

CALIFORNIA COASTAL COMMISSION

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Th27b

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original staff report

Addendum

December 7, 2015

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th27b**, Coastal Commission Permit Application
#6-13-025-A1 (Upp, Mariani, & Koman), for the Commission Meeting of
December 10, 2015

Staff recommends the following changes be made to the above-referenced staff report, additions are shown in underline and deletions are shown in ~~strike-out~~.

1. On pages 1-2 of the staff report, the first two paragraphs of the Summary or Staff Recommendation shall be modified as follows:

The subject shoreline protection is located on a public bluff fronting three existing single family residences in the City of Solana Beach. The site currently contains a seawall on the public beach at the toe of the bluff, a geogrid structure on the bluff face, a lateral keystone wall, and buried upper bluff caissons, which (excluding the caissons) have all been approved by the Commission. The existing shoreline armoring is currently authorized for a period of twenty years from the date of Commission approval of CDP #6-13-025 (November 14, 2013). This CDP amendment proposes to tie the authorization of the shoreline armoring to the life of the existing threatened structures the armoring is required to protect. That is, as amended, when any one of the existing structures warranting armoring is redeveloped, is no longer present, or no longer requires armoring, the applicants must submit a complete coastal development permit application to remove the armoring or to modify the terms of the authorization of the armoring. Thus, at such time that any one of the three bluff top homes is redeveloped or no longer requires armoring, a re-assessment of the terms of approval and the need for the 150 ft. long seawall, the geogrid mid- and upper-bluff structure, and the lateral keystone wall shall occur. The adjacent property to the north of the subject site also has a pending CDP amendment application with the Commission requesting a similar change to its shoreline armoring authorization duration in those special conditions (ref: CDP 6-02-084-A4).

The intent of the proposed amendment is to reflect the current requirements of the City of Solana Beach certified Land Use Plan (LUP). When the subject permit was

originally approved, the City's LUP required that bluff retention devices only be approved for a period of twenty years from the date of approval of the CDP. However, the LUP was subsequently amended in January 2014 to instead require that shoreline armoring be tied to the life of the existing endangered structures the armoring is required to protect, and to require that applicants submit a complete coastal development permit application to remove or modify the terms of the authorization of the armoring when any one of the existing structures warranting armoring ~~are~~ is redeveloped, ~~are~~ is no longer present, or no longer requires armoring.

2. On page 6 of the staff report, Special Condition 4a shall be modified as follows:

4. Duration of Armoring Approval.

a. Authorization Expiration. This CDP authorizes the bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) until the time when any one of the currently existing bluff top structures requiring protection ~~are~~ is redeveloped as that term is defined in CDP 6-13-025 Special Condition 5, ~~are~~ is no longer present, or no longer requires a protective device. Prior to the anticipated expiration of the permit ~~and~~/or in conjunction with redevelopment of any one of the properties, the Permittees shall apply for a new CDP to remove the protective devices or to modify the terms of their authorization.

3. On page 8 of the staff report, Special Condition 4a shall be modified as follows:

a. Authorization Expiration. This CDP authorizes the bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) until the time when any one of the currently existing bluff top structures requiring protection ~~are~~ is redeveloped as that term is defined in CDP 6-13-025 Special Condition 5, ~~are~~ is no longer present, or no longer requires a protective device. Prior to the anticipated expiration of the permit ~~and~~/or in conjunction with redevelopment of any one of the properties, the Permittees shall apply for a new CDP to remove the protective devices or to modify the terms of their authorization.

4. On page 8, the final paragraph shall be modified as follows:

The revised Special Condition 4a would tie the authorization of the shoreline armoring to the life of the existing threatened structures the armoring is required to protect, and require the Permittees to submit a complete coastal development permit application to remove the armoring or to modify the terms of the authorization of the armoring when any one of the existing structures warranting armoring ~~are~~ is redeveloped, ~~are~~ is no longer present, or no longer requires armoring.

5. On page 9, the second paragraph shall be modified as follows:

The intent of the proposed amendment is to reflect the current requirements of the City of Solana Beach certified Land Use Plan (LUP). When the subject permit was originally approved, the City's LUP required that bluff retention devices only be

approved for a period of twenty years from the date of approval of the CDP. However, the LUP was subsequently amended in January 2014 to instead require that shoreline armoring be tied to the life of the existing endangered structures the armoring is required to protect, and to require that applicants submit a complete coastal development permit application to remove or modify the terms of the authorization of the armoring when any one of the existing structures warranting armoring ~~are is~~ redeveloped, ~~are is~~ no longer present, or no longer requires armoring. Because the Commission was currently in the process of reviewing this LUP amendment when the subject permit was before the Commission for review, during the Commission hearing to approve CDP #6-13-025, the Commission found that if the LUP policy regarding shoreline armoring duration was changed, that the applicants would not be required to pay an application fee to amend Special Condition 4a.

6. On page 15, the second complete paragraph shall be modified as follows:

Thus, tying the authorization period to the existence of existing structures that require protection by the shoreline armoring will ensure that upon redevelopment of any of the bluff top ~~property~~ properties, the 150 ft. long seawall, the geogrid mid- and upper-bluff structure, and the lateral keystone wall would either be removed or, if removal is not appropriate, the terms of authorization of retention of the protective device would be reassessed through a new CDP, which would address any rights to retention. Removal of the device in the future would remain a viable option.

7. On page 9 of Appendix A of the staff report, Special Condition 4a shall be modified as follows, additions are shown in double underline and deletions are shown in ~~double strike out~~.

4. Duration of Armoring Approval.

a. Authorization Expiration. This CDP authorizes the bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) until the time when any one of the currently existing bluff top structures requiring protection ~~are is~~ redeveloped as that term is defined in CDP 6-13-025 Special Condition 5, ~~are is~~ no longer present, or no longer requires a protective device. Prior to the anticipated expiration of the permit ~~and/or~~ in conjunction with redevelopment of any one of the properties, the Permittees shall apply for a new CDP to remove the protective devices or to modify the terms of their authorization.

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TH27b

Filed: 10/06/2015
180th Day: 04/03/2016
Staff: E. Stevens-SD
Staff Report: 11/19/2015
Hearing Date: 12/10/2015

STAFF REPORT: AMENDMENT

Application No.: 6-13-025-A1

Applicant: Upp, Mariani, & Koman

Agent: Bob Trettin

Location: On the bluff fronting 341, 347 & 355 Pacific Avenue, Solana Beach (San Diego County) APN Nos. 263-301-06, 263-301-07, 263-301-08

Original Project Description: Approval of a 150 ft. long (35 ft. high) lower coastal bluff seawall, a geogrid structure on the mid and upper bluff with landscaping and a 36 ft. long lateral keystone wall as follow-up to multiple emergency permits.

Proposed Amendment: Amend condition authorizing shoreline protection for 20 years to authorize seawall, geogrid structure, and lateral wall for the life of the bluff top structures.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The subject shoreline protection is located on a public bluff fronting three existing single family residences in the City of Solana Beach. The site currently contains a seawall on

the public beach at the toe of the bluff, a geogrid structure on the bluff face, a lateral keystone wall, and buried upper bluff caissons, which (excluding the caissons) have all been approved by the Commission. The existing shoreline armoring is currently authorized for a period of twenty years from the date of Commission approval of CDP #6-13-025 (November 14, 2013). This CDP amendment proposes to tie the authorization of the shoreline armoring to the life of the existing threatened structures the armoring is required to protect. That is, as amended, when the existing structure warranting armoring is redeveloped, is no longer present, or no longer requires armoring, the applicant must submit a complete coastal development permit application to remove the armoring or to modify the terms of the authorization of the armoring. The adjacent property to the north of the subject site also has a pending CDP amendment application with the Commission requesting a similar change to its shoreline armoring authorization duration in those special conditions (ref: CDP 6-02-084-A4).

The intent of the proposed amendment is to reflect the current requirements of the City of Solana Beach certified Land Use Plan (LUP). When the subject permit was originally approved, the City's LUP required that bluff retention devices only be approved for a period of twenty years from the date of approval of the CDP. However, the LUP was subsequently amended in January 2014 to instead require that shoreline armoring be tied to the life of the existing endangered structures the armoring is required to protect, and to require that applicants submit a complete coastal development permit application to remove or modify the terms of the authorization of the armoring when the existing structures warranting armoring are redeveloped, are no longer present, or no longer require armoring.

Two of the three bluff top homes have remained substantially unchanged since the Commission approved the shoreline armoring fronting the subject sites. The Commission recently approved a substantial addition and remodel for one of the bluff top homes. However, the addition and remodel did not modify the major structural components of the existing residence to the point of meeting the threshold for Bluff Top Redevelopment in the LUP. In addition, according to the Commission's Coastal Engineer, site conditions at the subject site relative to sea level rise, bluff erosion, and implementation of long-term, large scale sand replenishment or shoreline restoration programs have not changed in a way that would allow the existing shoreline armoring to be removed without creating a risk to the bluff top property. Thus, under the terms of the existing permit, all three bluff top homes retain their status as existing structures constructed prior to the approval of the Coastal Act. Thus, the bluff top homes are allowed to maintain their non-conforming bluff top setback and the owners retain the right to shoreline armoring as long as armoring is required to protect the existing structures.

Coastal Act Section 30235 requires the Commission to allow a shoreline protective device to protect an existing structure in certain circumstances, and Section 30253 requires new development to be sited and designed so that it does not require the construction of armoring devices that would substantially alter natural landforms along bluffs and cliffs. The proposed amendment mandates that the existing shoreline armoring be authorized only so long as it is required to protect a pre-Coastal Act structure, and thus, will ensure that the Commission can properly implement Coastal Act Section 30253

together with Section 30235.

The subject site is within the Commission's coastal development permit jurisdiction. The Commission recently certified the City's Land Use Plan (LUP); however, the City of Solana Beach does not yet have a certified LCP. Therefore, the Chapter 3 policies of the Coastal Act are the standard of review, with the City's certified LUP used as guidance.

Commission staff recommends **approval** of coastal development permit amendment 6-13-025-A1, as conditioned.

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APPENDICES

Appendix A – Standard and Special Conditions

Appendix B – Substantive File Documents

Appendix C – CDP #6-13-025

EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – CDP History](#)

[Exhibit 3 – Upcoast Photo of Bluff Armoring](#)

[Exhibit 4 – Downcoast Photo of Bluff Armoring](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit Application No. 6-13-025-A1 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 6-13-025-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.

NOTE: Appendix A, attached, includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by all subsequent amendments, including this amendment number A1. All of the Commission's adopted special conditions and any changes in the project description proposed by the applicant and approved by the Commission in this or previous actions continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on Amendment A1 are shown in the following section. Within Appendix A, changes to the previously approved special conditions are also shown in ~~strikeout~~/underline format. This will result in one set of adopted special conditions.

II. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

The following shall replace, in its entirety, Special Condition 4 of the original permit:

4. Duration of Armoring Approval.

a. Authorization Expiration. This CDP authorizes the bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) until the time when the currently existing bluff top structures requiring protection are redeveloped as that term is defined in CDP 6-13-025 Special Condition 5, are no longer present, or no longer require a protective device. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the properties, the Permittees shall apply for a new CDP to remove the protective devices or to modify the terms of their authorization.

b. Modifications. If, during the term of this authorization, the Permittees desire to enlarge the shoreline armoring or to perform repair work affecting more than 50 percent of the shoreline armoring, the Permittees shall apply for a new CDP. Additional mitigation requirements for the impacts of the enlarged or reconstructed armoring on public views, public recreational access, shoreline processes, and all other affected coastal resources that have not already been mitigated through this permit will be addressed and required at that time.

c. Amendment Required Proposing Mitigation for Retention of Armoring Beyond the 20 Year Design-Life. If the Permittees intend to keep the armoring in place after April 13, 2025, the Permittees must submit a complete CDP amendment application prior to April 13, 2025 proposing mitigation for the coastal resource impacts associated with the retention of the armoring beyond 20 years.

The following shall be added as new Special Condition 19 to the permit:

19. **Deed Restriction.** Prior to issuance of this coastal development permit amendment, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as amended, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the

event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property. For the owner at 355 Pacific Avenue, this deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition #18 of Coastal Development Permit #6-13-025, approved on November 14, 2013, which deed restriction is recorded as Instrument No. 2015-0371558 in the official records of San Diego County. For the owner at 347 Pacific Avenue, this deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition #18 of Coastal Development Permit #6-13-025, approved on November 14, 2013, which deed restriction is recorded as Instrument No. 2015-0371559 in the official records of San Diego County.

III. FINDINGS AND DECLARATIONS

A. PROJECT HISTORY/ AMENDMENT DESCRIPTION

The original permit approved the construction of a 150-foot long, 35 feet high, lower coastal bluff seawall on the beach and bluff fronting 341, 347, and 355 Pacific Avenue (previously constructed pursuant to Emergency CDP #6-05-023-G). Also approved was the construction of a geogrid structure on the mid and upper bluff face fronting 347 and 355 Pacific Avenue with a lateral 36-foot long keystone wall on the northern border of 355 Pacific Avenue (previously constructed pursuant to Emergency CDP #6-06-037-G) (Exhibit 2).

The approved seawall and geogrid structure are on publicly owned bluff and beach in the City of Solana Beach. The Tide Beach Park public access stairway is located approximately 500 feet north of the site, and Fletcher Cove, the City's central beach access park, is located approximately ¼ mile to the south. An approximately 80 ft.-high coastal bluff fronts the three existing single family residences (Exhibit 1).

There are numerous special conditions on the original permit to address the shoreline protection's impacts to public access and recreation, visual quality, and geologic stability. These include a condition requiring that the applicants make mitigation payments for the shoreline armoring's impact to public access and recreation and sand supply for a period of 20 years, and Special Condition 4, which limits approval of the shoreline armoring to a 20-year permit term.

The applicants are proposing to replace subsection a of Special Condition 4, which currently states:

4. Duration of Armoring Approval.

- a. Authorization Expiration. This CDP authorizes the bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) for twenty years from the date of Commission approval of the CDP. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the property, the Permittees shall apply for a new CDP to remove the protective device or to modify the terms of its authorization.
- b. Modifications. If, during the term of this authorization, the Permittees desire to enlarge the shoreline armoring or to perform repair work affecting more than 50 percent of the shoreline armoring, the Permittees shall apply for a new CDP. Additional mitigation requirements for the impacts of the enlarged or reconstructed armoring on public views, public recreational access, shoreline processes, and all other affected coastal resources that have not already been mitigated through this permit will be addressed and required at that time.
- c. Amendment Required Proposing Mitigation for Retention of Armoring Beyond the 20 Year Design-Life. If the Permittees intend to keep the armoring in place after April 13, 2025, the Permittees must submit a complete CDP amendment application prior to April 13, 2025 proposing mitigation for the coastal resource impacts associated with the retention of the armoring beyond 20 years.

This condition authorizes the existing bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) for a period of twenty years from the date of Commission approval of CDP #6-13-025 (November 14, 2013).

As amended, subsection a would state:

- a. Authorization Expiration. This CDP authorizes the bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) until the time when the currently existing bluff top structures requiring protection are redeveloped as that term is defined in Special Condition 5, are no longer present, or no longer require a protective device. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the properties, the Permittees shall apply for a new CDP to remove the protective devices or to modify the terms of their authorization.

The revised Special Condition 4a would tie the authorization of the shoreline armoring to the life of the existing threatened structures the armoring is required to protect, and require the Permittees to submit a complete coastal development permit application to remove the armoring or to modify the terms of the authorization of the armoring when the existing structures warranting armoring are redeveloped, are no longer present, or no longer require armoring.

The existing amended permit (Special Condition 5) prohibits redevelopment of the bluff top structure that relies on the permitted armoring system. It defines redevelopment to include (1) additions; (2) exterior and/or interior renovations, or; (3) demolition which would result in alteration to 50 percent or more of the exterior walls and/or other major structural components, or a 50 percent increase in floor area, both totaled cumulatively over time, as further defined in the certified Solana Beach LCP Land Use Plan.

The intent of the proposed amendment is to reflect the current requirements of the City of Solana Beach certified Land Use Plan (LUP). When the subject permit was originally approved, the City's LUP required that bluff retention devices only be approved for a period of twenty years from the date of approval of the CDP. However, the LUP was subsequently amended in January 2014 to instead require that shoreline armoring be tied to the life of the existing endangered structures the armoring is required to protect, and to require that applicants submit a complete coastal development permit application to remove or modify the terms of the authorization of the armoring when the existing structures warranting armoring are redeveloped, are no longer present, or no longer require armoring. Because the Commission was currently in the process of reviewing this LUP amendment when the subject permit was before the Commission for review, during the Commission hearing to approve CDP #6-13-025, the Commission found that if the LUP policy regarding shoreline armoring duration was changed, that the applicants would not be required to pay an application fee to amend Special Condition 4a.

- **CDP History: Shoreline Armoring**

The bluff fronting the bluff top homes has been subject to extensive shoreline armoring over the past decade.

In February of 2005, the Executive Director authorized an emergency permit to construct three concrete caisson underpinnings (approximately 2 ft. in diameter, 30 ft. in length) located in the southwest corner of the existing residence at 355 Pacific Avenue (CDP #6-05-003-G/Island Financial Corporation).

In April of 2005, the Executive Director authorized an emergency permit for the construction of an approximately 150 foot long, 2 foot wide, 35 foot-high tiedback concrete seawall located at the base of the bluff below 341, 347, and 355 Pacific Avenue (CDP #6-05-023-G/Upp, Reichert, & Island Financial Corporation).

In June of 2006, the Executive Director authorized an emergency permit for the installation of a geogrid soil reinforced structure on the bluff face fronting 347 Pacific Avenue and the 355 Pacific Avenue, directly behind the existing approximately 150 foot-long, 35 foot-high seawall. The project also included the installation of an approximately 36 foot-long keystone retaining wall extending from the north end of the existing seawall to the top of the bluff along the northern property line of 355 Pacific Avenue (CDP #6-06-037-G/Totten and Reichert).

In November of 2013, the Commission approved a follow-up permit for the emergency construction of the seawall and the geogrid structure. Pursuant to this CDP, the applicants were required to lower the existing keystone wall to create a more natural appearance on the bluff and the applicants were required to install native landscaping on the geogrid structure. This work has not yet occurred. Removal or retention of the three existing rear yard caissons on the property constructed under emergency permit #6-05-003-G were not included in the follow-up permit for the rest of the emergency work. Thus, the existing caissons remain unpermitted development (CDP #6-13-025/Koman et al).

- **Site History: Bluff Top Development**

The three subject residences were all constructed in the 1950's. The southernmost home at 341 Pacific was constructed in 1952 and the Commission approved the construction of a second floor addition in 1974 (CDP F1843).

The center home at 347 Pacific was constructed in 1955 and the Commission has no record of any additional development activity on the subject lot, other than described above, since the effective date of the Coastal Act.

The northern most home at 355 Pacific was constructed in 1952. On May 13, 2015, the Commission approved a CDP for the construction of a sizeable addition, as well as extensive remodeling work, to the existing, non-conforming blufftop residence (CDP #6-14-0679/WJK Trust). The CDP allowed for a 43% increase to the existing floor area and resulted in the alteration of 46% of the existing exterior walls, 49% of the existing roof structure, 33% of the existing floor structure, and 43% of the existing foundation. However, the addition and remodel did not modify the major structural components of the existing residence to the point of meeting the threshold for Bluff Top Redevelopment in the LUP and therefore the residence retains its status as an existing structure constructed prior to the approval of the Coastal Act. Thus, the bluff top home was allowed to maintain its non-conforming bluff top setback and to retain the right to shoreline armoring. However, any future additions or alterations to major structural components of the residence will likely result in redevelopment of the bluff top home and the need to comply with the policies of the certified LUP.

In order to assure that the addition to the non-conforming structure at 355 Pacific did not result in the need for additional shoreline armoring, the Commission required various Special Conditions. The applicant was required to waive all rights that may exist under Public Resources Code Section 30235 or under the certified LUP to construct new bluff or shoreline armoring, including the reconstruction of existing bluff and shoreline protective devices, to protect the addition; and the addition was only approved for a duration of 18 years (in sync with the approval duration of the existing shoreline armoring). The Commission found that approval of the addition with special conditions that synchronize its authorization time period to the authorization time period for the existing armoring, and requiring that the applicant waive rights to new shoreline armoring to protect the proposed development, would allow the continued use of the existing residence without changing the length of time the existing armoring will remain or is authorized.

- **Other Shoreline Armoring in the Surrounding Area**

The section of Solana Beach shoreline where the subject site is located has extensive shoreline armoring both to the north and to the south (Exhibits 3 & 4).

The two properties directly to the south of the three subject properties (333 & 337 Pacific Avenue) contain a lower bluff seawall, and partial mid and upper bluff geogrid armoring (CDP #6-02-002/Gregg & Santana).

The property to the north of the three subject properties (357 Pacific Avenue) contains a lower bluff seawall and a below-grade upper bluff retention system consisting of nine caissons (CDP #6-02-084/Scism). In November of 2013, the Commission approved the installation of a geogrid mid bluff structure at the site (CDP #6-02-084-A3/Ocean Ventures, LLC). The property owner at 357 Pacific Avenue currently has a pending application, which is also on the Commission's December 2015 agenda, to replace the 20-year permit authorization for the geogrid structure with an authorization period for shoreline armoring on the site that is tied to the life of the bluff top structure (CDP #6-02-084-A4/Scism).

- **Jurisdiction**

The Commission recently certified the City's Land Use Plan; however, the City of Solana Beach does not yet have a certified LCP. Therefore, the Chapter 3 policies of the Coastal Act are the standard of review, with the certified LUP used as guidance.

B. GEOLOGIC CONDITIONS AND HAZARDS

As described above, the standard of review is Chapter 3 of the Coastal Act, with the City's LUP providing non-binding guidance. As such, applicable Coastal Act policies are cited in this report, as well as certain LUP policies for guidance as relevant.

Coastal Act Section 30235 addresses the use of shoreline protective devices:

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.

Coastal Act Section 30253 addresses the need to ensure long-term structural integrity, minimize future risk, and to avoid landform altering protective measures. Section 30253 provides, in applicable 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...*

In addition, the following City of Solana Beach Land Use Plan (LUP) language provides additional guidance regarding geologic hazards and shoreline protection:

Policy 4.53: *All permits for bluff retention devices shall expire when the currently existing blufftop structure requiring protection is redeveloped (per definition of Bluff Top Redevelopment in the LUP), is no longer present, or no longer requires a protective device, whichever occurs first and a new CDP must be obtained. Prior to expiration of the permit, the bluff top property owner shall apply for a coastal development permit to remove, modify or retain the protective device. In addition, expansion and/or alteration of a legally permitted existing bluff retention device shall require a new CDP and be subject to the requirements of this policy.*

The CDP application shall include a re-assessment of need for the device, the need for any repair or maintenance of the device, and the potential for removal based on changed conditions. The CDP application shall include an evaluation of:

- The age, condition and economic life of the existing principal structure;*
- changed geologic site conditions including but not limited to, changes relative to sea level rise, implementation of a long-term, large scale sand replenishment or shoreline restoration program; and*
- any impact to coastal resources, including but not limited to public access and recreation.*

The CDP shall include a condition requiring reassessment of the impacts of the device in 20-year mitigation periods pursuant to Policies 4.48 and 4.51.

No permit shall be issued for retention of a bluff retention device unless the City finds that the bluff retention device is still required to protect an existing principal structure in danger from erosion, that it will minimize further

alteration of the natural landform of the bluff, and that adequate mitigation for coastal resource impacts, including but not limited to impacts to the public beach has been provided.

The LUP defines Bluff Top Redevelopment as follows:

Bluff Top Redevelopment shall apply to proposed development located between the sea and the first public road paralleling the sea (or lagoon) that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, (3) and/or demolition of an existing bluff home or other principal structure, or portions thereof, which results in:

(a) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.

(b) Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LUP; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area taking into consideration previous additions approved on or after the date of certification of the LUP.

Geologic Site Conditions

The applicants have submitted a current monitoring report for the shoreline armoring on the bluff fronting the three subject properties. The monitoring report by Soil Engineering Construction, Inc. and The Trettin Company, dated October 2015, finds that the lower seawall is in excellent condition and that the geogrid mid and upper bluff structure has also performed well aside from minor erosion and the failure of past hydroseed treatments. As required by CDP 6-13-025, the applicants plan to landscape and re-counter the mid and upper bluff geogrid structure in the near future. The monitoring report states that the improvements to the mid and upper bluff geogrid structure will be completed prior to May 2016.

According to the Commission's Coastal Engineer, site conditions at the subject site relative to sea level rise, bluff erosion, and implementation of long-term, large scale sand replenishment or shoreline restoration programs have not changed in a way that would allow the existing shoreline armoring to be removed without creating a risk to the bluff top properties.

Duration of Armoring Approval

Section 30235 requires the permitting of shoreline protection devices when necessary to protect an existing structure in danger of erosion. Shoreline protective devices are no longer authorized by Section 30235 when the existing structures they protect are redeveloped, no longer present, or no longer require armoring. Armoring impedes public access to and along the shoreline, destroys beaches and related habitats over time, and visually impairs coastal areas. In this case, the existing seawall is located on sandy beach area that, if not for the seawall, would be available for public use.

Thus, one reason to limit the length of a shoreline protective device's development authorization is to ensure that the armoring being authorized by Section 30235 is only being authorized as long as it is required to protect an existing structure. Another reason to limit the authorization of shoreline protective devices is to ensure that the Commission can properly implement Coastal Act Section 30253 together with Section 30235. If a landowner is seeking new development on a blufftop lot, Section 30253 requires that such development be sited and designed such that it will not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. Section 30235 requires the Commission to allow a shoreline protective device to protect an existing structure in certain circumstances and Section 30253 requires new development to be sited and designed so that it does not require the construction of armoring devices that substantially alter natural landforms along bluffs and cliffs. These sections do not permit landowners to rely on such armoring devices when siting new structures on bluff tops and/or along shorelines. If a shoreline protective device exists in front of a lot, but is no longer required to protect the existing structure it was authorized to protect, the Commission should not authorize new development that might perpetuate the need for the shoreline armoring. Otherwise, if a new structure is able to rely on shoreline armoring that is no longer required to protect an existing structure, then the new structure can be sited without a sufficient setback, perpetuating an unending construction/redevelopment loop that prevents proper siting and design of new development, as required by Section 30253 and other Chapter 3 policies. By limiting the length of development authorization of a new shoreline protective device to the existing structure it is required to protect, the Commission can more effectively apply Section 30253 when new development is proposed.

The applicants are proposing to amend the Special Condition of CDP 6-13-025 that limits authorization of the existing shoreline armoring to a 20-year period, and to instead allow for authorization of the bluff retention devices to be as long as the bluff top structures requiring protection still exist, or until the structures no longer need the protection. A 20-year authorization term was chosen because rising sea levels and its attendant consequences will likely decrease the intervals between applications for armoring repairs in the future, potentially dramatically, depending on how far sea level actually rises. A twenty-year period enables the Commission to better respond to such potential changes and uncertainties, including to allow for an appropriate reassessment of continued armoring and its effects at that time, including with respect to its physical condition after twenty years of hard protection. In addition, with respect to climatic change and sea level rise specifically, the understanding of these issues should improve in the future, given

better understanding of the atmospheric and oceanic linkages and more time to observe the oceanic and glacial responses to increased temperatures, including trends in sea level rise. Such an improved understanding will almost certainly affect CDP armoring decisions, including at this location, much as the Commission's direction on armoring has changed over the past twenty years as more information and better understanding has been gained regarding such projects, including their effect on the California coastline. In addition, after 20 years, it is possible that the structure on the bluff top will have been remodeled or relocated such that the shoreline protection is no longer necessary. Or, the residence may be of an age or condition that construction of a bluff retention device is not reasonable.

As revised, the amendment would provide a way to address inherent uncertainties, including those related to the lifetime of development being protected by the armoring, changed circumstances and mitigation requirements. In review of any proposals for significant alteration or improvements and/or additions to an existing blufftop structure that is protected by a shoreline protective device, assessment of the effect of those improvements on the economic life of the existing blufftop structure and the life of the shoreline protective device will be required to address any additional impacts on coastal resources that cannot be avoided and were not mitigated in any prior permitting action.

Thus, tying the authorization period to the existence of existing structures that require protection by the shoreline armoring will ensure that upon redevelopment of the property, the shoreline armoring would either be removed or, if removal is not appropriate, the terms of authorization of retention of the protective device would be reassessed through a new CDP, which would address any rights to retention. Removal of the device in the future would remain a viable option.

In order to modify Special Condition 4a of the CDP, it is also necessary to add one additional special condition. Special Condition 19 requires the applicants to record a new deed restriction to ensure that future property owners are aware of the revised permit conditions that apply to the sites.

Therefore, given the foregoing, under revised Special Condition 4, authorization of the shoreline protection approved through the original CDP will expire when the currently existing blufftop structures requiring protection are redeveloped (as defined in Special Condition 5 of CDP #6-13-025), are no longer present, or no longer require the protective devices approved under CDP #6-13-025, whichever occurs first. Therefore, the proposed amendment is consistent with the shoreline and geologic protection policies of the Coastal Act.

C. PUBLIC ACCESS/RECREATION AND SAND SUPPLY MITIGATION

Pursuant to Section **30604(c)**, the Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast. Section **30210** of the Coastal Act is applicable to the proposed development and states:

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

In addition, Section **30212** of the Act is applicable and states, in part:

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*
 - (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
 - (2) adequate access exists nearby....*

Additionally, Section **30220** of the Coastal Act provides:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

The City's certified LUP states:

Policy 4.49: *Coastal structures ...*

(c) Mitigation for the impacts to shoreline and sand supply, public access and recreation and any other relevant coastal resource impacted by the coastal structure is required and shall be assessed in 20-year increments, starting with the building permit completion certification date. Property owners shall apply for a CDP amendment prior to expiration of each 20-year mitigation period, proposing mitigation for coastal resource impacts associated with retention of the coastal structure beyond the preceding 20-year mitigation period and shall include consideration of alternative feasible measures in which the permittee can modify the coastal structure to lessen the coastal structure's impacts in coastal resources. Monitoring reports to the City and the Coastal Commission shall be required every five years from the date of the CDP issuance until CDP expiration, which evaluate whether or not the coastal structure is still required to protect the existing structure it was designed to protect. The permittee is required to submit a CDP application to remove the authorized coastal structure within six months of a determination that the coastal structure is no longer required to protect the existing structure it was designed to protect.

Policy 4.50: *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 LUP Policy 4.38. 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 of, 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.

Sand Mitigation Fees must be expended for sand replenishment and potentially for retention projects as a first priority and may be expended for public access and public recreation improvements as secondary priorities where an analysis done by the City determines that there are no near-term, priority sand replenishment Capital Improvement Projects (CIP) identified by the City where the money could be allocated. The Sand Mitigation funds shall be released for secondary priorities only upon written approval of an appropriate project by the City Council and the Executive Director of the Coastal Commission.

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.

Project applicants have the option of proposing a public recreation/access project in lieu of payment of Public Recreation Fees (or interim deposits) to the City. At the City's discretion, these projects may be accepted if it can be demonstrated that they would provide a directly-related recreation and/or access benefit to the general public.

Public Recreation Fees must be expended for public access and public recreation improvements as a first priority and for sand replenishment and retention as secondary priorities where an analysis done by the City

determines that there are no near-term, priority public recreation or public access CIP identified by the City where the money could be allocated. The Public Recreation funds shall be released for secondary priorities only upon written approval of an appropriate project by the City Council and the Executive Director of the Coastal Commission.

Policy 4.52: *An upper bluff system...*

(d) Mitigation for the impacts to shoreline and sand supply, public access and recreation and any other relevant coastal resource impacted by the upper bluff system is required and shall be assessed in 20-year increments, starting with the building permit completion certification date. Property owners shall apply for a CDP amendment prior to expiration of each 20-year mitigation period, proposing mitigation for coastal resource impacts associated with retention of the upper bluff system beyond the preceding 20-year mitigation period and shall include consideration of alternative feasible measures in which the permittee can modify the upper bluff system to lessen the upper bluff system's impacts on coastal resources. Monitoring reports to the City and the Coastal Commission shall be required every five years from the date of the CDP issuance until CDP expiration, which evaluate whether or not the upper bluff system is still required to protect the existing structure it was designed to protect. The permittee is required to submit a CDP application to remove the authorized upper bluff system within six months of a determination that the upper bluff system is no longer required to protect the existing structure it was designed to protect.

The project site is located on a public beach owned and administered by the City of Solana Beach and is utilized by local residents and visitors for a variety of recreational activities such as swimming, surfing, jogging, walking, surf fishing, beachcombing and sunbathing. The site is located approximately ¼ mile north of Fletcher Cove, the City's primary beach access location, and approximately ¼ mile south of Tide Beach Park public stairway.

The existing seawall and mid and upper bluff shoreline armoring result in various adverse impacts to sand supply and to public access and recreation. The existing seawall extends 2 ft. seaward of the toe of the bluff. An encroachment of any amount onto the sandy beach, especially 2 ft. for a length of 150 feet, reduces the small beach area available for public use and is therefore a significant adverse impact. This is particularly true given the existing beach profiles and relatively narrow beach where access is sometimes only available at low tides. In addition, were it not for the seawall and infill structure, the seaward face of the bluff would naturally recede, making additional beach area available for public use. During a 20-year period, as the beach area available to the public is reduced, dry sandy beach will become less available seaward of the seawall such that beachgoers will not want to sit or lay a towel in this area. In addition, the shoreline armoring prevents the bluffs from eroding and reduces the available sand supply to the public beach.

Pursuant to CDP #6-13-025, the Commission required that the applicants provide mitigation for impacts to public access and recreation and also provide mitigation for impacts to sand supply. As detailed in CDP #6-13-025, the applicants are required to pay an interim deposit of \$150,000 (\$1,000 per linear foot of seawall) and to pay a total of \$21,864.72 for impacts to sand supply over a 20-year period. Due to the fact that the existing seawall was approved via an emergency permit by the Commission on April 13, 2005 and constructed soon thereafter, the Commission required that the initial 20-year mitigation period commence on April 13, 2005 and end on April 13, 2025. Prior to the completion of the 20-year mitigation term, the applicants are required to obtain a CDP to assess the continued impacts on public access and sand supply as a result of the shoreline armoring built on the publicly-owned beach and bluff. This re-assessment will include all of the approved shoreline protection of the subject site, including the seawall and the geogrid structure/lateral return wall. The purpose of the 20 year mitigation period is to mitigate the impacts of the shoreline armoring on sand supply and public access and recreation, and is not related to the 20 year shoreline authorization condition that is the subject of this amendment. The currently proposed amendment to the duration of armoring condition does not impact the amount of mitigation required or timing of when the applicants are required to return to the Commission for re-assessment of required mitigation.

D. UNPERMITTED DEVELOPMENT

There are two separate occurrences of unpermitted development associated with the subject site. In its review of the original permit, the Commission determined that development had occurred on the subject site without the required coastal development permit, including, but not limited to non-compliance with Emergency CDP #6-05-003-G. This permit was issued in January 2005 to allow construction of three below-ground underpinning caissons (located at the southwest corner of 355 Pacific Avenue). The emergency permit required a follow-up regular coastal development permit be obtained within 120 days to permanently authorize the development. The deadlines for obtaining a follow-up CDP to the emergency permit passed years ago. The Commission engineer and geologist have determined that the three caisson underpinnings below the southwest corner of the foundation of 355 Pacific Avenue are not required to protect the primary bluff top structure from erosion and therefore cannot be approved consistent with the Coastal Act. However, the Commission engineer and geologist have also determined that the caissons cannot be removed at this time without endangering the homes. Special Condition 1 of the subject original permit CDP #6-13-025 requires the applicants to first obtain an amendment to the CDP if the caissons are removed. The subject amendment does not authorize in any way the unpermitted caissons.

In addition, CDP #6-13-025 requires that the applicants comply with all Special Conditions of approval within 180 days of Commission approval of the CDP or within such additional time granted by the Executive Director for good cause. The applicants have complied with the majority of the Special Conditions of CDP #6-13-025. However, the 180 day deadline (May 13, 2014) has passed and there are still various Special Conditions that have yet to be completed. Specifically, the property owner at 341 Pacific

Avenue has not complied with Special Condition 3, which requires mitigation payments for impacts to public access and recreation and sand supply, and the property owner at 341 Pacific Avenue has also not completed Special Condition 18, which requires that each property owner execute a deed restriction recording the conditions of the permit. In addition, none of the three property owners have complied with Special Condition 11, which requires written concurrence that any necessary California State Lands Commission approval has been obtained.

CDP #6-13-025 also requires that the applicants complete the reworking of the geogrid and installation of landscaping within 270 days of Commission approval of the CDP or within such additional time granted by the Executive Director for good cause. The 270 day deadline (August 11, 2014) has passed and reworking of the geogrid and installation of landscaping has yet to be completed.

However, Commission staff has been in regular communication with the agent for the three property owners regarding compliance with the Special Conditions of CDP #6-13-025. It is the understanding of Commission staff that the property owners are making a good faith effort to comply with the remaining Special Conditions, and that the conditions will be completed in the near future. If the Special Conditions are not completed within a reasonable amount of time, enforcement staff will consider options for further action.

Consideration of this application by the Commission has been based solely upon the policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding 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 subject site is within the boundaries of the City of Solana Beach. The Commission has recently approved the City's Local Coastal Program Land Use Plan. However, the City has not yet completed, nor has the Commission reviewed any implementing ordinances. Thus, the City's LCP is not fully certified.

The location of the existing shoreline armoring is designated for Open Space Recreation in the City of Solana Beach LUP and General Plan. As conditioned, the subject development is consistent with these requirements.

Therefore, the Commission finds the proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act, and will not prejudice the ability of the City of Solana Beach to complete a certifiable local coastal program. However, these issues of shoreline planning will need to continue to be addressed in a comprehensive manner in the future through the City's LCP certification process.

F. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENT QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of 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 that the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The preceding coastal development permit amendment findings in this staff report have discussed the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources. The Commission incorporates these findings as if set forth here in full.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

CALIFORNIA COASTAL COMMISSION

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Appendix A – Standard and Special Conditions

Appendix A provides a list of all standard and special conditions that apply to this development, as approved by the Commission in its original action and as modified and/or supplemented by all subsequent amendments, including this amendment number 6-13-025A1. All of the Commission's previously adopted special conditions pursuant to CDP No. 6-13-025 and any changes in the project description proposed by the applicants and approved by the Commission in this or previous actions continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on Amendment 6-13-025-A1 are shown in the following section. Thus, Appendix A provides an aggregate list of all currently applicable adopted standard and special conditions.

Language added pursuant to 6-13-025-A1 is shown in **underline**; language deleted pursuant to 6-13-025-A1 is shown in **~~strikeout~~**:

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:

Special Conditions of 6-13-025:

1. Revised Final Plans. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit for review and written approval of the Executive Director, final plans for the mid and upper bluff geogrid structure and the lateral wall that are in substantial conformance with the submitted plans dated August 10, 2005 (seawall), January 5, 2007 (geogrid structure and lateral wall), and September 12, 2013 (geogrid structure and lateral wall) by Soil Engineering Construction, Inc. The revised plans shall first be approved by the City of Solana Beach and be revised to include the following:
 - a. Any existing permanent irrigation system located on the subject properties shall be removed or capped.
 - b. All runoff from impervious surfaces on the top of the bluff shall be collected and directed away from the bluff edge towards the street and into the City's stormwater collection system.
 - c. Existing and any proposed accessory improvements (i.e., decks, patios, walls, windscreens, etc.) located in the geologic setback area at 341, 347, and 355 Pacific Avenue shall be detailed and drawn to scale on the final approved site plan and shall include measurements of the distance between the accessory improvements and the natural bluff edge (as defined by Title 14 California Code of Regulations, Section 13577) taken at 3 or more locations. The locations for these measurements shall be identified through permanent markers, benchmarks, survey position, written description, or other method that enables accurate determination of the location of all structures on the site. The seaward edge of all existing and proposed accessory improvements shall be located no closer than 5 feet landward of the natural bluff edge or approved reconstructed bluff edge. Any new Plexiglas or other glass wall shall be non-clear, tinted, frosted or incorporate other elements to prevent bird strikes. Any existing improvements located closer than 5 feet landward of the reconstructed or natural bluff edge shall be removed within 60 days of approval of the coastal development permit.
 - d. The geogrid structure on the bluff face fronting 347 and 355 Pacific Avenue shall be constructed to undulate to closely match the appearance of the nearby natural bluff face. The geogrid structure shall include variable thicknesses to provide visual undulations that mimic the nearby natural bluff conditions. At a minimum, the geogrid structure at 347 and 355 Pacific Avenue shall include 5 non-evenly spaced, tapered, undulating drainage features, with non-linear edges, that are approximately 2 feet deep and approximately 5 feet wide. The geogrid structure at 355 Pacific Avenue shall be incorporated, if technically feasible, into the junction with 357 Pacific Avenue.
 - e. The lateral wall on the northern property line of 355 Pacific Avenue shall be lowered to maximize undulations that mimic the nearby natural bluff conditions.

- f. Technical details regarding the construction method and technology utilized for undulating the geogrid structure. Said plans shall be of sufficient detail to ensure that the Executive Director can verify that the geogrid structure will closely mimic natural bluff conditions.
- g. The revised plans shall clearly state the three concrete underpinning caissons at 355 Pacific Avenue are unpermitted and a CDP shall be required if in the future the caissons are proposed to be retained or are proposed or required to be removed.

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

- 2. Final Landscape Plans. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit for review and written approval of the Executive Director, final landscape plans for the landscaping on the coastal bluff that are in substantial conformance with the submitted plans received February 28, 2012 by David Reed Landscape Architects. The revised plans shall first be approved by the City of Solana Beach before submittal for the Executive Director's review and approval and include the following:
 - a. Only drought tolerant native or non-invasive plant materials may be planted on the subject property. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be planted within the property.
 - b. The landscaping shall be installed in coordination with the property to the north at 357 Pacific Avenue and shall incorporate both container stock and hydroseeding. Temporary low pressure irrigation may be used for a maximum of 12 months and all temporary irrigation components shall be removed within 26 months.

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

- 3. Mitigation for Impacts to Public Access and Recreation and Sand Supply.
 - a. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that the full interim mitigation fee of \$150,000, 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 180 days of the Commission's certification, as part of the certified LCP, a program addressing 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 for the shoreline armoring structure's design life of 20 years. 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.

- b. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that a fee of \$21,864.72 has been deposited in an interest bearing account designated by the Executive Director, in-lieu of providing the total amount of sand to replace the sand and beach area that will be lost due to the impacts of the proposed protective structures. All interest earned by the account shall be payable to the account for the purposes stated below.

The purpose of the account shall be to establish a beach sand replenishment fund to aid SANDAG, or an alternate entity approved by the Executive Director, in the restoration of the beaches within San Diego County. The funds shall be used solely to implement projects which provide sand to the region's beaches, not to fund operations, maintenance or planning studies. The funds shall be released only upon approval of an appropriate project by the Executive Director of the Coastal Commission. The funds shall be released as provided for in a MOA between SANDAG, or an alternate entity approved by the Executive Director, and the Commission, setting forth terms and conditions to assure that the in-lieu fee will be expended in the manner intended by the Commission. If the MOA is terminated, the Executive Director may appoint an alternate entity to administer the fund for the purpose of restoring beaches within San Diego County.

~~4. Duration of Armoring Approval.~~

- ~~a. Authorization Expiration. This CDP authorizes the bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) for twenty years from the date of Commission approval of the CDP. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the property, the Permittee(s) shall apply for a new CDP to remove the protective device or to modify the terms of its authorization.~~
- ~~b. Modifications. If, during the term of this authorization, the Permittees desire to enlarge the shoreline armoring or to perform repair work affecting more than 50 percent of the shoreline armoring, the Permittee shall apply for a new CDP. Additional mitigation requirements for the impacts of the enlarged or reconstructed armoring on public views, public recreational access, shoreline processes, and all other affected coastal resources that have not already been mitigated through this permit will be addressed and required at that time.~~

~~e. Amendment Required Proposing Mitigation for Retention of Armoring Beyond the 20 Year Design Life. If the Permittees intend to keep the armoring in place after April 13, 2025, the Permittees must submit a complete CDP amendment application prior to April 13, 2025 proposing mitigation for the coastal resource impacts associated with the retention of the armoring beyond 20 years.~~

5. Future Development. No future development, which is not otherwise exempt from coastal development permit requirements, or redevelopment on the bluff top portion of the subject property, shall rely on the permitted armoring system (geogrid structure, seawall, or the lateral wall) to establish geologic stability or protection from hazards. Such future development and redevelopment on the site shall be sited and designed to be safe without reliance on shoreline armoring. As used in these conditions, “redeveloped” or “redevelopment” is defined to include: (1) additions; (2) exterior and/or interior renovations, or; (3) demolition which would result in alteration to 50 percent or more of the exterior walls and/or other major structural components, or a 50 percent increase in floor area, both totaled cumulatively over time, as further defined in the certified Solana Beach LCP Land Use Plan.
6. Monitoring and Reporting Program. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and written approval, a monitoring program prepared by a licensed civil engineer or geotechnical engineer to monitor the performance of the seawall, geogrid structure, and lateral wall which requires the following:
 - a. An annual evaluation of the condition and performance of the shoreline armoring structures addressing whether any significant weathering or damage has occurred that would adversely impact the future performance of the structures. This evaluation shall include an assessment of the color and texture of the structures compared to the surrounding native bluffs.
 - b. Annual measurements of any differential retreat of bluff material between the face of the natural bluff or the face of the geogrid structure and the seawall face, at the north and south ends of the seawall and at 20-foot intervals (maximum) along the top of the seawall face/bluff face intersection. The program shall describe the method by which such measurements shall be taken.

Provisions for submittal of a report to the Executive Director of the Coastal Commission by May 1 of each year (beginning the first year after construction of the project is completed) for a period of three years and then, each third year following the last annual report, for the 20 years for which this seawall is approved. In addition, reports shall be submitted in the spring immediately following either:

1. An “El Niño” storm event – comparable to or greater than a 20-year storm.
2. An earthquake of magnitude 5.5 or greater with an epicenter in San Diego County.

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

- c. Each report shall be prepared by a licensed civil engineer, geotechnical engineer or geologist. The report shall contain the measurements and evaluation required in sections a and b above. The report shall also summarize all measurements and analyze trends such as erosion of the bluffs, changes in sea level, the stability of the overall bluff face, including the upper bluff area, and the impact of the structures on the bluffs to either side of the wall. In addition, each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the seawall.
- d. An agreement that, if after inspection or in the event the report required in subsection c above recommends any necessary maintenance, repair, changes or modifications to the project including maintenance of the color of the structures to ensure a continued match with the surrounding native bluffs, the permittee shall contact the Executive Director to determine whether a coastal development permit or an amendment to this permit is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance within 90 days of the report or discovery of the problem.

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

7. Storage and Staging Areas/Access Corridors. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants 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, except for the minimum necessary to construct the structures. Construction equipment shall not be washed on the beach or public parking lots or access roads.
 - b. Construction access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
 - c. No work shall occur on the beach on weekends, holidays or between Memorial Day weekend and Labor Day of any year.
 - d. The applicants shall submit evidence that the approved plans and plan notes have been incorporated into construction bid documents. The applicants shall remove all construction materials/equipment from the staging site and restore the staging site to its prior-to-construction condition immediately following completion of the development.

The permittees shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive

Director. No changes to the final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Water Quality--Best Management Practices. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit for review and written approval of the Executive Director, a Best Management Plan that effectively assures no construction byproduct will be allowed onto the sandy beach and/or allowed to enter into coastal waters. All construction byproduct 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.

9. Storm Design. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director, for review and approval, certification by a registered civil engineer that the proposed shoreline protective devices have been designed to withstand storms comparable to the winter storms of 1982-83 that took place in San Diego County.
10. Other Permits. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the permittees shall provide to the Executive Director copies of all other required local, state or federal discretionary permits, for the development authorized by CDP 6-13-025. The applicants shall inform the Executive Director of any changes to the project required by other local, state or federal agencies. Such changes shall not be incorporated into the project until the applicants obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.
11. State Lands Commission Approval. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and written approval, 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 applicants with the State Lands Commission for the project to proceed without prejudice to the determination.
12. Construction Site Documents & Construction Coordinator. DURING ALL CONSTRUCTION:

- a. Copies of the signed coastal development permit and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
 - b. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the coordinator's contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with an indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
13. **As-Built Plans.** within 180 days of completion of construction, or within such additional time as the Executive Director may grant for good cause, the Permittees shall submit two copies of As-Built Plans, approved by the City of Solana Beach, showing all development completed pursuant to this coastal development permit; all property lines; and all residential development inland of the structures. The As-Built Plans shall be substantially consistent with the approved revised project plans described in Special Condition 1 above, including providing for all of the same requirements specified in those plans, and shall account for all of the parameters of Special Condition 6 (Monitoring and Reporting). The As-Built Plans shall include a graphic scale and all elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD). The As-Built Plans shall include color photographs (in hard copy and jpg format) that clearly show all components of the as-built project, and that are accompanied by a site plan that notes the location of each photographic viewpoint and the date and time of each photograph. At a minimum, the photographs shall be from representative viewpoints from the beaches located directly upcoast, downcoast, and seaward of the project site. The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and processes, acceptable to the Executive Director, verifying that the shoreline armoring has been constructed in conformance with the approved final plans.
14. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. By acceptance of this permit, the applicants acknowledge, on behalf of himself/herself and his/her successors in interest, that issuance of the permit and construction of the permitted development shall not constitute a waiver of any public rights which may exist on the property.
15. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from erosion and coastal bluff collapse (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such

hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

16. Other Special Conditions of the City of Solana Beach Permit Nos. 17-04-13 CUP and DRP 17-11-21). Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of Solana Beach pursuant to an authority other than the Coastal Act.
17. Condition Compliance. Within 180 days of approval of this CDP, or within such additional time as the Executive Director may grant for good cause, the applicants shall have complied with all of the Special Conditions of this permit. Within 270 days of approval of this CDP, or within such additional time as the Executive Director may grant for good cause, the applicants shall have completed the contouring of the geogrid structure and the lowering of the lateral wall as detailed in the revised final plans for the subject site. Failure to comply with this condition may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.
18. Deed Restriction. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

Special Conditions of 6-13-025-A1:

4. Duration of Armoring Approval.

a. Authorization Expiration. This CDP authorizes the bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) until the time when the currently existing bluff top structures requiring protection are redeveloped as that term is defined in CDP 6-13-025 Special Condition 5, are no longer present, or no longer require a protective device. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the properties, the Permittees shall apply for a new CDP

to remove the protective devices or to modify the terms of their authorization.

b. Modifications. If, during the term of this authorization, the Permittees desire to enlarge the shoreline armoring or to perform repair work affecting more than 50 percent of the shoreline armoring, the Permittees shall apply for a new CDP. Additional mitigation requirements for the impacts of the enlarged or reconstructed armoring on public views, public recreational access, shoreline processes, and all other affected coastal resources that have not already been mitigated through this permit will be addressed and required at that time.

c. Amendment Required Proposing Mitigation for Retention of Armoring Beyond the 20 Year Design-Life. If the Permittees intend to keep the armoring in place after April 13, 2025, the Permittees must submit a complete CDP amendment application prior to April 13, 2025 proposing mitigation for the coastal resource impacts associated with the retention of the armoring beyond 20 years.

19. Deed Restriction. Prior to issuance of this coastal development permit amendment, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as amended, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property. For the owner at 355 Pacific Avenue, this deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition #18 of Coastal Development Permit #6-13-025, approved on November 14, 2013, which deed restriction is recorded as Instrument No. 2015-0371558 in the official records of San Diego County. For the owner at 347 Pacific Avenue, this deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition #18 of Coastal Development Permit #6-13-025, approved on November 14, 2013, which deed restriction is recorded as Instrument No. 2015-0371559 in the official records of San Diego County.

Appendix B - Substantive File Documents

- City of Solana Beach certified LUP
- Monitoring report by Soil Engineering Construction, Inc. and The Trettin Company, dated October 2015
- CDP Nos.: F1843, 6-02-002, 6-02-084, 6-02-084-A3, 6-05-003-G, 6-05-023-G, 6-06-037-G, 6-13-025, 6-14-0679

Appendix C – CDP #6-13-025

CALIFORNIA COASTAL COMMISSION

San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421
(619) 767-2370
www.coastal.ca.gov



Page: 1

Date: September 16, 2014
Permit Application No.: 6-13-025

CORRECTED COASTAL DEVELOPMENT PERMIT

On November 14, 2013, the California Coastal Commission granted to:

William Koman, Marjorie Marianni and Robert Upp

this permit subject to the attached Standard and Special Conditions, for development consisting of

Approval of a 150 ft. long (35 ft. high) lower coastal bluff seawall, a geogrid structure on the mid and upper bluff with landscaping and a 36 ft. long lateral keystone wall as follow-up to multiple emergency permits

more specifically described in the application filed in the Commission offices.

The development is within the coastal zone at

341, 347 & 355 Pacific Avenue, Solana Beach (San Diego County) 263-301-06, 263-301-07, 263-301-08

more specifically described in the application filed in the Commission offices.

Issued on behalf of the California Coastal Commission by

CHARLES LESTER
Executive Director

By: **ERIC STEVENS**
Coastal Program Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part that: "A Public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014
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IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date

Signature of Permittee

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:

This permit is granted subject to the following special conditions:

1. **Revised Final Plans.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit for review and written approval of the Executive Director, final plans for the mid and upper bluff geogrid structure and the lateral wall that are in substantial conformance with the submitted plans dated August 10, 2005 (seawall), January 5, 2007 (geogrid structure and lateral wall), and September 12, 2013 (geogrid structure and lateral wall) by Soil Engineering Construction, Inc. The revised plans shall first be approved by the City of Solana Beach and be revised to include the following:
 - a. Any existing permanent irrigation system located on the subject properties shall be removed or capped.
 - b. All runoff from impervious surfaces on the top of the bluff shall be collected and directed away from the bluff edge towards the street and into the City’s stormwater collection system.

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014

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- c. Existing and any proposed accessory improvements (i.e., decks, patios, walls, windscreens, etc.) located in the geologic setback area at 341, 347, and 355 Pacific Avenue shall be detailed and drawn to scale on the final approved site plan and shall include measurements of the distance between the accessory improvements and the natural bluff edge (as defined by Title 14 California Code of Regulations, Section 13577) taken at 3 or more locations. The locations for these measurements shall be identified through permanent markers, benchmarks, survey position, written description, or other method that enables accurate determination of the location of all structures on the site. The seaward edge of all existing and proposed accessory improvements shall be located no closer than 5 feet landward of the natural bluff edge or approved reconstructed bluff edge. Any new Plexiglas or other glass wall shall be non-clear, tinted, frosted or incorporate other elements to prevent bird strikes. Any existing improvements located closer than 5 feet landward of the reconstructed or natural bluff edge **shall be removed within 60 days of approval of the coastal development permit.**
- d. The geogrid structure on the bluff face fronting 347 and 355 Pacific Avenue shall be constructed to undulate to closely match the appearance of the nearby natural bluff face. The geogrid structure shall include variable thicknesses to provide visual undulations that mimic the nearby natural bluff conditions. At a minimum, the geogrid structure at 347 and 355 Pacific Avenue shall include 5 non-evenly spaced, tapered, undulating drainage features, with non-linear edges, that are approximately 2 feet deep and approximately 5 feet wide. The geogrid structure at 355 Pacific Avenue shall be incorporated, if technically feasible, into the junction with 357 Pacific Avenue.
- e. The lateral wall on the northern property line of 355 Pacific Avenue shall be lowered to maximize undulations that mimic the nearby natural bluff conditions.
- f. Technical details regarding the construction method and technology utilized for undulating the geogrid structure. Said plans shall be of sufficient detail to ensure that the Executive Director can verify that the geogrid structure will closely mimic natural bluff conditions.
- g. The revised plans shall clearly state the three concrete underpinning caissons at 355 Pacific Avenue are unpermitted and a CDP shall be required if in the future the caissons are proposed to be retained or are proposed or required to be removed.

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

2. **Final Landscape Plans.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit for review and written approval of the Executive Director, final landscape plans for the landscaping on the coastal bluff that are in substantial conformance with the submitted plans received February 28, 2012 by David Reed Landscape Architects. The revised plans shall first be approved by the City of Solana Beach before submittal for the Executive Director's review and approval and include the following:
 - a. Only drought tolerant native or non-invasive plant materials may be planted on the subject property. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant

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species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be planted within the property.

- b. The landscaping shall be installed in coordination with the property to the north at 357 Pacific Avenue and shall incorporate both container stock and hydroseeding. Temporary low pressure irrigation may be used for a maximum of 12 months and all temporary irrigation components shall be removed within 26 months.

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

3. Mitigation for Impacts to Public Access and Recreation and Sand Supply.

- a. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that the full interim mitigation fee of \$150,000, 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 180 days of the Commission's certification, as part of the certified LCP, a program addressing 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 for the shoreline armoring structure's design life of 20 years. 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.

- b. Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that a fee of \$21,864.72 has been deposited in an interest bearing account designated by the Executive Director, in-lieu of providing the total amount of sand to replace the sand and beach area that will be lost due to the impacts of the proposed protective structures. All interest earned by the account shall be payable to the account for the purposes stated below.

The purpose of the account shall be to establish a beach sand replenishment fund to aid SANDAG, or an alternate entity approved by the Executive Director, in the restoration of the beaches within San Diego County. The funds shall be used solely to implement projects which provide sand to the region's beaches, not to fund operations, maintenance or planning studies. The funds shall be released only upon approval of an appropriate project by the Executive Director of the Coastal Commission. The funds shall be released as provided for in a MOA between SANDAG, or an alternate entity approved by the Executive Director, and the Commission, setting forth terms and conditions to assure that the in-lieu fee will be expended in the manner intended by the Commission. If the MOA is terminated, the Executive Director may appoint an alternate entity to administer the fund for the purpose of restoring beaches within San Diego County.

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4. Duration of Armoring Approval.

- a. **Authorization Expiration.** This CDP authorizes the bluff retention devices (consisting of the seawall, geogrid structure, and lateral wall) for twenty years from the date of Commission approval of the CDP. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the property, the Permittee(s) shall apply for a new CDP to remove the protective device or to modify the terms of its authorization.
- b. **Modifications.** If, during the term of this authorization, the Permittees desire to enlarge the shoreline armoring or to perform repair work affecting more than 50 percent of the shoreline armoring, the Permittee shall apply for a new CDP. Additional mitigation requirements for the impacts of the enlarged or reconstructed armoring on public views, public recreational access, shoreline processes, and all other affected coastal resources that have not already been mitigated through this permit will be addressed and required at that time.
- c. **Amendment Required Proposing Mitigation for Retention of Armoring Beyond the 20 Year Design-Life.** If the Permittees intend to keep the armoring in place after April 13, 2025, the Permittees must submit a complete CDP amendment application prior to April 13, 2025 proposing mitigation for the coastal resource impacts associated with the retention of the armoring beyond 20 years.

5. **Future Development.** No future development, which is not otherwise exempt from coastal development permit requirements, or redevelopment on the bluff top portion of the subject property, shall rely on the permitted armoring system (geogrid structure, seawall, or the lateral wall) to establish geologic stability or protection from hazards. Such future development and redevelopment on the site shall be sited and designed to be safe without reliance on shoreline armoring. As used in these conditions, "redeveloped" or "redevelopment" is defined to include: (1) additions; (2) exterior and/or interior renovations, or; (3) demolition which would result in alteration to 50 percent or more of the exterior walls and/or other major structural components, or a 50 percent increase in floor area, both totaled cumulatively over time, as further defined in the certified Solana Beach LCP Land Use Plan.
6. **Monitoring and Reporting Program.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and written approval, a monitoring program prepared by a licensed civil engineer or geotechnical engineer to monitor the performance of the seawall, geogrid structure, and lateral wall which requires the following:

- a. An annual evaluation of the condition and performance of the shoreline armoring structures addressing whether any significant weathering or damage has occurred that would adversely impact the future performance of the structures. This evaluation shall include an assessment of the color and texture of the structures compared to the surrounding native bluffs.
- b. Annual measurements of any differential retreat of bluff material between the face of the natural bluff or the face of the geogrid structure and the seawall face, at the north and south ends of the seawall and at 20-foot intervals (maximum) along the top of the seawall face/bluff face intersection. The program shall describe the method by which such measurements shall be taken.

Provisions for submittal of a report to the Executive Director of the Coastal Commission by May 1 of each year (beginning the first year after construction of the project is completed) for a period of three years and then, each third year following the last annual report, for the 20 years for which

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this seawall is approved. In addition, reports shall be submitted in the spring immediately following either:

1. An “El Niño” storm event – comparable to or greater than a 20-year storm.
2. An earthquake of magnitude 5.5 or greater with an epicenter in San Diego County.

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

- c. Each report shall be prepared by a licensed civil engineer, geotechnical engineer or geologist. The report shall contain the measurements and evaluation required in sections a and b above. The report shall also summarize all measurements and analyze trends such as erosion of the bluffs, changes in sea level, the stability of the overall bluff face, including the upper bluff area, and the impact of the structures on the bluffs to either side of the wall. In addition, each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the seawall.
- d. An agreement that, if after inspection or in the event the report required in subsection c above recommends any necessary maintenance, repair, changes or modifications to the project including maintenance of the color of the structures to ensure a continued match with the surrounding native bluffs, the permittee shall contact the Executive Director to determine whether a coastal development permit or an amendment to this permit is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance within 90 days of the report or discovery of the problem.

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

7. **Storage and Staging Areas/Access Corridors.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants 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, except for the minimum necessary to construct the structures. Construction equipment shall not be washed on the beach or public parking lots or access roads.
 - b. Construction access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
 - c. No work shall occur on the beach on weekends, holidays or between Memorial Day weekend and Labor Day of any year.

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- d. The applicants shall submit evidence that the approved plans and plan notes have been incorporated into construction bid documents. The applicants shall remove all construction materials/equipment from the staging site and restore the staging site to its prior-to-construction condition immediately following completion of the development.

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

8. **Water Quality--Best Management Practices.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit for review and written approval of the Executive Director, a Best Management Plan that effectively assures no construction byproduct will be allowed onto the sandy beach and/or allowed to enter into coastal waters. All construction byproduct 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.

9. **Storm Design.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director, for review and approval, certification by a registered civil engineer that the proposed shoreline protective devices have been designed to withstand storms comparable to the winter storms of 1982-83 that took place in San Diego County.
10. **Other Permits.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the permittees shall provide to the Executive Director copies of all other required local, state or federal discretionary permits, for the development authorized by CDP 6-13-025. The applicants shall inform the Executive Director of any changes to the project required by other local, state or federal agencies. Such changes shall not be incorporated into the project until the applicants obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.
11. **State Lands Commission Approval.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and written approval, 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 applicants with the State Lands Commission for the project to proceed without prejudice to the determination.

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12. **Construction Site Documents & Construction Coordinator.** DURING ALL CONSTRUCTION:
 - a. Copies of the signed coastal development permit and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
 - b. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the coordinator's contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with an indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
13. **As-Built Plans.** within 180 days of completion of construction, or within such additional time as the Executive Director may grant for good cause, the Permittees shall submit two copies of As-Built Plans, approved by the City of Solana Beach, showing all development completed pursuant to this coastal development permit; all property lines; and all residential development inland of the structures. The As-Built Plans shall be substantially consistent with the approved revised project plans described in Special Condition 1 above, including providing for all of the same requirements specified in those plans, and shall account for all of the parameters of Special Condition 6 (Monitoring and Reporting). The As-Built Plans shall include a graphic scale and all elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD). The As-Built Plans shall include color photographs (in hard copy and jpg format) that clearly show all components of the as-built project, and that are accompanied by a site plan that notes the location of each photographic viewpoint and the date and time of each photograph. At a minimum, the photographs shall be from representative viewpoints from the beaches located directly upcoast, downcoast, and seaward of the project site. The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and processes, acceptable to the Executive Director, verifying that the shoreline armoring has been constructed in conformance with the approved final plans.
14. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. By acceptance of this permit, the applicants acknowledge, on behalf of himself/herself and his/her successors in interest, that issuance of the permit and construction of the permitted development shall not constitute a waiver of any public rights which may exist on the property.
15. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from erosion and coastal bluff collapse (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees

COASTAL DEVELOPMENT PERMIT

Date: September 16, 2014

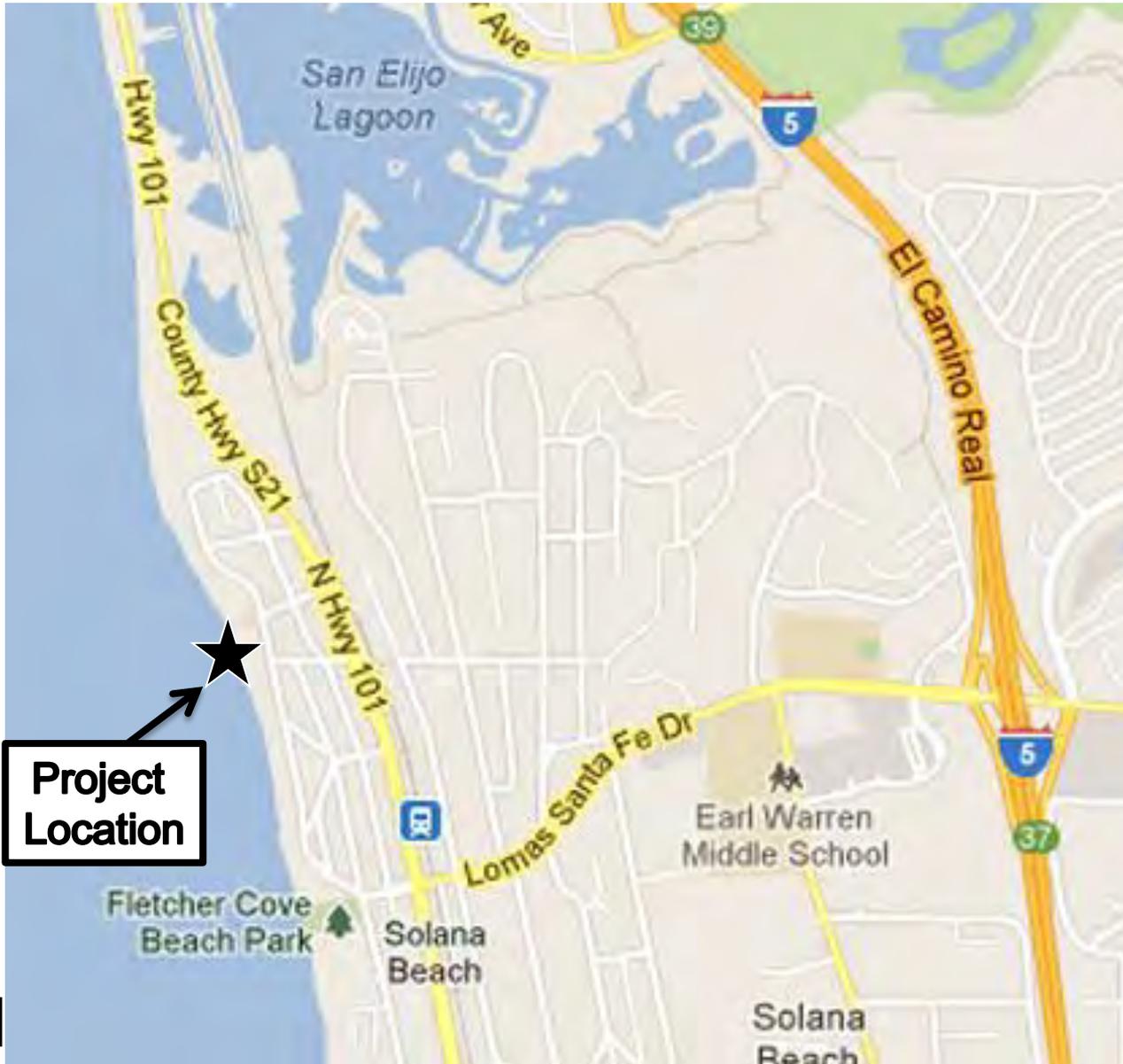
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incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

16. **Other Special Conditions of the City of Solana Beach Permit Nos. 17-04-13 CUP and DRP 17-11-21).** Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of Solana Beach pursuant to an authority other than the Coastal Act.
17. **Condition Compliance.** Within 180 days of approval of this CDP, or within such additional time as the Executive Director may grant for good cause, the applicants shall have complied with all of the Special Conditions of this permit. Within 270 days of approval of this CDP, or within such additional time as the Executive Director may grant for good cause, the applicants shall have completed the contouring of the geogrid structure and the lowering of the lateral wall as detailed in the revised final plans for the subject site. Failure to comply with this condition may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.
18. **Deed Restriction.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

PROJECT LOCATION



Project Location

Google Maps

EXHIBIT NO. 1

APPLICATION NO.

6-13-025-A1

Project Location

 California Coastal Commission

CDP History

357 Pacific Ave.

355 Pacific Ave.

347 Pacific Ave.

341 Pacific Ave.

Built in 1950

Built 1952/1970

Built 1955

Built 1952
F1843 (Addition)

Caissons
6-03-008-G/6-02-084

Underpinning Caissons
6-05-003-G

Geogrid
6-02-084-A3
Under Construction

Geogrid and Keystone Wall
6-06-037-G/6-13-025

EXHIBIT NO. 2

APPLICATION NO.

6-13-025-A1

CDP History



California Coastal Commission

Seawall
6-02-130-G/6-02-084

Seawall
6-05-023-G/6-13-025

Upcoast Photo of Bluff Armoring

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357, 355, 347, and 341 Pacific Ave.



EXHIBIT NO. 3

APPLICATION NO.

6-13-025-A1

North Armoring



California Coastal Commission

Downcoast Photo of Bluff Armoring

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357, 355, 347, and 341 Pacific Ave.



EXHIBIT NO. 4

APPLICATION NO.

6-13-025-A1

South Armoring



California Coastal Commission