

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: AMENDMENT

Application No.: 6-96-089-A2

Applicant: Casa de la Playa Geologic Hazard
Abatement District (GHAD)

Agent: Walter Crampton

Location: 4878 Pescadero Avenue, Ocean Beach, San Diego,
San Diego County (448-251-01-01 through 26)

Original Project Description: Construction of a 190-foot long, 23-foot high shotcrete upper bluff retaining wall and an approximately 235-foot long, 10 foot high vertical seawall, with a maximum of 20 horizontal feet of toestone on the beach (toestone fronts the seawall and extends approximately 70 feet to the south) below an existing 24-unit condominium building; also, construction of a mid-bluff lateral public access path with stairway from path down to the beach.

Proposed Amendment: Construction of an approximately 55-foot long, 25-foot high extension to the existing upper bluff retaining wall.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve the applicant's request for the construction of an approximately 55 ft. long, 25 ft. high, 2 ft. thick extension to the southern side of an existing 190 ft. long upper bluff retaining wall on a rock shelf that is subject to a public use easement, in order to provide protection for the existing vertical public access stairway. In addition, the applicant proposes to reconstruct a portion of the public street end above the proposed upper bluff wall extension and to shore up existing rip rap boulders on the public beach. Staff is recommending approval of the subject upper bluff wall extension as the applicant has demonstrated the public stairway and the existing upper bluff wall supporting the stairway (which was originally constructed and approved by the Commission to protect an existing 24-unit bluff top condominium complex) is in danger from erosion.

The applicant's engineer has provided substantial evidence to demonstrate that the continued bluff retreat that has occurred over the recent years and the proximity of the public access stairway tiebacks to the ongoing flanking, imminently threatens the existing public access stairway. The Commission's staff engineer and geologist have reviewed the applicant's geotechnical assessment and concur with its conclusions.

Staff is recommending approval with a number of conditions that address the direct impact of the proposed seawall on coastal resources such as scenic quality, shoreline sand supply and the direct, indirect and long-term effects on the adjacent public beach and State tidelands that results from armoring the bluffs. Due to the uncertainties inherent in providing shoreline protection in a dynamic environment, including the unknown effects of climate change and sea level rise, staff is recommending that the proposed upper bluff wall extension only be authorized for 20 years. Such authorization for a limited period of time acknowledges the upper bluff wall extension is not necessarily a permanent structure and allows for a reassessment of site conditions in the future. After 20 years, an amendment to this permit will be required to allow the Commission to reevaluate the upper bluff wall extension's efficacy and the impacts it causes to public resources. Any reauthorization of the upper bluff wall extension will be based on the conditions at that time, taking into consideration the status of the existing development requiring protection, impacts and mitigation, and when the shoreline protection device might be removed.

A Special Condition of this CDP requires the applicant to submit a payment of \$5,619.25 to the SANDAG Beach Sand Replenishment Fund to mitigate for denial of sand to the littoral cell as a result of the upper bluff wall extension. The funds shall be used solely to implement projects which provide sand to the region's beaches

In recent years, the Commission has sought ways to quantify the adverse impacts to public access and recreation that result from shoreline protective devices and, thereby, develop more appropriate mitigation for those impacts. Mitigation might be in the form of a particular public access or recreational improvement to be located in close proximity to the project or might involve a payment to be used sometime in the future for a public

access/recreation improvement. In this particular case, the proposed upper bluff wall extension will result in impacts on public access by halting erosion of the bluff and thus preventing creation of additional shelf area for public use. However, the primary purpose of the proposed upper bluff wall extension is to prevent the existing public vertical access stairway from being compromised. If this public stairway fails or is closed, access to the subject pocket beach will be significantly limited, if not precluded. Thus, protecting the public access stairway will result in a significant benefit to public access. Therefore, the impacts to public access and recreation are adequately mitigated by protecting the existing public beach access stairway.

With the required sand mitigation fee, the public access and recreation benefits in the form of protecting the existing stairway, as well as the limitation on the time for which the upper bluff wall is approved, the impacts of the proposed shoreline protection on regional sand supply and public access and recreation will be mitigated to the extent feasible. To ensure that any future redevelopment of the bluff top condominium is consistent with Chapter 3 of the Coastal Act, this permit requires that any redevelopment of the condominium cannot rely upon this upper bluff wall extension to determine site suitability for such redevelopment.

Commission staff recommends **approval** of coastal development permit amendment application 6-96-089-A2, as conditioned.

Standard of Review: Chapter 3 policies of the Coastal Act, with the City's certified LCP and the Ocean Beach Precise Plan used as guidance.

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APPENDICES

Appendix A – Substantive File Documents
Appendix B – Casa de la Playa GHAD Resolution
Appendix C – Rip-Rap Removal Letter
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EXHIBITS

Exhibit 1 – PROJECT LOCATION
Exhibit 2 – EXISTING SITE PHOTO (2010)
Exhibit 3 – GOOGLE EARTH PHOTO WITH PROPOSED WALL EXTENSION
Exhibit 4 – PROJECT PLANS
Exhibit 5 – SPECIAL CONDITIONS OF 6-96-089
Exhibit 6 – PUBLIC EASEMENTS

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit Application No. 6-96-089 subject to the conditions set forth in the staff recommendation.*

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

Resolution:

The Commission hereby approves coastal development permit amendment 6-96-089-A2 and adopts the findings set forth below on grounds that the development as amended and conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act, and the portions of the project within the City of San Diego's jurisdiction will be in conformity with the provisions of the certified Local Coastal Program and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Prior Conditions of Approval.** All terms and conditions of the original approval of CDP 6-96-089, as amended, not specifically modified herein, shall remain in full force and effect (Exhibit 5).
2. **Revised Final Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for review and written approval of the Executive Director, final plans for the proposed upper bluff wall extension that are in substantial conformance with the plans titled "Casa de la Playa Condos Street-end Repair" submitted on October 25, 2012 by TerraCosta Consulting, except they shall be revised to include the following:
 - a. Plan showing the alignment of the proposed upper bluff wall extension returning into the bluff consistent with Exhibits 3 and 4.

- b. Technical and descriptive detail regarding the construction method and technology utilized for constructing the upper bluff wall extension so as to demonstrate that the upper bluff wall is designed in a manner so that it will physically blend into the adjacent natural bluff at the south end of the upper bluff wall. In addition, the south side of the upper bluff wall shall be designed and constructed to minimize the erosive effects of the approved upper bluff wall on the adjacent bluff. Said plans shall also be of sufficient detail to ensure that the Executive Director can verify that the upper bluff wall extension closely matches the color and texture of the natural bluffs adjacent to the proposed upper bluff wall, including provision of a color board indicating the color of the material.
- c. The existing rip-rap on the beach shall be picked up and restacked within the approved revetment footprint (pursuant to CDP 6-96-089), including the rip-rap on the beach to the south of the centerline of Pescadero Avenue.

The applicant 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 amendment unless the Executive Director determines that no amendment is legally required.

- 3. **Future Redevelopment/Encroachment on Public Easement.** By acceptance of this permit amendment, the applicant agrees, on behalf of itself and all its successors and assigns, to the following limitations on use of the blufftop residential parcels:
 - a. This coastal development permit amendment authorizes the proposed upper bluff wall extension for twenty years from the date of Commission approval of the coastal development permit amendment (i.e., until June 12, 2033). The applicant shall not modify or expand the approved upper bluff wall extension, nor shall the applicant construct additional bluff or shoreline protective structures without approval of a subsequent amendment to this coastal development permit amendment by the Coastal Commission.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit written evidence that the City of San Diego has received a copy of the conditions of this Commission-approved coastal development permit amendment and that it authorizes the proposed encroachment on the public easement area.

- 4. **Extension of Upper Bluff Wall Extension Authorization or Upper Bluff Wall Extension Removal.** Prior to the expiration of the twenty year authorization period for the permitted upper bluff wall extension, the property owners shall submit to the Commission an application for a coastal development permit amendment to either remove the upper bluff wall extension in its entirety, change or

reduce its size or configuration, or extend the length of time the upper bluff wall extension is authorized. 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 conform to the following requirements:

- a) 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 and/or Geotechnical Engineer or Registered Civil Engineer with expertise in soils;
 - b) An evaluation of alternatives that will increase stability of the existing principal structure (vertical public access stairs);
 - c) An analysis of the condition of the existing upper bluff wall extension and any impacts it may be having on public access and recreation, scenic views, sand supply, and other coastal resources;
 - d) An evaluation of the opportunities to remove or modify the existing upper bluff wall extension in a manner that would eliminate or reduce the identified impacts, taking into consideration the requirements of the LCP and any applicable Chapter 3 policies of the Coastal Act;
 - e) For amendment applications to extend the authorization period, substantial evidence that an existing structure is in danger from erosion and a proposed mitigation program to address unavoidable impacts identified in subsection (c) above;
 - f) A legal description and graphic depiction of all subject property lines and the mean high tide line surveyed by a licensed surveyor as of a recent date along with written evidence of full consent/approval of any underlying land owner, including, but not limited to the City or State Lands Commission, or any other entity of the proposed amendment application. 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, if applicable), shall be required prior to issuance of the permit amendment to extend the authorization period.
5. **Future Response to Erosion.** In addition to the 20 year authorization period discussed in Special Condition 3, 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 alternatives to the proposed bluff or shoreline protection that will eliminate impacts to coastal resources. Alternatives shall include, but not be limited to: relocation of all or portions of the principal structure that are

threatened, structural underpinning, and other remedial measures capable of protecting the principal residential structure 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 certified local government to evaluate the feasibility of each alternative, and whether each alternative is capable of protecting the relevant existing principal structure in danger from erosion. No additional bluff or shoreline protective devices shall be constructed on the adjacent bluff face to the south or on the beach in front of the proposed upper bluff wall unless the alternatives required above are demonstrated to be infeasible. Any future redevelopment on the lots shall not rely on the subject shoreline protective devices to establish geological stability or protection from hazards.

6. **Monitoring and Reporting Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and written approval, a monitoring program prepared by a licensed civil engineer or geotechnical engineer to monitor the performance of the upper bluff wall extension which requires the following:

- a. An annual evaluation of the condition and performance of the upper bluff wall extension addressing whether any significant weathering or damage has occurred that would adversely impact the future performance of the structure. This evaluation shall include an assessment of the color and texture of the upper bluff wall and concrete backfill comparing the appearance of the structure to the surrounding native bluffs.
- b. Annual measurements of any differential retreat between the natural bluff face and the upper bluff wall face, at the north and south ends of the upper bluff wall and at 20-foot intervals (maximum) along the top of the upper bluff wall face/bluff face intersection. 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 of each year (beginning the first year after construction of the project is completed) for a period of three years and then, each third year following the last annual report, for the 20 years for which this upper bluff wall is approved. In addition, reports shall be submitted in the spring immediately following either:
 1. An “El Niño” storm event – comparable to or greater than a 20-year storm.
 2. An earthquake of magnitude 5.5 or greater with an epicenter in San Diego County.

Thus, reports may be submitted more frequently depending on the occurrence of the above events in any given year.

- d. Each report shall be prepared by a licensed civil engineer, geotechnical engineer or geologist. The report shall contain the measurements and evaluation required in sections a and b above. The report shall also summarize all measurements and analyze trends such as erosion of the bluffs, changes in sea level, the stability of the overall bluff face, including the upper bluff area, and the impact of the upper bluff wall on the bluff to the south of the wall. In addition, each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the upper bluff wall.
- e. An agreement that, if after inspection or in the event the report required in subsection c above recommends any necessary maintenance, repair, changes or modifications to the project including maintenance of the color of the 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 or discovery of the problem.

The upper bluff wall extension monitoring report shall be combined with the monitoring reports required pursuant to CDP 6-96-089 for the existing seawall, upper bluff wall and rip-rap. The applicant shall undertake monitoring and reporting in accordance with the approved final monitoring and reporting program. Any proposed changes to the approved final monitoring and reporting program shall be reported to the Executive Director. No changes to the approved final monitoring and reporting program shall occur without a Coastal Commission approved amendment to this coastal development permit amendment unless the Executive Director determines that no amendment is legally required.

- 7. **Storage and Staging Areas/Access Corridors.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, 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 materials shall occur on sandy beach or public parking spaces. During the demolition and 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 vehicles or heavy machinery shall be allowed on the sandy beach at any time. Construction equipment shall not be washed on the public street.
 - b. Construction access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
 - c. No work shall occur on the beach or the shelf area accessible to the public on weekends or holidays.

- d. The applicant shall submit evidence that the approved plans and plan notes have been incorporated into construction bid documents. The applicant shall remove all construction materials/equipment from the staging site and restored the staging site to its prior-to-construction condition immediately 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 amendment unless the Executive Director determines that no amendment is legally required.

8. **Water Quality--Best Management Practices.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for review and written approval of the Executive Director, a Best Management Plan that effectively assures no shotcrete or other construction byproduct will be allowed onto the sandy beach and/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/or coastal waters. All shotcrete and other construction byproducts 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.

9. **Storm Design/Certified Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENENDMENT, the applicant shall submit to the Executive Director, for review and approval, certification by a registered civil engineer that the proposed shoreline protective device has been designed to withstand storms comparable to the winter storms of 1982-83 that took place in San Diego County.
10. **Other Permits.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit to the Executive Director for review, copies of all other required local, state or federal discretionary permits, including any required permit from the U.S. Army Corps of Engineers, for the development authorized by CDP #6-96-089-A2.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall also submit to the Executive Director for review, written permission

from the City of San Diego authorizing any portion of the development proposed to encroach upon or affect any portion of publicly owned property and/or, with the City acting as trustee of the public trust submerged and tide lands, State submerged and tide lands.

The applicant shall inform the Executive Director of any changes to the project required by other local, state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

11. Construction Site Documents & Construction Coordinator. DURING ALL CONSTRUCTION:

- a. **Construction Site Documents.** Copies of the signed coastal development permit amendment 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 amendment 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 (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with an indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

12. As-Built Plans. WITHIN 90 DAYS OF COMPLETION OF CONSTRUCTION, the Permittee shall submit two copies of As-Built Plans showing all development completed pursuant to this coastal development permit amendment; all property lines; and all residential development inland of the upper bluff wall structure. The As-Built Plans shall be substantially consistent with the approved project plans described in Special Condition 2 above, including providing for all of the same requirements specified in those plans, and shall account for all of the parameters of Special Condition 6 (Monitoring and Reporting). The As-Built Plans shall include a graphic scale and all elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD). The As-Built Plans shall depict the mean high

tide line surveyed by a licensed surveyor as of a recent date. The As-Built Plans shall include color photographs (in hard copy and jpg format) that clearly show all components of the as-built project, and that are accompanied by a site plan that notes the location of each photographic viewpoint and the date and time of each photograph. At a minimum, the photographs shall be from representative viewpoints from the beaches located directly upcoast, downcoast, and seaward of the project site. The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and processes, acceptable to the Executive Director, verifying that the upper bluff wall has been constructed in conformance with the approved final plans.

13. **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 and his/her successors in interest, that issuance of the permit and construction of the permitted development shall not constitute a waiver of any public rights which may exist on the property.
14. **Assumption of Risk, Waiver of Liability and Indemnity.**
 - a. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from erosion and coastal bluff collapse (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.
15. **Deed Restriction/CC&R's Modification.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant's homeowners' association (HOA) shall do one of the following:
 - a. Submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction in a manner that will cause said deed restriction to appear on the title to the individual condominium units, and otherwise 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 they apply to the HOA, as covenants, conditions and restrictions on the use and enjoyment of the individual condominium units. The deed restriction shall include a legal description of the entire parcel or parcels against which it is recorded. 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, or;

- b. Modify the condominium association's Declaration of Restrictions or CC&Rs, as applicable, in a form and content acceptable to the Executive Director, to reflect the obligations imposed on the homeowners' association by the special conditions of CDP #6-96-089-A2. This addition to the CC&Rs shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit amendment.

16. **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 fee of \$5,619.25 has been deposited in an interest bearing account designated by the Executive Director, in-lieu of providing the total amount of sand to replace the sand that will be lost due to the significant adverse impacts of the proposed protective structure. All interest earned by the account shall be payable to the account for the purposes stated below.

The purpose of the account shall be to establish a beach sand replenishment fund to aid SANDAG, or 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 (MOA) 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 MOA is terminated, the Commission may appoint an alternate entity to administer the fund.

The required mitigation payments cover impacts for only 20-years. No later than 19 years after the issuance of this permit, the permittees or their successors in interest shall apply for and obtain an amendment to this permit that either requires the removal of the existing upper bluff wall extension within the initial 20-years or requires mitigation for the effects of the upper bluff wall extension on shoreline sand supply, for the expected life of the upper bluff wall extension beyond the initial 20 years. If within the initial 20 years, the permittees or their successors in interest obtain a coastal development permit or an amendment to this permit to enlarge or reconstruct the upper bluff wall extension or perform repair work that extends the expected life of the upper bluff wall extension, the permittees shall provide mitigation for the effects of the additional size of the upper bluff wall extension or the extended effects of the upper bluff wall extension on shoreline sand

supply and public recreational use for the expected life of the upper bluff wall extension beyond the initial 20-year time frame.

III. FINDINGS AND DECLARATIONS

A. PROJECT HISTORY/AMENDMENT DESCRIPTION

The proposed project involves the construction of an approximately 55 ft. long, approximately 25 ft. high extension to the southern side of an existing 190 ft. long upper bluff retaining wall. As shown in the site plans, the proposed wall extension will be at a steeper angle than the current layback of the bluff. The applicant proposes to place concrete fill between the upper bluff wall extension and the bluff edge to expand the public street-end approximately five feet to access existing condominium parking spaces.

In 1983, the City of San Diego completed a large scale project to stabilize the coastal bluffs between Newport Avenue and Osprey Street (*Sunset Cliffs Shoreline and Upper Cliff Stabilization Project*). The subject site is located within the aforementioned Stabilization Project area. However, the applicant states that the subject site was not deemed to be threatened at the time of that project. Thus, no stabilization measures were undertaken for the subject site during the *Sunset Cliffs Shoreline and Upper Cliff Stabilization Project*. In 1996, the San Diego City Council approved the construction of a 190 ft. long upper bluff wall, a 275 ft. long, 16 ft. high rip-rap revetment, a lateral public access path on the face of the upper bluff wall, and a small public stairway to connect the path to the beach below the subject site. The City's approval was subsequently appealed to the Commission. In 1997, the Commission approved a CDP for a modified project that included the 190 ft. long upper bluff wall, the lateral access path and stairway, a 235 ft. long seawall, and an approximately 275 ft. long, 10 ft. high, 20 ft. wide rip-rap revetment (A-6-OCB-96-104/6-96-089).

In 1998, the Commission approved an amendment to the project to include a vertical public access stairway to connect Pescadero Avenue to the lateral access path, the small lower stairway and the pocket beach (6-96-089-A1). In 2010, the City of San Diego Hearing Officer approved a coastal development permit to perform maintenance and repair of the lower stairway fronting the subject site (6-LJS-10-181/PTS 200405).

The lower stairway is currently closed and in disrepair. The approved repairs to the lower stairway, which include new railings, small stem walls, and replacement of deteriorated concrete steps, have yet to be completed; although the City of San Diego has proposed to combine lower stairway repairs with the subject upper bluff wall extension to achieve significant economy of scale savings. Although the construction of the two projects may be undertaken simultaneously, the permitting of the two projects is not proposed to be combined (as the stairway repairs have already been approved).

Some of the rip-rap placed on the public beach pursuant to a CDP A-6-OCB-96-104/6-96-089 has been strewn around the public beach due to wave forces and is now located

outside the approved 20 foot horizontal rip-rap footprint. The applicant proposes to pick up and re-stack all the rip-rap on the public beach back to the approved footprint of no more than 20 feet from the bluff or seawall as required in the original approval.

The coastal bluff at the project site is characterized by a Bay Point Formation upper bluff approximately 24 feet high, resting on a 10-15 foot high Point Loma Foundation base. During high tides, the pocket beach fronting the subject site is completely underwater. However, during lower tides, the beach is highly used by the public. In addition, a moderately used surfing area is located directly offshore and is accessed from the existing vertical public access stairs and an existing accessway located adjacent to the north of the subject site.

The existing and proposed shoreline armoring is located on the beach and the bluff seaward of an existing 4-story, 24-unit condominium building and the terminus of Pescadero Avenue (Exhibits 1 and 2). The applicant has submitted documentation showing that the proposed upper bluff wall extension is located on privately owned property subject to a public use easement. The applicant's proposal to pick up and restack loose rip-rap will occur on the public beach below the mean high tide line and may partially occur on property subject to the public use easement if any portion of the rip-rap revetment is located above the mean high tide line. The excerpt below is taken from a letter from the Office of the San Diego City attorney to the applicant (Exhibit 6) and clarifies the easements associated with the project area.

"...Pescadero Avenue and Ocean Boulevard [paper street located to the west of the condominium complex] were dedicated for public use by the 1887 subdivision map attached as exhibit A. Under existing law at that time, the public acquired only an easement in property dedicated for use as a public street, and the owners of the adjacent property retained their rights in the soil underlying the easement to the middle of the street...When property abuts the ocean, the property owner is presumed to own the property seaward to the mean high tide line..."

On September 30, 1997, the San Diego City Council approved the formation of the Casa de la Playa Geologic Hazard Abatement District (Casa de la Playa GHAD) in compliance with the GHAD formation procedures pursuant to Public Resources Code, section 26500, et. seq. The Casa de la Playa GHAD consists of a 24-unit four-story bluff top condominium structure at 4878 Pescadero Avenue. The State of California Department of Conservation provides the following information about GHADs:

"... [GHADs] provide for the formation of local assessment districts for the purpose of prevention, mitigation, abatement, or control of geologic hazards...The Geologic Hazard Abatement District [GHAD] is a potentially useful tool to effectively abate a landslide hazard that crosses property boundaries. It is a mechanism that responds to the physical realities of landslides, and allows property owners to cooperate in solving a common problem. It removes much of the stigma of legal liabilities among adjacent landowners and allows them to cooperate rather than litigate. It also provides

for a cost-effective solution, requiring only one geotechnical engineering firm and one plan to solve the problems of several landowners.”

The boundaries of the GHAD are depicted in Appendix B. As shown in the appendix, the proposed upper bluff wall extension is located entirely outside the boundaries of the GHAD. However, the GHAD’s Plan of Control, which includes the existing shoreline armoring and the proposed upper bluff wall extension, was approved by the City of San Diego. In review of the proposed project, the City found that the proposed development meets all zoning requirements and needs no local permits other than building permits (Appendix E).

Although the proposed amendment spans two jurisdictions (the City’s and the Commission’s), practically, the project can only function as a single project. The design of the proposed extension of the upper bluff retaining wall is directly dependent upon the design of the existing toestone on the beach that is proposed to be restacked in its previously approved alignment. Review of the impacts of one portion of the project without an analysis of the impacts of the proposal as a whole would be confusing and inaccurate. Pursuant to Coastal Act section 30601.3, with the consent from the applicant and the City, the permit for the entire project is being processed as a consolidated permit by the Coastal Commission, with Chapter 3 policies of the Coastal Act as the legal standard of review, with the City’s certified LCP and the Ocean Beach Precise Plan used as guidance.

B. GEOLOGIC CONDITIONS AND 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.

Section 30253 states, in part:

New development shall do all of the following:

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

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...

[...]

i. Stairways, ramps, and other physical access structures, as proposed within an adopted community or other applicable plan

[...]

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.*

In addition, the certified Ocean Beach Precise Plan states, in part:

“...Preserve the natural features and beauty of the coastline adjacent to Ocean Beach...” (p. 38)

“...That the tide pools, cliffs and street-end beaches between the pier and Adair Street be maintained in a natural state...” (p. 39)

“...Prohibit bluff-top construction where cliff erosion would result...” (p. 91)

The proposed project involves the construction of an approximately 55 ft.-long, 25 ft. high, 2 ft. thick colored and textured concrete tiedback upper bluff wall extension with approximately 5 feet of concrete backfill on a bluff subject to a public use easement. Also proposed is the re-stacking of rip-rap on the public beach below a 24-unit condominium structure. The Commission’s staff geologist has determined that the condominium structure is not imminently threatened by erosion at the subject site. The applicant is primarily concerned that continued erosion will make a number of condominium parking spaces inaccessible. However, the Commission does not consider private parking spaces to be “a principal structure” and therefore protection of private parking spaces would not justify coastal armoring under the Coastal Act. The primary structure at risk is the existing public access stairway and the upper bluff wall that supports the stairway. The applicant’s engineer contends that the bluff edge to the south of the existing upper bluff wall has receded up to 10 feet in the last 17 years. The passage quoted below identifies the upper bluff hazard threatening the existing public access stairway:

“...the area beyond the southern end of the seawall [upper bluff wall] has continued to experience severe coastal erosion, significantly impacting the southerly half of the street and the remaining City right-of-way (ROW). This erosion has now advanced to the point where it is starting to severely flank the southerly end of the seawall [upper bluff wall]...which presents a serious problem, as the seawall [upper bluff wall] is restrained by a series of tiebacks that must be protected to maintain the integrity of the seawall [upper bluff wall]. The flanking has severely limited access into the westernmost parking structures. More troublesome, however, is the flanking along the southerly portion of the wall, which will eventually reach the structural tiebacks located 5 feet in from the wall and, at that time, will compromise the integrity of the southern portion of the wall, including the public beach access stairway...”

(Ref. "Geotechnical Basis of Design & Alternatives Analysis Casa de la Playa Geologic Hazard Abatement District" TerraCosta Consulting Group dated 7/12/11)

Thus, given the continued bluff retreat that has occurred over the recent years and the proximity of the public access stairway tiebacks to the ongoing flanking, substantial evidence has been provided to document that the public access stairway is 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 and the City's certified LCP, 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.

The applicant's geotechnical report and subsequent submittal information includes an alternatives analysis to demonstrate that no other feasible less-environmentally-damaging structural alternatives exist to address the threat to the public access stairway. The first alternative is to expand the size of the existing rock rip-rap with no upper bluff wall extension. While the applicant's engineer states that this alternative would help to protect the public stairway and address the flanking issue, it would not be preferable, as the amount of rock needed would eliminate the entire pocket beach below the site during all tides. The needed rock rip-rap would result in a much larger area of beach encroachment compared to the proposed upper bluff wall and thus would further eliminate usable public beach area and beach access. The second alternative is a drilled pier wall extension a few feet landward of the existing bluff edge. This alternative would not be preferable because the piers would soon become exposed and would need tiebacks and grade beams to continue protecting the existing stairway, which would be aesthetically unappealing. A third alternative would be a smaller upper bluff wall extension at a 45 degree angle from the existing upper bluff wall. Although this option is feasible, the new return wall would likely become exposed and be flanked. When this occurs, the wall would need to be extended closer to the existing condominium complex to the point that access to the public stairway would not be possible. The final alternative was no project. This alternative is not preferable because ongoing erosion would flank the existing upper bluff wall which supports a public stairway and if it fails, it would soon lead to a threat to the existing condominium structure.

The applicant's engineer concluded that the proposed upper bluff wall extension represents the minimum necessary effort to adequately protect the existing structures subject to threat (public stairway). The Commission's staff engineer and staff geologist have both reviewed the proposed project and concur that the currently proposed upper bluff wall extension design is the best alternative to protect the stairway and minimize any significant adverse effects the armoring may have on the environment.

The proposed upper bluff wall extension may have some end effects -- unintended impacts to adjacent properties. There will almost always be some effects at the junction between two different materials, but the proposed wall design has attempted to reduce these end effects on the unprotected upper bluff directly to the south as much as possible (the northern end of the proposed upper bluff wall extension will connect to an existing upper bluff wall). One effect occurs simply due to the different materials and the

positional change between the upper bluff wall extension, built in front of the bluff face, and the unprotected bluff face. The angle at the upper bluff wall extension's end can deflect some unquantifiable wave energy into the adjacent bluff. The sharper the angle and larger the difference between the face of the upper bluff wall extension and face of the bluff, the larger the likely amount of wave energy that can be reflected. The face of the upper bluff wall extension will transition into the bluff face in an attempt to minimize end effects. The second effect from seawalls can occur when waves impact the wall and then propagate along the face of the wall until they reach the unprotected bluff face and cause greater erosion there. Special Condition 2 requires the applicant to design and construct the proposed upper bluff wall extension to minimize the erosive effects on the adjacent bluffs. Since the upper bluff wall extension will have a textured face that is contoured to the existing bluff profile, the wall shape (i.e. contoured to the bluff) and the textured surface will reduce the likelihood that a wave will propagate uninterrupted along the face of the upper bluff wall extension. The upper bluff wall extension is not likely to have any positive benefits to the adjacent unprotected bluff; the unprotected bluff face adjacent to the upper bluff wall extension will continue to erode, and there will be, over time a difference in the position of the unprotected bluff and the upper bluff wall extension. This will not be a consequence of the upper bluff wall extension, but an indication of the ongoing erosion that is being interrupted by the upper bluff wall extension, but left unchecked on the unprotected property. Although, the continued erosion to the south will not be abated, measures have been taken by the applicant to design the proposed upper bluff wall extension so that the public access stairway will be adequately protected.

Special Condition 3 provides the applicant with a 20-year authorization period and allows the applicant to establish, through a coastal development permit amendment application, its continuing need for the upper bluff wall to protect the existing structure in danger from erosion and submit a mitigation proposal to mitigate for impacts beyond the initial 20-year approval. Special Condition 4 establishes a process that requires submittal of an amendment to the upper bluff wall extension permit with the Commission prior to the expiration of the 20 year authorization of the permit. As the surrounding area redevelops, the need for the upper bluff wall extension could be reduced or eliminated. Special Condition 4 and 5 therefore require the amendment application to include the submittal of sufficient information for the Commission to consider the need and alternatives to continued authorization of an upper bluff wall extension at this location.

A twenty-year period better responds to such potential changes and uncertainties, including to allow for an appropriate reassessment of continued armoring and its effects at that time in light of what may be differing circumstances than are present today, including with respect to its physical condition after twenty years of existence. In addition, with respect to climatic change and sea level rise specifically, the understanding of these issues should improve in the future, given better understanding of the atmospheric and oceanic linkages and more time to observe the oceanic and glacial responses to increased temperatures, including trends in sea level rise. Such an improved understanding will almost certainly affect CDP armoring decisions, including at this location. Of course, it is possible that physical circumstances as well as local and/or statewide policies and priorities regarding shoreline armoring are significantly unchanged

from today, but it is perhaps more likely that the baseline context for considering armoring will be different – much as the Commission’s direction on armoring has changed over the past twenty years as more information and better understanding has been gained regarding such projects, including their effect on the California coastline. For these reasons, the Commission is authorizing the proposed upper bluff wall extension for 20 years from the date of this approval. This limitation is implemented through Special Conditions 3.

The intent of these conditions is to limit further encroachment on the public resources with additional bluff protective devices, and to allow for potential removal of the approved upper bluff wall extension when it is no longer necessary to protect the existing structure in danger from erosion that required the upper bluff wall extension. Special Condition 5 recognizes that the proposed upper bluff wall extension is being approved to protect the existing public access stairway structure in danger from erosion. Any future redevelopment of the affected property will need to reevaluate current conditions and new development should be sited safely, independent of any shoreline protection.

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 upper bluff wall extension annually, for three years and at three-year intervals after that, unless a major storm event occurs. The monitoring will ensure that the applicant and the Commission are aware of any damage to or weathering of the upper bluff wall extension and can determine whether repairs or other actions are necessary to maintain the upper bluff wall extension in its approved state. Special Condition 6 requires the applicant to submit a monitoring report that evaluates the condition and performance of the upper bluff wall extension and overall site stability, and to submit an annual report with recommendations, if any, for necessary maintenance, repair, changes or modifications to the project. In addition, the condition requires the applicant to perform the necessary repairs through the coastal development permit process, when required.

Special Condition 2 requires the applicant to submit final plans for the project indicating that the upper bluff wall extension conforms to the bluff contours and that the rip-rap currently on the public beach is restacked within the footprint approved pursuant to CDP 6-96-089.

To assure the proposed shore/bluff protection has been constructed properly, Special Condition 12 has been proposed. This condition requires that, within 90 days of completion of the project, as built-plans and certification by a registered civil engineer be submitted that verifies the proposed upper bluff wall extension has been constructed in accordance with the approved plans. The Commission typically requires that any proposed shore/bluff protection be constructed to withstand serious episodic storms. Special Condition 9 has been attached which requires the applicant to submit certification by a registered civil engineer verifying the upper bluff wall extension, as proposed herein, has been designed to withstand storms comparable to the winter storms of 1982-83. Special Condition 10 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 11 has been attached, which 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.

Section G. 143.0144(a) of the City of San Diego's Coastal Bluffs and Beaches section of the certified LCP states:

Development on Coastal Beaches

[...]

Where erosion control devices are proposed to encroach upon or affect any portion of property owned by the City of San Diego or other public agency, or on lands subject to the public trust, the applicant shall provide written permission from the City Manager or public property owner before approval of any permit. If the protective device encroaches directly on or otherwise affects State tidelands or publicly-owned property, the property owner shall be required to compensate for the use of public property and to mitigate the impacts of the protective device on public beaches.

In this case, the applicant is a GHAD and is not required to obtain local approval for work on private property, within the GHAD boundaries. However, upon approval of the GHAD boundaries by the San Diego City Council, public property was excluded from the boundaries of the GHAD. All of the proposed development included in this CDP amendment application is on public property or property subject to a public use easement and is outside the GHAD boundaries. Therefore, consistent with the section of the City of San Diego's certified Land Development Code, which is used for guidance; Special Condition 3 requires that the applicant provide written permission from the City, as property owner and as trustee of the adjacent public trust lands, before this CDP can be issued. This stretch of beach and bluff has historically been used by the public for access and recreation purposes. Special Condition 13 acknowledges that the issuance of this permit does not waive the public rights that may exist on the property.

Also, due to the inherent risk of shoreline development, Special Condition 14 requires the applicant to waive liability and indemnify the Commission against damages that might result from the proposed shoreline devices or their construction from bluff collapse and erosion. In addition, the structure itself may cause damage either to existing bluff top structures or to neighboring properties by increasing erosion of the bluffs. Such damage may also result from wave action that damages the upper bluff wall extension. 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. Special Condition 15 requires the applicant to execute and record a deed restriction against each individual condominium unit that will be governed by this CDP or modify the condominium association's Declaration of Restrictions or CC&Rs to reflect the special conditions of this CDP.

In summary, the applicant has documented that the existing vertical public access stairway is in danger from erosion and subsequent bluff collapse. As conditioned, there are no other less damaging structural alternatives available to reduce the risk from bluff erosion. Given the documented coastal bluff erosion over the past several years and the close proximity of the public access stairway to the ongoing flanking, substantial evidence has been provided to document that the existing public access stairway is in danger from erosion and that the proposed upper bluff wall extension is necessary to protect the structure. In addition, 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 with the data and findings in the assessment that the existing public access stairway is in danger from erosion and the proposed upper bluff wall extension is necessary to protect that existing structure. Therefore, the Commission finds that the proposed upper bluff wall extension, as conditioned, is consistent with Sections 30235 and 30253 of the Coastal Act, the City's certified LCP, the Ocean Beach Precise Plan, 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 protect for such uses.

Section 30240 (b) requires that development in areas adjacent to environmentally sensitive habitat and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and be compatible with the continuance of those habitat and recreation areas.

The certified Ocean Beach Precise Plan states, in part:

New or expanded permanent lifeguard facilities, or other permanent structures, shall not be permitted on existing sandy beach areas, except where it can be found that adverse impacts to public beach usage are negligible or where public safety requires it, and no less environmentally damaging alternatives exist.

The certified Ocean Beach Precise Plan further states, in part:

In order to protect and enhance the recreational value of the existing pocket beaches and tidal areas along Sunset Cliffs:

[...]

b) Additional sandy beach areas should be provided as a mitigation for any beach areas immediately displaced by erosion control structures.

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 encroach upon any existing physical accessway legally utilized by the public...

Shoreline protection is required to 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 protection¹. The natural shoreline processes referenced in Section 30235, such as the formation and retention of sandy beaches, can be significantly altered by construction of shoreline protection, since bluff retreat is one of several ways that beach area and beach quality sand is added to the shoreline. This retreat is a natural process resulting from many different factors such as

¹ Griggs, G.B., 2005, The impacts of coastal armoring: Shore and Beach, v. 73, no. 1, p. 13–22; Griggs, G.B., 2010, The effects of armoring shorelines—The California experience, in Shipman, H., Dethier, M.N., Gelfenbaum, G., Fresh, K.L., and Dinicola, R.S., eds., 2010, Puget Sound Shorelines and the Impacts of Armoring—Proceedings of a State of the Science Workshop, May 2009: U.S. Geological Survey Scientific Investigations Report 2010-5254, p. 77-84.

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 and natural bluff deterioration. When an upper bluff wall or other armoring is constructed on the beach and/or at the toe of the bluff, it directly impedes these natural processes.

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. Shoreline protection also has 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.

The proposed upper bluff wall extension will be approximately 55 feet long (~5 ft. of the wall will return into the bluff) and will encroach approximately two feet onto a rock ledge that forms part of the bluff. The total immediate encroachment that will result from the proposed upper bluff wall extension will be approximately 100 square feet (2 ft. x 50 ft.), which is rock shelf bluff area that will no longer be available for public use. In addition, if the natural shoreline were allowed to erode, the bluff would retreat inland. However, when the back shoreline location is fixed, the inland migration of the bluff is halted. This will result in a long-term loss of recreational opportunity as the development of new inland land fails to keep pace with the loss of or inundation of the seaward portion of the beach. Over a 20 year period, with a long-term average annual retreat rate of 0.54 ft./yr. (retreat rate provided by the applicant's engineer), approximately 540 square feet of shelf area that would otherwise have been created and available for public use will not be available ($0.54 \text{ ft./yr. [erosion rate]} \times 50 \text{ ft. [length of upper bluff wall extension]} \times 20 \text{ years}$). These two impacts from the upper bluff wall extension, the encroachment and the fixing of the back beach, will result in the immediate loss of approximately 100 square feet of public bluff/beach and the on-going loss of beach area (540 sq. ft.), for a total of 640 sq. ft. after 20 years.

Appropriate mitigation for the subject development would be creation of additional public beach or accessible bluff shelf area in close proximity to the impacted area. However, there is not private beach or shelf area available for purchase. In addition to the more qualitative social benefits of beaches (recreational, aesthetic, habitat values,

etc.), beaches and accessible bluff shelf areas provide significant direct and indirect revenues to local economies, the state, and the nation. The loss of or any decrease in access to a public beach area in an urban area such as San Diego represents a significant impact to public access and recreation, including a loss of the social and economic value of this recreational opportunity. The question becomes how to adequately mitigate for these qualitative impacts on public recreational beach use and in particular, how to determine a reasonable value of this impact to serve as a basis for mitigation.

In recent years, the Commission has sought ways to quantify the adverse impacts to public access and recreation that result from shoreline protective devices and, thereby, develop more appropriate mitigation for those impacts. Mitigation might be in the form of a particular public access or recreational improvement to be located in close proximity to the project or might involve a payment to be used sometime in the future for a public access/recreation improvement. However, in this particular case, while the proposed wall extension will result in impacts on public access, the primary purpose of the proposed upper bluff wall extension is to prevent the existing public vertical access stairway from being compromised. If this public stairway fails or is closed, access to the subject pocket beach will be significantly limited, if not precluded. Thus, protecting the public access stairway will result in a significant benefit to public access.

Appropriate mitigation for impacts to public access as a result of shoreline armoring devices is determined on a case by case basis. One important factor considered by the Commission is whether proposed shoreline armoring devices are primarily used for the protection of private resources at the expense of public coastal resources or if the shoreline device has some type of public benefit. As stated previously, the applicant's condominium building is not currently threatened and the proposed upper bluff wall extension is the minimum necessary to protect the existing public access stairway. In this particular instance, the most used portion of this pocket beach by the public is the sandy area at the base of the bluff. The rock shelf area where the upper bluff wall extension is proposed is secondary to the sandy beach area in terms of public access. Due to the configuration of the shoreline and the applicant's existing seawall and rip rap revetment, access to the sandy beach area is only available via the lateral mid bluff access path and the vertical access path. During most, if not all tidal and wave conditions, it is not possible to walk along the sand to reach this pocket beach from the north or the south. Although the midbluff vertical lateral access path was required by the Commission when the applicant constructed the existing shoreline protection, the stairway was voluntarily added at a later time by the applicant and the City of San Diego. Thus protection of the existing constructed vertical public accessway, which was not a part of the previously required public access mitigation, is of utmost importance.

The existing toestone on the public beach is currently impeding public access over a large portion of the sandy pocket beach. Although the toestone was installed by the applicant through a previous CDP, the majority of the toestone is located to the south of the applicant's property. Thus, removing only the portion of toestone on the applicant's property or fronting the applicant's property may result in accelerated erosion and would be more effectively dealt with in a comprehensive manner. The applicant contends that at such time as the applicant's neighbor to the south at 4873 Pescadero Avenue submits

an application to the Coastal Commission, or to the City of San Diego, for a Coastal Development Permit, which requires removal of the existing toestone on the public beach and on the property subject to a public use easement south of the centerline of Pescadero Avenue, the applicant will participate in a CDP or CDP amendment to remove the toestone from the public beach and on any property subject to a public use easement north of the centerline of Pescadero Avenue (Appendix C). Removal of the existing toestone will vastly expand the area of beach available for public use. Therefore, the impacts to public access and recreation are adequately mitigated by protecting the existing public beach access stairway to the sandy pocket beach.

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 would be contributed to the littoral sand supply to nourish beaches throughout the region. The proposed upper bluff wall extension will halt this contribution to the littoral cell. The upper bluff wall extension will halt the erosion of the bluff face and trap sand in the bluff face that would otherwise have been added to the public beach. Thus, in order to mitigate the adverse impact to sand supply, Special Condition 16 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, as discussed above. The applicant contends that a GHAD is a public agency and should therefore, not be required to pay a sand mitigation fee for sand supply impacts resulting from the upper bluff wall extension. However, there is no exemption for public agencies to mitigate for the impacts to local sand supply and the Commission regularly requires mitigation for sand supply impacts for projects proposed by public agencies. (See, for example, CDP No. 3-09-020 [Caltrans], CDP No. 6-11-010 [Oceanus GHAD]) Notwithstanding the applicant's contention, it has applied the calculations that the Commission has used for the past decade to estimate mitigation for this impact. Since the impacts from encroachment and fixing the back beach are being covered through estimates for recreational beach losses, the In-Lieu Beach Sand Mitigation calculations applied in this analysis only address the value of the sand that will not be contributed by the bluffs to the littoral cell due to the construction of the seawall. The amount of beach material that would have been added to the beach if natural erosion had been allowed to continue at the site for a period of 20 years has been calculated to be approximately 325 cubic yards. At estimated sand cost of \$17.29 per cubic yard (provided by the applicant, and based on three estimates from local contractors); this sand would have a value of \$5,619.25 (Appendix D). Through payment of the sand supply fee, the impact to sand supply is adequately mitigated.

The intent of these conditions is to limit further encroachment on the public resources with additional bluff protective devices, and to allow for potential removal of the approved upper bluff wall extension when it is no longer necessary to protect the existing structure in danger from erosion that required the upper bluff wall extension.

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 7 requires that the applicant submit a construction staging and material storage plan for the subject development showing that beach access impacts will be minimized. The applicant has stated that the staging area will occur on the northern side of the street

at the terminus of Pescadero Avenue and directly in front of the south side of the Casa de la Playa Condominiums. Special Condition 7 also mitigates the impact of such construction activities on public parking areas and public access. Furthermore, the condition prohibits the applicant from using vehicles or heavy machinery on the beach, using any public parking spaces overnight for staging and storage of equipment, or washing or cleaning construction equipment on the street. The condition also prohibits construction on the beach and on the bluff shelf accessible to the public during weekends and holidays. The Commission has historically prohibited work on the bluffs and beaches during the summer months (between Memorial Day to Labor Day) in this area of the coast (ref. CDP 6-11-010/Oceanus). However, as mentioned previously, the lower stairway leading to the pocket beach is currently closed and it is imperative that the City make the needed repairs and access to the pocket beach be regained as quickly as possible. By undertaking the repairs to the lower stairway at the same time as the work on the subject upper bluff wall extension, the City estimates that it will save approximately 200,000 dollars. The savings are in large part due to the fact that machinery and other equipment will already be mobilized at the subject site.

As described above, the proposed upper bluff wall extension will cause adverse impacts to public access as a result of trapping sand within the bluff that would otherwise have been added to the public beach and littoral cell and by immediately encroaching upon and subsequently preventing the creation of approximately 640 sq. ft. of bluff shelf area over the next 20 years that would otherwise have been available for public use. However, the required sand mitigation fee and the proposed protection of the existing public access stairway will adequately mitigate the shoreline armoring device's impacts on public access. As conditioned, the proposed development can be found to be consistent with the public access and recreation policies of the Coastal Act, the City's certified LCP, and the Ocean Beach Precise Plan.

D. VISUAL RESOURCES/ALTERATION OF NATURAL LANDFORMS

Section 30240 (b) of the Coastal Act is applicable and states:

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

Section 30251 of the Coastal 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 . . .

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.

In addition, the certified Ocean Beach Precise Plan states, in part:

"...Every effort must be made to maintain the existing shoreline, including the trails, between the pier and Adair Street in as natural a state as possible, if the visual quality of Ocean Beach is to be maintained..." (p. 39)

As stated previously, the proposed construction will occur primarily on a rock shelf that is subject to a public use easement and on the public beach. The bluff face directly to the south of the proposed shoreline protection device is in a natural state aside from approximately 20 feet of rip-rap revetment on the beach. An existing pedestrian and emergency vehicle public driveway accessway that can be used for launching emergency boats or for emergency vehicles, is located directly north of the existing shoreline armoring (approximately 200 ft. north of the pocket beach) and an existing seawall and rip-rap is located directly north of the public accessway.

The proposed approximately 50 ft.-long upper bluff wall has the potential for adverse impacts on visual resources of the existing natural bluffs. Based on consideration of coastal resources, the visual impacts of the structure have been minimized to the extent feasible. Following construction of the proposed upper bluff wall extension, the natural appearance of the bluffs will be substantially altered. To mitigate the visual impacts of the proposed upper bluff wall extension, the applicant proposes to color and texture the upper bluff wall extension. The visual treatment proposed is similar to the visual treatment approved by the Commission in recent years for other shoreline devices in the City of San Diego (ref. CDP #6-11-010/Oceanus). The technology in design of shoreline devices has improved dramatically over the last two decades. Today shoreline devices typically involve sculpted and colored concrete that upon completion closely mimic the natural surface of the bluff face. In the case of the subject upper bluff wall extension request, the specific design methods for coloring and texturing the upper bluff wall extension have not as yet been submitted. Thus, Special Condition 2 requires the submittal of 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 that potential visual impacts associated with the proposed development have been reduced to the maximum extent feasible and the proposed development will include measures to prevent impacts that would significantly degrade the adjacent public shoreline. Thus, with the proposed conditions, the project is consistent with Sections 30240 and 30251 of the Coastal Act, the City's certified LCP, and the Ocean Beach Precise plan.

E. PROTECTION OF COASTAL WATERS/BMP'S

Section 30230, 30231 and 30232 of the Coastal Act require that new development be designed so that coastal waters and the marine environment are 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.

Special Condition 7 is attached which requires that during the construction 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.” This is a standard requirement for all bluff protection projects approved by the Commission. Additionally, to assure that the subject development will not result in the pollution of the coastal waters, Special Condition 8 has been attached. Special Condition 8 requires the applicant to submit a Best Management Plan that incorporates structural and nonstructural Best Management Practices (BMPs), for Executive Director approval, for the construction of the proposed upper bluff wall extension. 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, the certified LCP, and the Ocean Beach Precise Plan.

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. However, in this case, the proposed project is located within both the Commission's area of original jurisdiction and the City of San Diego jurisdiction appealable to the Commission. Pursuant to Coastal Act section 30601.3, with the consent from the applicant and the City, the permit for the entire project is being processed as a consolidated permit by the Coastal Commission, with Chapter 3 policies of the Coastal Act as the legal standard of review, with the City's certified LCP used as guidance. In addition, the underlying CDP and previous CDP amendment (6-96-089 and 6-96-089-A1, respectively) were issued by the Commission. Therefore, any amendment to a Commission issued permit must be issued by the Commission.

On September 30, 1997, the San Diego City Council approved the formation of the Casa de la Playa Geologic Hazard Abatement District (GHAD). The Casa de la Playa GHAD includes the 24-unit four-story blufftop condominium structure at 4878 Pescadero Avenue. A GHAD is a political subdivision of the State, authorized to prevent, mitigate, abate or control geologic hazards and to mitigate or abate structural hazards that are partly or wholly caused by geologic hazards. As a political subdivision of the state, GHADs are authorized to acquire, construct, operate, manage or maintain improvements on public or private lands. The San Diego City Council did not include public property or roads when it approved the Casa de la Playa GHAD. Therefore, the Casa de la Playa GHAD, as a subdivision of the state, cannot authorize local permit approvals on the property outside of its approved boundary. The City of San Diego has determined that the proposed development meets all zoning requirements and needs no local permits other than building permits. Specifically, the City found that a site development permit was not required because the consolidated CDP review by the Commission will address resource protection concerns and that various City Council approvals of the GHAD recognized the need for additional shoreline armoring in this location.

The portion of the subject site seaward of the western property line is zoned Parks and Open Space in the City's certified LCP. The portion of the subject site within the property lines of 4878 Pescadero Avenue is zoned for multi-family residential. The proposed project, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act, the City's certified LCP, and the Ocean Beach Precise plan. Therefore, as conditioned, it will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Ocean Beach area of the City of San Diego.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City acted as the lead agency for CEQA purposes and determined that the project was categorically exempt. However, no specific categorical exemption class or item was cited. Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing encroachment on public property/impacts to public trust lands, extension of upper bluff wall extension authorization/upper bluff wall extension removal and project 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.

(G:\San Diego\Reports\Amendments\1990s\6-96-089-A2 Casa de la Playa strfpt.docx)

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

- Site Plans titled “Casa de la Playa Condos Street-end Repair” submitted on 10/25/2012 by TerraCosta Consulting
- Simulation titled “Google Earth Photo with Proposed” submitted on 3/12/2013 by TerraCosta Consulting.
- Letter from the Office of the San Diego City attorney to Evelyn Heidelberg dated 3/17/2010 and submitted to the CCC on 12/22/2011
- “Geotechnical Basis of Design & Alternatives Analysis Casa de la Playa Geologic Hazard Abatement District” by TerraCosta Consulting Group dated 7/12/11
- City of San Diego Certified LCP
- City of San Diego Resolution Number 289251 Passed on 9/30/1997 (Casa de la Playa GHAD Formation)
- Ocean Beach Precise Plan
- CDP
- CDP Nos.:
 - 6-11-010/Oceanus
 - A-6-OCB-96-104/6-96-089/Casa de la Playa
 - 6-96-089-A1/Casa de la Playa
 - 6-LJS-10-181/PTS 200405/City of San Diego
 - F9620 approved 3/20/1981 - *Sunset Cliffs Shoreline and Upper Cliff Stabilization Project*

APPENDIX B

CASA DE LA PLAYA GHAD RESOLUTION

CLERK'S FILE COPY

5500

(R-98-173)

RESOLUTION NUMBER R- 289100

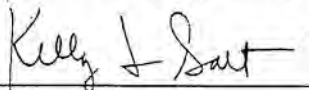
ADOPTED ON AUG 12 1997

WHEREAS, Chapter 17 (§ 26500 et seq.) of the Public Resources Code of the State of California allows the formation and operation of geologic hazard abatement districts within the boundaries of a local agency where its legislative body has declared it subject to that Chapter's provisions; NOW, THEREFORE,

BE IT RESOLVED, that the Council of The City of San Diego, hereby declares and resolves that it is and shall be subject to the provisions of said Chapter 17 of the Public Resources Code and directs the City Clerk to forward a copy of this Resolution to the Office of the State Controller.

APPROVED: CASEY GWINN, City Attorney

By



Kelly J. Salt
Deputy City Attorney

KJS:pev
8/8/97
Or.Dept:Fin.&Tech.Svcs.
Aud.Cert:N/A
R-98-173
Form=r-t.frm

CASA DE LA PLAYA GHAD RESOLUTION (CONT.)

350
[Signature]
(R-98-343 COR.COPY)

RESOLUTION NUMBER R- 289251

ADOPTED ON SEP 30 1997

WHEREAS, on September 8, 1997, pursuant Resolution Number R- 289111, the City Council authorized the City Manager to initiate proceedings for the formation of a Geologic Hazard Abatement District ("GHAD") pursuant to Division 17 of the California Public Resources Code (the "Code") to be known as the Casa De La Playa Geologic Hazard Abatement District (the "District"); and

WHEREAS, the City Council gave notice that a public hearing would be held on September 30, 1997 for any interested person to object to the proposed formation of the District, and

WHEREAS, the City Council directed the City Clerk to cause a notice, as required pursuant to Sections 26557- 26563 of the Code, to be published at least twenty (20) days before the hearing in the City's official newspaper and to mail a copy of such notice along with a copy of Resolution Number R-289111 to each owner of real property within the proposed District as shown on the last equalized County Assessment Roll; and

WHEREAS, such notices were published and mailed to the respective property owners; and

WHEREAS, the City Council has not received objections from owners of more than fifty percent (50%) of the property to be included within the proposed District; NOW, THEREFORE,

BE IT RESOLVED, by the City Council that the District be and is hereby formed in accordance with the Code.

-PAGE 1 OF 2-

CASA DE LA PLAYA GHAD RESOLUTION (CONT.)


BE IT FURTHER RESOLVED, that the District shall be all that real property in the City of San Diego included within the exterior boundary lines of the map designated as the District filed in the Office of the City Clerk as Document Number RR- 289111, excepting therefrom all public streets, roads, alleys, avenues, and highways.

BE IT FURTHER RESOLVED, by the City Council that pursuant to Section 26567 of the Code the following five (5) property owners within the District are appointed as directors of the District for terms not to exceed four (4) years: Lee Haralson, Eileen Higgins-Lower, Katherine Blohm, Sidney Karp, and Shirley Pepper.

BE IT FURTHER RESOLVED, that these actions are hereby taken pursuant to Division 17 of the Code and are necessary to prevent an emergency within the meaning of Section 21080(b)(4) of the Code.

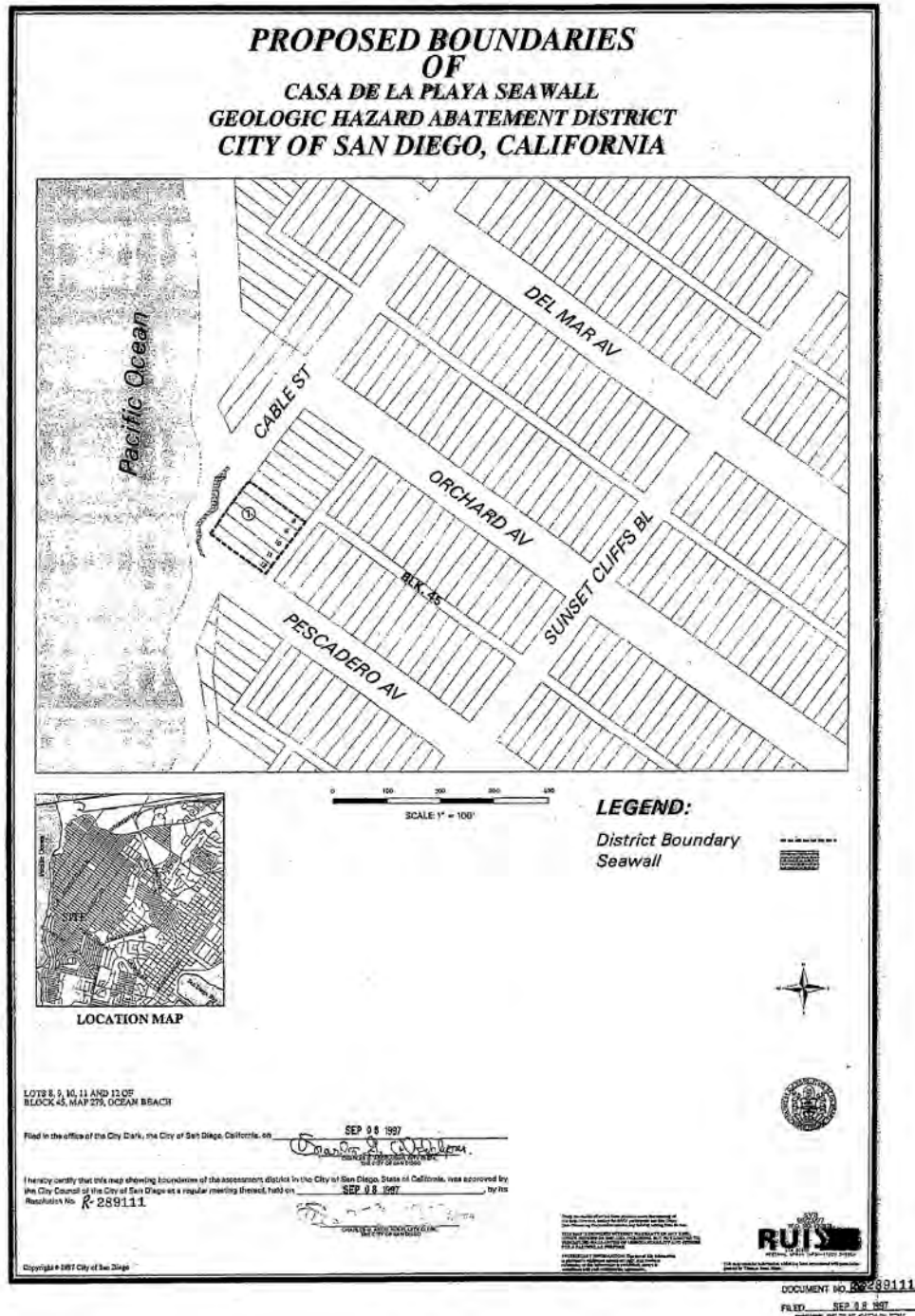
APPROVED: CASEY GWINN, City Attorney

By


Kelly J. Salt
Deputy City Attorney

KJS:mb:pev
09/18/97
09/22/97 Cor.Copy
Or.Dept.Fin.Svc
R-98-383
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CASA DE LA PLAYA GHAD RESOLUTION (CONT.)



APPENDIX C

RIP-RAP REMOVAL LETTER

Mr. Eric Stevens
CALIFORNIA COASTAL COMMISSION
Project No. 1264C

March 12, 2013
Page 2

While the GHAD appreciates the Commission's interest in reducing or eliminating the amount of riprap beneath the Pescadero Avenue street-end, the simple reality is that all of the riprap seaward of the street-end, in addition to having been previously approved under CDP No. 6-96-089, rests entirely upon the property whose underlying fee ownership resides with 4873 Pescadero Avenue and not in any way under the control of the Casa De La Playa GHAD. The GHAD simply does not possess the right to remove any of this rock.

Moreover, even if the GHAD had the right to remove any of the riprap seaward of the street-end, as we previously discussed, and as stated in our October 25, 2012, Response to Review Comments, the rock is necessary to protect the lower Point Loma shelf rock from continued marine erosion and, as importantly, the upper sloping terrace deposits from wave-induced overtopping and its associated erosion. The removal of this rock as previously suggested by Coastal Staff would require the construction of a new full-height seawall to protect both the lower Point Loma formational shelf rock and the upper sloping terrace deposits. While the GHAD's current project proposes to stabilize the upper terrace deposits below the westbound lane of Pescadero Avenue, removal of any rock would require stabilizing not only the terrace deposits, but the lower cliff-forming Point Loma Formation below both the eastbound and westbound lanes of Pescadero Avenue, and importantly the stabilization of the sea cliffs supporting the southerly half of the street-end with the underlying ownership as part of 4873 Pescadero Avenue.

In follow up to our telephone call of January 30, the GHAD is agreeable to a permit condition providing that it will cooperate with its neighbor to the south at 4873 Pescadero Avenue, at such time as its neighbor at 4873 Pescadero Avenue submits an application to the Coastal Commission, or to the City of San Diego, for a Coastal Development Permit. The GHAD understands that, in connection with approval of any such Coastal Development Permit, the Coastal Commission would likely require the owner of 4873 Pescadero to remove all of the rock south of the public access stairway, and the construction of a new naturalized full-height tied-back wall intended to protect the public street-end and enhance public view of the coastline and the ocean, and enhance access to this small pocket beach. Should the Commission so require the owner of 4873 Pescadero to undertake those improvements on his or her property, the GHAD will agree to remove any rocks that may be located on the beach below the northern half of the extension of the Pescadero right-of-way, and to construct any part of a new naturalized full-height tied-back wall that is necessary on the northern half of the Pescadero right-of-way, or to



N:\121264\1264C GHAD\1264C.103 CCC.doc

RIP-RAP REMOVAL LETTER (CONT.)

Mr. Eric Stevens
 CALIFORNIA COASTAL COMMISSION
 Project No. 1264C

March 12, 2013
 Page 3

make any modifications to the then-existing tied-back wall on the northern half of the Pescadero right-of-way that are necessary to integrate it with the new naturalized full-height tied-back wall to be constructed on the southern half of the Pescadero right-of-way.

Current Design Wall Height

As indicated on the most recent set of construction drawings submitted as Appendix D to our October 25, 2012, Response to Review Comments letter, the elevation of the street adjacent the coastal bluff is near +40 feet and the elevation of the top of the Point Loma Formation that has created a mid-slope bench is near +16 feet, resulting in an exposed wall height of 24 feet. We are also proposing to key the wall a minimum of 1 foot into the Point Loma shelf rock, placing the toe of the structural wall at +15 feet, ultimately resulting in a total structural section wall height of 25 feet. We are also proposing a 42-inch-high stainless steel cable railing, the details of which are shown on Sheet 7 of the construction drawings.

Proposed Seawall Location

As indicated in the above-referenced construction drawings (Appendix D of our October 25, 2012, letter), this project is limited to stabilizing the eroding Bay Point formational soils that overlie the cliff-forming Point Loma formational shelf rock. The plan envisions stabilizing the near-vertical portion of the Bay Point Formation and, in the process, we will place the base of the seawall some distance landward of where it is today to create a more vertical wall section, as generally shown on Sheet 5 of the construction drawings. Notably, however, the new seawall must tie into the existing upper eroding Bay Point bluff face supporting the eastbound lane of Pescadero Avenue. As we have previously discussed, we are now proposing to slightly modify the southeasterly return wall, as shown on Figure 1, to be excavated near the bluff face at right angles to the existing bluff face in lieu of our original proposal to extend the keyway parallel to, and immediately northerly of, the centerline of Pescadero Avenue, as shown on Sheet 4 of the construction drawings.



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APPENDIX D

SAND MITIGATION FEE CALCULATIONS

Casa De La Playa GHAD
Project No. 1264C

March 12, 2013
Page 1

CALCULATION OF MITIGATION FEE FOR IMPACTS TO SAND SUPPLY
CASA DE LA PLAYA GEOLOGIC HAZARD ABATEMENT DISTRICT
SAN DIEGO (OCEAN BEACH), CALIFORNIA

CDP NO. 6-96-089

As indicated on Sheet 4 of the construction drawings for the proposed Casa De La Playa Condominiums Street-End Repair (Appendix D of our October 25, 2012, Response to Review Comments), there has been on average approximately 7 feet of additional bluff-top retreat between 1996 and 2009 across the 45-foot-long proposed project limits. Recognizing that the Point Loma formational shelf rock is protected from any additional marine erosion by the existing rock revetment, the erosion that has occurred over the last 13 years likely represents a reasonable upper bound of an annualized erosion rate having experienced the 1997-98 El Niño storm season and the 2004-05 storm season during this 13-year period. We have therefore used an annualized erosion rate of 0.54 foot per year for the sand mitigation fee calculations and a design life, L , of 20 years, anticipating that a 20-year permit life will be included in the Coastal Development Permit.

Basic Equations:

$$M = V_t \times C \quad (1)$$

where,

M = mitigation fee,

V_t = total volume of sand required to replace losses due to the structure, and

C = cost per cubic yard of sand

$$V_t = V_b + V_w + V_e \quad (2)$$

where,

V_b = the amount of beach material that would have been supplied to the beach if natural erosion continued or the long-term reduction in the supply of bluff material to the beach, over the life of the structure; based on the long-term average retreat rate, design life of the structure, percent of beach quality material in the bluff, and bluff geometry (cubic yards)



SAND MITIGATION FEE CALCULATIONS (CONT.)

Casa De La Playa GHAD
Project No. 1264C

March 12, 2013
Page 2

V_w = the long-term erosion of the beach and nearshore resulting from stabilization of the bluff face and prevention of landward migration of the beach profile; based on the long-term average retreat rate, and beach and near-surface profiles (cubic yards)

V_e = the volume of sand necessary to replace the area of beach lost due to encroachment by the sea cave infill; based on the infill design and beach and nearshore profiles (cubic yards)

$$V_b = (R \times L \times W \times H \times S) / 27 \quad (3)$$

where,

R = long-term regional bluff retreat rate (ft/yr),

L = design life of armoring without maintenance (yr),

W = width of property to be armored (ft),

H = total height of armored bluff (ft),

S = fraction of beach quality material in the bluff material,

$$V_w = R \times L \times V \times W \quad (4)$$

where,

R = long-term regional bluff retreat rate (ft/yr),

L = design life of armoring without maintenance (yr),

v = volume of material required, per unit width of beach, to replace or reestablish one foot of beach seaward of the seawall, and

W = width of property to be armored (ft),

$$V_e = E \times W \times V \quad (5)$$



SAND MITIGATION FEE CALCULATIONS (CONT.)

Casa De La Playa GHAD
Project No. 1264C

March 12, 2013
Page 3

where,

- E** = average encroachment of infill, measured from back of notch or back beach (ft),
W = width of property to be armored (ft), and
V = volume of material required, per unit width of beach, to replace or reestablish one foot of beach seaward of the infill.

Site-specific values for equation variables:

- C** = \$17.29/cubic yards to purchase and deliver sand
R = 0.54 ft/yr
L = 20 years
W = 45 feet
S = 0.75 (for Bay Point terrace deposits)
H = 24 feet
V = 0.9 cubic yards per square foot of beach
E = 0 feet (no encroachment)

Utilizing equation (3):

$$V_b = \frac{0.54 \times 20 \times 45 \times 24 \times 0.75}{27}$$

$$V_b = 324.0 \text{ yard}^3$$

Bluff
Erosion

Utilizing equation (4):

$$V_w = 0.54 \times 20 \times 0.9 \times 45$$

$$V_w = 437.4 \text{ yard}^3$$

Passive
Erosion



SAND MITIGATION FEE CALCULATIONS (CONT.)

Casa De La Playa GHAD
Project No. 1264C

March 12, 2013
Page 4

Utilizing equation (5):

$$V_e = 0 \times 45 \times 0.9$$

$$V_e = 0 \text{ yard}^3$$

Utilizing equation (2):

$$V_i = 324.0 + 437.4 + 0$$

$$V_i = 761.4 \text{ yard}^3$$

Utilizing equation (1):

$$M = 761.4 \times \$17.29/\text{yd}$$

$$M = \$13,164.61$$

Sand Mitigation Fee Parameters for Notch Infill Maintenance

W =	45
E =	0 ft
V =	0.9 cy/sf
R =	0.54 ft/yr
L =	20 yr
S =	75%
H =	24 ft
C =	\$17.29/cy



APPENDIX E

CITY OF SAN DIEGO LOCAL PERMIT FINDINGS



THE CITY OF SAN DIEGO

May 21, 2013

VIA E-MAIL [lmceachern@coastal.ca.gov]

Mr. Lee McEachern
District Regulatory Supervisor
California Energy Commission (San Diego Area)
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4402

Dear Mr. McEachern:

Subject: Casa de la Playa Geological Hazard Abatement District

On April 10, 2013, on behalf of the City of San Diego, I executed an Appendix for the subject district, indicating that no discretionary approvals by the City are required in connection with the project. It is my understanding that the applicant's representatives submitted that executed Appendix B to you and that you have asked the applicant to request an explanation thereof. By this letter, I provide that explanation.

No Coastal Development Permit is needed from the City for the proposed project because the City has agreed to the Commission's consolidated review of the subject application by my letter to you dated July 28, 2011.

No Site Development Permit is needed from the City for a number of reasons, including the following: (1) the factor that would otherwise require a Site Development Permit – location on the coastal bluff – will be considered in the context of the Commission's consolidated review of the subject application; (2) the property on which the project is to be constructed is located entirely within City right-of-way easements and therefore the City's ministerial approval of an Encroachment Maintenance and Removal Agreement (along with the Commission's consolidated review of the subject application) will suffice; (3) the applicant is a political subdivision of the State and not an agency or instrumentality of the City of San Diego, per Public Resources Code section 26570; (4) the City Council, by adopting Resolution Number R-304573 on January 9, 2009, by which it reconstituted the Casa de la Playa GHAD's Board of Directors, expressly acknowledged that "the seawall constructed by the District is in need of improvements and maintenance in order to protect private property and the public safety and welfare"; and (5) the City, by executing Appendix B following City Council's approval of Resolution Number



Development Services

1222 First Avenue, MS 501 • San Diego, CA 92101-4155
Tel (619) 446-5460

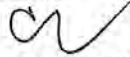
CITY OF SAN DIEGO LOCAL PERMIT FINDINGS (CONT.)

Mr. Lee McEachern
May 21, 2013
Page 2

R-304573, has approved the amendment of the GHAD's original plan of control that was approved by City Council when it created the GHAD in 1997.

If you have any question please feel free to contact me at (619) 446-5368 or clarson@sandiego.gov.

Sincerely,



Chris Larson, AICP
Senior Planner

CL/cjl

APPENDIX B

LOCAL AGENCY REVIEW FORM

SECTION A (TO BE COMPLETED BY APPLICANT)

Applicant Casa de la Playa Geological Hazard Abatement District
Project Description Amendment to Coastal Development Permit
No. 6-96-089, Pescadero Avenue Street End Repair

Location Western Terminus of Pescadero Avenue

Assessor's Parcel Number 448-251-01 through 448-251-01-24

SECTION B (TO BE COMPLETED BY LOCAL PLANNING OR BUILDING INSPECTION DEPARTMENT)

Zoning Designation RM-2-4 25 du/ac
General or Community Plan Designation R-2-1 54+ du/ac

Local Discretionary Approvals

☒ Proposed development meets all zoning requirements and needs no local permits other than building permits.

☐ Proposed development needs local discretionary approvals noted below.

Needed Received

<input type="checkbox"/>	<input type="checkbox"/>	Design/Architectural Review
<input type="checkbox"/>	<input type="checkbox"/>	Variance for _____
<input type="checkbox"/>	<input type="checkbox"/>	Rezone from _____
<input type="checkbox"/>	<input type="checkbox"/>	Tentative Subdivision/Parcel Map No. _____
<input type="checkbox"/>	<input type="checkbox"/>	Grading/Land Development Permit No. _____
<input type="checkbox"/>	<input type="checkbox"/>	Planned Residential/Commercial Development Approval
<input type="checkbox"/>	<input type="checkbox"/>	Site Plan Review
<input type="checkbox"/>	<input type="checkbox"/>	Condominium Conversion Permit
<input type="checkbox"/>	<input type="checkbox"/>	Conditional, Special, or Major use Permit No. _____
<input type="checkbox"/>	<input type="checkbox"/>	Other _____

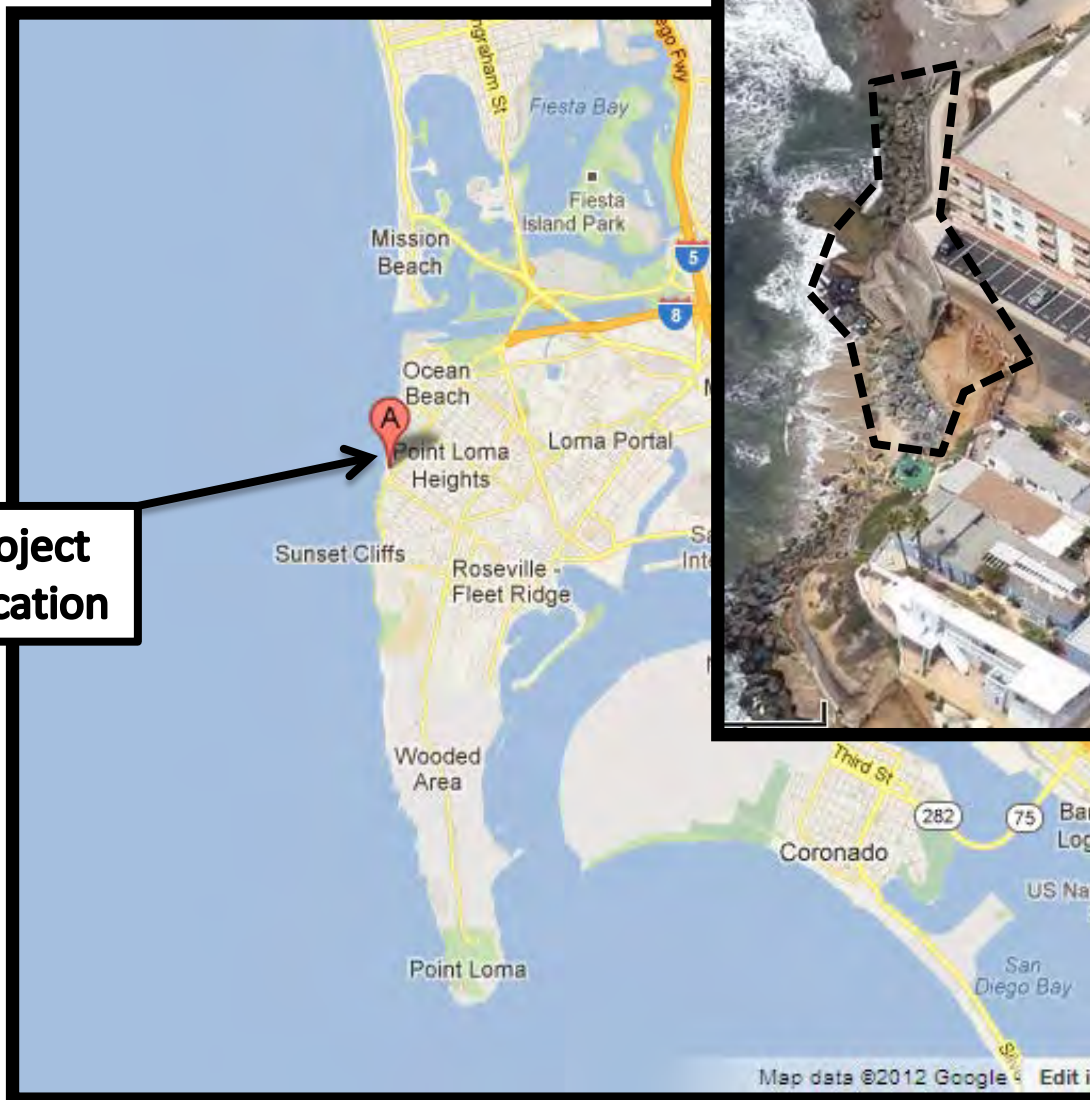
CEQA Status

☒ Categorically Exempt Class 15300-1 Item _____
☐ Negative Declaration Granted (Date) _____
☐ Environmental Impact Report Required, Final Report Certified (Date) _____
☐ Other _____

Prepared for the City/County of San Diego By Chris Larson
Date 4/10/2013 Title Senior Planner

PROJECT LOCATION

**Project
Location**



Google Maps

EXHIBIT NO. 1

APPLICATION NO.

6-96-089-A2

Project Location



California Coastal Commission



EXISTING SITE PHOTO (2010)

Copyright (C) 2002-2010 Kenneth & Gabrielle Adelman, California Coastal Records Project, www.Californiacoastline.org

EXHIBIT NO. 2

APPLICATION NO.

6-96-089-A2

Aerial Photo



California Coastal Commission

GOOGLE EARTH PHOTO WITH PROPOSED WALL EXTENSION



EXHIBIT NO. 3

APPLICATION NO.

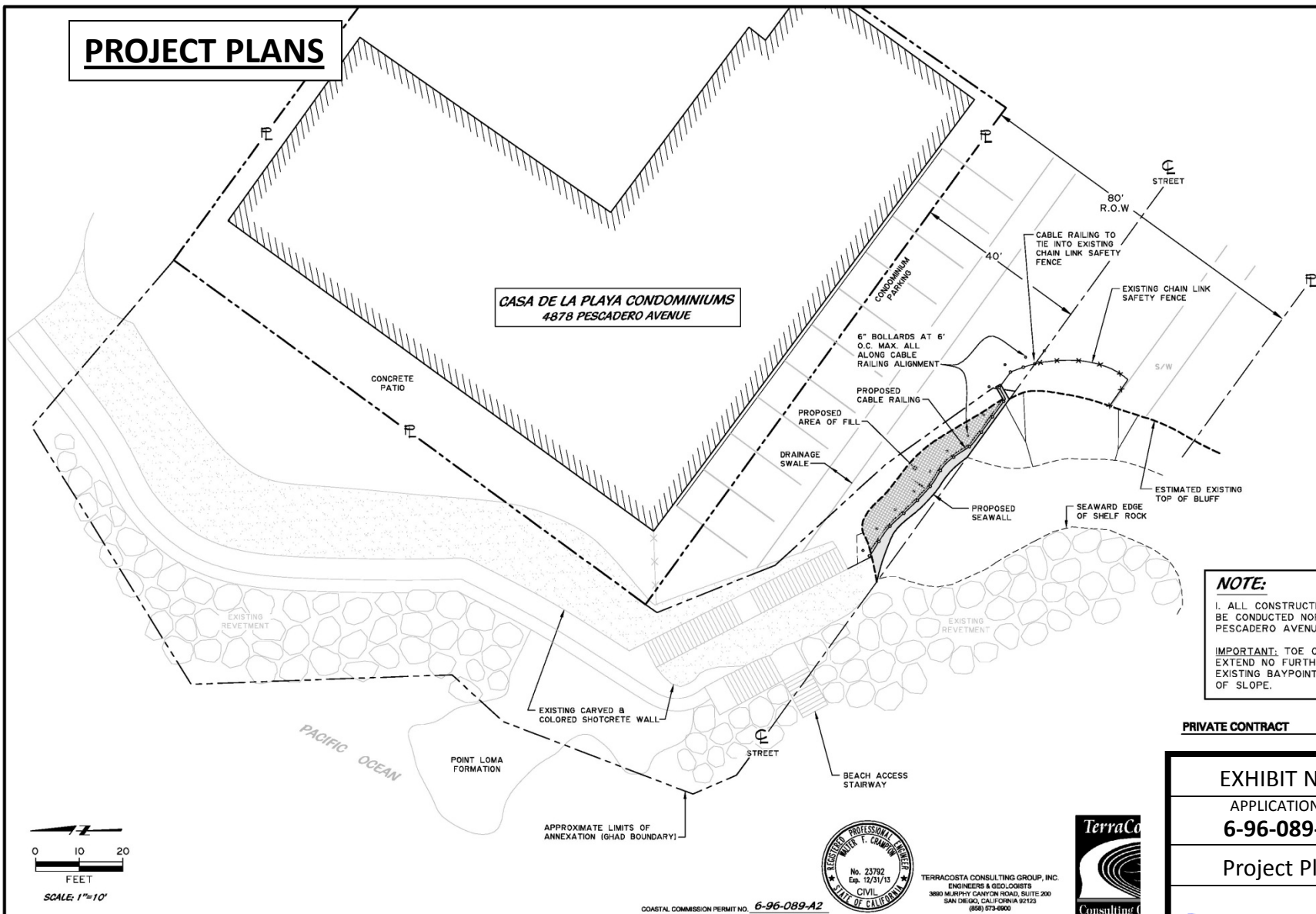
6-96-089-A2

Aerial Overlay



California Coastal Commission

PROJECT PLANS



NOTE:

I. ALL CONSTRUCTION ACTIVITY TO BE CONDUCTED NORTH OF PESCADERO AVENUE CENTERLINE.

IMPORTANT: TOE OF WALL TO EXTEND NO FURTHER SOUTH THAN EXISTING BAYPOINT FORMATION TOE OF SLOPE.

PRIVATE CONTRACT

EXHIBIT NO. 4

APPLICATION NO.

6-96-089-A2

Project Plans



California Coastal Commission

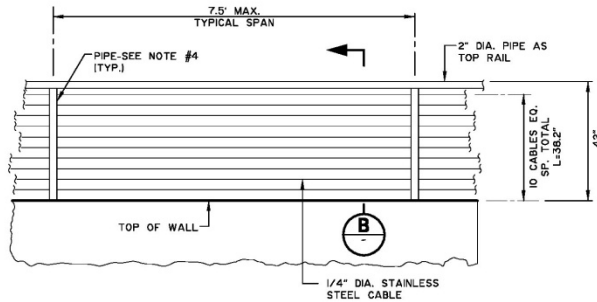


TERRACOSTA CONSULTING GROUP, INC.
ENGINEERS & GEOLOGISTS
3850 MURPHY CANYON ROAD, SUITE 300
SAN DIEGO, CALIFORNIA 92123
(619) 573-6900



COASTAL COMMISSION PERMIT NO. 6-96-089-A2

PROJECT PLANS (CONT.)

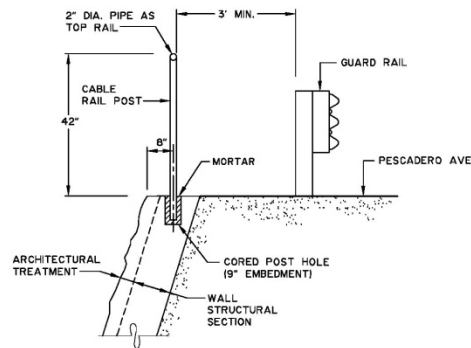


CABLE RAILING DETAIL - PROFILE

NOT TO SCALE

CABLE RAILING NOTES:

1. SEE CALTRANS STANDARD PLAN B11-47 "CABLE RAILING" FOR ADDITIONAL NOTES AND DETAILS.
2. ALL CABLE AND HARDWARE TO BE STAINLESS STEEL TYPE 316.
3. POSTS SHALL BE VERTICAL.
4. VERTICAL POSTS SHALL BE 2" DIA. MIN. STAINLESS STEEL PIPE-TYPE 316 SCHEDULE 40S @ 7.5' MAX. O.C.
5. THE CONTRACTOR SHALL VERIFY ALL DEPENDENT DIMENSIONS IN THE FIELD BEFORE ORDERING OR FABRICATING ANY MATERIAL.
6. ALTERNATIVE DETAILS MAY BE SUBMITTED BY THE CONTRACTOR FOR APPROVAL BY THE ENGINEER.
7. SEE DETAIL THIS SHEET FOR POST POCKET LOCATION IN WALL.
8. PROVIDE THIMBLES AT ALL CABLE LOOPS.



CABLE RAIL/ROADWAY SECTION

NOT TO SCALE



NOTE: IF DRAWING IS NOT FULL SIZE (24X36)
THEN REDUCE SCALE ACCORDINGLY

0 1 2 3
ORIGINAL SCALE IN INCHES FOR REDUCED PLANS



TERRACOSTA CONSULTING GROUP, INC.
ENGINEERS & GEOLOGISTS
3850 MURPHY CANYON ROAD, SUITE 200
SAN DIEGO, CALIFORNIA 92123
(619) 575-0900



PRIVATE CONTRACT

PLANS FOR:				
CASA DE LA PLAYA CONDOS STREET END REPAIR				
CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT SHEET 7 OF 9 SHEETS				
FOR CITY ENGINEER		DATE		VTN NO.
DESCRIPTION	BY	APPROVED	DATE	FILED
ORIGINAL	TCG			
AS-BUILT				DATE STARTED
CONTRACTOR				DATE COMPLETED
INSPECTOR				7-D

CONCRETE COMMISSION PERMIT NO. 6-96-089-A2

SPECIAL CONDITIONS 6-96-089

A-6-OCB-96-104
Page 2

SUBSTANTIVE FILE DOCUMENTS: Certified City of San Diego Local Coastal Program (LCP); Appeal Application; City of San Diego Resolution Nos. R-287330, CDP/SCR 92-0318; Mitigated Negative Declaration DEP No. 92-0318 by City of San Diego, 9/16/95; Memo by Dr. Everts dated 3/14/94 re: Review of CCC Methodology for Quantifying Impacts to Sand Supply from Bluff Armoring, Technical Studies and Photographs Casa de la Playa Shoreline Stabilization Project, by Group Delta Consultants (GDC), Project #1264A-ECO2; Transmittal of Additional Information, by GDC, July 12, 1996; Response Letter, by GDC, October 14, 1996.

STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the portion of the development in the Commission's jurisdiction will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and the portions of the project within the City of San Diego's jurisdiction will be in conformity with the provisions of the certified Local Coastal Program and the public access and recreation policies of the Chapter 3 of the Coastal Act. The project will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

1. Revised Final Plans. Prior to the issuance of the coastal development permit, the applicant shall submit for the review and written approval of the Executive Director, revised final plans for the shore/bluff protection and public access stairway approved herein for the site. Said plans shall be stamped and approved by the City of San Diego and include the following:

- a. Said plans shall be in substantial conformance with the plans submitted with this application dated 3/26/93 by Group Delta Consultants. However, the plans shall be revised to reflect the alternative design of a vertical seawall with the minimum amount of required toestone, not to exceed 18-20 horizontal feet of toestone as shown on the concept plans attached to the letter from Walt Crampton dated 10/14/96, and attached as Exhibit 4 to this staff report.

EXHIBIT NO. 5

APPLICATION NO.

6-96-089-A2

SC 6-96-089



California Coastal Commission

SPECIAL CONDITIONS 6-96-089 (CONT.)

A-6-OCB-96-104
Page 3

b. Said plans shall indicate that the proposed upper bluff protection shall conform as closely as possible to the contours of the bluff, and shall be designed to incorporate surface treatments that resemble the color and surface of adjacent natural bluff areas (e.g., air-blown concrete). The proposed vertical wall shall also be colored to match the adjacent bluffs. Detailed information shall also be provided on the construction method and technology to be utilized for texturing and coloring the walls. Plans shall be of sufficient detail to provide assurance that the herein approved walls will closely match the adjacent natural bluff. Said color shall also be verified through submittal of a color board, subject to review and written approval of the Executive Director.

c. Said plans shall include a public access stairway from the lateral access path to the beach. The stairway shall protrude seaward of the toestone only the minimum amount necessary to provide access to the beach. Plans shall indicate that the proposed stairway will be colored to match the appearance of the adjacent natural bluffs. Said color shall also be verified through submittal of a color board, subject to review and written approval of the Executive Director.

d. Said plans shall specifically indicate that the existing rip-rap/debris/rock located at the project site shall be incorporated as material for the project as herein approved or otherwise removed from the area.

2. Maintenance Activities/Future Alterations. The applicants shall be responsible for maintenance of the permitted protective devices. Any change in the design of the project or future additions/reinforcement of the seawall will require a coastal development permit. If after inspection, it is apparent that repair and maintenance is necessary, the applicant shall contact the Commission office to determine whether permits are necessary. The applicant shall be responsible for the removal of debris deposited on the beach or in the water during and after construction of the shoreline protective device, including maintenance of the toestone within the project limits.

3. Construction Access/Staging Areas/Project Timing. Prior to the issuance of the coastal development permit, the applicant shall submit plans showing the locations which will be used as staging and storage areas for materials and equipment during the construction phase of this project. Use of sandy beach and public parking areas, including on-street parking, for storage of equipment and materials shall not be permitted with the exception that the street end at Pescadero Avenue may be used for staging and storage of a crane used for construction of the project. The plan shall also indicate that no work may occur on sandy beach during weekends or holidays in the summer months (Memorial Day to Labor Day) of any year and that equipment used on the beach shall be removed from the beach at the end of each work day.

4. Assumption of Risk: Prior to the issuance of the coastal development permit, the applicant [and landowner] shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands

A-6-OCB-96-104
Page 4

that the site may be subject to extraordinary hazard from bluff retreat and erosion and the applicant assumes the liability from such hazards, and (b) the applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

5. Landscaping Plan/Irrigation System/Runoff Control. Prior to the issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a final landscape plan indicating the type, size, extent and location of all plant materials, the proposed irrigation system, and other landscape features. Drought and salt tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible. In addition, the plan shall contain the following:

a. Evidence which indicates that any existing permanent irrigation system located within the geologic setback area (40 feet from the bluff edge) has been removed or capped.

b. Special emphasis has been placed on utilizing plant materials which will drape over the edge of the proposed upper bluff protection.

c. Plans shall indicate that all runoff from impervious surfaces on the site is directed away from the bluff edge towards the street.

6. Future Shoreline Protective Works. Prior to the issuance of the coastal development permit, the applicant shall record a deed restriction in a form and content acceptable to the Executive Director, which shall provide that in the event any bluff or shoreline protective work is anticipated in the future, the applicant acknowledges that as a condition of filing an application for a coastal development permit, the applicant must provide the Commission or its successor agency an analysis of alternatives to bluff protective works. The alternatives shall include, but not be limited to, relocation of portions of the residential structure that is threatened, structural underpinning, or other remedial measures identified to stabilize the residential structure that do not include bluff or shoreline stabilization devices. The document shall be recorded free of all prior liens and encumbrances and shall run with the land and bind all successors and assigns.

7. U.S. Army Corps of Engineers Permit. Prior to commencement of construction, the permittee shall provide to the Executive Director a copy of a U.S. Army Corps of Engineers permit, or letter or permission, or evidence that no Corps permit is necessary. Any mitigation measures or other changes to the project required through said permit shall be reported to the Executive Director and shall become part of the project. Such modifications, if any, may require an amendment to this permit or a separate coastal development permit.

SPECIAL CONDITIONS 6-96-089 (CONT.)

A-6-OCB-96-104
Page 5

8. **Public Rights.** By acceptance of this permit, the applicant acknowledges, on behalf of him/herself and his/her successors in interest, that issuance of the permit shall not constitute a waiver of any public rights which may exist on the property. The applicant shall also acknowledge that issuance of the permit and construction of the permitted development shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.

9. **Seawall Design.** Within 60 days following completion of the project, the applicant shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the seawall has been constructed in conformance with the approved plans for the project.

10. **Special Conditions of the CDP/SCR.** Special Condition #1 of the City of San Diego's Coastal Development Permit/Sensitive Coastal Resource Permit is modified herein to require construction of the vertical seawall and toestone. All other conditions of the City of San Diego's SCR #92-0318, shall remain subject to the City's jurisdiction as a part of the City's Sensitive Coastal Resource Permit, and are not modified as part of this coastal development permit.

11. **Monitoring Plan.** Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a monitoring plan for the upper and lower bluff protection and toestone which incorporates the following:

- a) Evaluation of the current condition and performance of the bluff and shoreline protection, addressing whether any significant weathering or damage has occurred that would adversely impact the future performance of the protective measures.
- b) Measurements taken from the condominium to the bluff edge (as defined by PRC Section 13577) taken at 2 or more locations. The locations for these measurements shall be identified through markers, benchmarks, survey position, written description, etc. so that annual measurements can be taken at the same bluff location and comparisons between years can provide information on bluff retreat.
- c) Measurements taken of the distance between the seaward extent of the toestone and the seaward extent of the natural headland formation.
- d) After the first year of measurements, provide a written summary of all measurements and provide analysis of trends, annual retreat or rate of retreat of the bluff and headlands.
- e) Description of any migration or movement of toestone which may have occurred on the site.
- f) Recommendations on any necessary changes or modifications to the project.
- g) The above cited monitoring information shall be summarized in a report prepared by a licensed geologist or geotechnical engineer and submitted to the Executive Director for review and written approval on an annual basis for the first three years of the project. The report shall be submitted every year by May 1

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Page 6

(beginning the first season after construction of the project is completed). After the first three years, the reports shall be submitted at 3 year intervals following the last report; however, reports shall be submitted in the Spring of any year in which a 20-year storm event has occurred, thus may be submitted more frequently depending on the wave climate in any given year.

IV. Findings and Declarations

The Commission finds and declares as follows:

1. **Detailed Project Description/History.** The proposed project involves the construction of a 190-foot long upper bluff retaining wall, and a 275-foot long, 16-foot high rip-rap revetment extending approximately 30 feet seaward of the base of the coastal bluff. The revetment would begin on the cobble beach at the northern property line of the site, and extend south around the base of the bluff. The proposed rip-rap would extend approximately 70 feet beyond of the southern end of the upper bluff protection, covering the existing sandy pocket beach to the south.

The coastal bluff at the project site is characterized by a Bay Point Formation upper bluff approximately 24 feet high, resting on a 10-15 foot high Point Loma Foundation base. The bluff in this area consists of a curved point extending seaward between two pocket beaches. There is existing pedestrian and emergency vehicle access to the northern pocket beach from an alley and concrete ramp north of the project site. This beach consists almost entirely of cobblestone. South of project site is a sandy pocket beach which is partially covered by stones and rip-rap which have apparently migrated from surrounding revetments. Blocks of rip-rap and cobblestone are currently strewn at and around the base of the bluff between the two pocket beaches. There is an existing private stairway accessing the southern beach; however, only during low tides is there easy public access to this area, either around the point from the pocket beach to the north, or from pocket beaches further to the south. During high tides the southern beach is completely underwater, and only the ramp and 5 to 10 feet of cobbles are exposed on the northern beach.

At the contact point between the two geologic units is a 4 to 5 foot wide shelf which is used as an informal trail by pedestrians to move from the northern pocket beach to the southern cove. The existing trail is narrow, hazardous, subject to erosion, and ends approximately at the midpoint of the southern cove. At this point, the path is over 10 feet above beach level, and there is no safe or convenient way to get down the beach, although pedestrians do climb down. Caves and graffiti have been dug into the bluffs in this area.

The applicants are proposing to improve the informal trail between the coves by cutting into the upper bluff as necessary to ensure the trail is from 5 to 10 feet wide, and installing a 42-inch high safety railing along the entire length of the pedestrian walkway. In addition, the applicants have proposed to construct a concrete pedestrian stairway from the end of Pescadero Avenue to the beach. The stairway would be located at the southernmost extent of

PUBLIC EASEMENTS

MARY JO LANZAFAME
ASSISTANT CITY ATTORNEY
NATHAN SLEIGERS
DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO
JAN I. GOLDSMITH
CITY ATTORNEY

March 17, 2010

Evelyn F. Heidelberg
Procopio, Cory, Hargreaves & Savitch, LLP
530 B Street, Suite 2100
San Diego, CA. 92101-4469

Pescadero Avenue Sea Cliff Erosion

Dear Ms. Heidelberg:

This responds to your request via telephone on March 15, 2010, for documents that establish ownership by the Casa de la Playa Homeowners (Homeowners) of the land underlying Pescadero Avenue to the middle of the street and seaward to the mean high tide line.

Our records show Pescadero Avenue and Ocean Boulevard were dedicated for public use by the 1887 subdivision map attached as Exhibit A. Under existing law at that time, the public acquired only an easement in property dedicated for use as a public street, and owners of adjacent property retained their rights in the soil underlying the easement to the middle of the street. *Wright v. Austin*, 143 Cal. 236, 238-39 (1904) (quoting former Political Code § 2631); *Anderson v. Citizens Sav. & Trust. Co.*, 185 Cal. 386, 393 (1921); *Moody v. Palmer*, 50 Cal. 31, 35-36 (1875). These same rules apply today unless the grant language specifies otherwise.

"An owner of land bounded by a road or street is presumed to own to the center of the way, but a contrary intent may be shown." Cal. Civ. Code § 831; see also Cal. Civ. Code § 1112; *Safwenberg v. Marquez*, 50 Cal. App. 3d 301, 306, 307 (1975); Miller & Starr, California Real Estate, vol. 3 § 8:47 (3d ed. 2001).

As stated in *Colegrove Water Company v. City of Hollywood*, 151 Cal. 425, 429 (1907):

One who grants to the public the right to use a strip of land as a highway, retaining in himself the ownership of the soil, parts with an easement merely. The owner of property subject to an easement may use his property in any manner and for any purpose not inconsistent with the full and free enjoyment of the easement. [citation omitted]. This rule applies to land devoted to use as a public road or street as well as to land subject to a private use only.

RECEIVED
DEC 22 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT
CIVIL LITIGATION
1209 THIRD AVENUE, SUITE 1100
SAN DIEGO, CALIFORNIA 92101-4100
TELEPHONE (619) 533-9800
FAX (619) 533-5856

RECEIVED
MAR 19 2010
PCHS, LLP

Ms. Heidelberg

-2-

March 17, 2010

When property abuts the ocean, the property owner is presumed to own the property seaward to the mean high tide line, unless the conveyance states otherwise. *Abbot Kinney Co. v. City of Los Angeles*, 53 Cal. 2d 52, 58 (1959). "Except where the grant under which land is held indicates a different intent, the owner of the upland, when it borders on the tide water, takes to ordinary high-water mark" Cal. Civil Code § 830.

The most recent grant deed conveying the Casa de la Playa property prior to the subdivision of that property into condominiums, recorded on July 5, 1972, attached as Exhibit B, conveys Lots 8 to 12 inclusive in Block 45 of Ocean Beach as shown on the 1887 subdivision map, "excepting therefrom that portion thereof now or therefore lying below the mean high tide line of the Pacific Ocean." Also, the legal description of the property included in the Covenants, Conditions, and Restrictions for the Casa de la Playa Condominiums (CC&R's) refers to "Lots 8 to 12, inclusive, in Block 45 of Ocean Beach . . ." shown on the 1887 subdivision map. (CC&R's, pgs. 1, 3).

These documents indicate the Homeowners own in fee the portion of the sea cliff adjacent to their property to the middle of the Pescadero Avenue right-of-way and seaward to the mean high tide line. If you have any documents that indicate otherwise, please forward them to us for review.

JAN I. GOLDSMITH, City Attorney

By 
Nathan Slegers
Deputy City Attorney

NS:mb

Attachments:2

Exhibit A (1887 Subdivision Map)
Exhibit B (1927 Grant Deed)

cc: David Jarrell, Deputy Chief of Public Works
Mario Sierra, Director of General Services

EXHIBIT NO. 6

APPLICATION NO.

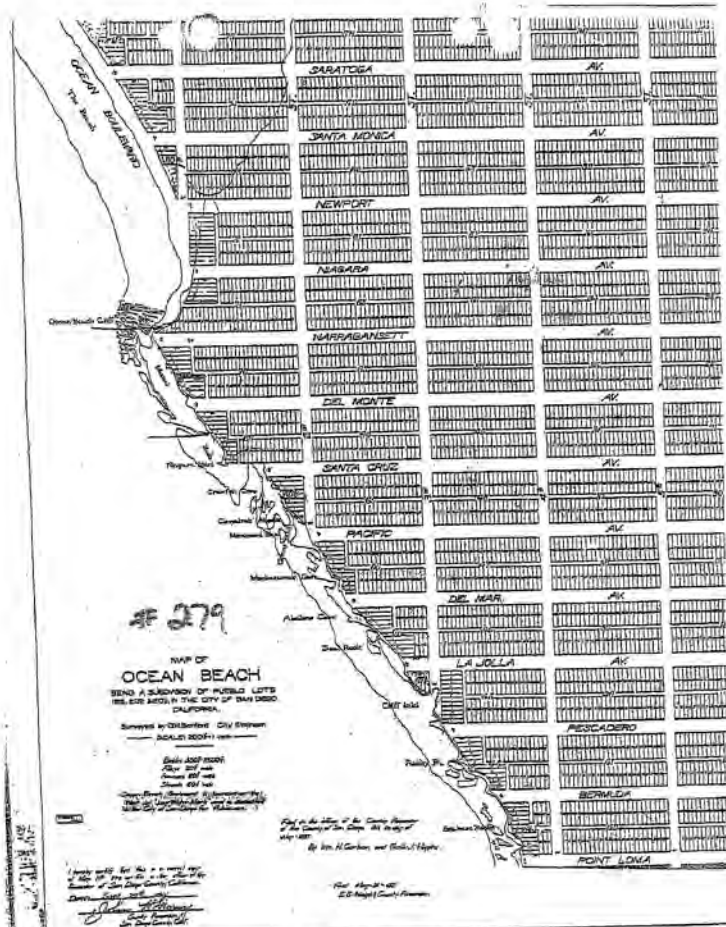
6-96-089-A2

Easements



California Coastal Commission

PUBLIC EASEMENTS (CONT.)



1500 172780

RECORDING REQUESTED BY
WETLAND TITLE INSURANCE COMPANY

AND THESE RECORDS SHALL BE
MAINTAINED IN THE OFFICE OF THE
RECORDS, SAN DIEGO, CALIF.,
7765 Oliver Avenue
La Jolla, California 92037

RECORDING REQUESTED BY
WETLAND TITLE INSURANCE COMPANY
JUL 5 10 40 AM '72
OFFICIAL RECORDS
SAN DIEGO COUNTY, CALIF.
MARLEY F. BLOOM
RECORDS

SPACE ABOVE THIS LINE FOR RECORDER'S USE \$3.00

RECORDING REQUESTED BY
WETLAND TITLE INSURANCE COMPANY
JUL 5 10 40 AM '72
OFFICIAL RECORDS
SAN DIEGO COUNTY, CALIF.
MARLEY F. BLOOM
RECORDS

RECORDING REQUESTED BY
WETLAND TITLE INSURANCE COMPANY
JUL 5 10 40 AM '72
OFFICIAL RECORDS
SAN DIEGO COUNTY, CALIF.
MARLEY F. BLOOM
RECORDS

Grant Deed

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
JACK T. CHOWNING and GLORIA P. CHOWNING

hereby GRANT(S) to
T R L, a California corporation

the following described real property in the City of San Diego,
County of San Diego, State of California:

Lot 8 to 12 inclusive in Block 40 of OCEAN BEACH, in the City of San Diego,
County of San Diego, State of California, according to Map thereof No. 279,
filed in the Office of the County Recorder of San Diego County, May 20, 1967.

EXCEPTING THEREFROM that portion thereof now or hereafter lying below the
mean high tide line of the Pacific Ocean.

Dated: July 3, 1972

JACK T. CHOWNING
GLORIA P. CHOWNING

STATE OF CALIFORNIA
COUNTY OF San Diego

On JULY 4, 1972, before me, the undersigned, a Notary Public in and for said County and State, personally appeared JACK T. CHOWNING and GLORIA P. CHOWNING, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Signature of Notary

Name (Type or Print) of Notary

Title Order No. 6204-7

EXHIBIT B