

CALIFORNIA COASTAL COMMISSION

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Th18b

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Hearing Date: 7/10-11/2013

STAFF REPORT: AMENDMENT

Application No.: 6-02-039-A1

Applicant: Seascape Chateau HOA

Agent: Robert Trettin

Location: 707 South Sierra Avenue (APN #292-211-78)

Original Project Description: Repairs and maintenance to an existing seawall, including the request for after-the-fact approval for placement of approximately 5 cu. yards of shotcrete to fill an eroded void behind the structure. Also proposed is the new placement of approximately 2 cu. yards of erodible, colored, shotcrete to the ends of the wall, as well as reshaping of toe stone at the base of the seawall.

Proposed Amendment: Construction of two reinforced concrete return sections at the north and south ends of an existing seawall. The proposed returns will be approximately 1' wide and +/- 30' in height. Exposed surfaces will be hand-sculpted and color treated for aesthetic purposes.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the applicant's request for the construction of two reinforced concrete return sections at the north and south ends of an existing seawall. The proposed returns will be approximately 1' wide and +/- 30' in height. Exposed surfaces will be hand-sculpted and color treated for aesthetic purposes. Staff is recommending approval of the subject seawall repairs as the applicant has demonstrated that the existing seawall and thus the bluff top condominium complex is in danger from erosion if the proposed repairs are not completed.

The applicant's engineer has provided substantial evidence to demonstrate that the flanking of the existing seawall that has occurred over the recent years imminently threatens the existing bluff top condominium complex. The Commission's staff engineer has reviewed the applicant's geotechnical assessment and concurs 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, public access and recreation, and the direct, indirect and long-term effects on the adjacent public beach and State tidelands that results from armoring the bluffs. A Special Condition of this CDP requires the applicant to submit a payment of \$7,200 to the City of Solana Beach's Public Access and Recreation Fund to mitigate for the expanded seawall's impact to the public beach/recreation. The fee was proposed by the applicant and based on the City's interim \$1,000 per linear ft. deposit for seawalls on the public beach. The funds shall be used solely to implement projects which provide recreation or public access opportunities within the city.

With the required public access and recreation mitigation fee and the other conditions of this CDP, the impacts of the proposed shoreline protection on regional public access and recreation will be mitigated to the extent feasible.

Commission staff recommends **approval** of coastal development permit amendment application 6-02-039-A1, as conditioned.

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

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APPENDICES

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EXHIBITS

Exhibit 1 – PROJECT LOCATION

Exhibit 2 – EXISTING SITE PHOTO (6/16/2013)

Exhibit 3 – PROJECT PLANS

Exhibit 4 – RECREATION FEE CALCULATIONS

Exhibit 5 – SPECIAL CONDITIONS 6-02-039

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit Application No. 6-02-039 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 6-02-039-A1 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 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. 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 Coastal Development Permit 6-02-039 shall remain in full force and effect.
2. **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).

3. **Deed Restriction/CC&R's Modification.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, 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.
4. **As-Built Plans.** WITHIN 60 DAYS OF COMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT AMENDMENT the permittee shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the return walls and the aesthetic facing have been constructed in conformance with the approved plans for the project.
5. **Mitigation for Impacts to Public Access and Recreational Opportunities.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT

AMENDMENT, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that the full interim mitigation fee of \$7,200, required by the Commission to address adverse impacts to public access and recreational use, has been deposited in a Shoreline Account established by the City of Solana Beach.

WITHIN 6 MONTHS of the Commission's certification, as part of the certified LCP, of both the City's economic study of the impacts associated with shoreline devices and its method of calculating such fees, the applicants shall submit to the Executive Director for review and written approval, documentation of the final mitigation fee amount required by the City to address impacts of the proposed shoreline protection on public access and recreation. If the amount differs from the interim amount required above, then the applicants shall submit an application for an amendment to this permit to adjust the mitigation fee to be paid to the City to address adverse impacts to public access and recreational use resulting from the proposed development. In the event no mitigation program is certified as part of the LCP process, mitigation to address ongoing impacts to public access and recreation shall be re-assessed after the 20 year authorization period has expired.

6. **State Lands Commission Review.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, 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.
7. **Future Maintenance/Debris Review.** Within 15 days of completion of construction of the seawall repairs the permittees shall remove all debris deposited on the beach or in the water as a result of the construction.
8. **Storage and Staging Areas/Access Corridors.** PRIOR TO 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 equipment or materials shall occur on sandy beach or public parking spaces. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and

dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time. Construction equipment shall not be washed on the beach.

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

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

- 9. **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.
- 10. **Best Management Practices.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, 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.

III. FINDINGS AND DECLARATIONS

A. PROJECT HISTORY/ AMENDMENT DESCRIPTION

The proposed project includes the request for construction of two reinforced concrete return sections at the north and south ends of an existing seawall. The proposed returns will be approximately 18" wide and +/- 30' in height. The proposed return walls will be located adjacent to and perpendicular to each side of an existing seawall. In addition, the exposed surfaces of the new return walls and the entirety of the existing seawall will be hand-sculpted and color treated for aesthetic purposes. The subject seawall is on the public beach located seaward of an existing condominium complex in the City of Solana Beach.

In 1983, the Commission approved Coastal Development Permit (CDP) #6-83-479 for the installation of upper and lower reinforced walls at the project site, with special conditions regarding final plans, maintenance, landscaping, access, and assumption of risk. The lower wall was designed to serve as a seawall - with toe stone permitted at the base of the structure - and is the subject of this application. No changes are proposed to the existing toestone, which is currently covered by beach sand and not visible.

On September 22, 2000 the Commission issued Emergency CDP #6-00-144-G for the filling of an eroded void that had developed behind the seawall with a lean concrete mix. On July 9, 2002, the Commission approved CDP #6-02-039 for repairs and maintenance to the existing seawall, including after-the-fact approval for placement of approximately 5 cu. yards of shotcrete to fill an eroded void behind the structure (follow up to Emergency CDP #6-00-144-G). The approved project also included the new placement of approximately 2 cu. yards of erodible, colored, shotcrete to the ends of the wall, as well as reshaping of toe stone at the base of the seawall.

In 2010, the applicant began placing concrete on either side of existing seawall without first obtaining the necessary City permits or a CDP. The City issued a stop work order before the concrete patches on either side of the seawall were completed. The applicant subsequently determined that merely patching the edges of the existing seawall would not be sufficient to protect the wall from additional erosion and modified the proposed project to include return walls on either side of the existing seawall. The applicant proposes to remove the entirety of the unpermitted development. Upon approving the modified project, the City also required that the applicant to color and texture the entirety of the existing seawall.

The City of Solana Beach has a certified Land Use Plan; however, the City does not yet have a certified Local Coastal Program (LCP). 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. SEAWALL/SHORELINE PROTECTIVE DEVICES/GEOLOGIC HAZARDS

Section 30235 of the Coastal Act states, in part:

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

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

New development shall:

- (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 4.56:

Any bluff retention device shall be reasonably maintained and repaired by the bluff property owner on an "as needed" basis, at the bluff property owner's expense, in accordance with the implementing ordinances and any permit issued by the City. Any authorized assessing entity in which the project lies shall ensure such payments are reimbursed to the City if the bluff property owner fails to perform such work and the City elects to do so, subject to mandatory reimbursement. However, in all cases, after inspection, it is apparent that repair and maintenance is necessary, including maintenance of the color of the structures to ensure a continued match with the surrounding native bluffs, the bluff property owner or assessing entity shall contact the City or CCC office to determine whether permits are necessary, and, if necessary, shall subsequently apply for a coastal development permit for the required maintenance.

Policy 4.57:

To achieve a well maintained, aesthetically pleasing, and safer shoreline, coordination among property owners regarding maintenance and repair of all bluff retention devices is strongly encouraged. This may also result in cost

savings through the realization of economies of scale to achieve these goals by coordination through an assessing entity. All bluff retention devices existing as of the date of certification of the LCP, to the extent they do not conform to the requirements of the LCP, shall be deemed non-conforming. A bluff property owner may elect to conform his/her/its bluff property or bluff retention device to the LCP at any time if the City finds that an existing bluff retention device that is required to protect existing principal structures in danger from erosion is structurally unsound, is unsafe, or is materially jeopardizing contiguous private or public principal structures for which there is no other adequate and feasible solution, then the City may require reconstruction of the bluff retention device.

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.*

Policy 4.62:

Existing bluff retention devices which are not considered preferred bluff retention solutions and do not conform to the provisions of the LCP, including the structural or aesthetic requirements may be repaired and maintained to the extent that such repairs and/or maintenance conform to the provisions of the LCP.

The Commission has traditionally been concerned with the siting of new development directly along the shoreline in terms of both its encroachment onto public sandy beach as well as visual impacts. Section 30235 of the Act acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or “hard” solutions alter natural shoreline processes. Thus, such devices are required to be approved only when necessary to protect existing structures or public beaches in danger from erosion, and only when designed to eliminate or mitigate adverse impacts on local sand supply.

In the case of the proposed development, the applicants are requesting to maintain the existing concrete masonry seawall by constructing return walls adjacent to either side of the wall. In addition, the applicant is proposing to apply an approximately 4 in. thick sculpted and colored shotcrete face to the entirety of the existing seawall. The existing concrete vertical seawall is approximately 70 feet long and approximately 30 feet high (~25 ft. above MSL and ~5 ft. below MSL). The proposed project will not result in changes to the height of the existing wall, but it will expand the footprint of the existing seawall.

The purpose of the proposed repairs is to prevent failure of the wall that the applicant has indicated would threaten existing multi-family structures, located on the top of the bluff, from erosion. The Commission's coastal engineer has reviewed the proposed project and has concurred that the construction of the return walls is necessary as part of expected repair and maintenance of the seawall. Erosion at the ends of the wall has left gaps at each end between the bluff and wall. The eroded gaps along the ends of the wall allow for water and waves to enter the area between the seawall and the bluff, and erode the fill material behind the structure that provides the support for the wall. If not addressed, these gaps could eventually cause the seawall to collapse due to outflanking by wave action. According to the applicant's coastal engineer, although the proposed repair and maintenance of the existing seawall would not extend the design life of the structure, the structure could collapse without the proposed repair and maintenance.

Although the repair to the seawall is required to protect the existing structures on the site, Section 30235 of the Coastal Act requires that the shoreline protection be designed to eliminate or mitigate adverse impacts on local shoreline sand supply. The Commission typically applies a beach sand mitigation fee when a new seawall is constructed or an existing seawall is expanded in order to mitigate for its impacts on sand supply.

Although the subject bluff is sandstone and subject to direct erosion from wave action, the proposed repair and maintenance activities will not extend the design life of the structure. In order to construct the new return walls, the applicant plans to cut into the existing bluff face adjacent to each side of the existing seawall to a depth of approximately 3 ft. All material cut out of the bluff face will be deposited on the public beach and the proposed project will not result in any further loss of beach sand from the surrounding area. Therefore, the applicant is not subject to a sand mitigation fee.

Special Condition 4 requires the applicant to submit as-built plans within 60 days of construction of the proposed development in order to assure that the repair and maintenance to the seawall has been constructed according to the approved plans.

In summary, the Commission finds that the applicants have demonstrated that the existing multi-family structure on top of the bluff is subject to threat from erosion if the existing seawall should fail. The Commission finds that the proposed repairs to the existing seawall are necessary to protect an existing structure. Furthermore, the proposed repairs will not increase the impact that the existing structure has on shoreline sand supply to any greater degree than the seawall does as originally constructed and will not

substantially alter natural land forms. Therefore, the project, as conditioned, is consistent with Sections 30235 and 30253 of the Coastal Act.

C. PUBLIC ACCESS/RECREATION

The Coastal Act contains policies protecting physical access to the beach and ocean. Specifically, the Coastal Act states the following:

Section 30211

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

Section 30212

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

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

Section 30221

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

The following certified Land Use Policies state:

Policy 4.37:

Establish a Shoreline District Account which will serve as the primary account where all funds generated pursuant to the Hazards & Shoreline/Bluff Development Chapter of the LUP will be held. The City should invest the Shoreline District Account funds prudently and expend them for purposes outlined in the LCP including, without limitation:

- *Sand replenishment and retention studies and projects;*
- *Updating the October 2010 MHTL Survey;*
- *Preparation of other shoreline surveys and monitoring programs;*
- *Opportunistic beach nourishment programs and development of stockpile locations;*
- *Repair and maintenance of bluff retention devices subject to reimbursement by the affected non-compliant bluff property owners;*
- *Public recreation improvements;*
- *Repair and replacement of beach access infrastructure;*
- *Insurance premiums; and*
- *Shoreline related litigation.*

Policy 4.52:

The bluff property owner shall pay for the cost of the coastal structure or Infill and pay a Sand Mitigation Fee and a Public Recreation Fee per Policy 4.40. These mitigation fees are not intended to be duplicative with fees assessed by other agencies. It is anticipated the fees assessed as required by this LCP will be in conjunction with, and not duplicative with, the mitigation fees typically assessed by the CCC and the CSLC for impacts to coastal resources from shoreline protective devices.

Sand Mitigation Fee - to mitigate for actual loss of beach quality sand which would otherwise have been deposited on the beach. For all development involving the construction of a bluff retention device, a Sand Mitigation Fee shall be collected by the City which shall be used for beach sand replenishment and/or retention purposes. The mitigation fee shall be deposited in an interest-bearing account designated by the City Manager of Solana Beach in lieu of providing sand to replace the sand that would be lost due to the impacts of any proposed protective structure. The methodology used to determine the appropriate mitigation fee has been approved by the CCC and is contained in LUP Appendix A. The funds shall solely be used to implement projects which provide sand to the City's beaches, not to fund other public operations, maintenance, or planning studies.

Public Recreation Fee – Similar to the methodology established by the CCC for the sand mitigation fee, the City and the CCC are jointly developing a methodology for calculating a statewide public recreation fee. To assist in the effort, the City has shared the results of their draft study with the CCC to support their development of a uniform statewide Public Recreation / Land Lease Fee. Until such time as an approved methodology for determining this fee has been established, and the methodology and payment program has been incorporated into the LCP through an LCP amendment, the City will collect a \$1,000 per linear foot interim fee deposit. In the interim period, CCC will evaluate each project on a site-specific basis to determine impacts to public access and recreation, and additional mitigation may be required. The City

shall complete its public recreation/land lease fee study within 18 months of effective certification of the LUP.

The subject site is located between the first public roadway and the sea. Section 30604(c) of the Act requires that specific access findings be made for any project located between the first coastal roadway and the sea. Public access to the shoreline is limited along this area due to the nature of the steep coastal bluffs. There is an existing public vertical access point just south of the site at the Del Mar Shores complex. Although, the proposed development results in an expansion to the footprint of the existing seawall and seaward encroachment onto the public beach, the proposed mitigation for the project will adequately mitigate any adverse impacts to physical public access. Furthermore, as required in Section 30604(a) for development between the first public road and the sea, the project, as conditioned, is consistent with all other public access and recreation policies of the Coastal Act.

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. Seawalls also have non-quantifiable effects to the character of the shoreline and visual quality. However, some of the effects which a structure may have on natural shoreline processes can be quantified. Three of the effects from a shoreline protective device which can be quantified are: 1) loss of the beach/bluff area on which the structure is located; 2) the long-term loss of future beach area which will result when the back beach/bluff location is fixed on an eroding shoreline thereby preventing inland migration of beach area; and 3) the amount of sand supply which would have been supplied to the beach if the back beach or bluff were to erode naturally. These effects, in turn, adversely impact public access and recreation resources along the coast by reducing available public beach area.

The proposed repairs will result in an expansion of the project footprint, both extending the length of the wall by approximately 3 ft. and a 4 in. seaward encroachment along the entirety of the wall for the shotcrete facing, thereby occupying more of the public beach area with a private structure and expanding the fixed back beach associated with the existing seawall. Therefore, application of a public access and recreation mitigation fee for the proposed project is appropriate. In this particular case, the applicant is only proposing to mitigate for public access and recreation impacts caused by the expansion of the existing seawall. Since major structural repairs are not proposed and the original design life of the existing seawall is not being expanded, no mitigation is proposed or required for the existing seawall. However, if in the future, the applicant proposes major structural repairs to the existing seawall, it is likely that the entire wall may need to be brought into conformance with the City's certified LCP and that additional mitigation will be required.

In June of 2007, the City of Solana Beach adopted an interim in-lieu fee program to mitigate the adverse impacts associated with shoreline devices (Ref. Resolution 2007-042, City of Solana Beach). The program has been designed as "interim" in that until the City completes and the Commission certifies as part of an LCP submittal (see below) an economic study that more precisely determines the economic costs, the ultimate costs to

the property are unknown. As such, the City's program requires the \$1,000.00 per linear foot fee be assessed in the interim and requires an applicant to agree to modifications to the fee once the economic study is complete and certified and a more site specific fee is assessed. According to the City's program, the monies collected through the mitigation program will be directed for City use for public access and recreational projects.

In the case of several recent seawall projects in the City of Solana Beach, the Commission has accepted the applicants' proposals for interim mitigation pursuant to the City of Solana Beach's program. As such, the recent seawall projects (Ref. CDP Nos. 6-07-134/Caccavo, 6-03-33-A5/Surfsong, 6-08-73/DiNoto, et. al, 6-08-122/Winkler, 6-09-033/Garber et. al.) approved by the Commission in Solana Beach have been conditioned to require the payment of \$1,000 per linear ft. to the City of Solana Beach as an interim temporary fee until the City completes and adopts and the Commission certifies its economic study which is intended to more accurately assess the financial impacts of shoreline devices on public access and recreation opportunities. Each of these recent coastal development permits for seawalls were also conditioned to require the applicants to apply for an amendment to their coastal development permit within 6 months of the Commission's certification of the City's economic study in order to reassess the in-lieu mitigation fee.

The City of Solana Beach continues to work on the study and the Commission has recently certified the City's Land Use Plan when the Commission concurred with the Executive Director that the City's action in adopting the suggested modifications was legally adequate to satisfy the specific requirements set forth in the Commission's certification order (June 2013 Commission hearing). The City's mitigation program to address loss of sand supply and public access/recreation area as a result of building protective devices along the coast will be included as part of the LCP, which the Commission will evaluate when it reviews the City's draft Implementation Plan. The Commission's acceptance, in this case, of the applicants' proposed mitigation for the loss of public access and recreational opportunities associated with the subject seawall should not be seen as Commission approval of the City's mitigation plan or of the City's economic study, as that plan is not in front of the Commission for evaluation at this time. Instead, due to the lack of sufficient information concerning the economic loss to public access/recreation from the proposed seawall return wall features and new facing, the Commission agrees to accept the applicants' proposal, and requires them to pay the City's interim fee, until such time that the City completes its economic study and the Commission has certified the City's mitigation program through adoption of an LCP. In order to ensure that any subsequent modification of this mitigation fee is consistent with the Chapter 3 policies of the Coastal Act, the Commission imposes **Special Condition 5**, requiring the applicants to submit an application for an amendment to this permit to the Commission if the final mitigation fee certified as part of the LCP is different than the proposed \$7,200 interim fee.

The applicant has proposed payment into the City's program as mitigation for adverse impacts of the proposed development on public access and recreation. Specifically, the applicant proposes to pay a deposit of \$3,000 for the 3 linear ft. of new armoring associated with the 2 (18" in. wide) return walls. In addition, the applicant has proposed

to pay a deposit \$4,200 for impacts stemming from the seaward encroachment of the wall as a result of the aesthetic shotcrete facing. The existing seawall is approximately 5 ft. 6 in. thick, thus a 4 in. addition to the wall amounts to approximately 6% of the total thickness of the wall. The applicant then multiplied the standard \$1,000 per linear foot for 70 ft. by 6% to get a mitigation fee of \$4,200. Thus, the total mitigation fee proposed by the applicant for the new return walls and the shotcrete facing is \$7,200 (see Exhibit #4 for more detailed calculations).

In order to ensure that no unnecessary impacts result from the project to the adjacent public beach while the repair and maintenance activities are being constructed, **Special Condition 8** is attached and stipulates that no overnight storage of equipment or materials shall occur on sandy beach or public parking spaces. In addition, the condition requires that during the construction stages of the project, the permittee shall not store any construction materials or waste where it will be, or could potentially be, subject to wave erosion and dispersion. The condition also states that no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, and that construction equipment shall not be washed on the beach. Finally, the condition requires that access corridors shall be located in a manner that has the least impact on public access to and along the shoreline, and that no work shall occur on the beach between Memorial Day weekend and Labor Day of any year. As conditioned, the proposal will not affect public access to or along the beach, and the project is consistent with all applicable public access policies of the Act.

D. UNPERMITTED DEVELOPMENT

Unpermitted development has been carried out on the subject site without the required permit. The applicant previously placed concrete on either side of existing seawall without first obtaining the necessary City permits or a CDP. The City issued a stop work order before the concrete patches on either side of the seawall were completed. The applicant is proposing to remove the entirety of the unpermitted development. **Special Condition 9** requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 120 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Although construction has taken place prior to 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. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

E. 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 has a certified Land Use Plan (LUP), but has not yet received approved of its implementing ordinances. 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 modifications to an existing seawall will not affect the project's continued consistency with that zone and designation. The existing seawall represents pre-existing shoreline protection, the project is in conformance with all applicable Chapter 3 policies, and therefore the Commission finds the proposed development will not prejudice the ability of the City of Solana Beach to prepare a certifiable Local Coastal Program.

F. 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 proposal to repair an existing seawall has been conditioned in order to be consistent with the shoreline hazard policies of the Coastal Act. The proposed conditions addressing future maintenance will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

- Site Plans titled “Design and Construction Seawall Return Walls Repair” dated 9/27/2012 by Soil Engineering Construction
- “Geotechnical Addendum Report” by TerraCosta Consulting Group dated 1/25/2013
- City of Solana Beach Certified LUP
- City of Solana Beach Resolution Number 2012-026 approved on 3/28/2012
- CDP Nos.:
 - 6-83-479/Seascape Chateau
 - 6-84-090/Seascape Chateau
 - 6-00-144-G/Seascape Chateau
 - 6-00-188-G/Seascape Chateau
 - 6-02-039/Seascape Chateau
 - 6-10-057/Seascape Chateau
 - 6-02-039-A1/Seascape Chateau

PROJECT LOCATION

**Project
Location**

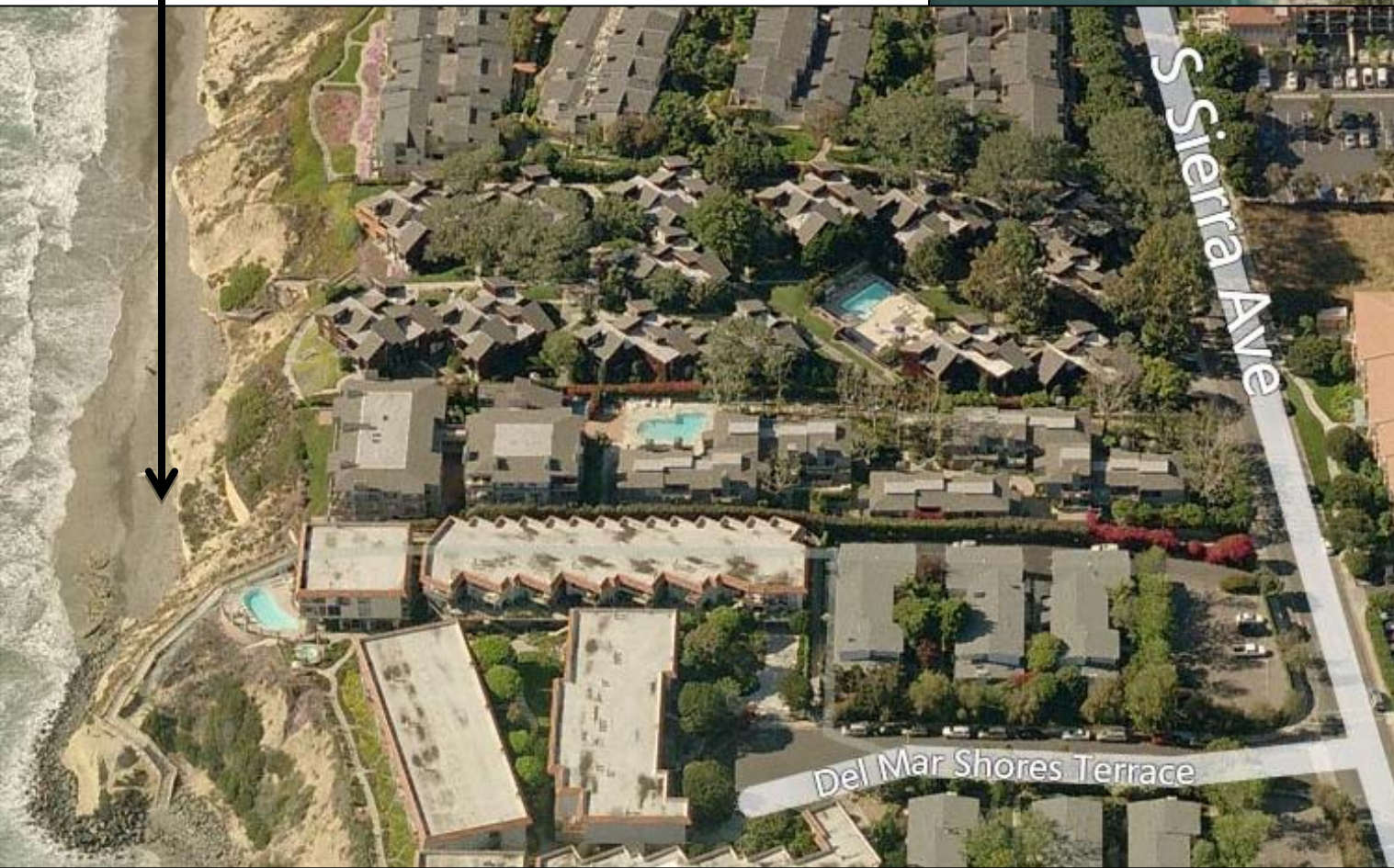



EXHIBIT NO. 1
APPLICATION NO.
6-02-039-A1
Project Location
 California Coastal Commission

EXISTING SITE PHOTO (6/16/2013)



**Project
Location**



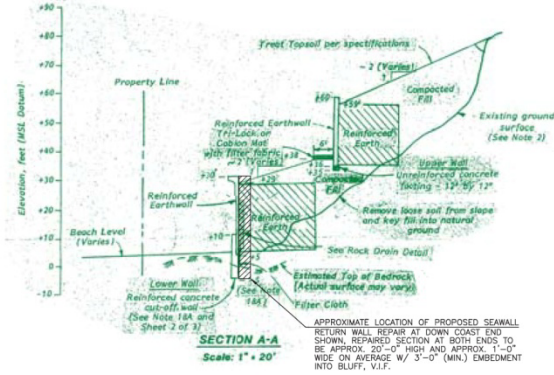
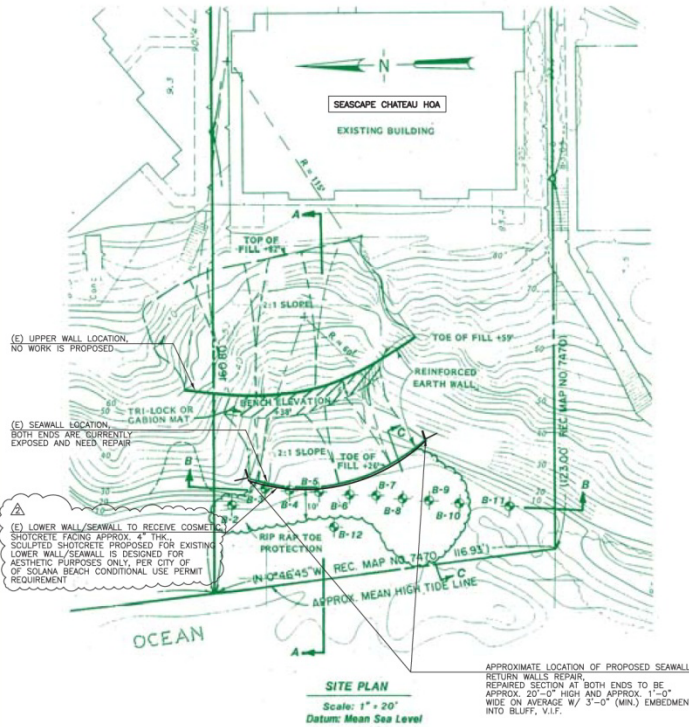
California Coastal Commission

EXHIBIT NO. 2

APPLICATION NO.
6-02-039-A1

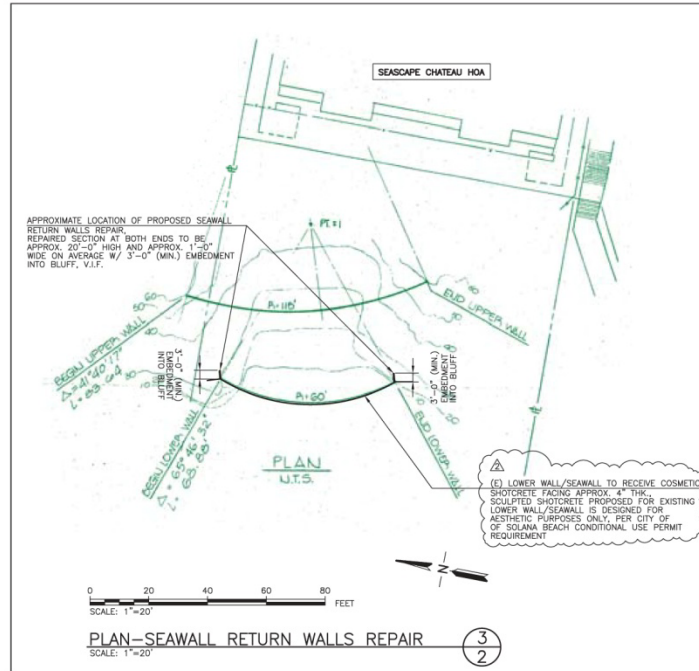
Site Photo

PROJECT PLANS



SECTION-SEAWALL RETURN WALLS REPAIR

SCALE: 1"=20'



PLAN-SEAWALL RETURN WALLS REPAIR

SCALE: 1"=20'

ADDITIONAL SPECIAL CONDITION NOTES:

SPECIAL CONDITION NOTE 1A
ALL EXPOSED SEAWALL CONCRETE, INCLUDING WALL RETURNS, SHALL BE COLORIZED & TEXTURED TO BLEND TO EXTENT POSSIBLE WITH NATURAL APPEARANCE, TEXTURE, CONTOURS, AND COLORATION OF EXISTING SURROUNDING NATURAL BLUFF. ALL WORK SHALL BE PERFORMED BY ARTISAN CRAFTSMAN EXPERIENCED & SPECIALIZING IN CREATION OF SIMULATED ROCK & NATURAL FORMATIONS AND COASTAL BLUFF SEAWALLS. NORTHERN & SOUTHERN SIDES OF SEAWALL SHALL BE DESIGNED TO MINIMIZE EROSION EFFECTS.

SPECIAL CONDITION NOTE 1B
ALL EXPOSED SEAWALL CONCRETE, INCLUDING WALL RETURNS, SHALL BE COLORIZED & TEXTURED TO BLEND TO EXTENT POSSIBLE WITH NATURAL APPEARANCE, TEXTURE, CONTOURS, AND COLORATION OF EXISTING SURROUNDING NATURAL BLUFF. ALL WORK SHALL BE PERFORMED BY ARTISAN CRAFTSMAN EXPERIENCED & SPECIALIZING IN CREATION OF SIMULATED ROCK & NATURAL FORMATIONS AND COASTAL BLUFF SEAWALLS. CONCRETE MATERIALS SHALL BE PROVIDED WITH INTEGRATED MINERAL OXIDE PIGMENTS CONSISTING OF DAVIS COLORS, OR COLORFLO BY SOLOMON COLORS (OR APPROVED EQUIV.), AND FINAL EXPOSED SURFACES SHALL BE LOCALLY COLORIZED USING LITHOCHROME CHEMISTAN BY SCOFIELD, OR PERMION (OR APPROVED EQUIV.). FINAL COLORATIONS, TEXTURES AND CHARACTER OF SCULPTED MATERIALS SHALL BE BASED ON SITE CONDITIONS AND EXPERIENCE OF THE SCULPTING CONTRACTOR, WITH CONSULTATION FROM CITY REPRESENTATIVES THE SCULPTING CONTRACTOR SHALL SUBMIT A SAMPLE BOARD OR COMPLETED SIMULATION TO THE CITY, AND OBTAIN WRITTEN APPROVAL OF ACCEPTANCE OF THE SAMPLE/SIMULATION, PRIOR TO COMMENCING WORK.

(C) LOWER WALL/SEAWALL TO RECEIVE COSMETIC SHOTCRETE TACKING APPROX. 4" THICK. SCULPTED SHOTCRETE PROPOSED FOR EXISTING LOWER WALL/SEAWALL IS DESIGNED FOR AESTHETIC PURPOSES ONLY, PER CITY OF SOLANA BEACH CONDITIONAL USE PERMIT REQUIREMENT.

NOTE:
BACKGROUND INFORMATION FROM ORIGINAL DRAWINGS FOR SEAWALL AND UPPER WALL BY WOODWARD-CLYDE CONSULTANTS, DATED SEPTEMBER 1983.
DRAWINGS SUPPLIED BY OWNER.



California Coastal Commission

Project Plans

EXHIBIT NO. 3

APPLICATION NO. 6-02-039-A1

SITE PLAN-SEAWALL RETURN WALLS REPAIR

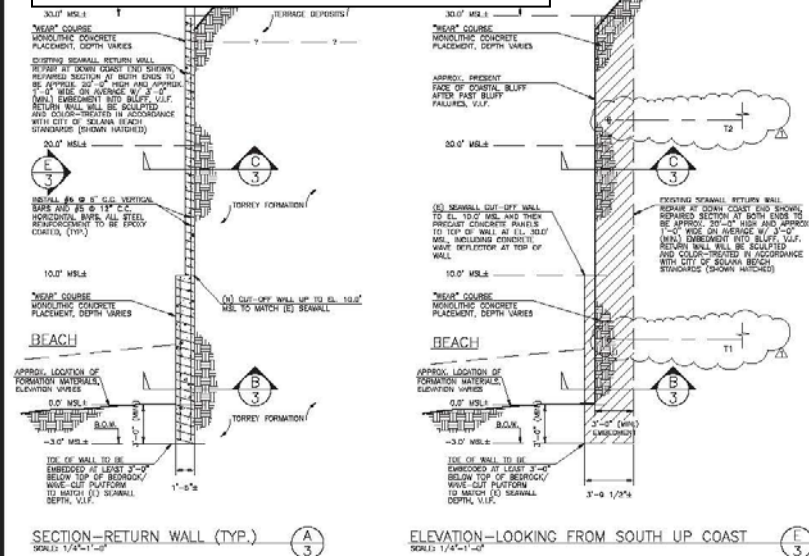
SCALE: 1" = 20'

ENGINEER OF WORK	CITY APPROVED CHANGES	APPD DATE	RECOMMENDED FOR APPROVAL	APPROVED FOR CONSTRUCTION	BENCH MARK	DESCRIPTION
By: Robert D. Mahony, Date: 05-21-11 Name: Soil Engineering Const., Inc. R.C.E. 16459 Exp: 6/13			By: Review Engineer Date:	By: Mohammad Sammak, City Engineer R.C.E. 37146 Exp. 6/12 Date:		LOCATION: _____ RECORD FROM: _____ ELEV.: _____ DATUM: _____
ire Chief Date: _____	District Engineer Date: _____	Drawn By: _____				

CITY OF SOLANA BEACH ENGINEERING DEPART

DESIGN AND CONSTRUCTION SEAWALL RETURN WALLS REPAIR
SEASCAPE CHATEAU HOMEOWNERS ASSOCIATION
707 SOUTH SIERRA AVENUE, SOLANA BEACH, CALIFORNIA 92075

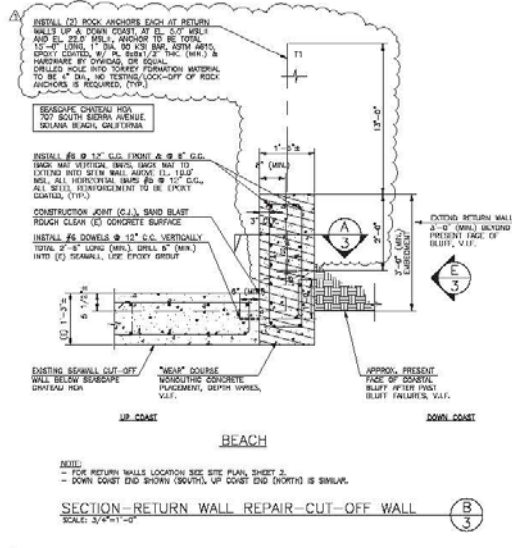
PROJECT PLANS (CONT.)



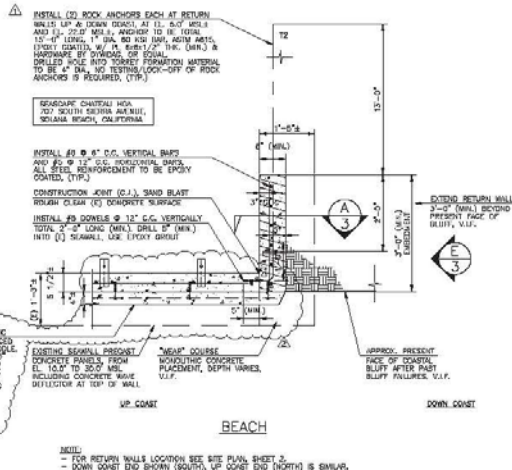
ADDITIONAL SPECIAL CONDITION NOTES:

[illegible]

SPECIAL CONSTRUCTION NOTICE
CONCRETE PLACEMENT FOR THE SEAGRASS AND UNDERPIQS WILL BE PLACED VIA A CONCRETE PUMP. TEMPORARY FORMS WILL BE PLACED AT THE FACE OF THE SAND WALK AND REMOVED AFTER THE CONCRETE SETS. THE SAND WALKS AND CONCRETE BEAMS WILL BE INSTALLED AFTER THE DRAWS AND NOTHOLES ARE FILLED. ALL EXISTING TREES AND SHRUBS WILL BE PROTECTED BY A FORM AND WICKUP TRUNKS OR RUBBER TIE HEADS. EQUIPMENT, CONCRETE READY MIX TRUCKS WILL ALSO ACCESS THE SITE FROM FLETCHER CREEK BLVD. HOWEVER, IF THE SANDY BEACH DISAPPEARS DUE TO EROSION, THE TRUCKS MAY BE POSITIONED FROM THE TOP OF THE DUNE. PERMITS TO THE WORK AREA. AT THIS TIME, WORK WILL BE CONDUCTED DURING THE WEEK OF LOW TIDE. THE WORK WILL BE COMPLETED BY THE END OF THE WEEK. THE CITY MANAGER HAS BEEN GRANTED TO WORK IN THE FOREMANS DUE TO THE EMERGENCY NATURE OF THE WORK.



SECTION-RETURN WALL REPAIR-CUT-OFF WALL

SCALE: $3/\pi^2 = 1 - 0^2$ 

SECTION—RETURN WALL REPAIR—STEM WALL

SG/LE: $3/4^k = 1 - 0^k$

GENERAL NOTES:

1. DESIGN AND CONSTRUCTION TO BE IN ACCORDANCE WITH 2010 CBC, AS MODIFIED BY STATE OF CALIFORNIA, COUNTY OF SOLANO, AND ALL CITY ORDINANCES.
2. ALL DIMENSIONS, CONDITIONS AND LOCATION OF FEATURES TO BE VERIFIED AND DETERMINED IN FIELD.
3. EXACT LOCATION AND EXTENT OF PROPOSED INSTALLATION OF EXISTING SIGNAL RETURN WALKS MAY BE ADJUSTED AS FIELD CONDITIONS REQUIRE AT TIME OF CONSTRUCTION.
4. ALL EXPOSED STEEL, IF ANY, SHALL BE GALVANIZED OR COATED WITH CORROSION INHIBITING PRODUCT.
5. ALL CAST-IN-PLACE REINFORCEMENT CONCRETE/STITCHED STEEL SHALL HAVE MINIMUM STRENGTH AT 28 DAYS OF 4,500 PSI. USE COBENT TYPE II OR V PORTLAND CEMENT.
6. ALL REINFORCING BARS SHALL BE EPOXY COATED, BY WEIGHT, NORMAL WEIGHT CONCRETE, TO BE OF A-65.
7. REINFORCING STEEL SHALL CONFORM TO ASTM A615, GRADE 60 FOR #4 BARS AND ABOVE.
8. ALL REBAR TO BE EPOXY COATED.
9. STEEL MEMBERS, IF ANY, SHALL BE:
 - ALL WIDE FLANGE, STEEL MEMBERS SHALL CONFORM TO ASTM A572, GRADE 50.
 - ALL CHANNELS, COLUMNS, ANGLES, AND PLATES SHALL CONFORM TO ASTM A36.
10. SPECIAL INSPECTION (310 CBC SEC. 1704):
 - CONCRETE (F=4,000 PSI, W/C RATIO=0.45, TYPE II - V PORTLAND CEMENT)
 - LAB TESTING OF CONCRETE SPECIMENS IS REQUIRED (F=4,000 PSI)
11. SOIL ENGINEER'S REPRESENTATIVE TO PERFORM GEOLOGIC OBSERVATIONS FOR ALL EXCAVATIONS NEAR BE OF BUFT AND EXISTING SIGNAL RETURN WALKS.
12. UPON CONCLUSION OF CONSTRUCTION, SOIL ENGINEER'S REPRESENTATIVE SHALL SUBMIT WRITTEN LETTER OF THE OBSERVATIONS RELATIVE TO AS-BUILT CONSTRUCTION OF THE CONDITIONS.
13. SECTION AT INTERSECTION A017 (C=1), IF ANY, MAKE: REPAIR AND FORM AS SHOWN.
14. REINFORCEMENT COVER (2010 CBC SEC. 1807.7.1.2):
 - CONCRETE CAST AGAINST AND PERMANENTLY EXPOSED TO FORTH SHALL HAVE MINIMUM 3" CONCRETE COVER.
 - REINFORCEMENT EXPOSED TO EARTH OR AGAINST SHALL HAVE MINIMUM 3" CONCRETE COVER FOR #6 BARS AND ABOVE, 1 1/2" FOR #5 BARS AND BELOW.
15. SPICES OF REBAR TO BE CLASS B (B SPICE).
 - IF BROTHERHOOD TYPE, REBAR SHALL BE CLASS B.
 - LAPS SPICES OF REINFORCING BARS IN BROTHERHOOD SHALL BE: NON-CONTACT LAP SPICE METHOD WITH AT LEAST 12" LAP.
16. NEW SHOTCRETE WALL/FACING SHALL BE MOTTLED TAN IN COLOR AND NATURAL IN TEXTURE TO MATCH EXPOSED BUILT MATERIAL AND TO SATISFY CITY AESTHETIC APPEALING POLICY.
17. GEOGRAPHICAL ASPECTS OF PROPOSED CONSTRUCTION SHALL BE PERIODICALLY INSPECTED BY PROJECT SOIL ENGINEER OF RECORD.
18. CONSTRUCTION DOCUMENTS SHALL BE REVERSED, AND DEFINITIVE ASPECTS OF CONSTRUCTION SHALL BE PERIODICALLY OBSERVED AND RECORDED BY PROJECT SOIL ENGINEER OF RECORD.

ABBREVIATIONS:

NOTE:
- WHEN RETURN WALLS BECOME EXPOSED AFTER BLUFF RETREAT, IT IS URGENTLY ADVISED TO INSTALL NEW TERRACE ANCHORS FOR RETURN WALLS LATERAL SUPPORT.
CONDITIONS OF SEAWALL, RETURN WALLS AND ADJACENT INFILL SHOULD BE INSPECTED AND EVALUATED BY LICENSED PROFESSIONAL AT REGULAR INTERVALS AND FOLLOWING ANY AND ALL BLUFF FAILURES.

C.C. -CENTER TO CENTER
C.O. -CLEAN CUT
E.W. -EACH WAY
(E), (N) -EXISTING, NEW
N.I.C. -NOT IN CONTRACT
P.D.F. -PRESSURE TREATED
DOUGLAS FIR
T.O.G.B. -TOP OF GRADE BEAM
T.O.W. -TOP OF WALL
T. & B. -TOP AND BOTTOM
U.N.O. -UNLESS NOTED OTHERWISE
V.F. -VERIFY IN FIELD
B.O.W. -BOTTOM OF WALL
G.B.R. -GRADE BELOW OF WALL
T.O.C. -TOP OF CONCRETE
T.O.G. -TOP OF GRADE
E.O.F. -EACH FACE



SECTIONS,
DETAILS AND
NOTES

DESIGN AND CONSTRUCTION SEAWALL RETURN WALLS REPAIR

LEONIE R-254002
LEONIE ENGINEERING CONSTRUCTION, INC.
 345 N. DEHAF BL, SUITE 2, OAKMONT, CA 95064
 PHONE (760) 632-2498 FAX (760) 623-2122



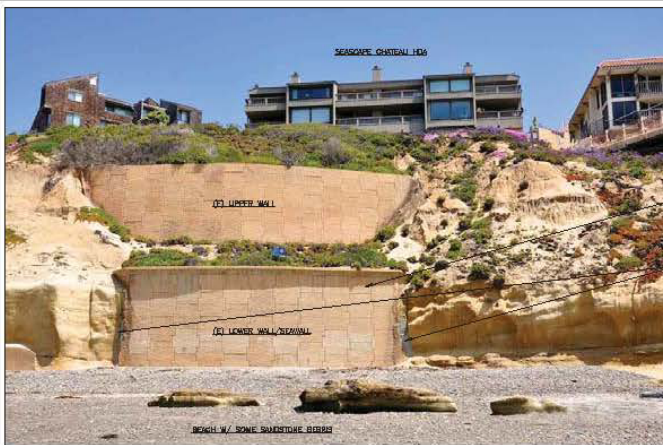
SOLANA BEACH FIRE DEPARTMENT		SANTA FE IRROGATION DISTRICT		ENGINEER OF WORK		CITY APPROVED CHANGES		APPROVED DATE		RECOMMENDED FOR APPROVAL		APPROVED FOR CONSTRUCTION		BEACH NAME		CITY OF SOLANA BEACH		ENGINEERING DEPARTMENT		DRAWING NO.	
By: _____ Fire Chief Date: _____		By: _____ District Engineer Date: _____		By: Robert D. Mahoney (on 05-21-11) Name: Sol. Irrigation District, Inc. P.E. 18458 Exp. 6/13						By: _____ Review Engineer Date: _____		By: _____ Machomir Sammit, City Engineer P.E. 37146 Exp. 6/12 Date: _____		REGISTRATION: _____ LOCATION: _____ RECORD FROM: _____ BEING: _____ DURING: _____		DESIGN AND CONSTRUCTION BEACH RETURN WALLS REPAIR SEASCAPE CHATEAU HOMEOWNERS ASSOCIATION, 707 SOUTH SIERRA AVENUE, SOLANA BEACH, CALIFORNIA 92075				SBC- Sheet 3 of 4	

PROJECT PLANS (CONT)



PI LOWER WALL/SCOUR

DOWN EAST

 $\frac{1}{4}$ 

DOWN DOWST

 $\frac{2}{4}$

NOTES:

- HOOK LENGTHS ARE MINIMUMS. LONGER HOOKS SHALL BE PROVIDED WHERE DETAILED ON DRAWINGS.
- BAR STRIPUP AND THE CONFIGURATION SHALL BE AS SHOWN ON DRAWINGS.

0 1" 2"

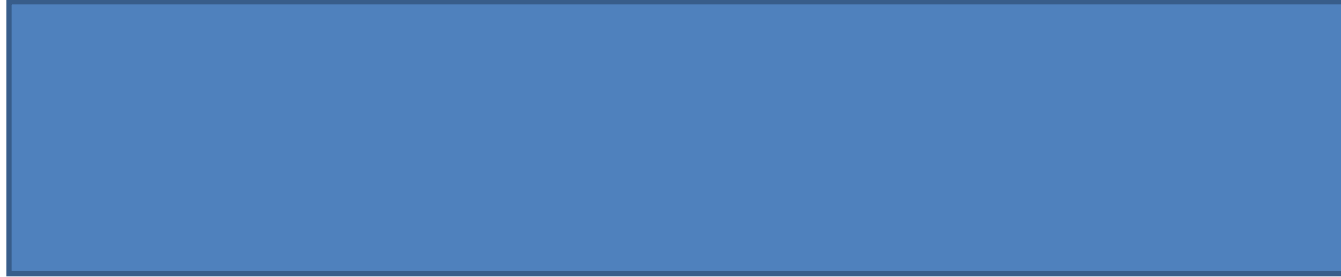
ORIGINAL DRAWING MEASURE

SOLANA BEACH FIRE DEPARTMENT		SANTA FE IRRIGATION DISTRICT		ENGINEER OF WORK		CITY APPROVED CHANGES		APP'D DATE		RECOMMENDED FOR APPROVAL		APPROVED FOR CONSTRUCTION		BENCH MARK		CITY OF SOLANA BEACH		ENGINEERING DEPARTMENT		DRAWING NO.	
By: _____ Fire Chief Date: _____		By: _____ District Engineer Date: _____		By: Robert D. Maloney, P.E. 05-21-13 Name: Bob Maloney, State No. 14548 Exp. 6/13						By: _____ Reader Engineer Date: _____		By: _____ Malcolm Sarmak, City Engineer P.E. 37148 Exp. 1/2 Date: _____		DESCRIPTION: LOCATION: B.D.I. DATE: _____		DESIGN AND CONSTRUCTION SEAWALL RETURN WALLS REPAIR 707 SOUTH SIERRA AVENUE, SOLANA BEACH, CALIFORNIA 92075		SGR-_____		Sheet _____ of _____	

REC FEE CALCULATIONS

SHOTCRETE FACING

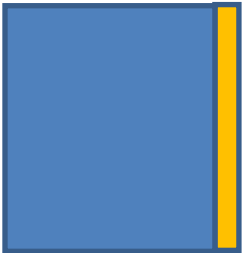
Existing Wall
70 ft. long



Existing Wall
5 ft. 6 in. thick



Shotcrete Facing
4 in. thick



$$(4 \text{ in. thick}) * (70 \text{ ft. long}) = 24 \text{ sq. ft. encroachment}$$

In Solana Beach, pay \$1,000 deposit per linear foot of seawall

$$4 \text{ in. thick} / (5 \text{ ft. 6 in. thick}) = \sim 6\%$$

$$6\% * (\$1,000) = \$60$$

$$(\$60) * (70 \text{ ft.}) = \$4,200$$



RETURN WALLS



Each return wall is 1.5 linear ft., so 3 ft. total, so mitigation of \$3,000

Total Rec Mitigation: \$4,200 + \$3,000 = \$7,200

SPECIAL CONDITIONS 6-02-039

STANDARD CONDITIONS:

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

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

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

2. Public Rights. By acceptance of this permit, the applicants acknowledge, on behalf of themselves and their successors in interest, that issuance of the permit shall not constitute a waiver of any public rights that may exist on the property. The applicants



SPECIAL CONDITIONS 6-96-089 (CONT.)

COASTAL DEVELOPMENT PERMIT NO. 6-02-39

Page 3 of 4

shall also acknowledge that issuance of the permit and construction of the permitted development will not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.

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

- a. No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time. Construction equipment shall not be washed on the beach.
- b. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c. No work shall occur on the beach between Memorial Day weekend and Labor Day of any year.
- d. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.

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

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

5. Condition Compliance. Within 120 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the

COASTAL DEVELOPMENT PERMIT NO. 6-02-39

Page 4 of 4

conditions hereto that the applicants are 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.

6. 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.

(6-02-039p)