

CALIFORNIA COASTAL COMMISSION

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Filed: November 26, 2007
49th Day: January 14, 2008
180th Day: May 24, 2008
Staff: G. Cannon-SD
Staff Report: April 17, 2008
Hearing Date: May 7-9, 2008

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-122

Applicant: City of Solana Beach

Agent: Chandra Collure

Description: Construct repairs to three existing concrete pilings that support a public access stairway. Repairs involve the encasement of bottom sections of three pilings with a 1.5 inch prefabricated fiberglass "jacket" to be filled with epoxy that will extend from bedrock up to a height of 6 to 8 feet.

Site: Seascape Sur public beach access stairway located on the beach below 423 and 539 Sierra Avenue, Solana Beach, San Diego County.

Substantive File Documents: CDP# 6-94-103/City of Solana Beach; CDP #6-94-118/City of Solana Beach.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed development with special conditions. The main issues raised by the proposed development are protection of public access and scenic visual resources. Special conditions require the submission of final plans that document the jacket encasement will be colored to match the existing buff colored caissons, a construction schedule restricting work to the non-summer months, a Best Management Practices Plan to assure no pollution of the beach or ocean waters and a statement from the applicant assuming all risks associated with the project. With these conditions, impacts of the proposed development will be minimized or mitigated, consistent with Chapter 3 policies of the Coastal Act.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-07-122 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval of the Executive Director, final stairway repair plans in substantial conformance with the submitted plans dated 2/19/08 by Noble Consultants, Inc. but shall be revised to include the following:

- a. The exterior of the jacket encasement shall be colored to match the existing buff colored caissons utilizing earth tone colors only.
- b. 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 permittees shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. 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 construction access corridors 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 staging of the project, the permittees shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to perform the stairway repairs. 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 on weekends, holidays or between Memorial Day weekend and Labor Day of any year.
- d. The staging site shall be removed and/or restored immediately following completion of the development.

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

3. Best Management Practices. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit for review and written approval of the Executive Director, a Polluted Runoff Control Plan that incorporates the use of Best Management Practices that effectively assures no construction byproduct will be allowed onto the sandy beach and/or allowed to enter into coastal waters. All construction byproducts shall be properly collected and disposed of off-site.

The applicants shall undertake the development in accordance with the approved Plan. Any proposed changes to the approved Plan shall be reported to the Executive Director. No changes to the Plan shall occur without a Coastal Commission approved amendment

to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Assumption of Risk, Waiver of Liability and Indemnity Agreement

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, bluff retreat and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The applicant proposes to perform minor repairs to three concrete 30-inch diameter concrete pilings that support the Seascape Sur

public access stairway. The existing public access stairway runs in a zig-zag pattern from the top of an approximately 70 ft. high coastal bluff to the beach below. The stairway is supported by eight drilled cast-in-place concrete pilings, five of which lie within the bluff face and three that lie on the beach. The surface of the three concrete pilings that lie on the beach have been damaged by wave induced sand and cobble abrasions. To prevent further damage, the applicant proposes to encase the three beach-level pilings with a 1.5 inch wide epoxy-filled jacket to surround the lower 6 to 8 ft. of the concrete pilings. The work involves excavating the sand from around the pilings to the level of bedrock in order to expose and clean the surfaces, attaching a thin fiberglass jacket (1/8 inch thick) around each caisson and filling the space between the jacket and the caisson (1.5-inches) with high strength epoxy. Finally, the sand will be restored to its previous level around the pilings. The applicant is proposing to complete the work before Memorial Day 2008 and estimates the work will take from 1 to 2 weeks.

The Seascape Surf public access stairway was constructed in approximately 1995 pursuant to Coastal Development Permit 6-94-118/City of Solana Beach. A previous stairway at this same location was demolished in 1994 following damage caused by a failed storm drain facility (Ref CDP# 6-94-103/ City of Solana Beach).

The Seascape Surf public access stairway is located on the bluff and beach in Solana Beach approximately ½ mile south of Fletcher Cove, the City's primary beach access location. Access to the stairway is accommodated by an existing public access walkway that extends from S. Sierra Avenue between the Solana Beach and Tennis Club and Seascape Surf Condominiums to the stairway.

The City of Solana Beach does not have a certified Local Coastal Program, therefore, the standard of review is Chapter 3 policies of the Coastal Act.

2. Geologic Hazards. 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...

The proposed development involves minor repair to an existing and previously permitted public access stairway. The applicant has documented that the existing piers supporting the stairs on the beach have been damaged and are in need of repair to assure the continued structural integrity of the existing public stairway. The proposed jacket system around the 3 existing 30-inch diameter concrete pilings located on the beach will not result in a significant increase the size of the existing stairway pilings (approx. 1.5 inch

increase to 30-inch diameter piling), will neither create or contribute to the erosion or geologic instability of the site and will not result in the need for the construction of protective devices. Although the work is minimal and will not have adverse geologic impacts, there is always risk involved with work in hazardous locations such as at the base of the 70 ft. high coastal bluff or in a location subject to wave action. Because the development will occur in a known hazard location, the applicant must assume all risks associated with the development. Special Condition #4 requires the applicant to submit a written agreement to the Executive Director assuming all risks associated with the development and indemnifying the Commission from any liability. With the proposed repairs the structural integrity of this important public beach access stairway will be maintained, consistent with Section 30256 of the Coastal Act.

3. Public Access. Several policies of the Coastal Act require that new development protect or enhance public access to and along the shoreline. These policies include:

Section 30210

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

Section 30211

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

Section 30212

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

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

(2) adequate access exists nearby, or,

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The subject development is located on the beach approximately 2,000 ft. south of Fletcher Cove, the primary beach access location for the City of Solana Beach. Another

public access stairway (Del Mar Shores Terrace) lies approximately 1,000 ft. south of the subject public stairway. The applicant has identified that the proposed work will only take about two weeks to complete and is planned to occur before Memorial Day 2008. No work is proposed during the summer.

Although the proposed project is designed to protect public access by repairing an existing public access stairway, construction activities could adversely affect public access for a limited amount of time if the stairway is closed during construction or if construction equipment interferes with beach use. The applicant has identified that it might not be necessary to close the stairway during construction since all work will occur under the stairs. However, it is possible they may need to limit access at some point because of construction activity around the beach landing. To limit adverse impacts on public access caused by construction activities, Special Condition #3 requires the submission of construction staging plans for Executive Director's approval, documenting that no equipment or machinery will be left overnight on the beach, that construction corridors be located so as to limit adverse impacts on public access and to assure that construction activities do not occur on the beach on weekends and holidays or during the summer months between Memorial Day and Labor Day. In addition, however, even if the stairway is closed during the entire 2 week construction period, sufficient alternative access to the beach will continue to be available at Fletcher Cove Beach Park to the north and at the Del Mar Shores Terrace public access stairway to the south.

In summary, while there may be some minor inconvenience to the public if access to the stairway is limited during construction, the impacts will be minor and the result is protection of an important public beach access stairway. As conditioned, the proposed development will result in protection of public access to the ocean and shoreline. Therefore, as conditioned, the proposed development is consistent with Sections 30210, 30211, 30212, 30213 and 30252 of the Coastal Act.

4. Visual Resources. Section 30251 of the Coastal Act states as follows:

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 public beach in the City of Solana Beach and as such could be highly visible by beachgoers. The proposed repairs are minimal in that the proposed jacket system will be installed around three existing concrete caissons that support a public access stairway and will extend no higher than 8 ft. from the bedrock. In addition, most, if not all, of the "jackets" are likely to be covered by sand during part of the year. However, to assure that no adverse visual impact results from the proposed repairs, Special Condition #1 requires the submission of revised final plans that document the jacket system will be colored to match the buff color of the existing concrete pilings

utilizing earth tone colors only. This is similar to the coloring requirement of the original permit for the stairway construction (Ref. 6-94-118/City of Solana Beach). The proposed project, as conditioned, has been designed to protect public views along the shoreline. Therefore, as conditioned, the visual resources of the area will be protected consistent with Section 30251 of the Coastal Act.

5. Protection of Ocean Waters/BMP's. Section 30230, 30231 and 30232 of the Coastal Act requires that new development be designed so that ocean waters and the marine environment be protected from polluted runoff and accidental spill of hazardous substances:

Section 30230

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

Section 30231

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

Section 30232

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The repair to the public access stairway will occur on the public beach within a few feet of ocean waters. Construction activities will only occur at low tides when access along the beach is available. However, at high tides ocean waters will extend up to the stairway such that the repairs at times will be subject to wave action. The method of repair involves the application of epoxy that is filled into a 6 to 8 ft. high "jacket" system that encases three concrete caissons. The Commission has recently become aware that in previously constructed shoreline projects along the Solana Beach shoreline, construction byproducts have fallen onto the sand and have not been removed before the ocean waters rise and mix with the material. According to the Commission's water quality division

and staff of the State Regional Water Quality Control Board, San Diego Region, the mixing of such construction byproducts with ocean waters is a violation of the State Water Quality Act since it would involve the unauthorized discharge of a pollutant into ocean waters.

Along other sections of the coast, contractors have placed tarps on the beach to collect material that drops to the beach during construction. This and other techniques are possible ways to control construction debris and prevent discharge into the marine environment.

Special Condition #2 requires that during the construction of the project, “the permittees shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion”. This is a common condition for the Commission to impose on construction projects along the shoreline. However, based on information submitted for other shoreline projects, this special condition has not effectively served to prohibit the contamination of ocean waters by construction materials. Therefore, to assure that the subject development will not result in the pollution of the ocean waters, Special Condition #3 has been attached. Special Condition #3 requires the applicants to submit a Polluted Runoff Control Plan that incorporates Best Management Practices (BMPs), for Executive Director approval, for the proposed repair work. With appropriate BMPs, the potential for this polluted material from the repair site making its way into the ocean will be eliminated. In addition, Special Condition #2 prohibits the storage of construction vehicles in the surf zone, or the washing of equipment on the beach, both of which protect the receiving waters from an influx of pollutants, thus protecting biological productivity and marine resources. Therefore, as conditioned, the Commission finds the proposed development consistent with the marine and water quality protection policies of the Coastal Act.

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

The location of the proposed stairway repair is designated for Open Space Recreation in the City of Solana Beach Zoning Ordinance and General Plan, and was also designated for open space uses under the County LCP. As conditioned, the subject development is consistent with these requirements. Based on the above findings, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds the proposed development, as conditioned, will not prejudice the ability of the City of Solana Beach to complete a certifiable local coastal program.

7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a

proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the public access, geologic stability, visual and water quality protection policies of the Coastal Act. Mitigation measures, including final plans, restricting work to outside of the summer, a Best Management Program, and assumption of risks will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

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

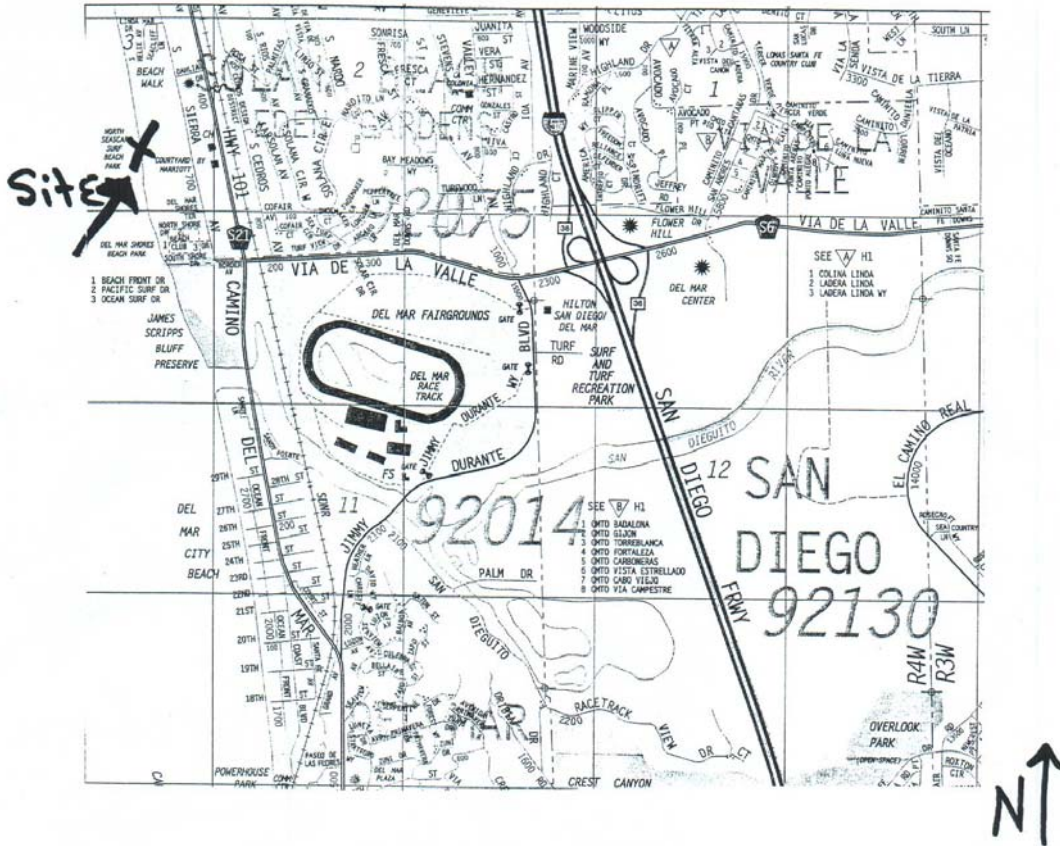


EXHIBIT NO. 1
APPLICATION NO.
6-07-122
Location Map
California Coastal Commission

