

CALIFORNIA COASTAL COMMISSION

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Staff: GDC-SD
Staff Report: March 20, 2003
Hearing Date: April 8-11, 2003

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AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-84-573-A1

Applicant: Seascape Sur Homeowners Association Agent: Dave Skelly

Original

Description: Lower bluff stabilization, consisting of filling of sea caves, and construction of concrete seawall.

Proposed

Amendment: Repair and maintenance of 17 infilled sea caves to include: removal of approximately 20 cu. yds. of concrete material and addition of approximately 2 cu. yds. of fill alongside four of the infills using colored and textured erodible concrete.

Site: 555 S. Sierra Avenue, Solana Beach, San Diego County.
APN Nos. 298-211-71, 72, 79 and 80.

Substantive File Documents: City of Solana Beach General Plan and Zoning Ordinance;
CDP #6-84-573/Seascape Sur.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed maintenance project with special conditions. The existing infills have been in place for over 17 years and now require maintenance. In places, the surrounding bluff has eroded such that portions of the existing concrete infill extend beyond the face of the bluff, and in other places, the bluff has eroded adjacent to the infills, such that the addition of small amounts of erodible concrete is necessary to maintain the integrity of the existing infill. The proposal will result in the removal of portions of concrete infill that currently extends beyond the face of the bluff and onto the public beach and the addition of small amounts of colored and textured concrete adjacent to four infills so as to provide a smooth transition between the infills and the natural bluffs. The project is conditioned to require ongoing maintenance and monitoring of the infills so as to assure that they perform as designed and such that any portion of the infill that extends out onto the beach in the future beyond 6 inches will be removed in a timely manner.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-84-573 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The amended permit is subject to the following conditions:

1. Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, final construction plans in substantial conformance with the work plan submitted by Skelly Engineering dated 12/11/022. Said plans shall first be approved by the City of Solana Beach and be revised to include the following:

- a. Sufficient detail regarding the construction method and technology utilized for removing the seaward protrusions of the sea cave fills.
- b. Sufficient detail regarding the construction method and technology utilized for coloring and sculpting the subject sea cave infills. Said plans shall confirm, and be of sufficient detail to verify, that the required infills color and texture closely

matches the adjacent natural bluffs, including provision of a color board indicating the color of the fill material.

- c. During construction of the approved development, disturbance to sand and intertidal areas shall be minimized to the maximum extent feasible. All excavated beach sand shall be redeposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or for any other purpose as construction material.

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

2. Monitoring Program. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a monitoring program prepared by a licensed civil engineer, geologist or geotechnical engineer for the site and sea cave infills which requires the following:

- a. An annual evaluation of the condition and performance of the sea cave infills addressing whether any significant weathering or damage has occurred that would adversely impact the future performance of the structures. This evaluation shall include an assessment of the color and texture of the sea cave infills comparing the appearance of the structures to the surrounding native bluffs.
- b. Annual measurements of any differential retreat between the natural bluff face and the 17 sea cave infills. The program shall describe the method by which such measurements shall be taken.
- c. Provisions for submittal of a report to the Executive Director of the Coastal Commission by May 1, every three years following completion of the proposed sea cave infill repairs, for the life of the approved sea cave infills. However, reports shall be submitted in the Spring immediately following either:
 1. An "El Niño" storm event – comparable to or greater than a 20-year storm.
 2. A tectonic event magnitude 5.5 or greater affecting San Diego County.
- d. Each report shall be prepared by a licensed civil engineer, geologist or geotechnical engineer. The report shall contain the measurements and evaluation required in sections a and b above. The report shall also summarize all measurements and analyze trends such as erosion of the bluffs or changes in sea

level and the stability of the overall bluff face, including the upper bluff area, and the impact of the sea cave infills on the bluffs to either side of the structure. In addition, each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the project.

- e. An agreement that the permittee shall apply for a coastal development permit within 90 days of submission of the report required in subsection c. above for any necessary maintenance, repair, changes or modifications to the project recommended by the report that require a coastal development permit.

The permittee shall undertake development in accordance with the approved plans. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Future Maintenance/Debris Removal. Within 15 days of completion of construction of the seacave infill repairs the permittee shall remove all debris deposited on the beach or in the water as a result of the construction. The permittee shall also be responsible for the removal of debris resulting from failure of, or damage to, the shoreline protective device in the future. In addition, the permittees shall maintain the seacave infills in their approved state. Any change in the design of the project or future additions/reinforcement of the infills beyond exempt maintenance as defined in Section 13252 of the California Code of Regulations, will require a coastal development permit. **However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, the permittees shall contact the Commission office to determine whether permits are legally required, and, if required, shall subsequently apply for a coastal development permit for the necessary maintenance.**

4. Public Rights. By acceptance of this permit, the applicant acknowledges, on behalf of itself and its successors in interest, that issuance of the permit shall not constitute a waiver of any public rights that may exist on the property. The applicant shall also acknowledge that issuance of the permit and construction of the permitted development will not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.

5. 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:

- a. No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise

located in the intertidal zone at any time. Construction equipment shall not be washed on the beach.

- b. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c. No work shall occur on the beach between Memorial Day weekend and Labor Day of any year.
- d. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.

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

6. As-Built Plans. Within 60 days following completion of the project, the permittee shall submit as-built plans of the approved seacave modifications. In addition, within 60 days following completion of the project, the permittee shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying that the infill repairs and have been constructed in conformance with the approved plans for the project.

7. Assumption of Risk, Waiver of Liability and Indemnity Agreement. By acceptance of this permit amendment, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wave run-up and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

8. Deed Restriction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard

and Special Conditions”); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant’s entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

9. Prior Conditions of Approval. All special conditions adopted by the Coastal Commission as part of the original permit action, except as specifically modified or replaced herein, shall remain in full force and effect.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project involves the repair and maintenance of 17 concrete sea cave infills. The proposed work involves the trimming off of those portions of the existing infill that project out from the natural bluff face toward the beach. As a result of the proposed project, the existing infills will more closely follow the natural contours of the bluff. The work will involve the use of mechanical equipment such as jack-hammers and grinders. The applicant estimates that approximately 20 cu. yds. of concrete will be removed. In addition, the project also includes the addition of approximately 2 cu. yds. of erodible, colored and textured concrete to be placed in small cavities and cracks that have formed between four of the infills and the natural surrounding bluffs. The cavities and cracks vary in size from approximately one inch to 1.5 ft. The proposed fills are necessary to provide a smooth transition area between four existing sea cave fills and the natural bluff. Without the minor addition of this approximately 2 cu. yds. of infill, the adjacent natural bluffs may experience an acceleration of wave-generated erosion due to the end effects of the existing concrete infills.

In 1985, the Commission approved the fill of up to 18 sea caves and the construction of a 20 ft.-long, 20 ft.-high concrete seawall at the subject site below a 188 unit condominium complex. No work or maintenance on the approved seawall is proposed or necessary at this time. The Commission approved the structures as preventative measures to forestall the need for larger shoreline protective measures. In addition, the applicant did not assert at that time that the sea cave infills or seawall were required to protect the existing structures at the top of the bluff. However, the applicant did provide documentation at the time of the original Commission action, that the foundation of a public beach access stairway located on the north side of the subject property would have been threatened if the seacave below it were to have been allowed to collapse (CDP #6-84-573/Seascape Sur).

The subject development request requires a coastal development permit because the repair and maintenance requires the use of mechanized equipment and construction materials on the public beach. The City of Solana Beach does not yet have a certified Local Coastal Program (LCP) and therefore, Chapter 3 policies of the Coastal Act are the standard of review.

2. Shoreline Protective Devices/Geologic Hazards. Section 30235 of the Coastal Act states, in part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

In addition, Section 30253 of the Coastal Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard;
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" solutions alter natural shoreline processes. Thus, such devices are required to be approved only when necessary to protect existing structures. The Coastal Act does not require the Commission to approve shoreline altering devices to protect vacant land or in conjunction with construction of new development. A shoreline protective device proposed in those situations is likely to be inconsistent with various Coastal Act policies. For example, Section 30253 addresses new development and requires that it be sited and designed to avoid the need for protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed development is located at the base of a coastal bluff in the City of Solana Beach. Continual bluff retreat and the formation and collapse of seacaves have been documented in northern San Diego County, including the Cities of Solana Beach and Encinitas. Bluffs in this area are subject to a variety of erosive forces and conditions (e.g., wave action, reduction in beach sand, seacave development). As a result of these erosive forces, the bluffs and blufftop lots in the Solana Beach and Encinitas area are considered a hazard area. Documentation has been presented in past Commission actions concerning the unstable nature of the bluffs on the subject site and in nearby communities (ref. CDP Nos. 6-93-181/Steinberg, 6-92-212/Wood, 6-92-82/Victor, 6-89-297-

G/Englekirk, 6-89-136-G/Adams, and 6-85-396/Swift). In addition, a number of significant bluff failures have occurred along the Solana Beach/Encinitas coastline which have led to emergency permit requests for shoreline protection (ref. CDP Nos. 6-93-181/Steinberg, 6-93-131/Richards et al, 6-93-36-G/Clayton, 6-93-024-G/Wood, 6-92-212/Wood, 6-92-167-G/Mallen et. al., 6-92-73-G/Robinson, and 6-91-312-G/Bradley, 6-00-66-G/Pierce, Monroe;).

Historically, the Commission has approved a number of regular permits for seacave fills on the bluffs in Solana Beach subsequent to the 1985 approval at the subject site (#6-98-29/Bennett; #6-98-25/Stroben; #6-97-1646/Lingenfelder; #6-96-102/Solana Beach & Tennis Club; #6-92-82/Victor; #6-87-391/Childs). In October 1999, the Commission approved the fill of a 400 foot-long stretch of seacaves and notch fills approximately 1/2 mile north of the subject site (6-99-103/Coastal Preservation Association).

In the case of the proposed development, the applicant is requesting to repair 17 sea cave infills that currently extend out from the face of the natural bluff and to fill small sections adjacent to four of the infills. The repairs will not result in the construction of additional shoreline protective devices over what currently exists and will not result in additional impacts to beach access or visual resources of the area. The purpose of the proposed repairs is to improve the visual appearance of the structures, reduce the impacts of the structures on the public beach and protect the adjacent natural bluffs from the wave reflection off four of the existing infills.

The Commission's coastal engineer has reviewed the proposed project and has concurred that the work is necessary as part of expected repair and maintenance of the seacave infills. In addition, the Commission's engineer concurs with the need to fill the small cavities and cracks that have formed adjacent to four of the sea cave infills in order to provide a smooth transition between the infills and the natural bluff. Section 30235 of the Coastal Act requires that the shoreline protection be designed to eliminate or mitigate adverse impacts on local shoreline sand supply. There are a number of adverse impacts to public resources associated with the construction of shoreline structures. The natural shoreline processes referenced in Section 30235 of the Coastal Act, such as the formation and retention of sandy beaches, may be altered by construction of a shoreline devices, since bluff retreat is one of several ways that beach area and beach sand is added to the shoreline. Bluff retreat is a natural process resulting from many different factors such as erosion by wave action causing cave formation, enlargement, and eventual collapse; saturation of the bluff soil from ground water causing the bluff to slough off, as well as natural bluff deterioration. Shoreline structures constructed on the beach at the toe of the bluff directly impedes these natural processes.

Many of the effects of a structure on the beach are temporary, or difficult to distinguish from all the other actions that modify the shoreline. Nevertheless, some of the effects that a structure may have on natural shoreline processes can be quantified. Three of the effects from a shoreline protective device that can be quantified are: 1) loss of the beach area on which the structure is located; 2) long-term loss of beach that will result when the back beach 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. The Commission has typically applied a beach sand mitigation fee when a new shoreline protective device is constructed in order to mitigate for its impacts on sand supply.

Although the subject bluff is subject to direct erosion from wave action, the proposed repair and maintenance activities will not extend the design life of the existing structures or increase the overall size of the structures and, therefore, will not result in any further loss of beach sand above that previously anticipated by the Commission in 1985. Furthermore, the proposed repairs will result in an overall reduction in the size of the sea cave infills structures. If the proposed repairs to the seacave infills would have resulted in a substantially wider or higher structure, providing more protection beyond what the seacave infills were originally designed for, then the repairs would likely result in additional impacts on sand supply beyond those already caused by the existing structure. In addition, if the repairs had resulted in an extension to the design life of the seacave infills, the years of extension would have resulted in additional years of impacts on sand supply. Application of a beach sand mitigation fee in those situations may be more appropriate. In this particular case, the applicant proposes the repair and maintenance of the sea cave infills without any encroachment beyond the toe of the existing structures or substantial enlargement of the infills. Thus, as a result of these repairs, there would not be any change in the contribution to sand supply from the surrounding bluff over what was previously anticipated when the Commission approved the seacave fills in 1985.

Special Condition #2 requires the applicant to maintain the repaired sea cave infills in their approved state and to monitor the performance and appearance of the infills over the lifetime of the structures. Special Condition #3 requires the applicant to remove all debris resulting from the proposed project within 15 days of completion and to be responsible for removing any debris resulting from future damage to the structures. In addition, the condition requires that if, upon inspection or monitoring, it is apparent that further repair and maintenance of the structures beyond what is allowed under this permit is necessary, the permittees shall contact the Commission office to determine whether permits are legally required, and, if required, shall subsequently apply for a coastal development permit or amendment for the necessary maintenance. With this requirement, the Commission can be assured that no further work occurs at the site (or damage to the surrounding area) without review by Commission staff. Special Condition #6 requires the applicant to submit as-built plans within 60 days of construction of the proposed development in order to assure that the repair and maintenance to the sea cave infills have been constructed according to the approved plans.

Also, due to the inherent risk of shoreline development, Special Condition #7 requires the applicant to waive liability and indemnify the Commission against damages that might result from the proposed repair and maintenance of the sea cave fills. The risks of the proposed development include that the proposed shoreline devices and their repair will not protect against damage to the residences from bluff failure and erosion. In addition, the structures themselves may cause damage either to the applicants' residence or to neighboring properties by increasing erosion of the bluffs. Such damage may also result from wave action that damages the sea cave infills. Although the Commission has sought

to minimize these risks, the risks cannot be eliminated entirely. Given that the applicants have chosen to construct the proposed shoreline devices despite these risks, the applicants must assume the risks. Special Condition #8 requires the applicant to record a deed restriction imposing the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. Only as conditioned can the proposed project be found consistent with Sections 30235 and 30253 of the Coastal Act.

In summary, the Commission finds that the proposed repairs to the existing sea cave infills are necessary to maintain the existing infills in their approved state. Furthermore, the proposed repairs will not increase the impact that the existing structures have on shoreline sand supply to any greater degree than the structures did as originally constructed and will not substantially alter natural land forms. Therefore, the project, as conditioned, is consistent with Sections 30235 and 30253 of the Coastal Act.

3. Public Access/Recreation. The Coastal Act contains policies protecting physical access to the beach and ocean. Specifically, the Coastal Act states the following:

Section 30211

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

Section 30212

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

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated access way shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way....

Section 30221

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

The subject project is located on the bluff formation directly adjacent to a public beach. Although public lateral access is available along the entire stretch of coastline in this

area, mostly at low tides, vertical access is available only at a limited number of public accessways. Because of the nature of the topography of the area, with steep, fragile coastal bluffs between the first public roadway and the coastline, and the existing, highly developed pattern of development, the provision of additional vertical public access is not practical at this time. In addition, a public access stairway is located on the immediate north side of the subject property. The proposed repair and maintenance of the seacave fills will not impact this accessway.

Shoreline protection projects do have the potential to impact existing lateral access along the beach. Structures which fix the back of the beach stop the landward migration of the beach profile while the shoreward edge continues to erode, thereby reducing the amount of dry sandy beach available to the public. To mitigate this impact, the Commission in recent years has required applicants of shoreline protective measures to contribute to a sand replenishment fund dedicated to the purchase and placement of sand on San Diego County's regional beaches. However, in 1985 when the Commission approved the original sea cave infills in 1985, the in-lieu fee program for sand replenishment had not yet been created. To mitigate the impact of the structure on public access, the Commission did require the applicant to record a lateral access dedication across the site. In this particular case, the repairs proposed by the applicant will also not increase the design life of the 17 sea cave infills or result in additional adverse impacts to public access. The Commission's coastal engineer has reviewed the proposed project and concurs that the design life of the structure will not be extended by the proposed repairs and that the work is necessary as part of expected repair and maintenance of the seacave infills. Therefore, no further mitigation is necessary.

The City of Solana Beach owns beach on the subject site. Much of the beach is accessible in this area only at lower tides, and thus, the protection of a few feet of beach along the toe of the bluff is still important. This stretch of beach has historically been used by the public for access and recreation purposes. Special Condition #4 acknowledges that the issuance of this permit does not waive the public rights that exist on the property.

In order to ensure that no unnecessary impacts result from the project to the adjacent public beach while the repair and maintenance activities are being constructed, Special Condition #5 is attached and stipulates that no overnight storage of equipment or materials shall occur on sandy beach or public parking spaces. In addition, the condition requires that during the construction stages of the project, the permittee shall not store any construction materials or waste where it will be, or could potentially be, subject to wave erosion and dispersion. The condition also states that no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, and that construction equipment shall not be washed on the beach. Finally, the condition requires that access corridors shall be located in a manner that has the least impact on public access to and along the shoreline, and that no work shall occur on the beach between Memorial Day weekend and Labor Day of any year. As conditioned, the proposal will not affect public access to or along the beach, and the project is consistent with all applicable public access policies of the Act.

In summary, the proposed repair of the sea cave infills will actually remove protruding sections of concrete from the face of the bluff and will not result in the seaward expansion of existing fill material and, as conditioned, the proposed improvements will not result in any adverse impacts on coastal access. The Commission finds that the proposed project which includes removal of approximately 20 cu. yds. of concrete from the public beach represents an enhancement to public access along the shoreline. As such, the proposed project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act addressing public access.

4. Visual Resources. Section 30251 of the Act states, in part:

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

The proposed development is located on the face of a coastal bluff immediately adjacent to and at the same level as the existing sandy beach. Seacaves and overhangs have been a fairly prominent feature of the shoreline in this area, and filling the cave and notch overhangs alters the natural appearance of the bluffs. Matching fill material to the appearance of natural bluffs can be a tricky process, as it can take weeks or even months before the material fully cures. Another difficulty is that even once cured, weathering can change the appearance of either the seacave fills or the surrounding bluffs. Thus, even if the fills match the natural bluffs closely one year, several years later there may be a distinct difference in appearances.

The subject seacave infills were constructed in approximately 1985 using non-erodible concrete that was colored to match the surrounding natural bluffs. As indicated by the applicant's proposed colored and textured erodible concrete minor infills adjacent to four the existing infills, the technology for concrete infills of sea caves has improved over the intervening years so as to more closely mimic the natural bluffs. While the application of a new textured surface to the existing 17 infills would likely require a seaward encroachment of the infills onto the public beach which would adversely affect public access, the applicant's engineer has indicated that it would be possible to grind, sculpt and stain the existing infills to more closely mimic the natural bluff. Therefore, Special Condition #1 has been attached which requires the submission of final plans that document that the proposed infill repairs includes measures to sculpt and stain the 17 subject infills to more closely match the surrounding bluff to the maximum extent feasible.

In addition, the applicant is proposing to improve the current appearance of the structures by trimming off those portions of the infill that stick-out from the face of the bluff, a total of approximately 20 cu. yds. In addition, the small amounts of additional fill material in

the cavities and cracks surrounding four of the sea cave infills will involve the use of colored and textured erodible concrete which will much more closely resemble the natural appearance of the bluffs than the existing infill.

The proposed project involves an improvement to the visual appearance of 17 existing sea cave infills through the removal of approximately 20 cy. yds. of concrete that currently extends out from the face of the bluff. In addition, while a small amount of fill material will be used as transition fill between four of the sea cave infills and the natural bluffs, the proposed fill material has been designed and conditioned to match the surrounding natural bluffs to the maximum extent feasible. In addition, as conditioned, the applicant is required to stain the 17 repaired and maintained sea cave infills to better match the color of the surrounding natural bluff, thereby reducing adverse visual impacts to the maximum extent feasible. Therefore, the Commission finds that the subject development is consistent with Section 30251 of the Coastal Act.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The subject site was previously in the County of San Diego Local Coastal Program (LCP) jurisdiction, but is now within the boundaries of the City of Solana Beach. While the Commission certified the County LCP, the County never accepted the Commission's modifications and therefore, the LCP was never effectively certified. Chapter 3 policies of the Coastal Act remain the standard of review.

Since the proposed improvements to the existing seacave infills will increase the area of usable beach area and improve the visual resources of the area protection, the project is in conformance with all applicable Chapter 3 policies, and therefore the Commission finds the proposed development will not prejudice the ability of the City of Solana Beach to prepare a certifiable Local Coastal Program.

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

The proposal to repair and maintain existing sea cave infills has been conditioned in order to be consistent with the public access, visual resource and geologic hazard policies of the Coastal Act. The proposed conditions addressing future maintenance 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 that the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

DIFF THE SEA

PACIFIC OCEAN

Site



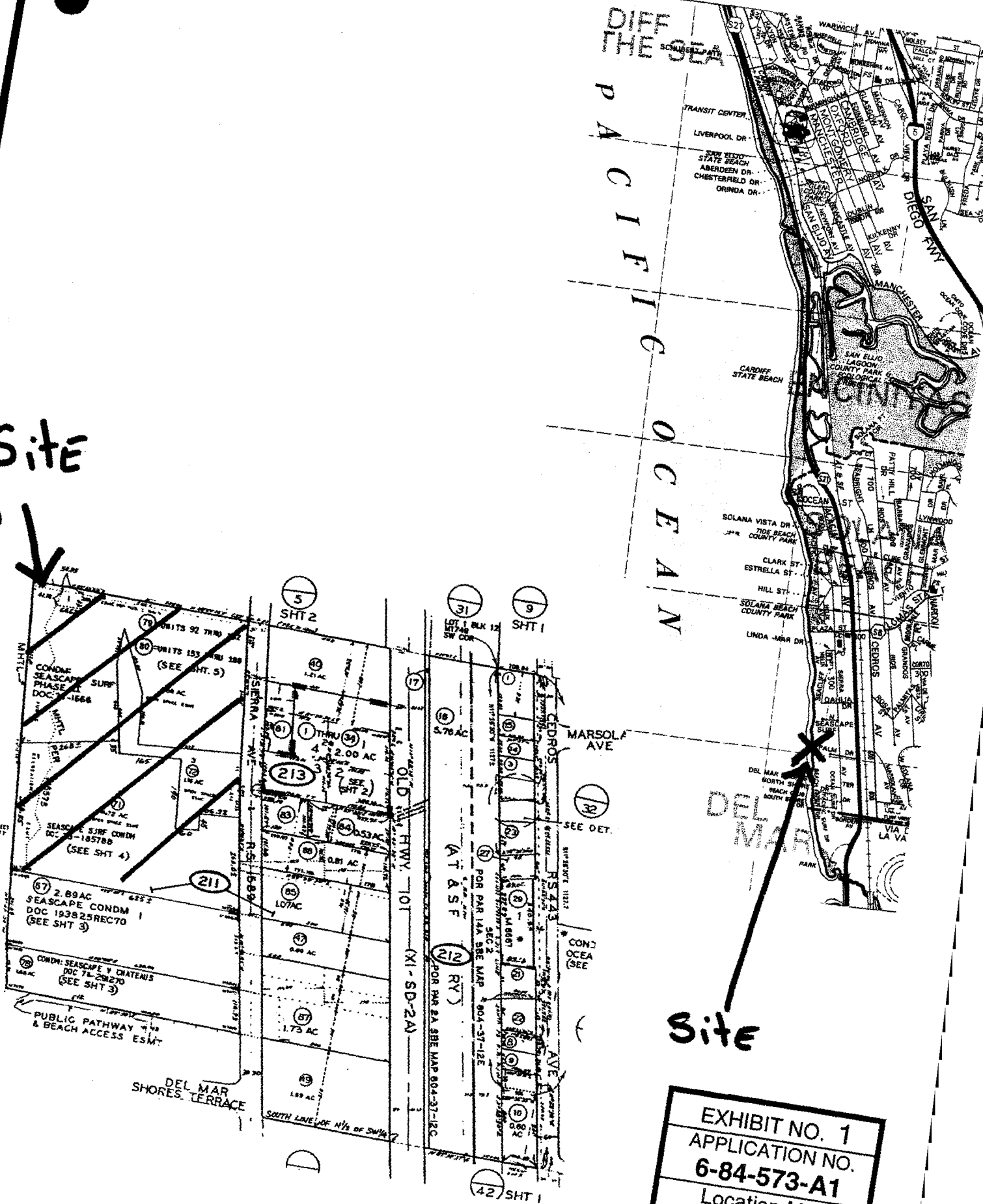
PACIFIC OCEAN

OCEAN

DE MAR

Site

EXHIBIT NO. 1
APPLICATION NO.
6-84-573-A1
Location Map





REMOVE ~ 3.5 CUBIC YARDS OF CONCRETE

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| EXHIBIT NO. 2 |
| APPLICATION NO. |
| 6-84-573-A1 |
| Typical Repair |
|  California Coastal Commission |

California Coastal Commission
San Diego District
54 Mission Gorge Road, Suite 220
San Diego, California 92120
(619) 230-6992
ATSS 636-5863

COASTAL DEVELOPMENT PERMIT NO. 6-84-573

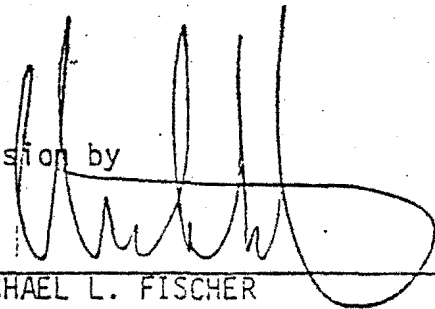
On January 11, 1985, The California Coastal Commission granted to
Seascape Sur Homeowners Association
this permit for the development described below, subject to the attached
Standard and Special conditions.

Description: Lower bluff stabilization, consisting of filling of sea caves, and construction of a concrete seawall.

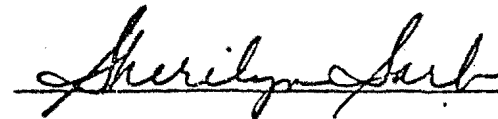
| | |
|------------------|-----------------------|
| Zoning | S-80 |
| Plan designation | 22-Public/Semi-public |
| Ht abv fin grade | 10± feet (Seawall) |

Site: 585 South Sierra Avenue, Solana Beach, San Diego County.
APN(s) 298-211-71; 298-211-72; 298-211-79; 298-211-80

Issued on behalf of the California Coastal Commission by



MICHAEL L. FISCHER
Executive Director
and



**IMPORTANT: THIS PERMIT IS NOT VALID UNLESS
AND UNTIL A COPY OF THE PERMIT WITH THE
SIGNED ACKNOWLEDGEMENT HAS BEEN RE-
TURNED TO THE COMMISSION OFFICE.**

ACKNOWLEDGEMENT

The undersigned permittee ack
this permit and agrees to abi
conditions thereof.

| |
|---|
| EXHIBIT NO. 3 |
| APPLICATION NO. |
| 6-84-573-A1 |
| Original Permit |
|  California Coastal Commission |



STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. Final Plans. Prior to transmittal of the coastal development permit, the applicant shall submit to the Executive Director final construction plans, drawn by a licensed coastal engineer and acceptable to the County, which incorporate the following:
 - a. Said plans shall indicate which caves of the 22 existing along the property's coastal frontage are to be filled. A maximum of 18 caves shall be filled pursuant to this permit. A lesser number of caves may be proposed for fill at this time and those left unfilled monitored for future treatment, subject to Executive Director review and approval of the final plans. Filling of more than 18 caves would require an amendment to this permit, or, a separate coastal development permit.

SPECIAL CONDITIONS - continued:

b. Said plans shall be in substantial conformance with the submitted plans and the recommendations in the Design Memorandum for Seascape Sur Sea Cave Stabilization and Bluff Protection by Woodward-Clyde Consultants dated February 7, 1984. One concrete reinforced seawall and backfill is permitted in conjunction with filling Caves #14, 15 and 15a.

c. The concrete used for all exposed surfaces shall be colored to match the adjacent sandstone.

d. Beach sand shall not be used for backfill; and, any sand removed from the floor of the caves shall be deposited on the beach.

Said plans shall be subject to review and approval by the Executive Director, in consultation, as necessary with the Division of Mines and Geology, prior to transmittal of the permit.

2. Storm Design and Debris Removal. Prior to transmittal of the permit, the applicant shall submit certification by a registered civil engineer that the proposed shoreline protective device is designed to withstand storms comparable to the winter storms of 1982-83. The applicant shall be responsible for the removal of debris that is deposited on the beach or in the water during construction of the shoreline protective device or as a result of the failure of the shoreline protective device.

3. Maintenance. Maintenance of the protective works shall be the responsibility of the applicant. If after inspection it is apparent repair or maintenance is necessary, the applicant should contact the Commission office to determine whether permits are necessary.

4. Site Access. Arrangement for access to the site for construction purposes shall be the responsibility of the applicant. Any damage to public property resulting from accessing the site will be repaired at the applicant's expense.

5. Public Access. Prior to transmittal of the coastal development permit, the applicant shall submit evidence of existence of a County accepted easement for public access and recreational use over the lateral beach area seaward of the toe of the bluff. In the event that, in the opinion of the Executive Director, there is substantial area between the existing bluff toe and the inland extent of the easement which is subject to potential prescriptive rights and not covered by the easement, an offer of dedication of that area, in a form and content acceptable to the Executive Director, shall be required as an easement for public access and passive recreational use along the shoreline. The applicant shall be restricted from interfering with present use by the public of the area subject to the potential easement.

6. Applicant's Assumption of Risk. Prior to the transmittal of a coastal development permit, the applicant shall submit to the Executive Director a deed restriction for recording free of prior liens, except for tax liens, that binds the applicants and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide (a) that the applicants understand that the site may be subject to extraordinary hazard from waves during storms and from erosion,

SPECIAL CONDITIONS - continued:

and the applicants assume the liability from those hazards; (b) the applicants unconditionally waive any claim of liability on the part of the Commission or any other regulatory agency for any damage from such hazards; and (c) the applicants understand that construction in the face of these known hazards may make them ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property in the event of storms or erosion.

7. State Lands Commission Review. Prior to the transmittal of a coastal development permit, the applicants shall obtain a written determination from the State Lands Commission that:

- a. No State lands are involved in the development; or
- b. State lands are involved in the development, and all permits required by the State Lands Commission have been obtained; or
- c. State lands may be involved in the development, but pending a final determination an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

8. Upper Bluff Stabilization. Prior to completion of the proposed project, the applicant shall submit to the Executive Director, a plan for stabilization of the upper portion of the bluff along the property's coastal frontage which incorporates the following:

- a. Disconnect any permanent irrigation system located within 40 feet of the bluff edge. A temporary irrigation system may be permitted.
- b. Installation of additional barricades and/or signage to prohibit pedestrian traffic seaward of the bluff edge, if deemed necessary.
- c. Possible revegetation of lawn and/or eroded areas, with drought tolerant native material, if deemed appropriate by a licensed landscape architect familiar with coastal processes.

Said plans shall be subject to review and approval by the Executive Director and shall be implemented prior to completion of the proposed project.