day of any year; and
- (d) The applicant shall submit evidence that the approved plans and plan notes have been incorporated into construction bid documents.
- (e) The permittee shall remove all construction materials/equipment from the staging site and restored the staging site to its prior-to-construction condition within 72 hours following completion of the development.

The permittee 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.

9. **Water Quality--Best Management Practices.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director a Best Management Practices Plan that ensures no shotcrete or other construction byproduct will be allowed onto the sandy beach or allowed to enter into coastal waters. The Plan shall apply to both concrete pouring/pumping activities as well as shotcrete/concrete application activities. During shotcrete/concrete application specifically, the Plan shall at a minimum provide for all shotcrete/concrete to be contained through the use of tarps or similar barriers that completely enclose the construction area and that prevent shotcrete/concrete contact with beach sands and coastal waters. All shotcrete and other construction byproduct shall be properly collected and disposed of off-site.

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

10. **As-Built Plans.** WITHIN 30 DAYS OF COMPLETION OF CONSTRUCTION, the Permittee shall submit one copy of As-Built Plans showing all development completed pursuant to this coastal development permit; all property lines; and all residential development inland of the shoreline armoring device. The As-Built Plans shall be substantially consistent with the approved project plans described in Special Condition 1 above, including providing for all of the same requirements specified in those plans. The As-Built Plans shall include a graphic scale and all elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD) 88. The As-Built Plans shall include color photographs that clearly show all components of the as-built project, with 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 taken from representative viewpoints of beaches located 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, who is acceptable to the Executive Director. The engineer shall verify that the shoreline armoring has been constructed in conformance with the approved final plans.

11. **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 applicant acknowledges, on behalf of him/herself/itself and his/her/its successors in interest, that issuance of the permit and construction of the permitted development shall not constitute a waiver of any public rights that may exist on the property.
12. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, applicant Nover Living Trust shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the respective parcels 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.
13. **Construction Site Documents & Construction Coordinator.** DURING ALL CONSTRUCTION:
  - (a) **Construction Site Documents.** 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) **Construction Coordinator.** 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 (office address, office and mobile phone numbers, e-mail address) 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 72 hours of receipt of the complaint or inquiry.

- (c) **Notification.** The permittee shall notify planning staff of the Coastal Commission's San Diego Coast District Office at least three working days in advance of commencement of construction or maintenance activities, and immediately upon completion of construction or maintenance activities.

## **IX. FINDINGS AND DECLARATIONS**

The Commission finds and declares as follows:

### **A. PROJECT DESCRIPTION**

The detailed project description is described above under the substantial issue findings of this report and is incorporated herein by reference.

The standard of review is the certified Local Coastal Program and the public access and recreation policies of Chapter 3 of the Coastal Act.

### **B. COASTAL HAZARDS AND SEA LEVEL RISE**

Ocean Beach Community Plan Land Use Plan (LUP) Policy 7.3.4 states, in part:

*Allow the placement of shoreline protective devices, such as concrete seawalls, and revetments, only when required to serve coastal-dependent uses or when there is no other feasible means to protect existing principal structures, such as homes, in danger from erosion, consistent with Coastal Act Section 30235 and 30253. Use "soft" or "natural" solutions as a preferred alternative for protection of existing endangered structures. Shoreline protective works should be designed to blend with the surrounding shoreline and provide lateral public access. The seawall along the Bermuda Avenue beach is an excellent example of an appropriately designed shoreline protective work. Site and design development so it does not rely on existing or future shoreline protective devices.*

Ocean Beach Community Plan LUP Policy 7.3.5 states, in part:

*Develop and implement shoreline management strategies to ensure all shoreline development will provide long term protection of the coastal bluffs, beaches, and public coastal access in the community.*

[...]

- b. Tie a shoreline protective device to the life of the structure it has been permitted to protect and address the feasibility of removing such devices when the structure it is authorized to protect is demolished, redeveloped, or no longer requires a protective device, whichever occurs first. Include mitigation for shoreline armoring, if allowed, for coastal resource impacts, including but not necessarily limited to ecological impacts and impacts to shoreline sand supply and public access and recreation over the life of the protective device. Require periodic assessment of the need for additional mitigation and of changed site conditions that may warrant removal or modification of the protective device...*

Ocean Beach Community Plan LUP Policy 7.3.7 states:

*In the review of any Coastal Development Permits for bluff or shoreline protection devices, implementation should consider the following factors: an assessment of changes to geologic site and beach conditions, changes in beach width relative to sea level rise, implementation of any long-term large scale sand replenishment or shoreline restoration programs, and any ongoing impacts to coastal resources and public access and recreation from the existing device. Include in the permit review a reassessment of the need for the protective device, and provide options for the ultimate removal of the protective device.*

Ocean Beach Community Plan LUP Policy 7.6.3 states, in part:

*Use best available science and site-specific geotechnical reports as needed, to assess public and private projects for their vulnerability to impacts from sea level rise and, if vulnerable, propose a reasonable adaptation strategy. Analyze options for removal or relocation of structures that become threatened by coastal hazards. Use best available adaptation strategies that do not rely on shoreline protective devices in accordance with the California Coastal Act)...*

The proposed project is located within the City of San Diego's Sensitive Coastal Resource (SCR) Overlay Zone. Section 101.0480 of the City's Implementation Ordinances pertains to development located in the SCR zone and states, in part:

### *C. PERMITTED USES*

- 1. Beach areas. Permitted uses allowed in the beach areas, as shown on the SCR maps, shall be limited to the following:*

*[...]*

- e. Shoreline protective works necessary to prevent bluff and beach erosion, where needed to protect coastal dependent uses, public beach roadways, or existing principal structures in danger from wave and wind action, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.*

[...]

2. *Coastal Bluff Areas. Permitted uses allowed in the coastal bluff areas, as shown on the SCR Zone maps, shall be limited to the following:*

[...]

- b. Bluff repair and erosion control structures necessary to protect existing principal structures...*

[...]

#### *E. PERMITTED USES*

[...]

- a. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive coastal resources and environmentally sensitive areas.*

[...]

- c. The proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosion forces and/or flood and fire hazards.*
- d. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. Shoreline protective works will be designed to be the minimum necessary to adequately protect existing principal structures, to reduce beach consumption and to minimize shoreline encroachment.*

The certified LCP acknowledges that shoreline protective devices designed to forestall erosion alter natural landforms and natural shoreline processes resulting in a variety of negative impacts on coastal resources, including adverse effects on sand supply, public access and recreation, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, including ultimately resulting in the loss of beach. Thus, such devices are required to be approved only when necessary to protect existing principal structures or public beaches in danger from erosion, and only when designed to eliminate or mitigate adverse impacts on local sand supply.

The slope stability analysis performed by the applicant's engineer indicates that the slope at the site has experienced rapid erosion, and that further collapse of the upper bluff would threaten the residential structures at the top of the bluff. Slope stability analyses for the bluff at the subject site demonstrate a factor of safety of near 1.0. The factor of



safety is an indicator of slope stability where a value of 1.5 is the industry-standard value for geologic stability of new development placed on a slope. In theory, failure should occur when the factor of safety drops to 1.0, and no slope area with a proposed new-development footprint should have a factor of safety less than 1.5. These factors of safety alone may not necessitate shoreline protection. However, when taken in combination with the high rates of past and present bluff retreat, and the close proximity of the structures to the bluff edge, the geotechnical analysis concludes that shoreline protection is warranted.

The Commission's geologist and engineer have reviewed the geotechnical information provided by the applicant and concur that the proposed shoreline armoring is necessary to protect the two seaward residential structures on the subject site and that the armoring has been adequately designed to minimize its encroachment on public property. Following construction of the proposed mid and upper bluff shoreline protective device, the applicant's engineer has demonstrated that the factor of safety for the structures will be increased to at least 1.5.

Thus, given the significant bluff retreat that has occurred over the recent years, the low factor of safety on the subject bluff, and the close proximity of the structures to the bluff edge, substantial evidence has been provided to document that the existing primary blufftop structures are in danger from erosion. However, there are a variety of ways in which the threat from erosion could be addressed. Under the policies of the Coastal Act, the project must eliminate or mitigate adverse effects on shoreline sand supply and minimize adverse effects on public access, recreation, and the visual quality of the shoreline.

### **Alternatives**

The applicant's geotechnical report includes an alternatives analysis to demonstrate that no other feasible less-environmentally-damaging structural alternatives exist to address the threats to the residential structures at the top of the bluff (Ref. The Trettin Company Alternatives Analysis received November 17, 2015). Alternatives considered were to:

- Modify the threatened portions of the blufftop structures in order to increase bluff edge setbacks and avoid bluff retention devices

The subject blufftop lots are not large enough to modify the threatened portions of the blufftop structures in order to avoid the need for shoreline armoring in the relatively near future. Thus, modification would only delay the need for shoreline armoring for a short time.

- Increase Height of the Existing Lower Coastal Bluff Seawall and Reconstruct the Mid and Upper Bluff

The applicant has documented that the upper bluff is actively eroding due to subaerial erosion and will continue to do so if not fully armored. Thus, any alternative that does not

encompass the entire bluff face would not provide adequate protection for the threatened blufftop structures. Due to the steepness of the current bluff, it is would be infeasible to successfully install a geogrid structure with the current seawall height. Construction of a higher seawall would reduce the steepness of the bluff and would allow for the installation of a geogrid structure on the mid and upper bluff. However, lateral crib walls would need to be constructed on both the north and south sides of the geogrid structure as the geogrid structure would be significantly higher than the existing shotcrete/gunite bluff armoring adjacent to the north and the unarmored bluff adjacent to the south. This alternative would result in significant visual impacts and more landform alteration than the proposed project.

- Construction of Multiple Mid and Upper Bluff Structural Walls

As identified by the applicant, this alternative would include construction of a new approximately 8 ft. high mid bluff wall, a new approximately 8 ft. high upper bluff wall, geogrid structures on the bluff between the existing seawall and the mid bluff wall and between the new mid and upper bluff wall. Lateral crib walls would need to be constructed on both the north and south sides of the geogrid structure and the new mid and upper bluff walls as the new structures would be significantly higher than the existing gunite bluff armoring adjacent to the north and the unarmored bluff adjacent to the south. This alternative would result in significant visual impacts and more landform alteration than the proposed project.

- Installation of a Caisson, Grade Beam, and Tieback System in Rear Yard

This alternative would consist of installing drilled piers below or just seaward of the western walls of the structures and would not be preferable because the piers would soon become exposed and the drilled piers would need to be encased in shotcrete to prevent undermining of the blufftop structures. In addition, continued erosion would result in flanking of the existing permitted shoreline armoring to the north of the subject site.

- Improved drainage and landscaping

Improved drainage and landscaping atop the bluffs is another option that is typically considered. Appropriate drainage measures can help to stabilize some bluffs and extend the useful life of setbacks. Thus, Special Condition 1 requires that all runoff from impervious surfaces on the bluff be collected and drain towards the street, so that any drainage over the bluff face will be minimized and not adversely impact bluff stability. However, these measures alone will not address the entire identified threat to the existing bluff top structures.

- No project alternative

This alternative is not feasible because erosion of the bluff would continue to threaten the subject blufftop structures and would likely flank the existing permitted shoreline armoring to the north of the subject site which supports an existing blufftop residential structure.

The applicant concluded that the proposed mid and upper bluff shoreline armoring device represents the minimum necessary effort to prevent upper bluff collapse along this section of coastline and to adequately protect the existing blufftop structures subject to this permit. The Commission's staff engineer and geologist have reviewed the project and concur that there do not appear to be feasible less environmentally damaging alternatives that could be applied in this case to protect the subject bluff top structure which are in danger from erosion.

### **Duration of Armoring Approval**

While the Commission is required to approve shoreline armoring to provide protection for the subject bluff top structures, as discussed in greater detail below under Section C. Public Access and Recreation and D. Visual Resources/Alteration of Natural Landforms, the proposed shoreline armoring fronting the subject site will impact beaches and related habitats, and visually impair the coastal area. Thus, it is important to limit the life of the shoreline armoring to that of the structure it is required to protect.

Policy 7.3.4 of the LUP requires new development on a bluff top lot to be sited and designed so that it does not require the construction of new shoreline armoring or reliance on existing shoreline armoring. However, when the approval of shoreline armoring is not expressly linked to a particular bluff top structure, shoreline armoring can remain long after the structure it was required to protect has been removed, and therefore may encourage the construction of new structures in an unsafe location while continuing to adversely affect coastal resources, including sand supply and recreation. Therefore, consistent with Policy 7.3.5 of the LUP, Special Condition 2 limits the duration of the subject CDP approval to when the bluff top structures requiring protection are redeveloped (as defined in Special Condition 3), are no longer present (i.e. demolished), or no longer require the shoreline armoring approved under this CDP, whichever occurs first.

The Commission approved LCP-6-SAN-16-0043-3 (Previously Conforming Development) as submitted on October 6, 2016. This LCP amendment included an updated definition of bluff top redevelopment for the City of San Diego and went into effect on the day of Commission approval. Bluff top redevelopment is defined as alteration of greater than 50% of an existing structure's exterior walls, alteration of greater than 50% of the lateral or vertical load resisting system capacity of an existing structure, or an addition greater than 50% of an existing structure's gross floor area. Alterations to blufftop structures are cumulative over time on or after October 6, 2016. Thus, if in the future, the applicant proposed to modify 40% of the exterior walls or the lateral or vertical load resisting system capacity of the structure and then the applicant were to come back for a subsequent CDP to modify an additional 10% of the exterior walls or the lateral or vertical load resisting system capacity of the structure, the project would be considered redevelopment, because it would result in a cumulative alteration to 50% of the exterior walls or the lateral or vertical load resisting system capacity of the structure. Additions are also cumulative over time such that an initial 25% addition would not be considered redevelopment; but a subsequent 25% addition would result in a cumulative 50% increase in gross floor area, and would thus constitute redevelopment.

Consistent with the definition in the certified LUP, Special Condition 3 defines redevelopment as destruction, demolition, or removal of 50% or more of the structure's exterior walls, destruction, demolition, or removal of 50% or more of the capacity of the lateral or vertical load resisting system of the structure, or a 50% increase in gross floor area. The special condition further prohibits future development that is not otherwise exempt from coastal development permit requirements, including additions or redevelopment of the structures on the subject blufftop property, from relying on the permitted shoreline armoring to establish geologic stability or protection from hazards.

If in the future, the permittees seek a coastal development permit to construct additional bluff or shoreline protective devices, Special Condition 6 requires the applicant to include the submittal of sufficient information for the Commission to consider the need and potential alternatives.

### **Sea Level Rise**

Sea level rise has occurred on a local and global scale over the past century, and projections suggest that its rate may accelerate in the future. Since the proposed shoreline armoring is located directly adjacent to the ocean, sea level rise must be included in the project analysis to determine and avoid potential impacts associated with sea level rise, such as flooding or erosion. In March 2013, the State of California's Climate Action Team and Ocean Protection Council established the latest sea level rise guidance- with projected ranges in sea level rise of 0.13-0.98 ft. between 2000 and 2030, 0.39-2 ft. between 2000 and 2050, and 1.38-5.48 ft. between 2000 and 2100.<sup>1</sup> The Commission's Sea Level Rise guidance document, adopted in August 2015, found that the best available science suggests that sea level could rise by as much as 2 feet by the year 2050 and as much as 5.5 feet by the year 2100.<sup>2,3</sup>

The applicant has prepared a Sea Level Rise hazards study to address potential effects of Sea Level Rise and wave run up on the proposed shoreline armoring (Ref: GeoSoils Study dated November 1, 2016). The study identifies that the bedrock shelf fronting the existing seawall at the subject site is approximately 70 ft. wide and is at approximately +12 ft. NGVD29. The top of the existing seawall is at approximately +19 ft. NGVD29. The study states that wave runup action, spray and splash, and subaerial erosion have all impacted the natural bluff behind the existing seawall. This upper bluff erosion is the identified basis for needing the proposed upper bluff wall. The Geo Soils study further analyzed how the proposed shoreline armoring would be impacted throughout its 75 year design life taking into account maximum historic wave heights, maximum tidal ranges, and sea level rise estimates up to the year 2100. The runup analysis found that the

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1 Based on the latest and most relevant science presented in the 2012 National Research Council Study

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 California Coastal Commission Sea Level Rise Policy Guidance – Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs and Coastal Development Permits – Adopted August 12, 2015.

maximum wave runup would be +26 ft. NGVD29 with 1.2 ft. sea level rise and would be +34 ft. ft. NGVD29 with the 4.6 ft. sea level rise. Thus, under both scenarios wave run up would overtop the existing seawall and would cause significant erosion of the bluff it were to remain unarmored. However, the study found that while wave run up would reach the proposed mid and upper bluff shoreline armoring; the proposed design will provide a project that remains safe under the highest project sea level rise projections over the next 75 years. In addition, a supplemental geotechnical letter by Soil Engineering Construction Inc., finds that absent the proposed mid and upper bluff armoring, the upper bluff will continue to erode and the two seaward blufftop structures would need to be removed. The supplemental letter also concludes that the proposed shoreline armoring will not contribute to destabilization of the existing lower seawall and will have no impact on erosion elsewhere, on or off-site. Thus, the design of the proposed shoreline armoring has incorporated future sea level rise projections and adequately analyzed potential impacts.

### **Monitoring and Maintenance**

Additional conditions of approval ensure that the applicant and the Commission know when repairs or maintenance are required, by requiring the applicant to monitor the condition of the shoreline armoring at three-year intervals. The monitoring will ensure that the applicant and the Commission are aware of any damage to or weathering of the shoreline armoring and can determine whether repairs or other actions are necessary to maintain the shoreline armoring in its approved state. Special Condition 2 requires the applicant to submit a monitoring report that evaluates the condition and performance of the shoreline armoring and overall site stability, and to submit recommendations, if any, for necessary maintenance, repair, changes or modifications to the project. In addition, the condition requires the applicant to perform necessary repairs through the coastal development permit process, when required.

Special Condition 1 requires the applicant to submit a final approved site plan that includes the bluff top structures and square footage of all bluff top structures and property lines for the subject sites. In addition, final plans for the project must indicate that the shoreline armoring conforms to the bluff contours and demonstrate that any existing irrigation systems on the blufftop have been removed, as these would impact the ability of the shoreline armoring to adequately stabilize the site. The final plans shall also detail the location of any existing accessory improvements on the site. In addition, all runoff from the subject site shall be directed towards the street.

To assure the proposed shoreline armoring has been constructed properly, Special Condition 11 requires that, within 30 days of completion of the project, as built-plans and certification by a registered civil engineer be submitted that verifies the proposed shoreline armoring has been constructed in accordance with the approved plans. Special Condition 5 requires the applicant to submit a copy of any required permits from other local, state or federal agencies to ensure that no additional requirements are placed on the applicant that could require an amendment to this permit. Special Condition 15 requires that during all construction, copies of the signed coastal development permit and

approved construction plan shall be maintained on-site and that a construction coordinator be designated.

### **Deed Restriction and Waiver of Liability**

Due to the inherent risk of shoreline development, Special Condition 4 requires the applicant to waive liability and indemnify the Commission against damages that might result from the proposed shoreline devices or their construction. The risks of the proposed development include that the proposed shoreline devices will not protect against damage to the blufftop structures from bluff collapse and erosion. In addition, the structure itself may cause damage either to the blufftop structures or to neighboring properties by increasing erosion of the bluffs. Such damage may also result from wave action that damages the shoreline armoring. Although the Commission has sought to minimize these risks, the risks cannot be eliminated entirely. Given that the applicant has chosen to construct the proposed shoreline device despite these risks, the applicant must assume the risks.

To ensure that future buyers of the subject property receive notice of the CDP and its various restrictions, Special Condition 12 requires the applicant to record a deed restriction that incorporates a legal description of each affected parcel and all standard and special conditions required by this CDP.

In summary, the applicant has documented that the existing bluff top structures (which were originally constructed prior to the Coastal Act's enactment and pre-Proposition 20) are in danger from erosion and subsequent bluff collapse and that the proposed shoreline armoring is necessary to protect the blufftop structures. The above-described alternatives presented by the applicant support a conclusion that there is not a less-environmentally-damaging feasible structural alternative. The Commission's staff geologist and coastal engineer have reviewed the applicant's geotechnical assessment of the site along with the alternatives analysis and concur that the proposed shoreline armoring is necessary to protect the primary structures at the subject site. Therefore, the Commission finds that the proposed shoreline armoring, as conditioned, is consistent with the City's certified LCP and is the least environmentally damaging feasible structural alternative.

### **C. PUBLIC ACCESS AND RECREATION**

Pursuant to Section 30604(c), the Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast.

Section 30210 of the Coastal Act states:

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

Section 30211 of the Act states, in part:

*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 of the Act states, in part:

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

*(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*

*(2) adequate access exists nearby...*

Additionally, Section 30220 of the Coastal Act provides that coastal areas suited for water oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30240(b) requires that development in areas adjacent to recreation areas, such as the beach below the bluff, shall be sited and designed to prevent impacts which would significantly degrade those areas, and be compatible with the continuance of those recreation areas.

Additionally, Section E of the City of San Diego's SCR (Sensitive Coastal Resource) overlay zone requires, in part, that findings be made that:

*b) The proposed development will not encroach upon any existing physical accessway legally utilized by the public...*

Ocean Beach Community Plan LUP Policy 7.3.3 states:

*Work with San Diego Association of Governments, including pursuing grants, to implement a clean sand replenishment program to restore, maintain and enhance beach areas. Consider sea level rise when determining the need for sand replenishment.*

Ocean Beach Community Plan LUP Policy 7.3.5 (cited previously) requires that proposals for shoreline armoring include mitigation for impacts to sand supply and periodic reassessment of the need for additional mitigation.

LUP Policy 7.3.5 requires that shoreline protection be designed to eliminate or mitigate adverse impacts on local shoreline sand supply. An issue of major concern facing California today is the fast pace of disappearing beaches due to natural processes (i.e.

erosion, subsidence and storm events) and anthropogenic factors (coastal development and sand supply interruptions). Seawalls, revetments, and other types of hard armoring have long been used to protect backshore development from erosion and flooding, but future accelerated sea level rise and extreme storm events will heighten the rate of beach loss and potential exposure of the backshore to hazards. Some of the effects of a shoreline protective structure on the beach, such as scour, end effects, and modification to the beach profile are temporary or difficult to distinguish from all the other actions which modify the shoreline. However, it is known that hard armoring results in unintended ecological and public access consequences, such as loss of biodiversity and ecosystem services and displacement of recreational beach area with protective structures. In addition, seawalls also have non-quantifiable effects to the character of the shoreline and visual quality.

However, some of the effects which a structure may have on natural shoreline processes can be quantified. Three of the effects from a shoreline protective device which can be quantified are: 1) loss of the beach/bluff area on which the structure is located; 2) the long-term loss of beach/bluff which will result when the back beach/bluff location is fixed on an eroding shoreline; and 3) the amount of material which would have been supplied to the beach if the back beach or bluff were to erode naturally.

Loss of beach material and loss of beach area are two separate concerns. A beach is the result of both sandy material and a physical area between the water and the back beach. Thus, beach area is not simply a factor of the quantity of sandy beach material. In the Ocean Beach/Sunset Cliffs area of San Diego, the shoreline is a gently sloping sedimentary rock Point Loma Formation covered by a thin veneer of sand. The bedrock layer provides an area for collection of sandy material. The sand material is important to the overall beach experience, but even without the sand, the bedrock layer provides an area for coastal access between the coastal bluff and the ocean.

In the case of the subject project, the back line of the beach is already fixed by the existing lower seawall. In the future, the existing lower seawall will likely need to be removed, replaced, or substantially rehabilitated. At that time the applicant will likely be required to assess mitigation for impacts to lost recreation area on the bedrock shelf. However, the proposed mid and upper bluff shoreline armoring will not result in loss of physical beach/bluff area. Nevertheless, the proposed shoreline armoring is located on an actively eroding bluff and will result in some amount of bluff material not reaching the littoral cell.

The proposed shoreline armoring will halt or slow the retreat of the entire bluff face. The bluff, composed of Point Loma and Bay Point Formation, consists of a significant amount of compacted sand. As the bluff retreated historically, this sand was contributed to the littoral sand supply to nourish beaches throughout the region. The proposed seawall will halt this contribution to the littoral cell. Based on bluff geometry and the composition of the bluff materials, the applicant estimated that the seawall will prevent approximately 87 cubic yards of sand from reaching the littoral cell (based on a bluff erosion rate of 0.2 ft. /yr. and the shoreline armoring remaining in place for 20 years). At estimated sand cost of \$15.54 per cubic yard (provided by the applicant, and based on three estimates from local contractors); this sand would have a value of \$1,352 (Exhibit



6). Special Condition 7 requires that the applicant pay a sand mitigation fee to address the sand volume impacts from denial of sand to the littoral cell as a result of passive erosion. Through payment of the sand supply fee, the impact to sand supply is adequately mitigated. The funds shall be released only upon approval of an appropriate project by the Executive Director of the Coastal Commission. The funds shall be released as provided for in a MOA between SANDAG, or a Commission-approved alternate entity, and the Commission; setting forth terms and conditions to assure that the fund will be expended in the manner intended by the Commission. If the MOA is terminated, the Commission can appoint an alternative entity to administer the fund.

### **Staging and storage**

The use of the beach or public parking areas for staging of construction materials and equipment can also impact the public's ability to gain access to the beach. Special Condition 8 requires that the applicant submit a construction staging and material storage plan for the subject development. Special Condition 8 also prohibits the applicant from storing vehicles on the beach overnight or using any public parking spaces overnight for staging and storage of equipment, and prohibits washing or cleaning construction equipment on the beach or in the parking lot. The condition also prohibits work on the beach of bedrock shelf seaward of the existing seawall on weekends or holidays or between Memorial Day and Labor Day of any year.

In summary, while the proposed shoreline construction will reduce available sand supply, the project has been designed and conditioned to minimize these impacts to the public beach. Therefore, as conditioned, the proposed development can be found to be consistent with the City's certified LUP and with the public access and recreation policies of the Coastal Act.

## **D. VISUAL RESOURCES/ALTERATION OF NATURAL LANDFORMS**

Ocean Beach Community Plan LUP Policy 7.3.4 (Cited Previously) requires that shoreline protective works be designed to blend with the surrounding shoreline.

Section E of the City of San Diego's SCR overlay zone requires, in part, that findings be made that:

*(b) The proposed development will not...obstruct views to and along the ocean and other scenic coastal areas from public vantage points.*

The proposed shoreline armoring has the potential to adversely impact the visual resources of the existing natural bluffs, because it will alter the natural appearance of the bluffs. However, the design technology of shoreline devices has improved dramatically over the last two decades; today, shoreline devices typically incorporate sculpted and colored concrete that upon completion closely mimic the natural surface of the bluff face. The applicant is proposing to color and texture the proposed shoreline armoring similar to the visual treatment approved by the Commission in recent years for other shoreline

devices in the City of San Diego, which will mitigate the visual impacts to the extent feasible. Special Condition 2 requires the submittal of final detailed plans, color samples, and information on construction methods and technology for the surface treatment of the upper bluff wall extension. Therefore, as conditioned, the Commission finds the project is consistent with the City's certified LCP.

#### **E. PROTECTION OF COASTAL WATERS/BMP'S**

Ocean Beach Community Plan LUP Policy 6.4.3 states:

*Require all storm water and urban runoff drainage into resource-based parks or open space lands to be captured, filtered or treated before entering the area.*

Ocean Beach Community Plan LUP Policy 7.1.6 states:

*Encourage pollution control measures to promote the elimination of pollutant sources, and the proper collection and disposal of pollutants at the source, rather than allowing them to enter the storm drain system and receiving waters.*

Ocean Beach Community Plan LUP Policy 7.4.1 states:

*Apply all Best Management Practices found in General Plan, Conservation Element Section C, D and E, to reduce the impacts of construction on adjacent properties and open space or other environmentally sensitive areas. Evaluate and update the management practices to account for changes in water quality that could arise as a result of sea level rise impacts, as applicable.*

Ocean Beach Community Plan LUP Policy 7.4.4 states:

*Repair and maintain drainage structures that discharge directly to, or are within, open spaces.*

Special Condition 8 requires that during the construction of the project, the permittee may not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. Additionally, to further assure that the subject development will not result in the pollution of the ocean waters, Special Condition 9 requires the applicant to submit a Best Management Practices Plan that incorporates structural and nonstructural Best Management Practices (BMPs), for Executive Director approval, for the construction of the proposed shoreline armoring. Construction methods must be devised to assure that shotcrete material does not mix with or pollute ocean waters. With appropriate BMPs, the potential for this polluted material from the site making its way into the ocean will be eliminated. Therefore, as conditioned, the Commission finds the proposed development consistent with the marine and water quality protection policies of the Coastal Act.

## **F. LOCAL COASTAL PLANNING**

The City has a certified LCP and issues coastal development permits for the Ocean Beach community pursuant to the certified LCP. Based on the above findings, the proposed shoreline armoring, as conditioned, can be found consistent with the certified LCP. Therefore, the Commission finds that approval of the proposed shoreline armoring, as conditioned, would not prejudice the ability of the City of San Diego to continue to implement its certified LCP.

## **F. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The City acted as the lead agency for CEQA purposes and determined that the project was categorically exempt pursuant to CEQA Guidelines Section 15301 (Existing Facilities). 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 certified LCP and with the public access and recreation policies of the Coastal Act. Mitigation measures, including conditions addressing mitigation for sand supply impacts, authorization terms for the shoreline armoring, and a monitoring/maintenance program 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.

## **APPENDIX A**

### **SUBSTANTIVE FILE DOCUMENTS:**

- Appeal by Commissioner Bochco dated September 27, 2016
- Appeal by Commissioner Shallenberger dated September 26, 2016
- Site Plans, titled Nover Bluff Repair, by Soil Engineering Construction, dated August 15, 2016
- City of San Diego Resolution No. HO-6951
- Coastal Hazard Study for Proposed Bluff Repair, 1759-1765 Ocean Front, San Diego, San Diego County, California, 92107, by GeoSoils Inc., dated November 1, 2016
- Sand Supply Mitigation Calculations, by The Trettin Company, received November 10, 2016
- City of San Diego Certified LCP
- Ocean Beach Community Land Use Plan
- CDP Nos.:
  - F9620 approved 3/20/1981 - *Sunset Cliffs Shoreline and Upper Cliff Stabilization Project*
- The Trettin Company Alternatives Analysis received November 17, 2015
- Supplemental Geotechnical Letter, by Soil Engineering Construction, Inc., dated January 9, 2017

# PROJECT LOCATION



EXHIBIT NO. 1
APPLICATION NO. <b>A-6-OCB-16-0086</b>
Project Location
 California Coastal Commission

Google Maps

# SITE PLAN

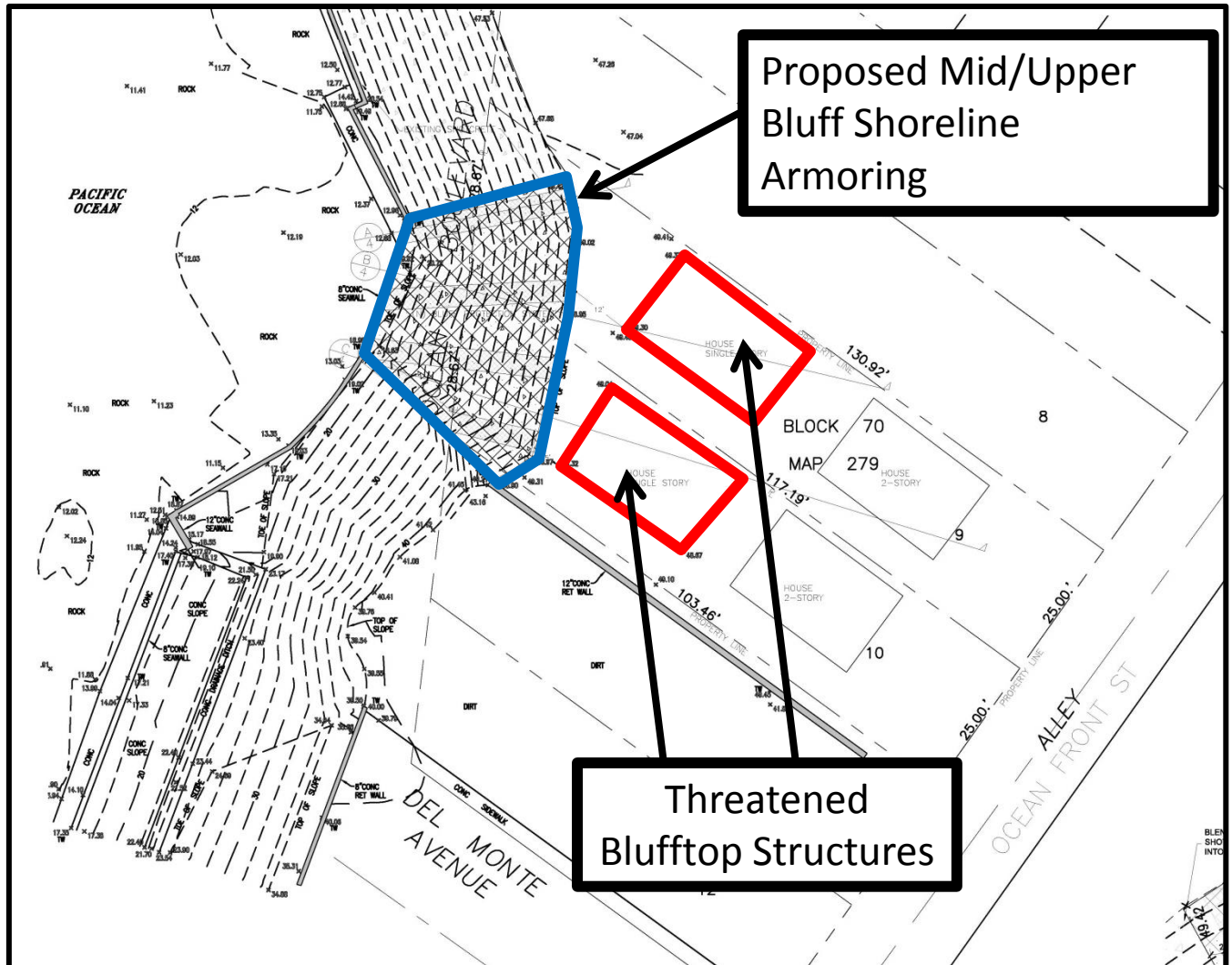


EXHIBIT NO. 2

APPLICATION NO.

**A-6-OCB-16-0086**

Project Location



California Coastal Commission



## PROJECT PHOTOGRAPH



EXHIBIT NO. 3

APPLICATION NO.

**A-6-OCB-16-0086**

Project Photo



California Coastal Commission



# PROJECT SIMULATION

Photo Simulation of Completed Nover Project



EXHIBIT NO. 4

APPLICATION NO.

**A-6-OCB-16-0086**

Project Location



California Coastal Commission

Photo Simulation Provided by Applicant



**CALIFORNIA COASTAL COMMISSION**

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



November 19, 2015

Will Zounes  
 City of San Diego Development Services  
 1222 First Avenue, MS 501  
 San Diego, CA 92101

Re: Nover Bluff Repair CDP/SDP, Project No. 400177

Dear Mr. Zounes,

Commission staff has received the City's assessment letter, Cycle Issues Report, and the applicant's responses, as well as the geotechnical report and project plans for the above-mentioned project and would like to take this opportunity to comment. The proposed development is for new mid- and upper-bluff stabilization on the coastal bluff fronting 1759-1765 Ocean Front Street in Ocean Beach, San Diego.

The Ocean Beach community has a fully certified LCP, and the site is within the City of San Diego's coastal development permitting jurisdiction. The site is in an area appealable to the Coastal Commission. The LCP for this area consists of the Ocean Beach Community Plan (OBCP) and the City's Land Development Code (LDC). As the site contains sensitive coastal bluffs as defined by the LDC, the Environmentally Sensitive Lands (ESL) regulations of the LDC apply. The LDC also contains the Coastal Bluffs and Beaches Guidelines, which assist in the interpretation and implementation of the development regulations for sensitive coastal bluffs and beaches contained in the ESL regulations.

The proposed development includes removal of the existing wooden retaining walls on the slope that are described as unpermitted, installation of tieback anchors into the slope, and covering the slope with reinforced shotcrete. The proposed development is intended to protect the existing residential structures on the bluff top from danger of erosion, and will connect to the existing concrete retaining wall at the toe of the bluff, which was permitted by the Coastal Commission as part of the Sunset Cliffs Stabilization Project in 1978 (CDP #F9620). According to the project agent, the existing residential structures were originally constructed between 1926 and 1927.

The City's review of the proposed development for compliance with the LDC in the provided Cycle Issues Report is thorough and comprehensive. However, all development within the City's coastal zone must also be reviewed for compliance with the certified land use plan (LUP). Although the subject project was submitted to the City while the Ocean Beach Precise Plan was the certified LUP, the Commission recently approved with modifications a comprehensive update to the Precise Plan, re-named the Ocean Beach Community Plan (OBCP). The City Council adopted the Commission's modifications to the OBCP on November 9, 2015. The Commission believes the proposed development should be reviewed for compliance with the newly adopted plan as the updated plan is more protective of coastal resources and addresses climate change impacts.

<b>EXHIBIT NO. 5</b>
APPLICATION NO. <b>A-6-OCB-16-0086</b>
<b>CCC Staff Comments</b>
 California Coastal Commission

and adaptation issues. The certified OBCP contains several policies regarding development of shoreline protective devices and shoreline management strategies that are directly relevant to the proposed development:

- Policy 7.3.4 allows construction of new shoreline protective devices only when required to protect coastal-dependent uses or when there is no other feasible means to protect existing principal structures from danger of erosion, consistent with Coastal Act Section 30235 and 30253. Policy 7.3.4 also states that soft or natural alternatives, such as landscaping, are preferred alternatives for protection of existing endangered structures and that any shoreline protective device should be designed to blend with the surrounding shoreline and provide lateral public access.
- Policy 7.3.6 requires shoreline protective devices to be tied to the life of the structure they are permitted to protect; analysis of the feasibility of removing the device when the structure it is authorized to protect is demolished, redeveloped, or no longer requires a protective device, whichever occurs first; mitigation for shoreline armoring for coastal resource impacts including but not limited to ecological impacts and impacts to shoreline sand supply and public access and recreation over the life of the protective device; and periodic assessment of the need for additional mitigation and of changed site conditions that may warrant removal or modification of the protective device.
- Policy 7.3.8 requires that CDP reviews for any bluff or shoreline protective device consider an assessment of changes to geologic site and beach conditions; changes in beach width relative to sea level rise; implementation of any long-term, large scale sand replenishment or shoreline restoration programs; any on-going impacts to coastal resources and public access and recreation from any existing protective devices; an assessment of the need for the protective device; and options for the ultimate removal of the protective device.
- Policy 7.3.9 encourages the retreat of existing development from the coastal bluff edge, and requires any existing previously conforming structures on a bluff top to be brought into conformance with current LCP policies and standards including bluff edge setbacks when such structures are redeveloped.
- Policy 7.6.3 requires analysis of public and private projects for their vulnerability to impacts from sea level rise and, if vulnerable, proposal of reasonable adaptation strategies, as well as analysis of options for removal or relocation of structures that become threatened by coastal hazards.

Thus, to be found consistent with these policies, the applicant should provide and the City should review the following items:

- An assessment of soft or natural alternatives for erosion control;
- An analysis of the feasibility of and options for removing the proposed and existing protective device(s) when the existing principal structures are demolished, redeveloped, or no longer require a protective device;
- A plan for mitigating ecological impacts and impacts to shoreline sand supply and public access and recreation over the life of the proposed protective device;

- An assessment of current geologic site and beach conditions and any changed conditions from the time of installation of the existing retaining wall, including changes in beach width relative to sea level rise; implementation of any long-term, large scale sand replenishment or shoreline restoration programs; and any on-going impacts to coastal resources and public access and recreation from the existing retaining wall;
- Detailed information on how the proposed development will repair, modify, or depend on the existing retaining wall;
- An analysis of the existing conditions and performance of the existing retaining wall, including any monitoring reports;
- Clarification of the unpermitted status of the existing wooden retaining structures;
- A visual impact analysis demonstrating that the proposed development will blend in with the surrounding shoreline, including geogrid as an alternative and options for aesthetically treating the existing retaining wall;
- A detailed history of what improvements, repairs, and other developments have been done to the existing principal structures, and an analysis of options for removal or relocation of the structures such that they are safe from geologic and other hazards; and,
- An analysis of the proposed development's vulnerability to sea level rise and proposal of reasonable adaptation strategies if vulnerable.

If the proposed development is found to be consistent with the certified LCP based on review of the above-stated items and those identified in the City's Cycle Issues Report as required for additional analysis, the conditions of approval of the proposed development should include the provisions of Policy 7.3.6 as stated above.

Commission staff appreciates consideration of this letter in review of the coastal development permit for the proposed project, and would appreciate being provided with the above information when made available by the applicant. The Commission's technical staff will be reviewing this project as well, particularly the demonstration that the existing principal structures are at risk and that the proposed development is the minimum necessary to protect the structures, and planning staff will follow up with any questions they may have. Please let me know if you have any questions or concerns in the meantime, and we look forward to working with you more on the review of this proposed development.

Sincerely,



Brittney Laver  
Coastal Program Analyst

cc: Deborah Lee, Coastal Commission  
Bob Trettin, Project Agent

The Trettin Company  
Community & Government Relations / Project Development

**RECEIVED**

NOV 10 2016

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

**Proposed Voluntary Sand Mitigation Fee  
Nover; 1759-65 Ocean Front;  
Coastal Commission Appeal #A-6-OCB-16-0086**

As there is an existing permitted seawall situated on the Pt. Loma Formation at the subject property, it is difficult to utilize the Commission Sand Mitigation Worksheet to provide a determination of coastal bluff sand that would be retained by the proposed project. Virtually all bluff materials are being retained by the existing seawall. The proposed project is designed to address significant surficial stability issues that threatened the residential structure at the top of bluff. As these materials fail, however, most of beach quality sand would remain trapped landward of the existing seawall.

For the reason stated above, we are not using certain elements of the formula that are fully related to the existing seawall:

- \*\* Formula element "Ve" equals of the volume of sand necessary to replace the area of beach lost due to encroachment by the seawall.

The project does not propose to build a seawall, as a seawall already exists. The seawall is situated on top of the approximately 70' wide and 12' high Pt. Loma Formation. The wall rises to a height of +/- 19'. The majority of the Pt. Loma Formation is exposed at low to moderate tides and there is no sand in this area.

Based on these factors, the proposed voluntary sand fee will not utilize "Ve" in determining a responsible sand mitigation payment.

- \*\* Formula element "Vw" equals the volume of sand necessary to replace the beach area that would have been created by the natural landward migration of the beach profile with a seawall.

Again, the project does not propose to build a new seawall. The existing seawall was constructed on a +/- 12' high Pt. Loma Formation shelf that extends some 70' in width. The natural landward migration of the beach profile without the existing seawall would be 0'/yr. until such time that the Pt. Loma Formation had eroded / failed to the toe of the seawall. Such erosion / failure is unlikely to occur within the next century. The seawall, and the proposed project, are protecting the mid- to upper bluff profile, which would change dramatically and quickly without these protections, resulting in the near future loss of two residential units on the project site.

Based on these site conditions and the prior existence of a seawall that is not an element of the proposed project, the proposed voluntary sand fee will not utilize "Vw" in determining a responsible sand mitigation payment.

- \*\* Formula element "Vb" accounts for the volume of beach material that would have been supplied to the beach if natural erosion continued, based on long-term regional bluff retreat, design life of the residences, percent of beach quality material in the bluff, and bluff geometry.

Again, formula element "Vb" assumes construction of a seawall, and the existing s accounts for virtually all of the beach quality sand being retained that would othe beach through natural erosion / failure processes.

EXHIBIT NO. 6
APPLICATION NO. <b>A-6-OCB-16-0086</b>
Sand Mitigation
 California Coastal Commission

The applicant recognizes, however, that the proposed project will encompass the bluff face and abut the top of the existing seawall, thereby eliminating the opportunity for the significant quantities of wave over-splash that land on the bluff from building up behind the existing seawall. There is some logic in noting, therefore, that the current proposed project has the potential to contribute, in a limited manner, to extending the life of the existing seawall and is, indeed, dependent to some extent on the continued presence of the existing seawall.

For this reason, the applicant volunteers to provide a sand mitigation payment based on a determination of the sand mitigation worksheet's formula element "Vb". Should maintenance of the existing seawall be taken at some future time, the applicant requests acknowledgement of this current payment during consideration of a future sand mitigation fee.

The following values are being assigned to variables in formula element Vb:

- W = Width of property to be armored;  
The property is wedge-shaped (approx. 25' wide at the base and 50' wide at the top of bluff. An average value of 37' is being utilized in the formula.
- S = Fraction of beach quality material;  
Consistent with recent Ocean Beach projects, the value used for "S" is .53, a weighted average using 0.40 for Point Loma and 0.70 for Bay Point.
- R = Retreat rate which is based on historic erosion;  
Consistent with recent projects a rate of 0.2'/yr. is being utilized.
- L = Length of time the back of beach or bluff will be fixed;  
For purposes of mitigation: 20 years.
- Hs = Height of the seawall from the base to the top of bluff;  
As there is an existing seawall situated on top of the Pt. Loma Formation (base of wall at +12' above 0 MSL) rising to a height of +19' above 0 MSL, the applicant is assigning a value of 30' to Hs (from +19 at TOW to +49 at TOB), which encompasses the work area proposed in the current project.

Rcu = 0.20      Rcs = 0

FORMULA

$$Vb = (S \times W \times L) \times [(R \times hs) + (1/2 \times hu \times (R + (Rcu - Rcs)))] / 27$$

$$Vb = (.53 \times 37 \times 20) \times [(.2 \times 30) + (0 \times (.2 + (.2 - 0)))] / 27$$

$$Vb = (392.2) \times [(6) + 0] / 27 \quad Vb = 87.16 \quad Vt = 87.16$$

$$M = Vt \times C: 87.16 \times \$15.54 = \$1,351.98^{**}$$

\*\* (this proposal utilizes an average for the 3 bids obtained in July, 2016 for another Ocean Beach project on Pescadero Drive.)

In summary, the applicant agrees to a voluntary sand mitigation payment of \$1,351.98 and agrees to the inclusion of a Special Condition requiring that, prior to the end of the 20 year period from the Commission's approval of the project, the applicant or his heirs / successors-in-interest will process a CDP Amendment to provide for additional future mitigation.

Respectfully Submitted



BOB TRETTIN, Principal  
The Trettin Company

HEARING OFFICER RESOLUTION NO. HO-6951  
COASTAL DEVELOPMENT PERMIT NO. 1402059 and SITE DEVELOPMENT PERMIT NO. 1402060  
**NOVER BLUFF REPAIR PROJECT NO. 400177**

WHEREAS, NOVER LIVING TRUST dated March 23, 1989, Edward P. Nover and Helga E. Nover, Trustees, Owner/Permittee, filed an application with the City of San Diego for a permit to allow a coastal bluff protection device on the coastal bluff on the land-ward side of and above an existing concrete sea wall at the base of the bluff. The Project would occur on the coastal bluff from the top of an existing concrete sea wall to the top of the bluff at 1759-1765 Ocean Front Street and include drain outlets to drain any accumulated water from behind the coastal bluff protection device out onto the face of the wall, tie-back anchors, and all other necessary design detail features (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 1402059 and 1402060), on portions of a 0.13 acre site;

WHEREAS, the Project site is located at 1759-1765 Ocean Front Street in the RM-2-4 zone within the Ocean Beach Community Plan Area;

WHEREAS, the Project site is legally described as Lots 9, 10, 11 and 12, in Block 70, of Ocean Beach, according to Map thereof No. 279, filed May 28, 1887, Excepting therefrom that portion, if any, lying below the mean high tide line of the Pacific Ocean;

WHEREAS, on August 10, 2016, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 1402059 and Site Development Permit No. 1402060 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on June 29, 2016, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an environmental determination the Project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) under CEQA Guideline Section 15301 (Existing Facilities); and there was no appeal of the environmental determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

NOW, THEREFORE, BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated August 10, 2016.

FINDINGS:

**Findings for all Site Development Permits – SDMC § 126.0504**

**(1) The proposed development will not adversely affect the applicable land use plan.**

The Nover Bluff Repair project (Project) proposes a coastal bluff protection device with shotcrete concrete textured, colored and hand sculpted installation to blend to the

EXHIBIT NO. 7
APPLICATION NO. <b>A-6-OCB-16-0086</b>
City Resolution
 California Coastal Commission

possible with the natural coastal bluff. The newly updated Ocean Beach Community Plan Section 7.3.4 states:

*"... Shoreline protective works should be designed to blend in with the surrounding shoreline ..." "The seawall along the Bermuda Avenue beach is an excellent example of an appropriately designed shoreline protective work."*

The proposed Project will apply a sculpted and color-treated covering of the degraded bluff face which adheres to the existing topography of the bluff and appears far more natural than what presently exists or any other viable alternative.

The Bermuda Avenue seawall was designed and constructed by Soil Engineering Construction, Inc. (S.E.C.), the engineer and contractor of record for the proposed Project. The shotcrete concrete textured, colored and hand sculpted installation proposed for the Nover bluff is similar to the treatment provided in the referenced Bermuda Avenue seawall, and based on the photo simulations of how the finished Project would appear, the proposed Project will conform to the high standards for shoreline protective devices developed in Ocean Beach. Therefore, the proposed development will not adversely affect the applicable land use plan.

**(2) The proposed development will not be detrimental to the public health, safety, and welfare.**

The Nover Bluff Repair project (Project) proposes a coastal bluff protection device which will be a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff. The Project will not be detrimental to public health, safety and welfare in that the permit controlling the development and continued use of the Project for this site contains specific conditions addressing compliance with the City's codes, policies, and regulations, as well as other regional, state, and federal regulations to prevent detrimental impacts to the health, safety and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls, the review of all construction plans by professional staff to determine construction will comply with all regulations, and the inspection of construction to assure construction permits are implemented in accordance with the approved plans, and that the final construction will comply with all regulations. Therefore, the proposed development will not be detrimental to the health, safety, or general welfare of persons residing or working in the area.

**(3) The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.**

The Nover Bluff Repair project (Project) proposes a coastal bluff protection device which will be a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff. The Project complies with all the development regulations of the applicable zone. The Project does not require any deviations or a variance. Therefore, the Project will comply with all relevant regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.

**Supplemental Findings--Environmentally Sensitive Lands**

**(1) The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.**

The Nover Bluff Repair project (Project) proposes a coastal bluff protection device on the coastal bluff on the land-ward side of and above an existing concrete sea wall in order to minimize disturbance to environmentally sensitive lands in the vicinity. The Project will not result in any further seaward development. Construction design techniques will utilize a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff. The existing bluff is presently severely damaged and continues to erode. Without any action the existing bluff will continue to erode. The proposed Project will halt further erosion of the bluff face and will protect the existing bluff and residential structures above the bluff. The coastal bluff protection device is the least damaging alternative available to remedy the situation. The use of a geogrid re-manufactured bluff wall will not be a practical solution. Constructing a geogrid re-manufactured bluff wall would require excavation on the bluff which, due to the length of the geogrid, would undermine the existing structures or, alternatively, temporary shoring to protect the existing structures during construction. The temporary shoring would be more disruptive than the current proposal. In addition, the face of a geogrid re-manufactured bluff wall would have the appearance of a manufactured fill slope rather than a natural bluff. Sufficient space for a geogrid re-manufactured bluff wall does not exist between the bluff face and the existing structures to provide adequate slope stability factors-of-safety utilizing a geogrid alternative. The proposed Project will apply a sculpted and color-treated covering of the degraded bluff face which adheres to the existing topography of the bluff and appears far more natural than what presently exists or any other viable alternative. Implementation of the Project will protect the remaining environmentally sensitive lands present to the south and will protect the residential structures on the property. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

**(2) The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.**

The Nover Bluff Repair project (Project) proposes a coastal bluff protection device which will be a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff. Similar to dozens of coastal bluff protective measures implemented along the San Diego coastline, the proposed Project and the City-built seawall will be and are providing support to different areas of the coastal bluff. The City of San Diego seawall, at the base of the bluff, prevents waves from undercutting the bluff that would ultimately result in shear failures at or near the base of the bluff. The proposed Project responds to the extreme surficial instability on the bluff. No grading will occur with the implementation of the Project. The Project will minimize undue risks from erosional forces by covering the surface of the bluff with a coastal bluff protection device. The Project would include a shotcrete concrete textured, colored and hand sculpted to blend to the greatest extent possible with the natural coastal bluff. The site is not within a flood way or flood plain and is not within or adjacent to an area of undeveloped natural terrain which contains a natural wildfire hazard. Therefore the Project will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.



**(3) The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.**

The Nover Bluff Repair project (Project) will construct a coastal bluff protection device on the coastal bluff on the land-ward side of an existing concrete sea wall and extending up from the base of the bluff west of 1759-1765 Ocean Front Street to the top of the bluff. The Project will be confined within the boundaries of the existing disturbed areas and will not encroach into any natural bluff area. To the north is another coastal bluff face covered in gunite concrete, to the south is an unimproved, unaltered coastal bluff. The proposed Project will have no adverse impacts on the adjacent environmentally sensitive lands to the south and there are no environmentally sensitive lands to the north or east. Therefore the proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

**(4) The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.**

The project site is not within the Multi-Habitat Planning Area of the City's Multiple Species Conservation Plan, and neither connects or is adjacent to any lands designated as Multi-Habitat Planning Area. The Nover Bluff Repair project (Project) proposes a coastal bluff protection device which will be a shotcrete concrete textured, colored and hand sculpted installation will blend to the greatest extent possible with the natural coastal bluff. Therefore the development is consistent with the City of San Diego's Multiple Species Conservation Program Subarea Plan in that the site is not within the Multi-Habitat Planning Area of the City's Multiple Species Conservation Plan, and neither connects or is adjacent to any lands designated as Multi-Habitat Planning Area.

**(5) The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.**

The Nover Bluff Repair project (Project) proposes a coastal bluff protection device which will be a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff. In 1978, the City of San Diego received Coastal Commission approval of the Sunset Cliffs Stabilization Project. That City project included construction of a lower coastal bluff seawall, portions of which exist seaward of the proposed Project site.

The proposed Project is to stabilize a coastal bluff face at imminent risk of failure. Because there is an existing City of San Diego-built seawall between the proposed Project and the public tidal beach area, the proposed Project will have no impact on sand supply, beach access or public recreational opportunities. Further, there is no beach sand located at the base of the bluffs in this area. At the base of the coastal bluff and only at low tide is a rocky area. There is no existing beach. A narrow tide pool area, based in formational materials, is available for lateral public access only at periods of and during low tides. Further, in that the coastal bluff protection device will be a shotcrete concrete application on the coastal bluff and cover the bluff completely with an impervious material and no beach exists at the base of the bluff, no erosion of public beaches will occur because there is no beach to erode. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

**(6) The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.**

The Nover Bluff Repair project (Project) proposes a coastal bluff protection device which will be a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff. The proposed Project will apply a sculpted and color-treated covering to the degraded bluff face which adheres to the existing topography of the bluff and appears more natural than what presently exists or any other viable alternative.

The proposed Project activity is exempt from CEQA pursuant to Section 15301 (Existing facilities) of the State CEQA Guidelines. Therefore, there is no mitigation required as a condition of the permit and there are no negative impacts created by the proposed Project.

**Finding for all Coastal Development Permits - SDMC § 126.0708**

**(1) The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.**

The Nover Bluff Repair project (Project) proposes a coastal bluff protection device which will be a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff. The proposed Project will apply a sculpted and color-treated covering of the degraded bluff face which adheres to the existing topography of the bluff and appears more natural than what presently exists or any other viable alternative.

The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan in that there is no existing or proposed physical accessway identified in the Local Coastal Program land use plan. In addition, because there is an existing City of San Diego-built seawall between the proposed Project and the public tidal area, the public has no physical access to the coastline. Therefore, the proposed Project will have no impact on beach access or public recreational opportunities. Further, there is no beach located at the base of the bluffs in this area. At the base of the coastal bluff and only at low tide is a rocky area. There is no existing beach. A narrow tide pool area, based in formational materials, is available for lateral public access only at periods of and during low tides.

The proposed coastal development will be a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff. The Ocean Beach Community Plan does not identify any public views to and along the ocean and other scenic coastal areas across the site and therefore the Project will have no effect upon public views. The natural appearance of the shotcrete concrete textured, colored and hand sculpted installation will enhance the esthetics of the Project. The site is located at 1759-1765 Ocean Front Street within the Ocean Beach Community Plan area. The Ocean Beach Community Plan does not identify any existing or proposed physical accessway from this site to any coastal resources and

there are no public access easements recorded on the title of the property. Therefore the proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan.

Furthermore, the Ocean Beach Community Plan, the adopted Local Coastal Program land use plan, does not identify any public views from this private property to and along the ocean which is immediately east of the Pacific Ocean. In addition, the proposed coastal development will not degrade and will not remove, eliminate, or detract any protected public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan from this site in that the proposed coastal development will be a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff.

**(2) The proposed coastal development will not adversely affect environmentally sensitive lands.**

The Nover Bluff Repair project (Project) proposes a coastal bluff protection device which will be a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff. The coastal bluff is an environmentally sensitive landform which requires a sensitive design solution because of its location. The proposed coastal bluff protection device is on the coastal bluff on the land-ward side of and above an existing concrete sea wall at 1759-1765 Ocean Front Street on an existing bluff face which has been documented by licensed geologists to be failing and the failure of which threatens the safety and utility of four existing cottages on the property at 1759-1765 Ocean Front Street. The coastal bluff protection device is the least damaging alternative available to remedy the situation. The use of a geogrid re-manufactured bluff will not be a practical solution. Constructing a geogrid re-manufactured bluff would require excavation on the bluff which, due to the length of the geogrid, would undermine the existing structures or, alternatively, temporary shoring to protect the existing structures during construction. The temporary shoring would be more disruptive than the current proposal. In addition, the face of a geogrid re-manufactured bluff would have the appearance of a manufactured fill slope rather than a natural bluff. Sufficient space for a geogrid re-manufactured bluff does not exist between the bluff face and the existing structures to provide adequate slope stability factors-of-safety utilizing a geogrid alternative. The proposed Project will apply a sculpted and color-treated covering of the degraded bluff face which adheres to the existing topography of the bluff and will appear more natural than what presently exists or any other viable alternative. The proposed Project is the most sensitive and least intrusive design solution necessary to remedy the failure of the existing bluff face which threatens residential structures. In that the coastal bluff protection device will include a shotcrete concrete, textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff, the proposed coastal development will not adversely affect environmentally sensitive lands.

**(3) The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.**

The Nover Bluff Repair project (Project) proposes a coastal bluff protection device which will be a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff. The newly updated Ocean Beach Community Plan / LUP Section 7.3.4 of the Community Plan states:

*"... Shoreline protective works should be designed to blend in with the surrounding shoreline ..." "The seawall along the Bermuda Avenue beach is an excellent example of an appropriately designed shoreline protective work."*

The proposed Project will apply a sculpted and color-treated covering of the degraded bluff face which adheres to the existing topography of the bluff and will appear more natural than what presently exists or to any other viable alternative. No deviations or variance is required to approve the Project. Therefore, the proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program. For additional information see Site Development Permit Finding No. 1 above.

**(4) For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

The Nover Bluff Repair project (Project) proposes a coastal bluff protection device which will be a shotcrete concrete textured, colored and hand sculpted installation to blend to the greatest extent possible with the natural coastal bluff. The proposed coastal bluff protection device is on the coastal bluff on the land-ward side of and above an existing concrete sea wall at 1759-1765 Ocean Front Street. The Project location is between the nearest public road and the Pacific Ocean, however, there is no existing or planned public access from Ocean Front Street to the tidal pool area and exposed formational materials beyond the Project site below the coastal bluff. The proposed coastal bluff protection device is entirely on private property and is only necessary to protect existing structures. The tidal pool area west of the City-built sea wall is accessible only at and during periods of low tide by means of lateral access along the coast. The proposed coastal bluff protection device will have no negative impact upon and is therefore in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit No. 1402059 and Site Development Permit No. 1402060 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms

and conditions as set forth in Permit Nos. 1402059 and 1402060, a copy of which is attached hereto and made a part hereof.

---

John S. Fisher  
Development Project Manager  
Development Services

Adopted on: August 10, 2016

IO#: 24005399

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION  
501

**WHEN RECORDED MAIL TO**  
**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 501**

INTERNAL ORDER NUMBER: 24005399

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 1402059 and SITE DEVELOPMENT PERMIT NO. 1402060  
**NOVER BLUFF REPAIR PROJECT NO. 400177**  
HEARING OFFICER

This Coastal Development Permit No. 1402059 and Site Development Permit No. 1402060 is granted by the Hearing Officer of the City of San Diego to NOVER LIVING TRUST dated March 23, 1989, Edward P. Nover and Helga E. Nover, Trustees, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0704 and 126.0504. The 0.13-acre site is located at 1759-1765 Ocean Front Street in the RM-2-4 zone within the Ocean Beach Community Plan Area. The project site is legally described as Lots 9, 10, 11 and 12, in Block 70, of Ocean Beach, according to Map thereof No. 279, filed May 28, 1887, Excepting therefrom that portion, if any, lying below the mean high tide line of the Pacific Ocean.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a coastal bluff protection device on the coastal bluff on the land-ward side of and above an existing concrete sea wall at the base of the bluff. The project would occur on the coastal bluff from the top of an existing concrete sea wall to the top of the bluff at 1759-1765 Ocean Front Street and include drain outlets to drain any accumulated water from behind the coastal bluff protection device out onto the face of the wall, tie-back anchors, and all other necessary design detail features as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated August 10, 2016, on file in the Development Services Department.

The project shall include:

- a. A coastal bluff protection device on the coastal bluff on the land-ward side of and above an existing concrete sea wall at the base of the bluff. The project would occur on the coastal bluff from the top of an existing concrete sea wall to the top of the bluff at 1759-1765 Ocean Front Street and include drain outlets to drain any accumulated water from behind the coastal bluff protection device out onto the face of the wall, tie-back anchors, and all other necessary design detail features as shown on the Exhibit "A";

- b. The coastal bluff protection device includes shotcrete concrete textured, colored and hand sculpted to blend to the greatest extent possible with the natural coastal bluff and similar coastal bluff protection devices in the immediate vicinity;
- b. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by [to be completed upon conclusion of all appeal periods].
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

**ENGINEERING REQUIREMENTS:**



12. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
13. Prior to the issuance of any construction permit, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
14. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a bonded grading/shoring permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
15. Prior to the issuance of any building permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement with the City for the private improvements located within the City's right-of-way, satisfactory to the City Engineer.
16. The project proposes to export 10 cubic yards of material from the project site. All excavated material listed to be exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2009 edition and Regional Supplement Amendments adopted by Regional Standards Committee.

#### **PLANNING/DESIGN REQUIREMENTS:**

17. Prior to the issuance of any construction permits, the Owner/Permittee shall execute a Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement for Sensitive Coastal Bluffs in accordance with SDMC section 143.0143, in a form and content acceptable to the Director of the Development Services Department, or designated representative, which shall provide: (a) that the Owner/Permittee understands that new accessory structures or landscape features customary and incidental to residential uses are prohibited within 5 feet of the Coastal Bluff Edge or on the face of the Bluff, as illustrated on approved plan Exhibit "A;" (b) that the Owner/Permittee understands that the site may be subject to extraordinary hazard from coastal bluff erosion, and the Owner/Permittee assumes all liability from such hazards; and (c) the Owner/Permittee unconditionally waives any claim of liability against the City of San Diego and agrees to defend, indemnify, and hold harmless the City of San Diego and its advisors relative to the City of San Diego's approval of the project and for any damage due to natural hazards. This Notice of Hazardous Conditions-Indemnification and Hold Harmless Agreement shall be recorded against title to the property and shall run with the land, binding upon all successors and assigns.

#### **INFORMATION ONLY:**

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on August 10, 2016 by Resolution No. HO-6951.

Permit Type/PTS Approval No.: CDP No. 1402059 and SDP No. 1402060  
Date of Approval: August 10, 2016

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

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John S. Fisher  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

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**The undersigned Owner/Permittee**, by execution hereof, agrees to each and every condition of  
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

**NOVER LIVING TRUST dated March 23, 1989**  
Owner/Permittee

By \_\_\_\_\_  
Edward P. Nover  
Trustee

**NOVER LIVING TRUST dated March 23, 1989**  
Owner/Permittee

By \_\_\_\_\_  
Helga E. Nover  
Trustee

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

**CALIFORNIA COASTAL COMMISSION**

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



APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Commissioner Mary Shallenberger  
Mailing Address: P.O. Box 354  
Clements, CA 95227-0354  
Phone Number: 415-904-5200



SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Construction of new mid and upper bluff protection in the form of reinforced shotcrete armoring with tied back anchors to protect four detached multi-family residences on a bluff top lot.
3. Development's location (street address, assessor's parcel no., cross street, etc.):  
On the coastal bluff fronting 1759 -1765 Oceanfront Street in the Ocean Beach community of San Diego
4. Description of decision being appealed:
  - a. Approval; no special conditions: ☐
  - b. Approval with special conditions: ☒
  - c. Denial: ☐
  - d. Other : ☐ \_\_\_\_\_

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-OCB-16-0086

DATE FILED: 9/26/2016

DISTRICT: San Diego

EXHIBIT NO. 8
APPLICATION NO. <b>A-6-OCB-16-0086</b>
Appeals
California Coastal Commission

5. Decision being appealed was made by (check one):

- a. ☐ Planning Director/Zoning Administrator      c. ☐ Planning Commission
- b. ☐ City Council/Board of Supervisors      d. ☒ Other Hearing Officer

Date of local government's decision: August 10, 2016

Local government's file number (if any): CDP Number 1402059

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Nover Living Trust  
1759-1765 Ocean Front Street  
San Diego, CA 92107

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

Bob Trettin (Agent)  
560 North Highway 101 Suite 5  
Encinitas, CA 92024

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See attachment A

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Mary K. Challenger  
Appellant or Agent

Date: 9/26/16

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

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

Attachment A  
Nover Appeal  
09/26/2016

The project approved by the City of San Diego ("City") on August 10, 2016 consists of the construction of new mid and upper bluff protection in the form of reinforced shotcrete armoring with tied back anchors to protect four detached multi-family residences on a bluff top lot at 1759 -1765 Oceanfront Street in the Ocean Beach community of San Diego. The existing residential structures were constructed between 1926 and 1927. The new armoring would be located, in part, on public property and connect to an existing six foot high retaining wall located at the base of the bluff.

Based on the City's record, along with the adopted conditions and findings, the local action raises several questions related to shoreline protection devices and shoreline management strategies. As a part of early coordination, Commission staff reviewed the proposed development during the project design phase and provided a letter to the City identifying potential concerns with the project that could create inconsistency with the City's LCP (Ref: CCC staff letter dated November 19, 2015). It is also important to note that this is the first local approval of a shoreline protection device since the Commission recently approved a significant update to the Ocean Beach Community Plan Land Use Plan (LUP) (adopted by the City on November 9, 2015). The development, as approved by the City, raises several LCP consistency issues with regard to future shoreline protection, impact assessment and mitigation, and sea level rise vulnerability assessment. The pertinent LCP provisions are as follows:

Ocean Beach Community Plan LUP Policy 7.3.5 states, in part:

*Develop and implement shoreline management strategies to ensure all shoreline development will provide long term protection of the coastal bluffs, beaches, and public coastal access in the community.*

*[...]*

- b. Tie a shoreline protective device to the life of the structure it has been permitted to protect and address the feasibility of removing such devices when the structure it is authorized to protect is demolished, redeveloped, or no longer requires a protective device, whichever occurs first. Include mitigation for shoreline armoring, if allowed, for coastal resource impacts, including but not necessarily limited to ecological impacts and impacts to shoreline sand supply and public access and recreation over the life of the protective device. Require periodic assessment of the need for additional mitigation and of changed site conditions that may warrant removal or modification of the protective device...*

Ocean Beach Community Plan LUP Policy 7.3.7 states:

*In the review of any Coastal Development Permits for bluff or shoreline protection devices, implementation should consider the following factors: an assessment of changes to geologic site and beach conditions, changes in beach width relative to sea level rise, implementation of any long-term large scale sand replenishment or shoreline restoration programs, and any ongoing impacts to coastal resources and public access and recreation from the existing device. Include in the permit review a reassessment of the need for the protective device, and provide options for the ultimate removal of the protective device.*

Ocean Beach Community Plan LUP Policy 7.6.3 states, in part:

*Use best available science and site-specific geotechnical reports as needed, to assess public and private projects for their vulnerability to impacts from sea level rise and, if vulnerable, propose a reasonable adaptation strategy. Analyze options for removal or relocation of structures that become threatened by coastal hazards. Use best available adaptation strategies that do not rely on shoreline protective devices in accordance with the California Coastal Act (see Coastal Act text boxes).*

### **Future Shoreline Protection**

The City's approval did not tie the proposed shoreline protection device to the existing structures that it is designed to protect, which represents an inconsistency with the City's LCP. LUP Policy 7.3.5 specifically requires that any new shoreline protection devices be tied to the life of the structure that they are permitted to protect. Furthermore, the City did not include any findings about the feasibility of removing the shoreline armoring if the bluff top structures were to be redeveloped, demolished or no longer need protection, as required by the LUP. The uncertainty about future shoreline conditions in the face of anticipated sea level rise further emphasizes the importance of having new development not be allowed to rely on shoreline protection designed to protect only the existing structures that warrant protection, not future development.

### **Impact Assessment and Mitigation**

The City's LCP requires that shoreline armoring approvals include mitigation for coastal resource impacts including ecological impacts, impacts to shoreline sand supply, and impacts to public access and recreation over the life of the protective device. In addition, LUP Policies 7.3.5 and 7.3.7 require periodic assessment of the need for additional mitigation and of changed site conditions that may warrant removal or modification of the protective device. The City approval did not require any mitigation for impacts to coastal resources resulting from the new shoreline armoring. In addition, the City did not require periodic assessments of the shoreline armoring in the future. The proposed shoreline armoring is located, in part, on a publicly owned bluff and will result in some amount of bluff material not reaching the littoral cell. The primary rationale provided by the City for not requiring mitigation was the existence of the lower seawall. However, the existing lower seawall is very old and may be removed or redeveloped in the future.



Furthermore, the City did not include findings to describe the relationship between the new proposed mid and upper bluff armoring and the existing seawall. Specifically, no information was included in the City's findings about whether or not the new proposed shoreline armoring was dependent on the existing seawall. Thus, reassessment of the new shoreline armoring and a thorough alternatives analysis should have been required to account for potential changed site conditions in the future.

Sea Level Rise Vulnerability Assessment – The proposed project did not include a thorough analysis of potential impacts on the proposed shoreline protection device from changing sea level rise conditions predicted to occur over the life of the proposed structure. LUP Policy 7.6.3 requires analysis of private and public projects for their vulnerability to impacts from sea level rise, and if vulnerable, proposal of reasonable adaptation strategies, as well as an analysis of options for removal or relocation of structures that become threatened by coastal hazards. Given the subject project's location and dependence on an existing lower seawall, this level of analysis is critical in order to ensure that the proposed design alternative is sited and designed appropriately.

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

(619) 767-2370

**APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

**SECTION I. Appellant(s)**

Name: Commissioner Dayna Bochco  
Mailing Address: 45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Phone Number: 415-904-5200**RECEIVED****SEP 27 2016**CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT**SECTION II. Decision Being Appealed**

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Construction of new mid and upper bluff protection in the form of reinforced shotcrete armoring with tied back anchors to protect four detached multi-family residences on a bluff top lot.
3. Development's location (street address, assessor's parcel no., cross street, etc.):  
On the coastal bluff fronting 1759 -1765 Oceanfront Street in the Ocean Beach community of San Diego

4. Description of decision being appealed:

- a. Approval; no special conditions: ☐      b. Approval with special conditions: ☒  
c. Denial: ☐      d. Other : ☐ \_\_\_\_\_

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**APPEAL NO: A-6-0CB-16-0086DATE FILED: 9/27/2016DISTRICT: San Diego

5. Decision being appealed was made by (check one):

- a. ☐ Planning Director/Zoning Administrator      c. ☐ Planning Commission  
b. ☐ City Council/Board of Supervisors      d. ☒ Other Hearing Officer

Date of local government's decision: August 10, 2016

Local government's file number (if any): CDP Number 1402059

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Nover Living Trust  
1759-1765 Ocean Front Street  
San Diego, CA 92107

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

Bob Trettin (Agent)  
560 North Highway 101 Suite 5  
Encinitas, CA 92024

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT  
Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See attachment A

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Dayna Becker  
Appellant or Agent

Dated: 9/27/16

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

Attachment A  
Nover Appeal  
09/27/2016

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