

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4402
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Go to original staff report

Th17A

Addendum

July 8, 2013

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th17a**, Coastal Commission Permit Application
#6-12-059 (Seascape Management Corp), for the Commission Meeting of
July 11, 2013

Staff recommends the following changes be made to the above-referenced staff report. Language to be added is underlined, and language to be deleted is shown in ~~strike through~~:

1. On Page 1 of the staff report, the Project Description shall be modified as follows:

Relocation of an existing private walkway five feet landward from the bluff edge (with a stainless steel cable railing) and construction of a concrete block retaining wall, with two benches incorporated into the retaining wall to replace two existing benches that will be removed with the relocated walkway, and a new drainage system; and repair and replacement of portions of an existing private stairway on the bluff face. Also proposed are minor improvements to one condominium unit located within 50 ft. of the bluff edge.

2. On Page 8 of the staff report, Special Condition 6 shall be modified as follows:

- a. By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development (bluff top walkway and retaining wall) approved pursuant to Coastal Development Permit No. 6-12-059 in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future...
- b. By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the applicant shall remove the development (bluff top walkway and retaining wall) authorized by this Permit if any government agency has ordered that the structures are not to be used due to any hazard...

3. The first complete paragraph on page 9 of the staff report shall be revised as follows:

...The proposed project has two distinct components. The first involves the landward relocation of an approximately 145 ft. long existing private walkway that is currently located in close proximity to the edge of the coastal bluff. The applicant proposes to construct a new, approximately 138 ft. long, walkway approximately five ft. to 12 ft. landward from the bluff edge. The applicant also proposes to incorporate two (six ft. long) benches into the new retaining wall to replace two benches that are being removed with the relocated walkway and to construct a 42 inch high stainless steel tension cable railing system with cables at three inches on center on the seaward side of the new walkway...

4. The second complete paragraph on page 9 of the staff report shall be revised as follows:

...In addition, the applicant is proposing after the fact approval for the installation of ~~new~~ different size windows and a new floor in one of the condominium units within 50 feet of the bluff edge, thus a coastal development permit is required. Changes to window sizes in three condominium units, located more than 50 ft. from the bluff edge, are exempt from coastal development permit requirements.

5. The last incomplete paragraph on page 12 of the staff report shall be revised as follows:

In order to reconstruct the walkway in a more landward location, the applicant proposes to grade into the landscaped slope between the bluff edge and the adjacent condominium structures. To retain the cut slope, a 42 in. high masonry retaining wall with an approximately two ft. deep foundation is proposed. Two (six ft. long) benches will be incorporated into the retaining wall to replace the existing benches being removed to relocate the walkway. A letter (ref. April 28, 2012 letter attached) has been received from the adjacent condominium complex to the south objecting to the proposed replacement benches as, according to them, this is where people congregate to drink alcohol and then climb on the face of the bluff, which damages the bluff. While the Commission agrees that climbing on the bluff face raises a safety issue, the fact the residents or guests at the complex are behaving this way on private property is an issue that needs to be addressed by the HOA and that placing benches in this area for people to look at the ocean and watch sunsets is not the cause of the problem. In addition, the applicant proposes to construct an approximately five ft. wide concrete walkway with a permanent pipe and cable guard rail in an approximately one ft. deep foundation on the seaward side. The proposed walkway will also be constructed with drainage pipes to move runoff landward towards South Sierra Avenue (Exhibit 3).

6. The second complete paragraph on page 13 of the staff report shall be revised as follows:

Special Condition 6 notifies the applicant that by acceptance of this permit, the applicant agrees that no bluff or shoreline protective device(s) shall ever be constructed to protect the walkway or the retaining wall in the event that the development is threatened with damage or destruction from natural hazards in the future, and that the applicant waives any rights to construct such devices that may exist under Section 30235. In addition, **Special Condition 1** requires that the applicant apply for a CDP to remove the walkway and the retaining wall if ~~it is~~ threatened by erosion, landslide, or other form of bluff collapse in the future. The Commission's engineer and geologist have reviewed the proposed project and determined the project should not have any significant adverse impact on bluff stability.

7. The fourth complete paragraph on page 15 of the staff report shall be revised as follows:

~~The~~ A portion of the proposed development is located on a beach (and on the bluff face adjacent to the beach) that is heavily used by the public in the City of Solana Beach and as such will be highly visible by beachgoers. The proposed project consists of repairs and partial replacement of an existing permitted stairway and relocation of an existing private walkway. No new structures are proposed on the beach or bluff face. **Special Condition 1** requires that the concrete landing section of the stairway be integrally colored using earth tone tints to match the surrounding bluffs. The proposed private walkway with a new retaining wall and railing will not adversely affect public views. The blufftop development will likely not be visible from the beach due to its location five to 12 ft. from the edge of the 70-80 ft. high bluff. As conditioned, the proposed project will protect public views along the shoreline. Therefore, the visual resources of the area will be protected, consistent with Section 30251 of the Coastal Act.

8. The third complete paragraph on page 17 of the staff report shall be revised as follows:

Development has occurred on the subject site without required coastal development permits including, but not limited to, substantial replacement and repairs of the private stairway on the face of the bluff and ~~installation of new~~ changes to windows sizes and a new floor in a condominium unit in a structure located within 50 ft. of the bluff edge, thus a coastal development permit is required...

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JUL 16 2012

April 28, 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

To Deborah Lee, District Manager of the California Coastal Commission

Thanks for all the work you do to protect our precious, endangered coastline. We are writing about the proposal before you to approve the relocation of the blufftop oceanfront sidewalk and renovate the beach stairs at Seascape condo complex at 675 S. Sierra Avenue, Solana Beach, CA 92075. These plans were approved by the city of Solana Beach about 5 months ago and now await approval from your staff. We live in the complex immediately south of Seascape. Our complex is Seascape Chateau at 707 S. Sierra Avenue in Solana Beach. We have been meaning to write this letter for months, ever since we heard the city of Solana Beach approved plans to relocate the sidewalk and renovate the beach stairs at Seascape.

We, too, are very concerned about coastal bluff erosion at the top of the bluff as we share a property line with Seascape, and our oceanfront buildings are only feet apart. We are writing to ask that the California Coastal Commission remove the bench seating areas on the proposed new blufftop sidewalk at 675 South Sierra Avenue, and we request that you make the top of the blufftop retaining walls be built in such a way that they can't be used for seating as they are currently designed.

Our condo balcony overlooks the sidewalk, and for years we've noticed crowds (often teens but sometimes adults) drinking alcohol and hanging out at the benches, mostly during afternoons and at sunset, but sometimes at night. They get drunk, the boys show off for their girlfriends by climbing over the fence and walking onto the fragile bluff and trampling on the fragile blufftop vegetation, their dogs (sometimes on leashes, sometimes not) go over the fences onto the fragile blufftop as well. Seascape already has a huge safe recreation patio deck halfway down the bluff, but you have to go up and down many stairs and the view from the patio deck isn't nearly as panoramic as from the blufftop benches, so crowds tend to gather around the blufftop benches instead. We find this a very dangerous violation of our fragile coastal blufftop and the vegetation that gets trampled on. Many if not most Seascape owners rent out their 50 condos by the week, so it's often more like a hotel with a "party" atmosphere. There have been major long-running drug buying and selling crimes at Seascape (heroin, we were told), which you can confirm by contacting the Encinitas police station that covers this area at (760) 966-3500.

We are writing anonymously as our HOA board wants to remain friendly with Seascape's HOA board as we share a common boundary line. We aren't saying that Seascape has a lax or irresponsible HOA board. It's just that no HOA board can stand and police a blufftop sidewalk 24 hours, 7 days a week. It seems that most if not all 4 of the oceanfront condos at Seascape are second homes as they look shuttered up most of the time, so often there is no one to witness these many violations that damage the blufftop.

We have no problems with Seascape relocating their blufftop sidewalk and renovating their stairs to the beach, we just want the benches and any seating possibilities along the relocated sidewalk removed to preserve our endangered blufftop and the fragile blufftop vegetation.

One last question: does there have to be a blufftop fence on the west side of the sidewalk? Wouldn't vegetation be nicer? If there has to be a blufftop fence, can it be as far inland of the blufftop as possible, and can it be as low and see-through as possible. When walking on the beach, it's so ugly to look up and see a fence on the edge of a beach cliff. Thanks once again for all you do, and thanks for listening.

Sincerely,
Beach lovers at Seascape Chateau in Solana Beach, CA.

Letter of Opposition 9

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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Th17a

Filed: 2/04/2013
180th Day: 8/03/2013
Staff: E. Stevens-SD
Staff Report: 6/18/2013
Hearing Date: 7/10-11/2013

STAFF REPORT: REGULAR CALENDAR

Application No.: 6-12-059

Applicant: Seascape Management Corporation

Agent: Erich Schneider

Location: 675 South Sierra Avenue, Solana Beach, San Diego County (APN #298-211-67 1 to 50)

Project Description: Relocation of an existing private walkway five feet landward from the bluff edge and construction of a concrete block retaining wall and a new drainage system; and repair and replacement of portions of an existing private stairway on the bluff face.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve the applicant's request for relocation of an existing private walkway five feet landward from the bluff edge and construction of a concrete block retaining wall and a new drainage system; and repair and replacement of portions of an existing private stairway on the bluff face. The applicant's engineer has provided substantial evidence to demonstrate that the proposed repair and replacement of the existing stairway and sidewalk is necessary to provide safe access to the beach on the

stairway and to continue to provide ADA access to the condominium complex. The Commission's staff engineer and geologist have reviewed the applicant's geotechnical assessment and concurs with its conclusions.

Staff is recommending approval of the proposed partial repair and replacement of a private access stairway and the replacement of a private walkway, with special conditions. The proposed project will not adversely impact public access and recreation. Special conditions require the submission of final plans that document the final design of the walkway and clarify that the walkway will not be afforded a shoreline protective devices in the future, require that the concrete on the landing of the stairway be colored to match the existing bluff, restrict work to the non-summer months, and require a Best Management Practices Plan to assure no pollution of the beach or ocean waters.

Commission staff recommends **approval** of coastal development permit amendment application 6-12-059, as conditioned.

Standard of Review: Chapter 3 policies of the Coastal Act, with the City's certified LUP used as guidance.

TABLE OF CONTENTS

I.	MOTION AND RESOLUTION	4
II.	STANDARD CONDITIONS	4
III.	SPECIAL CONDITIONS	5
IV.	FINDINGS AND DECLARATIONS	9
	A. DETAILED PROJECT DESCRIPTION/HISTORY	9
	B. GEOLOGIC HAZARDS	10
	C. PUBLIC ACCESS	13
	D. VISUAL RESOURCES	15
	E. PROTECTION OF OCEAN WATERS/BMP'S	15
	F. UNPERMITTED DEVELOPMENT	17
	G. LOCAL COASTAL PLANNING	18
	H. CALIFORNIA ENVIRONMENTAL QUALITY ACT	18

APPENDICES

[Appendix A – Substantive File Documents](#)

EXHIBITS

Exhibit 1 – PROJECT LOCATION

Exhibit 2 – SITE PHOTO (2010)

Exhibit 3 – PROJECT PLANS

Exhibit 4 – STAIRWAY REPLACEMENT/REPAIRS

Exhibit 5 – ADA ACCESS

Exhibit 6 – EXISTING LANDING

Exhibit 7 – EXISTING WALKWAY

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-12-059 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 permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves coastal development permit 6-12-059 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Final Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, final stairway repair and reconstruction plans and final walkway and drainage plans that are in substantial conformance with the plans dated October 21, 2011 by James Ellison Architecture & Planning, the plans dated March 23, 2011 by FYFE, the plans dated 6/21/2010 by Sowards & Brown Engineering, and the plans dated August 12, 2011 by TerraCosta Consulting Group and shall include the following as notes on the plans:
 - a. The concrete landing of the stairway shall be colored to match the surrounding bluffs.
 - b. During construction of the approved development, disturbance to sand and intertidal areas shall be minimized to the maximum extent feasible. All excavated beach sand shall be redeposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or for any other purpose as construction material.
 - c. The proposed stairway repairs shall not extend further seaward than the original stairway.
 - d. The private walkway and associated retaining wall shall be considered ephemeral and therefore will not qualify for shoreline protection. If it is determined by a licensed Geotechnical Engineer that the walkway is in danger from erosion, landslide, or other form of bluff collapse, the permittee (and all successors in interest) shall apply for a CDP to remove the walkway.
 - e. The private walkway/retaining wall shall be designed in such a way that they can most easily be removed if threatened by erosion.

The applicant shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal

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

2. **Storage and Staging Areas/Access Corridors.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of construction access corridors and staging areas. The final plans shall indicate that:

- a. No overnight storage of equipment or materials shall occur on or near the bluff or on the sandy beach. During the construction staging of the project, the applicant shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to perform the stairway repairs. Construction equipment shall not be washed on the beach.
- b. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c. No work shall occur on the beach on weekends, holidays or between Memorial Day weekend and Labor Day of any year.
- d. The staging site shall be removed and/or restored immediately following completion of the development.

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

3. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit amendment, the applicant, on behalf of (1) itself; (2) its successors and assigns; and (3) any other holder of the possessory interest in the development authorized by this permit amendment, acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit amendment 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; (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; and (v) to agree to include a provision in any subsequent sublease or

assignment of the development authorized by this permit amendment requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).

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

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

5. **Deed Restriction/CC&R's Modification.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant 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 amendment, 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 amendment, 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 amendment shall continue to restrict the use and enjoyment of the subject property so long as either this permit amendment 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 conditions of this CDP. This addition to the CC&Rs shall not be

removed or changed without a Coastal Commission-approved amendment to this coastal development permit.

6. No Future Bluff or Shoreline Protective Device.

- a. By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 6-12-059 in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- b. By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the applicant shall remove the development authorized by this Permit if any government agency has ordered that the structures are not to be used due to any hazard. In the event that portions of the development fall to the beach before they are removed, the applicant shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

7. State Lands Commission Review. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall obtain a written determination from the State Lands Commission that:

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

8. Condition Compliance. WITHIN 60 DAYS OF APPROVAL OF THIS CDP, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

1. Detailed Project Description/History The proposed project has two distinct components. The first involves the landward relocation of an approximately 145 ft. long existing private walkway that is currently located in close proximity to the edge of the coastal bluff. The applicant proposes to construct a new, approximately 138 ft. long, walkway approximately five ft. to 12 ft. landward from the bluff edge. In order to relocate the walkway, the applicant proposes to cut into an existing landscaped slope and to construct a concrete block retaining wall on the landward side of the new walkway location in order to retain the existing slope. The subject walkway is the only ADA compliant access to the condominium complex and begins at the western wall of the existing underground parking area. Upper bluff erosion is currently undermining the existing walkway and replacement is needed in order for the complex to continue providing ADA access to the site. The applicant also proposes to incorporate a new drainage system into the relocated walkway to reduce drainage over the bluff edge and to install drought tolerant, non-invasive landscaping.

In addition, the applicant proposes to repair and replace portions of an existing private stairway leading from the condominium complex to the beach. Specifically, the applicant is proposing total replacement of the upper portion of the stairway including posts, treads, risers, and stringers, partial replacement of two mid bluff portions of the stairway including treads, risers, and stringers, and restoration of the concrete landing lower section of the stairway. Much of the proposed repair and replacement work to the stairway was previously completed by the applicant without first obtaining a Coastal Development Permit (CDP) from the Commission. In addition, the applicant is proposing after the fact approval for the installation of new windows and a new floor in one of the condominium units within 50 feet of the bluff edge.

The existing bluff top condominium complex and a private stairway to the beach at the subject site were approved prior to the Coastal Act by the San Diego County Board of Supervisors. In addition, the applicant contends that an existing small upper bluff timber pile wall was also constructed on the northern portion of the bluff face around the same time period to allow for emergency access around the condominium structures.

In 1976, the San Diego Coast Regional Commission (predecessor the California Coastal Commission) approved a coastal development permit for the repair of the existing stairway by placing one 20 ft. high support pole into a 4 ft. deep concrete footing set below grade in sand at the base of the bluff (CDP F3158).

In 1983, the Commission approved the construction of an approximately 120 ft. long, 30-ft. high reinforced concrete vertical seawall at the toe of the bluff at the subject site. The approval also included backfilling behind the seawall where the bluff had eroded and reconstruction of the private access stairway (CDP 6-83-477).

The 50-unit blufftop condominium complex is located on South Sierra Avenue just north of the terminus of Del Mar Shores Terrace, in the City of Solana Beach (Exhibit 1).

The City of Solana Beach has a certified Land Use Plan, but has not yet received approval of its implementation plan. Therefore, Chapter 3 policies of the Coastal Act are the standard of review, and the City's certified Land Use Plan is used as guidance.

B. GEOLOGIC HAZARDS

Section 30253 of the Coastal Act 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 following policies from the City's certified Land Use Plan state:

Policy 2.60:

No new private beach stairways shall be constructed. Existing permitted or private beach stairways constructed prior to the Coastal Act may be maintained in good condition with a CDP, but shall not be expanded in size or function. Routine repair and maintenance shall not include the replacement of the stairway or any significant portion of the stairway. As feasible, private beach accessways shall be phased out or converted to public accessways.

Policy 2.62:

Encourage the removal of existing impediments to public lateral access along the beach.

Policy 4.17:

New development shall be set back a safe distance from the bluff edge, with a reasonable margin of safety, to eliminate the need for bluff retention devices to protect the new improvements. All new development, including additions to existing structures, on bluff property shall be landward of the Geologic Setback Line (GSL) as set forth in Policy 4.25. This requirement shall apply to

the principal structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems, etc. Accessory structures such as decks, patios, and walkways, which are at-grade and do not require structural foundations may extend into the setback area no closer than five feet from the bluff edge. On lots with a legally established bluff retention device, the required geologic analysis shall describe the condition of the existing seawall; identify any impacts it may be having on public access and recreation, scenic views, sand supply and other coastal resources; and evaluate opportunities to modify or replace the existing protective device in a manner that would eliminate or reduce those impacts. [Emphasis added]

Policy 4.21:

New accessory structures on bluff properties shall be constructed in a manner that allows easy relocation landward or removal should they become threatened by coastal erosion or bluff failure. The City shall also condition CDPs authorizing accessory structures with a requirement that the permittee (and all successors in interest) shall apply for a CDP to remove the accessory structure(s) if it is determined by a licensed Geotechnical Engineer that the accessory structure is in danger from erosion landslide or other form of bluff collapse. [Emphasis added]

Policy 4.22:

No bluff retention device shall be allowed for the sole purpose of protecting an accessory structure.

Private Bluff Face Stairway

The proposed development involves the partial repair and replacement of an existing private access stairway which was originally constructed prior to passage of the Coastal Act and was later approved for reconstruction by the Commission. The applicant contends that the proposed repair and replacement of portions of the existing stairway is necessary for safe use of the stairway due to its deteriorated condition. The applicant proposes to partially replace and to repair a substantial portion of the existing 178 ft. long, private bluff face stairway. Specifically, the applicant proposes to replace the entire upper 44 ft. of stairway (Section 4 on Exhibit 4). This includes the treads, risers, stringers, railings and the 4" x 4" foundational support posts (20 of the existing 22 posts are proposed to be replaced and 2 additional posts are proposed to be added). Further down on the stairway, the applicant proposes to replace all the stringers, tread, and risers for a 9 ft. portion of the stairway near the mid bluff (Section 3 on Exhibit 4). Just below Section 2, the applicant proposes to replace all of the stringers, treads, and risers for a 24 ft. portion of the stairway (Section 2 on Exhibit 4). In addition, the applicant proposes to reconstruct the existing landing in kind within Section 2. Finally, the applicant proposes to restore the concrete section at the base of the stairway (Section 1 on Exhibit 4). The concrete restoration consists, in part, of removing the existing railing, removing all unsound concrete from the repair areas, forming the repair areas with mortar, and

applying a carbon fabric and two part epoxy around the outside edge and bottom of the stairway. The components of the proposed stairway replacement that had the greatest potential to impact bluff stability have already been completed. The remaining components of the stairway replacement/repair are at-grade. The Commission's engineer and geologist have reviewed the proposed project and determined the project should not have any significant adverse impact on bluff stability.

As detailed above, the applicant proposes total replacement of 25 % of the existing stairway (44 ft. / 178 ft.), partial replacement of 19 % of the existing stairway, ((9 ft. + 24 ft.) / 178 ft.), and additional repair and maintenance to the existing stairway. Policy 2.60 of the City's certified LUP prohibits the construction of new private beach stairways, but allows existing permitted private stairways constructed prior to the Coastal Act to be maintained, as long as they are not expanded or replaced. However, because private stairways are nonconforming uses, as feasible, private stairways, should be gradually phased out or converted to public accessways.

The certified LUP prohibits replacement of existing stairways or replacement of significant portions of existing stairways. The Commission typically considers 50 % replacement of an existing structure to be new development. Thus, a cumulative replacement of more than 50 % of the subject private stairway would be considered replacement of a significant portion and would be prohibited, at a minimum, under the certified LUP. Although it is not clear exactly what percent of the stairway is proposed to be replaced at this time, it is clear that the replacement percentage is less than 50 %. If in the future the applicant proposes additional replacement of portions of the stairway, this will trigger the need for analysis as to whether more than 50 % of the stairway has been replaced subsequent to the approval of the certified LUP. If greater than 50 % is replaced, the certified LUP requires that the private stairway be phased out or converted to a public accessway.

Private Bluff Top Walkway

As shown in Exhibit 5, there are two stairways located at the street side of the complex and an additional stairway exiting the garage. These stairways are necessary to access the residential units in the complex. However, the private walkway, which begins at the western side of the below-ground parking area, is the only way to access the residential units on the site without going up stairs. A portion of the existing walkway is currently being undermined by erosion of the upper bluff and the applicant has indicated that reconstruction of the private walkway is critical for maintaining ADA access to the condominium complex. The applicant proposes to demolish the existing private bluff top walkway and reconstruct of the walkway approximately five to 12 ft. landward of the bluff edge.

In order to reconstruct the walkway in a more landward location, the applicant proposes to grade into the landscaped slope between the bluff edge and the adjacent condominium structures. To retain the cut slope, a 42 in. high masonry retaining wall with an approximately two ft. deep foundation is proposed. In addition, the applicant proposes to construct an approximately five ft. wide concrete walkway with a permanent pipe and

cable guard rail in an approximately one ft. deep foundation on the seaward side. The proposed walkway will also be constructed with drainage pipes to move runoff landward towards South Sierra Avenue (Exhibit 3).

As indicated above, at-grade walkways that do not require structural foundations may be located within five ft. of the bluff edge. While the proposed walkway is at-grade and does not require a structural foundation, the retaining wall inland of the walkway does. Although this type of development would typically be prohibited within the geologic setback area, the applicant has demonstrated that this walkway is the only ADA access to the condominium units and that the walkway cannot be relocated further landward due to the close proximity of the existing condominium buildings to the bluff edge. However, the Commission must ensure that the proposed development is the minimal necessary and has the least adverse effects to bluff stability. Therefore, **Special Condition 1** requires the applicant to submit final plans that incorporate the walkway design that is most easily removed in case it is threatened by future erosion.

Special Condition 6 notifies the applicant that by acceptance of this permit, the applicant agrees that no bluff or shoreline protective device(s) shall ever be constructed to protect the walkway in the event that the development is threatened with damage or destruction from natural hazards in the future, and that the applicant waives any rights to construct such devices that may exist under Section 30235. In addition, **Special Condition 1** requires that the applicant apply for a CDP to remove the walkway if it is threatened by erosion, landslide, or other form of bluff collapse in the future. The Commission's engineer and geologist have reviewed the proposed project and determined the project should not have any significant adverse impact on bluff stability.

There is always risk involved with work in hazardous locations such as the subject site, on the face of a 70-80 ft. high coastal bluff in a location subject to wave action. Because the development will occur in a known hazard location, the applicant must assume all risks associated with the development. **Special Condition 3** requires the applicant to assume all risks associated with the development and to indemnify the Commission from any liability.

Based on the above discussion, the Commission finds that the impact of the proposed project on the overall stability of the bluff has been minimized to the maximum extent feasible and the proposed development will not require future shoreline protection. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30253 of the Coastal Act and the City's certified LUP.

C. PUBLIC ACCESS

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

Section 30210

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

Section 30211

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

Section 30212

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

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

(2) adequate access exists nearby, or,

Section 30213

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

The subject development is located on the blufftop, bluff face and beach. A public access stairway (Seascape Surf) lies approximately 900 ft. north of the subject private stairway and another public stairway (Del Mar Shores) is located just south of the subject site. Fletcher Cove, the primary beach access location for the City of Solana Beach, is located approximately 2/3 miles to the north. The Commission recently approved the demolition and reconstruction of the Del Mar Shores public stairway (CDP 6-10-037), although the stairway currently is in a state of disrepair and not used.

The proposed project will repair and replace portions of an existing legal non-conforming private access stairway and will replace an existing private bluff top walkway. The existing stairway landing is located adjacent to a seawall at the base of the bluff. At higher tides north/south lateral access at the site is not feasible. Thus the landing of the existing private stairway occupies beach that would otherwise be available for public access and recreation. Public access is currently not provided on the existing private stairway or private walkway, thus public access and recreation will neither be positively or negatively impacted by the proposed development.

Although the proposed project will not alter existing public access to or along the beach, construction activities could adversely affect public access for a limited amount of time if construction equipment interfered with beach use. To limit adverse impacts on public access caused by construction activities, **Special Condition 2** requires the submission of construction staging plans documenting that no equipment or machinery will be left overnight on the beach, that construction corridors be located so as to limit adverse impacts on public access, and to prohibit construction activities from occurring on the beach during the summer months between Memorial Day and Labor Day.

Although the existing stairway landing lies on a beach regularly used by the public and is regularly impacted by wave action, the extent of the public trust lands at this location is not known. The State Lands Commission retains ownership of the public trust lands seaward of the Mean High Tide Line. As such, **Special Condition 7** requires the applicant to submit a written determination from the State Lands Commission as to the status of state lands involvement concerning this project.

In summary, the proposed project will not adversely impact public access. While there may be some minor inconvenience to the public during the repair of the stairway, the impacts will be short term. As conditioned, the proposed development is consistent with Sections 30210, 30211, 30212, and 30213 of the Coastal Act.

D. VISUAL RESOURCES

Section 30251 of the Coastal Act states as follows:

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

The proposed development is located on a beach that is heavily used by the public in the City of Solana Beach and as such will be highly visible by beachgoers. The proposed project consists of repairs and partial replacement of an existing permitted stairway and relocation of an existing private walkway. No new structures are proposed. **Special Condition 1** requires that the concrete landing section of the stairway be integrally colored using earth tone tints to match the surrounding bluffs. As conditioned, the proposed project will protect public views along the shoreline. Therefore, the visual resources of the area will be protected, consistent with Section 30251 of the Coastal Act.

E. PROTECTION OF OCEAN WATERS/BMP'S

Section 30230, 30231 and 30232 of the Coastal Act requires that new development be designed so that ocean waters and the marine environment be protected from polluted runoff and accidental spill of hazardous substances:

Section 30230

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

Section 30231

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

Section 30232

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

The following policies from the City's certified Land Use Plan state:

Policy 4.60

Development on the bluffs, including the construction of a bluff retention device, shall include measures to ensure that:

- *No stockpiling of dirt or construction materials shall occur on the beach;*
- *All grading shall be properly covered and sandbags and/or ditches shall be used to prevent runoff and siltation;*
- *Measures to control erosion shall be implemented at the end of each day's work;*
- *No machinery shall be allowed in the intertidal zone at any time to the extent feasible;*
- *All construction debris shall be properly collected and removed from the beach. Shotcrete/concrete shall be contained through the use of tarps or*

similar barriers that completely enclose the application area and that prevent shotcrete/concrete contact with beach sands and/or coastal waters.

The repairs and partial replacement of the private access stairway will occur on the public beach within a few feet of ocean waters. At high tides ocean waters will extend up to the stairway such that the repairs at times will be subject to wave action. The Commission has been made aware that in previously constructed shoreline projects along the Solana Beach shoreline, construction byproducts have fallen onto the sand and have not been removed before the ocean waters rise and mix with the material. According to the Commission's water quality division and staff of the State Regional Water Quality Control Board, San Diego Region, the mixing of such construction byproducts with ocean waters is a violation of the State Water Quality Act since it would involve the unauthorized discharge of a pollutant into ocean waters. Along other sections of the coast, contractors have placed tarps on the beach to collect material that drops to the beach during construction. This and other techniques are possible ways to control construction debris and prevent discharge into the marine environment.

Special Condition 2 requires that during the construction of the project, "the applicants shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion." To assure that the subject development will not result in the pollution of the ocean waters, **Special Condition 4** has been attached, which requires the applicants to submit a Polluted Runoff Control Plan that incorporates Best Management Practices (BMPs), for Executive Director approval, for the proposed repair work. With appropriate BMPs, the potential for this polluted material from the repair site making its way into the ocean will be eliminated. In addition, **Special Condition 2** prohibits the storage of construction vehicles in the surf zone, or the washing of equipment on the beach, both of which protect the receiving waters from an influx of pollutants, thus protecting biological productivity and marine resources. Therefore, as conditioned, the Commission finds the proposed development consistent with the marine and water quality protection policies of the Coastal Act.

G. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without required coastal development permits including, but not limited to, substantial replacement and repairs of the private stairway on the face of the bluff and installation of new windows and a new floor in a condominium unit in a structure located within 50 ft. of the bluff edge. As conditioned, approval of the subject application will authorize retention of all unpermitted development. Special Conditions of this permit require the applicant to submit revised plans showing that the existing private stairway will be colored to match the surrounding bluffs and that the stairway will not extend further seaward. **Special Condition 8** requires that the applicant complete all prior to issuance conditions within 60 days of Commission action on this CDP.

Although development occurred prior to the submission of this permit application, consideration of this application by the Commission has been based solely upon the

Chapter 3 policies of the Coastal Act. Commission review and action on these permit applications does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject sites without a coastal permit.

H. LOCAL COASTAL PLANNING

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

The City of Solana Beach has a certified Land Use Plan (LUP). However, no implementing ordinances have yet been reviewed by the Commission. Thus, the Chapter 3 policies of the Coastal Act remain the standard of review and the City's certified Land Use Plan is used as guidance. The subject site is zoned High Residential and is designated for multi-family residential use. The proposed repair and partial replacement to an existing stairway and the relocation of an existing walkway will not affect the project's continued consistency with that zone and designation. The project is in conformance with all applicable Chapter 3 policies, and therefore the Commission finds the proposed development will not prejudice the ability of the City of Solana Beach to prepare a certifiable Local Coastal Program.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

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

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

- Site Plans titled “Seascape 1, Condominiums Bluff Sidewalk Relocation Plan” dated 10/21/2011 by James Ellison Architecture & Planning
- Site Plans titled “675 South Sierra Avenue, Seascape Condominiums Site Drainage Enhancement” dated 8/12/2011 by TerraCosta Consulting Group
- Site Plans titled “Seascape Condominiums” dated 6/21/2010 by Sowards & Brown Engineering
- Site Plans titled “Seascape Condominiums Solana Beach” dated 3/23/2011 by FYFE
- “Geotechnical Addendum Report” by TerraCosta Consulting Group dated 1/25/2013
- City of Solana Beach Certified LUP
- City of Solana Beach Resolution Number 2011-142 approved on 12/14/2011
- CDP Nos.:
 - F3158/Seascape 1
 - 6-83-477/Seascape 1

PROJECT LOCATION

**Project
Location**

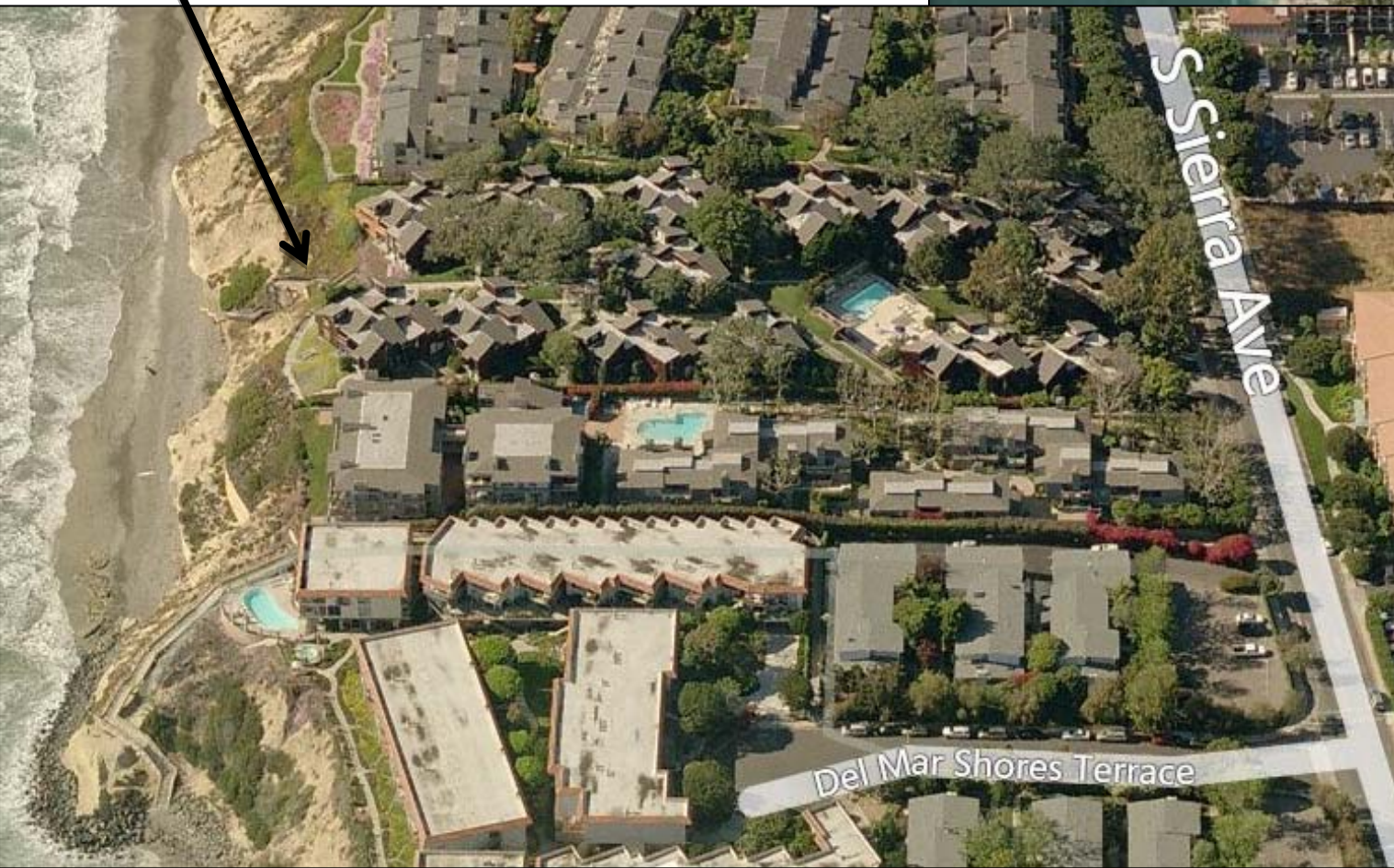



EXHIBIT NO. 1
APPLICATION NO. 6-12-059
Project Location
 California Coastal Commission

SITE PHOTO (2010)




EXHIBIT NO. 2
APPLICATION NO.
6-12-059
2010 Site Photo
California Coastal Commission

PROJECT PLANS

CATCH BASIN WITH ADA COMPLIANT GRATE AT ENTRANCE TO GARAGE

PERFORATED DRAIN PIPE OUT TO WALL FACE

6" DRAIN PIPE

8" DRAIN PIPE

8" DRAIN PIPE

2-2' SQ. CATCH BASINS (LOCATIONS TO BE DETERMINED)

I.E. 82.4' MAX.

PERFORATED DRAIN PIPE OUT TO WALL FACE

8" DIA. SCH 40 PVC

SEE "DRAINAGE PROFILE THRU GARAGE" ON SHEET 3

APPROXIMATE OUTLINE OF SUBTERRANEAN GARAGE

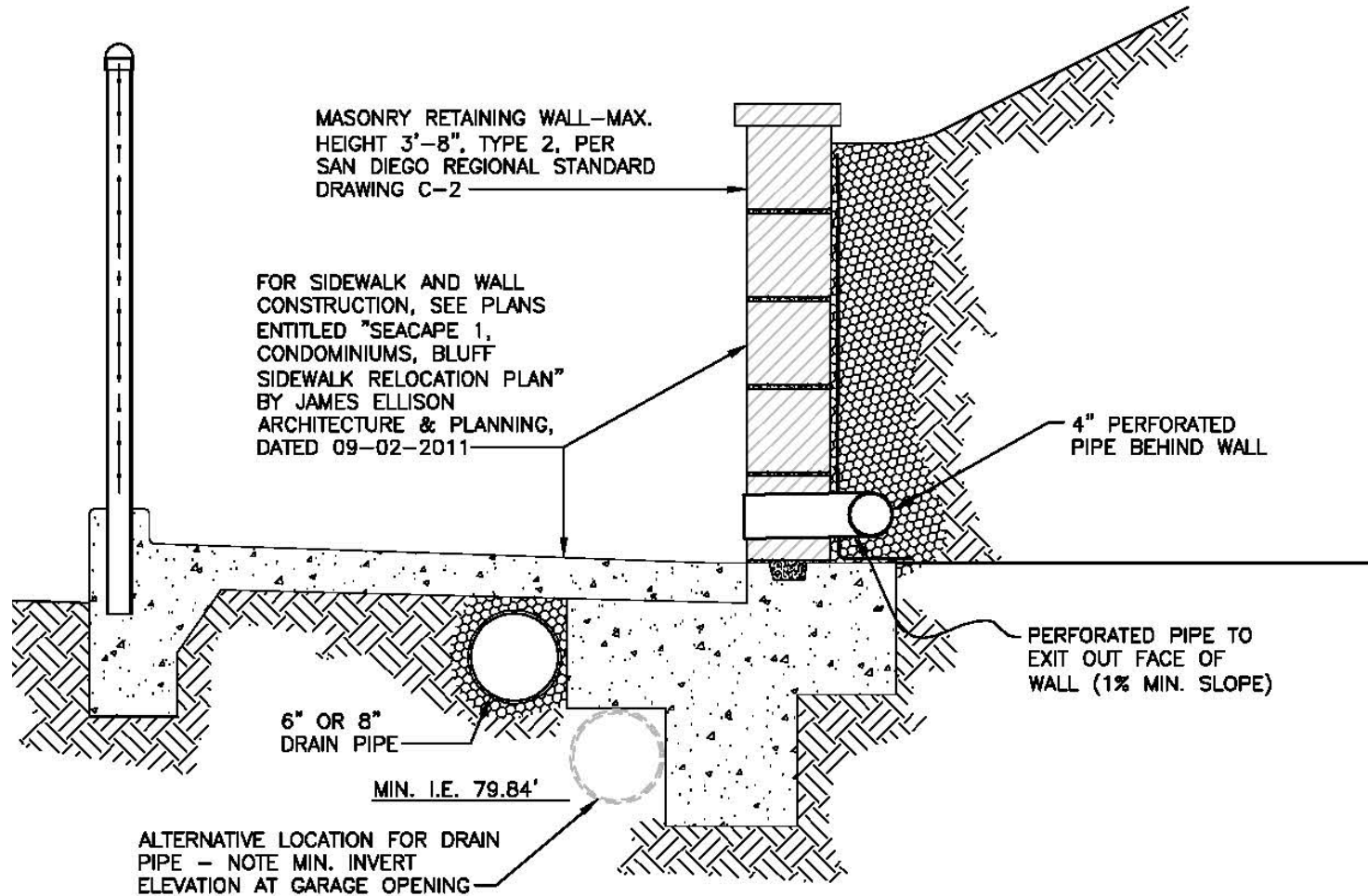
1' SQ. CATCH BASIN- LOCATION TO BE DETERMINED

DETAIL SITE PLAN

SCALE: 1"=10' (HORIZ. & VERT.)

 California Coastal Commission	EXHIBIT NO. 3
	APPLICATION NO. 6-12-059
	Project Plans

PROJECT PLANS (CONT.)



TYPICAL SECTION THRU PROPOSED SIDEWALK / WALL

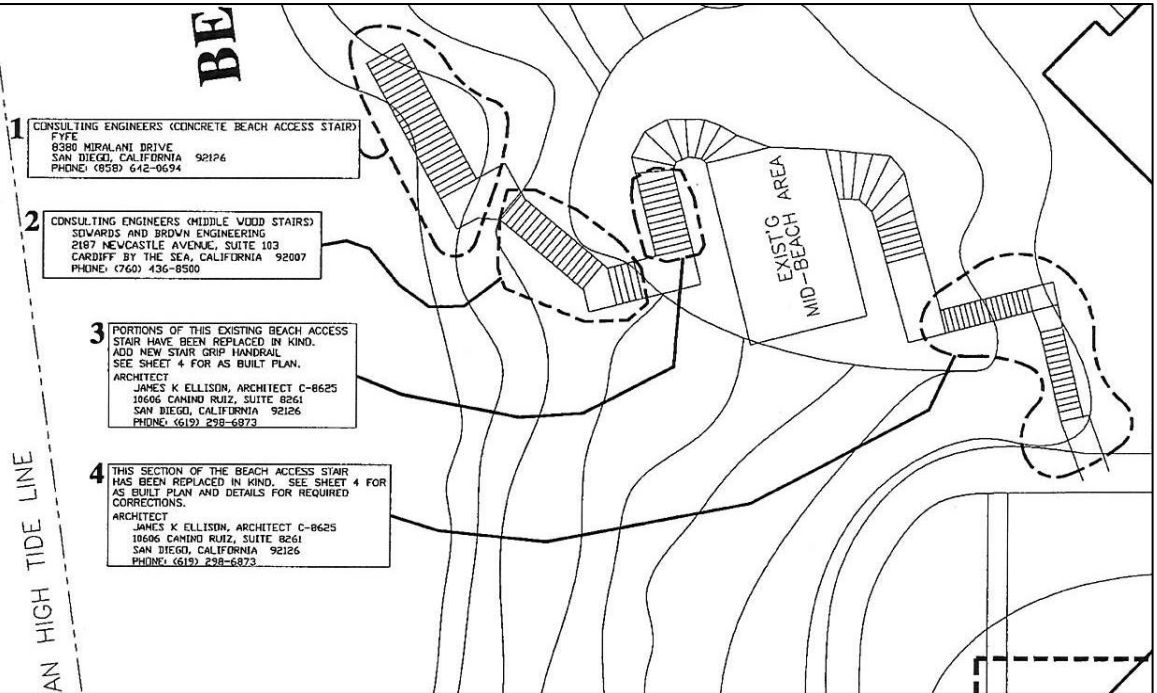
STAIRWAY REPLACEMENT/REPAIRS

STAIRWAY SUMMARY

WORK REQUIRED OR PERFORMED ON BEACH ACCESS STAIR

TOTAL LENGTH OF EXIST'G BEACH STAIR SYSTEM 178'

SECTION OF STAIR	WORK REQUIRED OR PERFORMED	LENGTH
1	REPAIR CONCRETE STAIR REPAIR CRACKS AND EXPOSED REINFORCING	23'
2	REPAIR WOOD STAIR REPLACE IN KIND STRINGERS & TREADS	24'
3	REPAIR WOOD STAIR REPLACED IN KIND STRINGERS & TREADS	9'
4	REPLACED WOOD STAIR REPLACED IN KIND ENTIRE STAIR SECTION	44'



California Coastal Commission

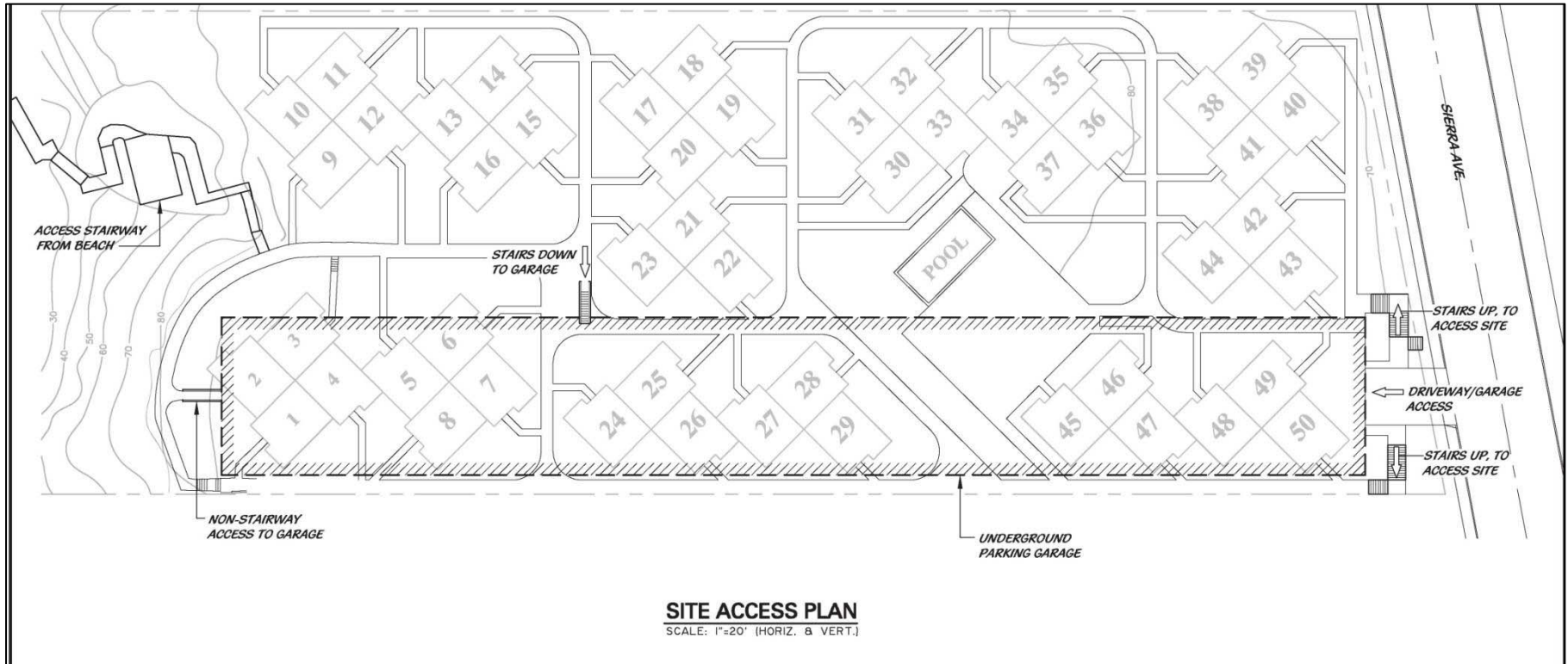
Stairway Replacement

6-12-059

APPLICATION NO.

EXHIBIT NO. 4

ADA ACCESS



California Coastal Commission

EXHIBIT NO. 5
APPLICATION NO.
6-12-059
ADA Access

EXISTING LANDING



EXHIBIT NO. 6

APPLICATION NO.

6-12-059

Existing Landing



California Coastal Commission

EXISTING WALKWAY LOCATION



California Coastal Commission

Existing Walkway

6-12-059

ADDITIONAL INFO

EXHIBIT NO. 7

