

CALIFORNIA COASTAL COMMISSION

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**W15a**

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STAFF REPORT: REGULAR CALENDAR

Application No.: 6-16-0381

Applicant: 2928 Camino Del Mar LLC

Agent: Walter Crampton

Location: 2928 Camino Del Mar, Del Mar, San Diego County
 (APN #256-282-21)

Project Description: Remove existing, unauthorized timber wall and riprap and construct new, approximately 60 ft. long, 15 ft. tall, vertical sheet pile seawall with concrete cap to protect an existing 7,700 sq. ft. single-family residence on a 22,000 sq. ft. beachfront lot.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

Located approximately 170 feet north of 29th Street in the City of Del Mar, the subject beachfront, single-family home constructed in 1980 is currently protected by approximately 300 cubic yards (cy) of riprap located immediately in front of a timber wall. This shoreline protection was constructed without the benefit of a coastal development permit around 1987 and then modified in 1989 and again after the 1997 El Niño storm season. This shoreline protection is now in poor condition, with considerable displaced rock that blocks access and recreation on this portion of what would otherwise be public beach and that is vulnerable to further destabilization by wave action. In addition, this shoreline protection does not comply with current local regulations.

The proposed project involves removing approximately 288 cy of riprap in front of the subject property, which would increase the area of beach available for public use, removing the timber wall, and constructing a vertical seawall design consistent with current local regulations and that has been approved by the Commission in several past shoreline protection permits in Del Mar (e.g., CDPs #6-94-122, #6-95-134, and #6-98-65). Approximately 200 cubic yards of the riprap was installed under an emergency permit (CDP #G-6-15-0048) in advance of the 2016 El Nino storm season, and is conditioned to be removed as a part of this seawall replacement project. Because the existing shoreline protection is located in both the Commission's and the City's jurisdiction, the City requested that the subject application be consolidated so that the Commission could consider the project in its entirety.

In the past, nearly all of the low-lying, beachfront lots between 17th Street and the San Dieguito River Mouth in Del Mar had shoreline protection and patio rear yard improvements that encroached onto the public beach. In response, the citizens of Del Mar adopted local regulations (Beach Overlay Zone Ordinance (BOZ)), which required the removal of these private encroachments and created the Shoreline Preservation Area (SPA) line, which coincides with the western property lines of beachfront lots in most locations and marks the boundary between public and private lands. In addition, the BOZ established designs for shoreline protection devices allowed to protect beachfront lots (like the subject property) from wave damage and overtopping as well as private property and public infrastructure east of the beachfront lots that exist at even lower elevations than the beachfront lots, and consequently are at even greater risk of flooding during severe winter storms. The BOZ is included in the City's certified LCP.

Based on this history of shoreline protection and low-lying development, the primary issue in the Commission's review of proposed shoreline protection in Del Mar has been where the shoreline protection is sited. The proposed seawall would be located along the same alignment as the existing seawall and matches the stringline drawn from nearby seawalls. This alignment includes the minimum encroachment onto the public beach necessary (1.26-1.37 feet within the SPA), and is necessary to help protect neighboring properties and prevent damage caused by edge waves that could occur if there were large offsets in alignment between adjacent walls.

The proposed seawall is estimated to have a 75-year design life. While the proposed seawall would be a similar height as the existing and adjacent seawalls, it is designed so that it could be easily raised, if overtopping becomes unacceptable in the future due to sea level rise. Thus, **Special Condition #4** requires the applicant to monitor the condition of the seawall over time and prohibits future maintenance to increase the footprint or result in any further seaward encroachment of the proposed seawall on the beach.

As required in Section 30235 of the Coastal Act and the City's LCP, the applicant must mitigate for impacts to the local sand supply, public access and recreation related to the construction of the proposed seawall on public beach. Historically, the City Council has approved the construction of identified public access improvements, such as street end seawalls and associated accessways, instead of requiring an in-lieu fee payment. The

closest public beach access is located at 29th Street, approximately 170 feet to the south of the subject site. The seawall and accessway at 29th Street was constructed in 1983 (CDP #6-83-452), prior to the adoption of the BOZ design criteria, and is badly corroded. Since the City is still in the process of developing design alternatives for public access improvements to the 29th Street street end seawall, **Special Condition #5** specifies that the applicant will contribute an amount of \$88,932 to fund the reconstruction of a 10-foot section of the 40-foot long seawall located at this street end. This amount is based on cost estimates for 10-feet of a BOZ-compliant design (\$4,433.33 per linear foot + \$33,000 public access stairway, with 15% design contingency). Implementation of the City's final design for the 29th Street seawall will require a separate, future authorization from the Commission.

To minimize impacts during construction, **Special Condition #9** prohibits overnight storage of equipment and materials in public beach or parking areas, and also prohibits work on weekends and during the summer. CDP #6-17-0309-W, approved previously by the Commission, already allows temporary construction access at 29th Street in order to minimize impacts to public access and recreation. **Special Condition #10** requires the applicant to submit a final construction schedule and integration plan that describes coordination between this project and the other seawall replacement projects located in the vicinity of 29th Street.

Therefore, because the proposed seawall is necessary to protect the home at 2928 Camino Del Mar under existing conditions and can be adapted as sea level rises in the future without expanding the project footprint; minimizes encroachment onto the public beach; includes conditions to mitigate for the portion of the proposed seawall that usurps sandy area that would otherwise be available for recreation; and addresses construction impacts, the subject application can be found consistent with the Chapter 3 policies of the Coastal Act, as well as City's certified LCP, which here is used as guidance.

Commission staff recommends **approval** of coastal development permit application 6-16-0381 as conditioned.

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EXHIBITS

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[Exhibit 9 – 29th St. temporary seawall](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-16-0381 subject to the conditions set forth in the staff recommendation.*

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

Resolution:

The Commission hereby approves coastal development permit 6-16-0381 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

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

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Final Plans.

- (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and written approval of the Executive Director, one full-size set of the Shoreline Protection Device Plan that conforms with the plans submitted to the Commission prepared by TerraCosta Consulting Group, Inc., titled Plans for the Construction of: 2928 Camino Del Mar, Del Mar Shoreline Protection Device dated April 19, 2016.
- (b) The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

2. Shoreline Structure Authorization.

This CDP authorizes the shoreline structure pursuant to the following terms:

- (a) **Termination.** The authorization for the shoreline structure terminates when the currently existing structure located at 2928 Camino Del Mar (1) is redeveloped as defined in subsection a(ii) below; (2) is no longer present; or (3) no longer requires shoreline armoring, whichever occurs first. Prior to the anticipated termination of the authorization and/or in conjunction with redevelopment of the property, the permittees shall apply for a new CDP or amendment to this CDP, to remove the shoreline armoring or to modify the terms of its authorization, including with respect to any necessary mitigation.
- (b) **Redevelopment Definition.** Development that meets the criteria below shall be considered redevelopment:

A. Development that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, and/or (3) demolition or replacement of an existing home or other principal structure, or portions thereof, which results in:

(1) Alteration (including demolition, renovation or replacement) of 50% or more of major structural components including exterior walls, floor, roof structure or foundation, or a 50% increase in gross 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 this CDP authorization.

(2) Alteration (including 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 this CDP authorization; 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 this CDP authorization.

For the purposes of this definition:

An exterior wall is considered to be altered 50% or more when any of the following occur either above or below grade:

- (a) Exterior cladding and/or framing systems are altered in a manner that requires removal and/or replacement of 50% or more of the elements of those cladding and framing systems, normally considered as linear length of wall.
- (b) Reinforcement is needed for any remaining portions of the wall to provide structural support in excess of 50% of existing support elements (e.g. addition of 50% or more of beams, shear walls, or studs whether alone or alongside the existing/retained elements).
- (c) A previously exterior wall becomes an interior wall as a result of the development.
- (d) On multi-story structures, the extent of alteration to the linear area of the exterior walls on each story shall be determined to determine whether 50% or more of the total exterior walls have been altered.

A floor or roof structure is considered to be altered 50% or more when any of the following occur:

- (a) The roof or floor framing is altered in a manner that requires removal and/or replacement of structural elements (e.g. trusses, joists, rafters) supporting 50% or more of the square footage of the roof or floor.
- (b) The roof or floor structural framing system requires additional reinforcement to any remaining portions of the roof or floor system to provide structural support (e.g. addition of 50% or more of beams, joists, and/or rafters, etc., whether alone or alongside existing/retained system elements).

A foundation is considered to be altered 50% or more when any removal, replacement or reinforcement is done on any of the following:

- (a) 50% or more of the horizontal surface area of a slab foundation.

- (b) 50% or more of the floor area of a structure supported by a pier/post and/or caisson/grade beam foundation.
- (c) 50% or more of a perimeter foundation.
- (d) 50% or more of other foundation types (e.g. piers), or the total alteration where a structure has multiple foundation types.

Major structural component alterations generally do not include changes to roof coverings; replacement of glass or doors in existing window or door openings; replacement of window or door framing when the size and location of the window/door remains unchanged; repair of roofs or foundations without any change to structural supporting elements; changes to exterior siding; repair, maintenance, and replacement of chimneys; and interior changes to non-structural interior walls and sheetrock, insulation, fixtures, and mechanical, electrical and plumbing elements, except when such interior changes meet the threshold for redevelopment as defined by the market valuation criteria.

B. Provision of Information. The Applicant will submit information regarding the development sufficient to establish the presence or absence of the factors listed in A above.

- 3. No Future Seaward Encroachment.** By acceptance of this Permit, the applicant agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline structure approved pursuant to Coastal Development Permit No. 6-16-0381, as described and depicted on approved, as-built plans, shall result in any encroachment seaward of the authorized footprint of the shoreline structure.

4. Monitoring Plan.

- (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a monitoring plan, prepared by a licensed geologist, or civil or geotechnical engineer, for the review and written approval of the Executive Director. The plan shall be sufficient to assess the condition and performance of the seawall and shall include at a minimum:
- i. A description of the approved shoreline protection device;
 - ii. A discussion of the goals and objectives of the plan;
 - iii. Provisions for submission of “as-built” plans, showing the permitted structure in relation to the existing topography within 30 days after completion of construction;
 - iv. Provisions for inspection of the condition of the shoreline protection device by a licensed geologist, or civil or geotechnical engineer, including but not limited to the scope of such inspections (visual survey of foundation, concrete spalling, rust stains, clogged drains, etc.) and a sufficient number of location(s) to take photos so that the seawall condition can be documented over time.

(b) **Monitoring Requirement.** 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 life of the approved seawall, the applicant shall submit a monitoring report that has been prepared by a licensed geologist, or civil or geotechnical engineer. Additionally, reports shall be submitted in the spring immediately following either an “El Nino” storm event (comparable to or greater than a 20-year storm), or an earthquake of magnitude 5.5 or greater with an epicenter in San Diego County. Thus, reports may be required to be submitted more frequently depending on the occurrence of the above events in a given year. Each monitoring report shall contain at least the following:

- i. An evaluation of the condition and performance of the approved shoreline protection device, including an assessment of whether any weathering or damage has occurred that could adversely impact future performance of the device, the overall stability of the wall, and the impact of the wall on the adjoining seawalls to either side of the wall;
- ii. An assessment of the color and texture of the seawall comparing the appearance of the structure to the adjoining walls;
- iii. An analysis of trends such as sea level and erosion in conformance with the approved monitoring plan; and
- iv. Recommendations for repair, maintenance, modifications or other work to the device.

If a monitoring report contains recommendations for repair, maintenance or other work, the applicant shall contact the Coastal Commission District Office within 90 days of submission of the report to determine whether such work requires a coastal development permit.

5. Mitigation Fee. By acceptance of this permit, the applicant agrees to comply with and implement all of the conditions, recommendations, and project features included in the City of Del Mar’s Resolution 2017-19 adopted April 3, 2017, including the public improvement agreement to contribute to the cost of a new 29th Street street end seawall in an amount of \$88,932.

6. Assumption of Risk, Waiver of Liability and Indemnity Agreement. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to coastal hazards, including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, and their interaction; (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.

- 7. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and approval, documentation demonstrating that the landowner has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicants’ entire parcel. 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.
- 8. Disposal of Riprap. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall identify the location for the export of the riprap. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission.
- 9. Storage and Staging Areas/Access Corridors.**

 - (a) PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that:

 - i. 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 seawall. Construction equipment shall not be washed on the beach.
 - ii. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
 - iii. If and when during construction activities, the beach width narrows to 50 feet or less, construction activities shall cease until the work zone can be

downsized to a width of 30 feet. During such times, construction activities would temporarily stop as necessary to allow for safe passage by passers-by. If and when the beach expands to 50 feet or more, the work zone may be widened to the previous area, as long as beach users may traverse the area safely.

- iv. If and when during construction activities, the beach width narrows to 30 feet, construction activities shall cease. Activities may resume when the beach widens to at least 30 feet.
 - v. No work shall occur on the beach on weekends, holidays or between Memorial Day weekend and Labor Day of any year.
 - vi. Signage shall be installed directing pedestrians at the beach around the work zone.
- (b) The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.
 - (c) The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

10. Final Construction Schedule and Integration Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a Final Construction Schedule and Integration Plan. The plan shall include, at a minimum, the following components:

- (a) A construction schedule for all aspects of the project, and
- (b) A timeline that describes how this project will be coordinated and sequenced with the other projects near 29th Street, including the construction of a new seawall fronting 2828 and 2820 Ocean Front (SSP16-001), construction of a temporary seawall along the southern 20-feet of the 29th Street street end (CDP #6-17-0309-W), and implementation of the final seawall design for the 29th Street street end.
- (c) The applicant shall undertake development in accordance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

11. Condition Compliance. WITHIN 90 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the

conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION/HISTORY

The applicant is proposing removal of an existing, unauthorized timber wall and approximately 300 cubic yards of rock revetment (riprap) on its seaward side, and construction of a new 60-ft. long sheet pile seawall with a concrete cap on the western property line of a beachfront lot containing an existing 7,700 sq. ft. single-family residence on a 22,000 sq. ft. beachfront lot at 2928 Camino Del Mar in the City of Del Mar ([Exhibits #1 and 2](#)). The existing timber wall is in poor condition, with considerable displaced rock located on the sandy beach resulting in a relatively unstable mass of rocks at risk of further destabilization by wave action, and that currently blocks access and recreation on this portion of public beach ([Exhibit #3](#)).

Furthermore, the existing riprap does not comply with the Beach Overlay Zone Ordinance (BOZ) adopted by the voters of Del Mar in 1988, and later incorporated into the City's certified Local Coastal Program (LCP), described in more detail in Section B. The new seawall would be consistent with the BOZ and located along the same alignment as the existing timber wall and the adjacent seawall to the north fronting a single-family home and the adjacent wall to the south fronting a vacant lot. As a result of this alignment, the proposed seawall would encroach 1.37 feet and 1.26 feet onto the public beach (within the Shoreline Preservation Area (SPA)) on the north and south sides of the wall, respectively ([Exhibit #4](#)). The new seawall would be a similar height as the existing timber wall as well as the adjacent seawall to the south, with a top-of-wall elevation of +14.87 feet NGVD (National Geodetic Vertical Datum) ([Exhibit #5](#)).

The proposed seawall would be comparable in structural capacity and appearance to some of the more recently constructed seawalls south of 29th Street ([Exhibit #6](#)). The sheet pile would extend down to -24.0 feet NGVD, while the cap would extend down to +4.0 feet NGVD and incorporate a wave deflector. For reference, the existing beach face is currently approximately +8.0 feet NGVD. In addition, the new seawall would include returns, running perpendicular to the wall face, 11 ft. and 5 in.-long at the north end and 10-ft. long at the south end of the wall. The northern return and adjacent 10-ft. of the wall would be constructed with 36-in. diameter secant piles reinforced with steel I-beams to avoid vibration-induced damage to the adjacent property to the north. The proposed wall would also include an engineered cut-out for beach access from the property. While the proposed seawall has been designed to not require any riprap, approximately 12 cubic yards of rock, mostly under the sand, would be needed to remain at the transition to the adjacent northerly sheet pile wall to provide stability to the northern wall.

Site History/Past Permits

In 1980, the Commission approved the construction of the existing single-family home (CDP #F8849/Gage). However, this permit did not authorize construction of a seawall, revetment, or other shoreline protection. In 1981, the City issued a variance for the construction of a patio on the west side of the home. Based on a review of California Coastal Records Project photographs described in the applicant's geotechnical evaluation by Walter Crampton (TerraCosta Consulting Group) dated April 22, 2016, the revetment was placed in 1987 and was modified in 1989 and again after the 1997 El Niño storm season. None of these developments were authorized through a coastal development permit.

In 2012, the applicant purchased the property with the existing shoreline protection in place. In 2014, the applicant received a City Building Permit to remodel the property. The remodel did not increase the size or height of the existing residence, nor did it authorize shoreline protection. In December 2015, the Commission issued an Emergency Permit (CDP # G-16-15-0048), authorizing placement of 200 tons of 4-ton rock in front of the existing seawall for protection against winter storms. Two one-year extensions to remove this rock have been granted so that the removal can occur when the subject protection is installed.

The City of Del Mar has a certified LCP. The Commission retains original permit jurisdiction of the public beach (SPA), whereas the City has Coastal Development Permit (CDP) jurisdiction of private property landward of the SPA. As allowed by Coastal Act Section 30601.3, the Commission may process and act upon a consolidated permit application if certain criteria are met. Since a portion of the project lies within the City's jurisdiction, the City has requested and the applicant and Executive Director have agreed that the subject application be consolidated to include all portions of the project within both jurisdictions so as to authorize the Commission to approve the project in its entirety. Therefore, Chapter 3 of the Coastal Act is the standard of review, with the City's certified LCP used as guidance.

B. HAZARDS

Section 30235 of the Coastal Act addresses the permitting 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. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30253 of the Coastal Act, in part, addresses the need for new development to minimize risks and ensure long-term structural integrity:

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 certified Land Use Plan incorporated the initiative that created the Beach Overlay Zone Ordinance, which was later codified and certified into the Implementation Plan (IP). The following certified LCP policies provide guidance regarding shoreline protection devices (**emphasis added**):

Shoreline Hazards Policy III-2: Conserve the natural character of land, water, vegetative and wildlife resources within the community by ensuring that future development minimizes the disturbance of existing or natural terrain and vegetation, and does not create soil erosion, silting of lower slopes, slide damage, flooding problems and/or cutting or scarring, through application of the following policies:

a. Regulate development in accordance with the specific Beach (BOZ), Floodway (FW) and Floodplain (FP) Overlay Zone regulations contained within this chapter.

Shoreline Hazards Policy III-7: Promote public safety, health and welfare, and provide for the protection of private property while protecting public access opportunities to and along the beach through the enforcement of the provisions of the Beach Preservation Initiative as incorporated into the following Beach Overlay Zone Regulations. [duplicated in the IP]

30.50.050 Development Within The Shoreline Protection Area.

No development shall occur within the shoreline area except such privately owned protective structures, publicly owned protective structures, and publicly owned development authorized, constructed, and maintained in accordance with the regulations set forth in the City Code.

30.50.060 Authorized Protection Structures.

The construction of a protective structure located within the Shoreline Protection Area may be authorized by the issuance of a Shoreline Protection Permit, if the City Council finds following notice and public hearing that the proposed protective structure:

- A. *Is 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 to local shoreline sand supply;*
- B. *Will minimize risks to life and property in areas of flood hazards;*
- C. *Will assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way substantially alter natural landforms along bluffs and cliffs;*

[...]

E. *Is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act;*

F. *Has material and design which are consistent with good engineering practices;*

G. *Will, if there is a vertical wall element in the proposed protective structure, have the seaward face of the vertical wall located within the Shoreline Protective Area only if there is no other feasible location for effectively protecting a principle [principal] structure; there is no feasible, less environmentally damaging alternative; and feasible mitigation measures have been provided to minimize adverse environmental effects; but in no event have the seaward face of the vertical wall more than five feet westward of the Shoreline Protection Area line ...*

H. *Will, if other than a vertical wall, meet all the conditions of Subsection G above;*

I. *Will, if there is a riprap element in the proposed structure:*

1. *Have the riprap extending no more than 20 feet westward from the Shoreline Protection Area line.*
2. *Have a westward slope beginning no higher than a 5.7 foot elevation (NGVD) at the Shoreline Protection Area Line, decreasing in height at a minimum rate of one vertical foot for every one and one-half feet of lateral distance, the riprap extends westerly of the SPA line.*

30.50.080 Issuance Shoreline Protection Permit.

[...]

B. *The City Council may issue a Shoreline Protection Permit authorizing the following:*

[...]

*3. The private financing, **construction and/or maintenance of a publicly owned protective structure** authorized by the Beach Overlay Zone regulations*

...

The Coastal Act and certified LCP acknowledge that seawalls, revetments, cliff retaining walls, groins and other such structural or “hard” shoreline protection solutions alter natural shoreline processes, resulting in a variety of negative impacts on coastal resources such as sand supply, public access, and recreation. For example, a seawall located on public beach usurps sandy area otherwise available for recreation. Nevertheless, Section 30235 requires the permitting of shoreline protective devices for certain structures when the devices are designed to eliminate or mitigate adverse impacts on the local shoreline sand supply, and Section 30253 further requires all new development to minimize risk to life and property in hazardous areas, assure stability and structural integrity, and avoid contributing to erosion. The subject development would protect a post-Coastal Act home, in order to minimize these risks, as well as minimize risk to structures in the immediate vicinity. Private property and public infrastructure east of Camino del Mar (Highway 101) are actually lower in elevation than the beachfront lots, and therefore are also at risk of flooding associated with wave and storm damage, as illustrated in the Floodplain Overlay Zone ([Exhibit #7](#)).

The City’s LCP requirements to permit a shoreline protection device are extensive, including that the device protect an existing structure in danger of erosion, be designed to eliminate or mitigate adverse impacts on the sand supply, minimize risk in flood hazard areas, and assure stability and itself avoid creating erosion. Additionally, a vertical wall such as the subject development may only be located in the SPA if there is no other feasible location, less environmentally-damaging alternative, and that adverse impacts are mitigated, among other specifications.

In Del Mar, nearly all of the low-lying, beachfront lots between 17th Street and the San Dieguito River Mouth were developed with residential and commercial uses prior to the Coastal Act. The City interprets "existing structures" as the entire, low-lying, existing development pattern on the sand spit, including private property and public infrastructure east of Camino Del Mar/Highway 101, illustrated in [Exhibit #7](#)/Floodplain Overlay Zone.

Over the years, beachfront property owners constructed patios, landscaping, fences, and private stairways to improve their properties as well as seawalls, revetments, and sand berms to minimize risk from wave damage and flooding during severe winter storms. However, much of this development encroached onto the public beach. By 1988, all of the 85 beachfront properties had non-conforming encroachments (City of Del Mar, 1993).

The Commission and the City of Del Mar recognized the need for a long-term, comprehensive solution to address property owners’ rights to protect their property through the construction of shoreline protective devices, and the Commission’s mandate

to ensure maximum opportunities for public access and minimize potential hazards. In 1988, the voters of Del Mar adopted the Beach Overlay Zone Ordinance (BOZ) through the Beach Preservation Initiative (BPI) to resolve the long-standing encroachment problem. The BOZ is included in the City's certified LCP. The BOZ established the Shoreline Protection Area (SPA) seaward of a designated north-south SPA line, which generally coincides with the westerly property line of beachfront lots and therefore delineates the boundary between public and private property. The BOZ required the removal of existing encroachments within the SPA and established standard designs for shoreline protection devices. Although there have been a few seawalls permitted for individual sites, others have included a number of contiguous properties, extending one or more city blocks and including protection of the intervening public street ends as well. In those cases where individual seawalls have been authorized, they generally represent infill connecting to adjacent existing seawalls of the approved design. Constructing a consistent line of shoreline protection devices fronting beachfront lots, even those that are vacant, and across the public street ends also serves to minimize the flood hazards to life and property in the Del Mar beach area located more inland from the shoreline between 17th Street and the San Dieguito River Mouth.

The BOZO allows a vertical wall element to encroach up to 5 feet into the SPA, if there is no feasible, less environmentally damaging alternative and there is no other feasible location for effectively protecting a principle structure. The BOZ vertical wall design has been approved by the Commission in several past permits (e.g., CDPs #6-91-127, #6-88-542, and 6-97-141, all of which authorized seawalls that extended across entire city blocks plus intervening street ends, and CDPs #6-89-305, #6-90-022, #6-91-230, #6-94-122 and #6-95-134, which authorized the same seawall design on individual sites). To date, all seawalls permitted since the BOZ have either their eastern or western face on the SPA line, no riprap, and have no public beach encroachment beyond the width of the BOZ-compliant seawall design itself (2 feet, 9 inches). The remainder of the Del Mar shoreline is generally a mix of older walls and rock revetments.

At the subject site, the existing shoreline protection, as with much of the area north of 29th Street, is not in conformance with the BOZ. The applicant's geotechnical evaluation by Walter Crampton (TerraCosta Consulting Group) dated April 22, 2016 reports that, during periods of storm surf, significant wave runup would overtop the existing shoreline protection and inundate the residence. In addition to this flooding, the residence "would be destroyed from wave-induced scour removing foundation soils, causing collapse of the structure." Alternatives such as sandbagging or drainage improvements would not protect the residence against this storm-induced scour. Therefore, the applicant's geotechnical evaluation concludes that a vertical wall is the only feasible alternative to protect the home.

Based on the history of shoreline protection and existing low-lying development, the primary issue in the review of past proposals for shoreline protection devices in Del Mar has been their location, as their necessity is well established. The Environmental Impact Report (EIR) prepared for the BOZ (approved in 1989) found that a continuous vertical wall located as far landward as possible would have the least impacts on the beach, e.g., least private encroachment on to the public beach. However, the EIR also found that

allowing a wall just inside the SPA would be preferable to a discontinuous wall further inland with offsets because offsets create edge waves, which can have damaging effects to neighboring properties and the shoreline.

In the case of the proposed seawall, it would encroach 1.37 feet and 1.26 feet west of the SPA line on the north and south sides of the wall, respectively. This alignment would match the stringline drawn from the nearest engineered seawall to the north at 2936 Camino Del Mar and to the south at 2828 Ocean Front (recently approved by the City/Resolution 2017-11; [Exhibit #8](#)). The encroachment would be less than the 5 feet allowed by BOZ and would allow for a generally continuous seawall face, minimizing offsets and associated edge waves between the proposed and adjacent seawalls. The minimal amount of rock proposed to remain at the transition to the adjacent northerly sheet-pile wall is needed to prevent the rock fronting the adjacent northerly property from failing laterally into the subject site. The Commission's engineer has reviewed the project and agrees with the applicant's geotechnical evaluation that the proposed alignment, despite the minor encroachment into the SPA, is the most appropriate location for the wall.

The proposed seawall is also consistent with other BOZ design criteria. With a wall height of +14.87 feet NGVD, the proposed seawall would have overtopping volumes of 0.25 cubic feet per second (cfs) and 1 cfs under a storm comparable to the 1982-1983 winter (approximately 20-year storms) and a larger BOZ design storm (approximately 100-year storm), respectively. Although BOZ-compliant seawalls significantly reduce flooding, they are not required to eliminate all risk from wave damage and flooding. Indeed, given existing extreme high tide and high wave conditions, a wall height of 23.3 feet NGVD would be needed to prevent any overtopping. The applicant's geotechnical evaluation explains that the risk associated with these overtopping volumes is acceptable within the industry and to the applicant; and the Commission's engineer concurs. In addition, it is important to note that all overtopping volumes are calculated assuming a design scour elevation of -4.0 feet NGVD, which is considerably lower than the typical Del Mar beach face varying between +12.0 and +2.0 feet NGVD (winter storms historically remove 5-10 feet of sand). The lowest beach elevations (maximum scour) reported by residents in the 1982-83 winter were approximately 0.0 to -2.0 feet NGVD. Thus, due to the -4.0 feet NGVD design scour elevation, estimates for overtopping volumes are reasonably conservative.

The proposed seawall is estimated to have a 75-year design life. The basic BOZ design involving a sheet pile wall from an elevation of +13.75-16.44 feet NGVD down to -24.0 feet NGVD, with a concrete cap extending from the top of the wall down to +4.0 feet NGVD, has been used for last 25 years. Recent inspections of some of the older walls indicate that these walls have lasted intact and remain in excellent condition. The concrete cap extends low enough to almost always protect the sheet pile wall from corrosion associated with frequent wetting and drying. If the beach face becomes more regularly scoured, e.g., due to sea level rise, then corrosion will accelerate, reducing the life of the wall. Thus, **Special Condition #1** requires the applicant to construct the seawall in conformance with the approved final plans.

When the approval of shoreline armoring is not expressly linked to a particular beachfront structure, shoreline armoring can remain long after the structure it was required to protect has been removed, and therefore may encourage the construction of new structures in an unsafe location while continuing to adversely affect coastal resources, including sand supply and recreation. Therefore, **Special Condition #2** limits the duration of the subject CDP approval to when the beachfront structures requiring protection are redeveloped, are no longer present (i.e. demolished), or no longer require the shoreline armoring approved under this CDP, whichever occurs first. It is important to define redevelopment and the City's LCP does not include a definition of the term. Consistent with the Commission's Sea Level Rise Policy Guidance¹ and past Commission actions (e.g., CDP #2-16-0684), **Special Condition #2** defines redevelopment to include additions and expansions, or any demolition, renovation or replacement that would result in alteration or reconstruction of 50 percent or more of an existing structure. The condition also defines redevelopment to include additions and expansions, or any demolition, renovation or replacement that would result, cumulatively, in alteration or reconstruction of 50 percent or more of an existing structure. Thus, any future redevelopment of the property requires re-evaluation of current conditions and the need for shoreline protection. The condition puts the applicant on notice that redevelopment triggers the requirement to ensure that the redeveloped structure is sited safely.

In addition, **Special Condition #3** prohibits future maintenance to increase the footprint or result in any further seaward encroachment of the proposed seawall on the beach, and **Special Condition #4** requires the applicant to monitor the condition of the seawall over time.

The applicant's geotechnical evaluation considered sea level rise and designed the proposed seawall so that it can be easily raised, if overtopping becomes unacceptable in the future. With a wall height of +14.87 feet NGVD subject to 3 feet of sea level rise in 2100, the proposed wall would have an overtopping volume of 6 cfs. However, with a wall height of +16 feet NGVD, the proposed wall would have an overtopping volume of 3 cfs and with a wall height of +17 feet, the proposed wall would have an overtopping volume of 1 cfs, similar to the BOZ design storm (approximately 100-year storm) for existing conditions. The applicant's geotechnical evaluation explains that the process to raise the proposed seawall would be to saw-cut the top of the cap off the existing sheet pile wall and dowel and epoxy new, taller reinforcing, enabling the top of the wall to be reformed with a new reinforced concrete section. The applicant's geotechnical evaluation asserts that this process is relatively straightforward and economical, with virtually no reduction in structural capacity of the top of the wall. Recognizing the tradeoffs between coastal views and storm protection implicit in wall height, the applicant has decided to wait and raise the wall at a later date to account for sea level rise. Furthermore, the applicant may decide to perform other flood proofing within the 23-ft. gap between the proposed seawall and residence for additional storm protection. The Commission's engineer concurs that constructing a minimally sized wall at this time with the ability to raise in the wall in the future is a reasonable approach.

¹ <https://www.coastal.ca.gov/climate/slrguidance.html>

As required by the Coastal Act and the City's LCP, where impacts are unavoidable, the applicant must mitigate for the impacts to public access and recreation, scenic views, and sand supply related to the construction of the proposed seawall on public beach. In promoting a comprehensive solution for shoreline protection, the City devised its own program to mitigate the impacts to sand supply and available beach area associated with any approved seawall. Specifically, the BOZ provides a method for calculating the user fee that is based on the fair market value of the adjacent private property. In this case, City staff estimated, using assumed current values, that a user fee could be well in excess of \$100,000. While the BOZ also states that "the City Council will establish from time to time a schedule for reasonable user fees for private use of the property within the Shoreline Protection Area," it is City staff's understanding that such a schedule has never been developed because historically the City Council has approved the construction of specific public improvement projects, such as street end seawall replacements, in-lieu of requiring an actual fee payment, consistent with IP Section 30.50.080.B.3. This mitigation in the form of funding/construction by the private property owners receiving the benefit of shoreline protection results in implementation of public street end seawall and access improvements that benefit the general public. The City has found that this form of mitigation is mutually beneficial and that the costs are roughly proportional to fair market rental rates for the amount of encroachment involved amortized over the expected life of the seawalls. This approach is consistent with the City's certified LCP, which requires that a user fee be applied to any encroachments seaward of the SPA line.

Although it may be counterintuitive given the adverse impacts on coastal resources typically associated with shoreline protection, in Del Mar, construction of street end seawalls is considered mitigation for private property seawalls because street end seawalls prevent storm flooding of public infrastructure such as beach access and roads. The City Council and staff have been very successful utilizing user fees to construct public improvement projects to mitigate for private use of the public beach, e.g., the vehicular access at 17th Street street end, the seawall with vehicular and pedestrian access at 20th Street street end, the 21st Street street end seawall with pedestrian access, the 24th Street street end walkway and landscaping, the 25th Street street end seawall, and the 26th Street street end seawall. As such, the City's approval of the seawall on the public beach (City of Del Mar's Resolution 2017-19) includes a requirement for the applicant to contribute to the cost of public improvements to the nearest public beach access at 29th Street. Payment in the form of public improvements satisfies the mitigation requirement and, in this case, will remedy the poor condition of the 29th Street end seawall.

The 29th Street street end seawall was constructed in 1983 (CDP #6-83-452) and is badly corroded. Because the wall was built prior to the adoption of the BOZ design criteria, the toe of the existing wall extends to only -5.0 feet NGVD (1 foot below the BOZ design scour elevation). As such, the wall has only a small remaining service life and would not withstand a BOZ design storm (approximately 100-year storm). While the City finalizes designs to upgrade the existing protection and improve public access at the 29th Street street end seawall, the City will collect an amount not to

exceed \$88,932 based on cost estimates for 10-feet of a BOZ-compliant design (\$4,433.33 per linear foot + \$33,000 public access stairway, with 15% design contingency). The City's LCP provides that either the City or the Commission may require the fee, but not both entities. Therefore, **Special Condition #4** requires that the applicant comply with the City's condition to contribute \$88,932 to fund a portion of the construction of a new 29th Street street end seawall. Implementation of the City's final design for the 29th Street street end seawall will require future authorization from the Commission.

The Del Mar shoreline is inherently hazardous and unpredictable. The Commission finds that in order for the proposed development to be consistent with the Coastal Act, the applicant must assume the risks of damage from wave action and flooding. As such, **Special Condition #5** requires the applicant to assume all risks of development, waiving any liability on the part of the Commission for approving the proposed development.

In addition, **Special Condition #6** requires the applicant to record a deed restriction to impose the special conditions of the permit as covenants, conditions and restrictions on the use and enjoyment of the property. This special condition is required to provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property will be stable for an indefinite period of time or that a protective device could be constructed to protect the approved development contrary to the terms and conditions of this permit. By recording the terms and conditions of this permit against the property, future purchasers are notified in advance of their purchase of the limitations on development of the property.

As a result of ongoing planning work to address sea level rise², the City's static approach to siting shoreline protection and new development relative to the SPA line may change in the future. Current BOZ policies allow shoreline protection to protect beachfront homes, provided shoreline protection minimizes encroachment onto the public beach delineated by the SPA line and adequately mitigates any associated impacts on the beach. In addition, current BOZ policies require that new development be sited at least 15 feet landward of the SPA line to facilitate construction of shoreline protection devices on private property and over time establish a new stringline of development farther landward than most existing principal structures. It may be appropriate to amend the subject CDP to conform to updated policies based on the City's ongoing planning work certified by the Commission.

In summary, the proposed seawall is necessary to protect the home at 2928 Camino Del Mar under existing conditions, and will reduce the risk of flooding and storm damage to

² In December 2014, the City received a grant from the Commission and California Ocean Protection Council, which the City matched, for work to prepare and process a Vulnerability Assessment, Adaptation Plan, and associated Local Coastal Program Amendment (LCPA) with strategies to address sea level rise. The local planning process began in July 2015 and has included extensive public outreach. In December 2016, the City received another grant from the Commission to review the latest Coastal Storm Modeling System 3.0 (CoSMoS) data and incorporate it into draft LCPA documents, as appropriate (available at <http://www.delmar.ca.us/sealevelrise>).

the adjacent private property and public infrastructure. The wall has been designed to adapt to future sea level rise, and minimizes encroachment onto the public beach, while the associated impacts on beach availability are adequately mitigated with the City's imposition of the "user fee." Therefore, as conditioned, the Commission finds the proposed seawall consistent with Sections 30235 and 30253 of the Coastal Act, as well as relevant policies of the LCP.

C. PUBLIC ACCESS AND RECREATION

Sections 30210 and 30211 of the Coastal Act emphasize the need to protect public access and recreational opportunities to and along the coast:

Section 30210

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

Section 30211

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

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

In addition, the following certified LCP policies provide guidance:

COASTAL ACCESS GOAL IV-A: Provide physical and visual access to coastal recreation areas for all segments of the population without creating a public safety concern, overburdening the City's public improvements, degrading the City's natural resources, or causing substantial adverse impacts to adjacent private properties.

Coastal Access Policy IV-1: ... Project applicants for development within the Beach Overlay Zone shall be conditioned to assure that access opportunities are maintained during the construction phase of the project.

The Del Mar beach is a popular visitor destination for local and regional beachgoers. Historically, there has been a wide, sandy, public beach in Del Mar, varying somewhat season to season, but typically wider than many other North County beaches. Public access is generally available at every street end from 17th Street to the San Dieguito River Mouth. At the project site, public beach access is located at 29th Street approximately 170 feet to the south of the project site.

Maintaining the beach for public recreational pursuits and providing adequate access thereto is a prime concern of both the City and the Commission. In the past, private encroachments onto the public beach in the City of Del Mar, both deck/patio improvements and shoreline protective devices, restricted public access to some degree, usurping areas that would otherwise have been available to the public. As described above, the citizens of Del Mar adopted the Beach Overlay Zone Ordinance (BOZ) through the Beach Preservation Initiative (BPI), and the City enacted guidelines for its implementation, which were incorporated into the LCP certified in 2001, with the removal of private encroachments and attendant enhancement of public access a key goal. For the most part, these encroachments have been removed and the beach is available up to the Shoreline Preservation Area (SPA) line, which coincides with the western property lines of private properties in most locations. An exception is the northernmost block in the City, where existing riprap extends a significant distance onto public beach.

The proposed BOZ-compliant seawall design minimizes encroachment into the SPA and improves beach access by removing approximately 288 cy of riprap in front of the subject property, thereby increasing the area of beach available for public use. Of the 300 cy of riprap currently in front of the subject property, only approximately 12 cy of rock would be needed to remain at the transition to the adjacent northerly sheet pile wall to provide stability. This minimal amount of rock needed to remain would extend significantly less than 20-feet west of the SPA line that is the maximum allowable under the BOZ, and most of the rock would be buried under the sand, so that it would not be visible or impede upon the public's use of the beach. In a letter received by the applicant's representative on December 12, 2016, the State Lands Commission (SLC) determined that the proposed improvements appear to be landward of the Mean High Tide Line and therefore do not involve state lands or require SLC authorization.

To construct the project, the existing riprap would be removed over 2 days in a work zone that would extend approximately 75 feet seaward of the existing seawall to allow for truck access and loader mobility. **Special Condition #8** requires the applicant to properly dispose of the riprap that it removes as part of the proposed project. After export of the existing riprap, the existing seawall would be removed and the new seawall would be constructed over 60 days in a work zone 30-50 feet seaward of the proposed wall necessary for machine maneuvering. For reference, beach width varies, on average, from 65 feet to 120 feet in the winter and summer, respectively (ESA, 2016). When the beach is narrower than 50 feet, the work zone would be temporarily downsized to an area approximately 30 feet in width for minimum safety requirements. During such times, construction activities would temporarily stop as necessary to allow for safe passage by passers-by. If the beach were narrower than 30 feet, access for equipment would be limited, so construction activities would be put on hold and beachgoers could continue to

traverse the beach west of the construction area. It should also be noted that public parking at 29th Street will be available at all times.

Typically, the Commission, whenever it approves nearshore construction projects, includes special conditions addressing construction impacts and prohibiting use of public beaches, roads, parking areas, etc. as staging or storage areas during the summer beach season, and minimizing such use at other times of year. **Special Condition #9** addresses this concern by prohibiting overnight storage of equipment and materials in public beach or parking areas, and also by prohibiting work on weekends and during the summer.

The Commission previously approved CDP #6-17-0309-W in order to facilitate access to the beach for the proposed project ([Exhibit #9](#)). CDP #6-17-0309-W allowed demolition of the southern 20-foot of the 29th Street street end seawall and construction of a temporary, 20-foot long, vertical sheet pile replacement seawall to reduce the distance that heavy equipment would have to travel on the public beach to reach 2828 and 2820 Ocean Front, as the nearest alternative vehicle beach access is approximately 0.7 miles south at 17th Street. CDP #6-17-0309-W also includes a requirement that signage indicate that public access to the beach is available during construction. Utilizing the construction access at 29th Street for the subject property will minimize impacts to public access and recreation. **Special Condition #10** requires the applicant to submit a final construction schedule and integration plan that describes coordination between this project and the other projects in the vicinity of 29th Street. Allowing construction of a temporary seawall at the 29th Street street end is appropriate given that the City is currently developing a public improvement project at 29th Street as mitigation for the subject application (and the new seawalls at 2828 and 2820 Ocean Front to the south) and therefore would demolish and rebuild the seawall in the near future anyway. In addition, the approved temporary seawall will consist of the same sheet pile structure as a permanent seawall and therefore provides comparable stability and protection; the difference between a temporary and the expected permanent seawall is mainly aesthetic (the cap over the sheet pile).

In summary, the Commission finds that the project, which occurs on public beach, provides for minimal encroachment and mitigates for the loss of beach area through funding towards the public improvement project at the 29th Street street end. The project also increases the area of sandy beach available to the public by removing unpermitted riprap that currently blocks access and recreation on this portion of the beach. Therefore, the Coastal Commission finds the proposed development, as otherwise conditioned, is consistent with Sections 30210, 30211, and 30212 of the Coastal Act. Moreover, since the proposed development is located between the sea and first public road, the Commission, as required in Section 30604(c), finds the proposal consistent with all public access and recreation policies as well.

D. VISUAL RESOURCES

Section 30251 of the Coastal Act states, in part:

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

In addition, the following certified LCP policy provides guidance:

Coastal Access Goal IV-C: Preserve existing views and view corridors from public vantage points to the maximum extent possible without preventing reasonable use of private property.

The proposed seawall will be located on and adjacent to the public beach of Del Mar. The amount of seawall visible above the sand will vary from season to season, as the sand supply diminishes and returns. During the summer season when sand levels are highest and the beach receives the greatest intensity of use, no more than 5-7 feet of the seawall will generally be visible, giving the appearance of a garden wall enclosing private deck and patio improvements on the adjacent site. More of the seawall will be visible during the winter, when beach sand levels typically drop. Although seawalls do alter the natural appearance of the shoreline, the seawall has been designed to be virtually identical to other approved seawalls along the Del Mar beach, such that the proposed wall will be visually compatible with the surrounding development, and will not significantly impact visual resources. Additionally, the removal of 288 cy of rip rap that is mostly visible will improve the appearance of the public beach. Therefore, the Coastal Commission finds the proposed seawall, as conditioned to address other concerns, is consistent with Section 30251 of the Coastal Act.

E. UNPERMITTED DEVELOPMENT

The existing shoreline protection was not authorized through a coastal development permit. The Commission's authorization of the existing single-family home did not include construction of a seawall or revetment (CDP #F8849/Gage). However, based on a review of California Coastal Records Project photographs described in the applicant's geotechnical evaluation by Walter Crampton (TerraCosta Consulting Group) dated April 22, 2016, the revetment was placed in 1987, was modified in 1989, and again modified after the 1997 El Niño storm season. In order to correct this violation, the proposed project involves removal of the unpermitted timber wall and 288 cy of riprap. To ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition #11** requires that the applicant satisfy all conditions that are prerequisite to the issuance of this permit within 90 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Commission review and action on this permit will resolve the violations identified in this section once the permit has been fully executed and the terms and conditions of the permit complied with by the applicants. Commission review and action on this permit application does not constitute a waiver of any legal action with regard to the alleged

violations nor does it constitute an admission as to the legality of any development undertaken on the subject sites without a coastal permit. Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act, with the certified LCP acting as guidance.

F. 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.

In 1988, the citizens of Del Mar passed the Beach Preservation Initiative (BPI) establishing a Beach Overlay Zone Ordinance (BOZ) and delineating a Shoreline Protection Area (SPA), which were later incorporated into the City's LCP certified in 2001 (IP Section 30.50). With very few exceptions, the SPA line coincides with the western property line of beachfront homes and marks the boundary between public and private lands. In addition, the mean high tide line has been adjudicated for most of Del Mar and is also delineated by the SPA line.

The project straddles the SPA line and is thus on both public and private lands. As described in detail above, the certified City of Del Mar LCP allows for shoreline protective devices subject to strict design and siting criteria; the subject proposal meets those requirements. Because a portion of the development occurs seaward of the SPA line, it is within the Coastal Commission's area of original jurisdiction pursuant to Section 30613 of the Coastal Act. The applicant and the City requested that the Commission review the entire project as a consolidated permit, for which Chapter 3 of the Coastal Act is the legal standard of review, with the certified LCP used as guidance. As conditioned, the proposed project is consistent with all applicable Chapter 3 policies of the Coastal Act and the certified LCP. Thus, the proposed development will not prejudice the ability of the City of Del Mar to continue to implement its certified LCP.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

The City prepared an Addendum to the 1998 Certified Program EIR for the BOZ to address demolition of existing seawalls/shoreline protection devices and construction of new BOZ-compliant seawalls at four private, beachfront properties, including the proposed project and 29th Street street end (mitigation site). Based on information

contained in the Addendum, it was determined that the proposed project would not result in any new environmental impacts or substantially change the severity of the impacts identified in the Program EIR.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, such as ongoing monitoring and maintenance, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

(G:\San Diego\Reports\2016\6-16-0381 2928 CDM Seawall stf rpt.docx)

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Geotechnical Basis of Design, 2928 Camino Del Mar Seawall, Del Mar California prepared by TerraCosta Consulting Group, Inc. dated April 22, 2016
- Addendum to the Certified Final Program Environmental Impact Report for the Beach Preservation Initiative, Seawall Replacement at 2938 Sandy Lane, 2928 Camino Del Mar, 2828 and 2820 Ocean Front, and the 29th Street Terminus prepared by RECON Environmental, Inc. dated March 6, 2017
- City of Del Mar Staff Report re: Beach Preservation Initiative Status Report dated Oct. 12, 1993
- City of Del Mar Resolution 2017-11
- Administrative Draft: City of Del Mar Sea-Level Rise Adaptation Plan, Del Mar California prepared by ESA dated August 2016 – updated 2016
- CDP Nos:
 - F8849/Gage
 - 6-83-452
 - 6-88-542
 - 6-89-305
 - 6-90-022
 - 6-91-127
 - 6-91-230
 - 6-94-122
 - 6-95-134
 - 6-97-141
 - 2-16-0684
 - G-16-15-0048
- City of Del Mar Land Use Plan (certified 1993)
- City of Del Mar Implementation Plan Section 30.50 (certified 2001)