

**CALIFORNIA COASTAL COMMISSION**

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# W20c

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-17-0819

**Applicant:** Solana Beach and Tennis Club

**Agent:** John Erskine

**Location:** 347-459 South Sierra Avenue, Solana Beach, San Diego County (APNs 298-053-20-01 to -57; 298-053-22-01 to -45; 298-053-23-01 to -50)

**Project Description:** Maintain five existing seacaves by removing portions of concrete fill protruding beyond the bluff face.

**Staff Recommendation:** Approval with Conditions

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### STAFF NOTES

This project was originally scheduled to be heard on the Commission's June 2018 agenda. The applicant requested a postponement to respond to staff's recommendation. Since then, the applicant has revised the proposed project. The applicant is no longer proposing to infill a 75 ft. long, notch in a coastal bluff with erodible concrete; to add additional erodible concrete where existing cave infills are undermined and/or flanked, or to replace approximately 6 inches of existing concrete with 6 inches of carved and colored erodible concrete flush with bluff face. Only maintenance of the existing caves is proposed.

## SUMMARY OF STAFF RECOMMENDATION

The proposed project is located in the bluff face on a city-owned beach below an existing 152-unit condominium complex in the City of Solana Beach. The condominium complex was developed in the early 1970s and is in a hazardous location due to shoreline erosion, but is not at risk at this time.

The site currently contains five existing seacave infills on the public beach at the toe of the bluff which were constructed pursuant to a permit approved by the Commission in 1996 (CDP #6-96-102). The infills were filled with a concrete material that has not eroded at the same rate or manner as the surrounding natural bluffs, and as such, some of the concrete currently protrudes onto the beach. Special conditions on the original permit required ongoing monitoring and evaluation of the infills and that if any of the sea cave plugs was found to extend seaward of the face of the natural bluff by more than 6 inches in any location, the applicant must apply for a coastal development permit to correct this deficiency. The subject project would remove the protruding portions of the infills from the beach pursuant to the requirements of the original permit. No new concrete is proposed with the current application.

Because the existing cave infill material has not erode at the rate anticipated when the Commission approved the original fill, staff has discussed with the applicant whether some or all of the existing, non-erodible concrete in the caves could be removed and replaced with a different, more erodible concrete mixture. Although the original permit only requires that the concrete be removed when it extends more than 6 inches beyond the bluff face, removing the existing material would allow for the bluffs to erode more naturally, and lessen the need to continually maintain the seacaves. The Commission's engineer believes that all or some of the existing concrete could be removed and replaced without substantial risk to the bluffs. However, at this time, the applicants are not prepared to propose a plan that includes removal of more than the seaward 6 inches of infill. Nevertheless, the proposed project is consistent with the intent and terms of the original permit, and removal of the protruding portions of the infill will result in an improvement to public access, public recreation, and visual quality.

To assure that the seacave infills are maintained as to avoid encroachments onto the beach, special conditions require that the applicant submit and implement a comprehensive monitoring program to ensure that the seacave infills are not adversely impacting coastal resources. **Special Condition #2** requires annual monitoring reports, and **Special Condition #3** notifies the applicant that failure to provide the required monitoring reports per **Special Condition #2** shall constitute a violation of public access provisions of the Coastal Act.

Furthermore, because shoreline protection has impacts on public access, **Special Condition #3** notifies the applicant that failure to submit a monitoring report required pursuant to **Special Condition #2** (or the follow up coastal development permit or amendment), will constitute a violation of public access provisions of the Coastal Act and, thus, the applicant would be subject to civil penalties pursuant to Section 30821 of

the Coastal Act, commencing from the date of the deadline to submit a monitoring report.

If the material does not erode as anticipated, **Special Condition #7** requires that if any portion of the existing seacave infills encroaches greater than six inches seaward of the adjacent natural bluffs, that the property owner obtain a CDP amendment from the Commission to remove the excess fill or otherwise remedy the situation.

To ensure that the protruding concrete is resolved in a timely manner, **Special Condition #11** requires that the applicant satisfies **Special Condition #5** within 180 days and all other prior-to-issuance conditions of this permit within 60 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Commission staff recommends **approval** of coastal development permit application 6-17-0819 as conditioned.

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## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-17-0819 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 6-17-0819 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.

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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. **Revised 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, revised final plans approved by the City of Solana Beach that are in substantial conformance with the plans prepared by TerraCosta Consulting Group dated 12/31/17 except that they shall comply with the following:

- i. Sufficient detail showing the dimensions and profile of each seacave infill.
      - ii. The plans shall include the length of each protruding seacave infill measured from the dripline to the furthest seaward extent of the infill.
      - iii. All references to the placement of new erodible concrete, the composition of the erodible concrete mixture, and inspection/testing procedures for new erodible concrete shall be removed.
      - iv. Plans should include the step-by-step process for removing the protruding seacave infills using the proposed expandable injection method.
      - v. During construction of the approved development, disturbances to sand and intertidal areas shall be minimized to the maximum extent feasible. All excavated beach sand shall be re-deposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or for any other purpose as construction material.
      - vi. The seacave infills shall conform as closely as possible to the natural contours of the bluff, and shall not protrude beyond the existing “drip-line” (a parallel line extending down the face of the bluff to the beach) or the stringline of the adjacent natural bluff on either side of each infill.

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

**2. Monitoring Program.**

- (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a monitoring plan prepared by a registered civil or geotechnical engineer for the existing and seacave infills on the subject site which shall incorporate the following:
  - i. Current measurements of the distance between the condominiums and the bluff edge (as defined by Section 13577, Title 14 of the California Code of Regulations), and provisions for these measurements to be taken annually after completion of construction for the life of the project. The locations for these measurements shall be identified through permanent markers, benchmarks, survey position, written description, or other approved methods so that annual measurements can be taken at the same bluff location and comparisons between years can provide information on bluff retreat.
  - ii. Provisions for establishing any differential retreat between the natural bluff face and each of the seacaves by measuring both ends of the seacaves and at 20-foot intervals (maximum) along the top of the seacave face and the bluff face intersection, annually after completion of construction, for the life of the project. The condition of the seacave should be documented through photography. The program shall describe the method by which such measurements shall be taken.
  - iii. Provisions for the annual measurement of the erosion of the proposed erodible concrete infill. The program shall describe the method by which such measurements shall be taken.
  - iv. Provisions for submittal of a report to the Executive Director of the Coastal Commission on June 1<sup>st</sup> every two years, for a six-year period beginning after completion of construction and every 3 years thereafter for the life of the project. Additional reports shall be submitted by March 31 of the year after which any of the following events occur:
    - 1. A 20-year storm event,
    - 2. An “El Niño” storm event, or

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3. A major tectonic event of magnitude 5.5 or greater affecting San Diego County.
  - v. Each report shall be prepared by a registered civil or geotechnical engineer. The report shall contain the measurements and evaluation required in sections i, ii, and iii of this Special Condition. The report shall also summarize all measurements and provide analysis of trends, annual retreat or rate of retreat, and the stability of the overall bluff face, including the upper bluff area, and the stability of the seacave infills on the natural bluff, and shall include suggestions that do not involve the construction of structures on the face of the bluff for correcting any problems. In addition, each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the project. If any portion of the existing or proposed seacave infills is found to extend seaward of the 'drip line' of the natural bluff by more than six (6) inches in any location, the report shall include alternatives and recommendations to remove or otherwise remedy this condition such that no seaward extension of the infill will remain.
  - vi. Special Condition #2 of CDP #6-96-102 may be satisfied through compliance of this condition.
- (b) The permittee shall undertake monitoring in accordance with the approved monitoring program. Any proposed changes to the approved monitoring program shall be reported to the Executive Director. No changes to the monitoring 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.

**3. Monitoring and Follow-Up Permit.**

- (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, an agreement executed on behalf of themselves and all successors and assigns to submit the following future new permit applications or permit amendment applications as required below:
- i. Within three months of submission of the monitoring report required in Special Condition #2, the permittee shall apply for a coastal development permit amendment for any necessary maintenance, repair, changes or modifications to the project recommended by the monitoring report that requires a coastal development permit or amendment.
  - ii. Failure to submit a monitoring report as required pursuant to Special Condition #2, or failure to submit a follow up coastal development permit or amendment as required by subsection (a)(ii) of this Special Condition, shall constitute a violation of public access provisions of the Coastal Act



and, thus, the permittee will be subject to civil penalties pursuant to Section 30821 of the Coastal Act. Penalties shall accrue commencing from the date a deadline to submit a monitoring report pursuant to Special Condition #2 is not met, or from the date a follow up coastal development permit or amendment application is due, unless additional time is granted by the Executive Director for good cause. Any request for additional time must be submitted to the Executive Director at least ten days before the deadline, and approved in writing by the Executive Director.

- (b) The permittee shall undertake monitoring in accordance with the approved monitoring program. Any proposed changes to the approved monitoring program shall be reported to the Executive Director. No changes to the monitoring 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.

**4. Storage and Staging Areas/Access Corridors.**

- (a) **PRIOR TO ISSUANCE OF THIS 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 the sandy beach or at the Fletcher Cove Parking Lot, and the use of other public parking spaces shall be minimized. 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 seacave infills. Construction equipment shall not be washed on the beach or in the Fletcher Cove parking lot.
  - ii. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
  - iii. No work shall occur on the beach on weekends, holidays or from Memorial Day weekend to Labor Day of any year.
  - iv. The applicant shall submit evidence that the approved plans and plan notes have been incorporated into construction bid documents. The applicant shall remove all construction materials/equipment from the staging site and restore the staging site to its prior-to-construction condition within 24 hours following completion of the development.
- (b) The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall

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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.

5. **Deed Restriction/CC&R's Modification.**

- (a) **PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT**, applicant Solana Beach and Tennis Club, on behalf of the Homeowners' Association (HOA) at 347-459 South Sierra Avenue, Solana Beach, San Diego County, shall do one of the following:
- i. Submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction in a manner that will cause said deed restriction to appear on the title to the individual condominium units, and otherwise in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as they apply to the HOA, as covenants, conditions and restrictions on the use and enjoyment of the individual condominium units. The deed restriction shall include a legal description of the entire parcel or parcels against which it is recorded. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property, or
  - ii. Modify the condominium association's Declaration of Restrictions or CC&Rs, as applicable, in a form and content acceptable to the Executive Director, to reflect the obligations imposed on the homeowners' association by the conditions of CDP #6-17-0819. This addition to the CC&Rs may not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit.
6. **As-Built Plans.** Within 60 days following completion of the project, the permittee shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the seacave infill maintenance has been implemented in conformance with the approved plans for the project.
7. **Future Maintenance/Debris Removal.** The permittee shall remove all debris deposited on the beach or in the water as a result of the maintenance of the seacave infills. The permittee shall also remove all debris deposited on the beach or in the water as a result of failure or damage to the shoreline protective device in

the future. Maintenance of the seacave infills shall include, at a minimum, maintaining its color, texture, and integrity. Any change in the design of the project or future additions/reinforcement of the seacave infill beyond minor re-grouting or other exempt maintenance as allowed by Section 13252, Title 14, of the California Code of Regulations, will require a coastal development permit or amendment. However, in all cases, if, after inspection, it is apparent that repair and maintenance is necessary, the permittee shall contact the Commission's San Diego office to determine whether a permit or amendment is necessary, and shall subsequently apply for a coastal development permit or amendment for the required maintenance. If at any time after project completion, any portion of the seacave infills are found to extend seaward of the face of the natural bluff by more than six inches in any location, the permittee shall obtain and implement a coastal development permit or amendment to remove or remedy the excess infill such that no portion of the infill remains seaward of the drip line between the adjacent natural bluff on either end of the infill.

8. **Assumption of Risk.** By acceptance of this permit, the applicant acknowledges and agrees (1) that the site may be subject to extraordinary hazards from wave action, bluff collapse and erosion; (2) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (3) 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 (4) 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.
9. **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. The permittee shall not use this permit as evidence of a waiver of any public rights that exist or may exist on the property.
10. **Reliance on Permitted Armoring.** No future development that is not otherwise exempt from coastal development permit requirements, or redevelopment of the existing principal structures on the bluff top properties governed by this permit, shall rely on the permitted bluff retention devices (existing seacave infills) 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 as defined by the Solana Beach Land Use Plan, as certified by the Commission in August 2014 in the policy defining Bluff Top Redevelopment, which is hereby incorporated by reference.
11. **Condition Compliance.** Within 180 days of Commission action on this coastal development permit, or within such additional time as the Executive Director may

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grant for good cause, the applicant shall satisfy all requirements specified in Special Condition #5 of this permit. Within 60 days of Commission action on this coastal development permit, 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, with the exception of Special Condition #5, 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 provision of Chapter 9 of the Coastal Act.

### IV. FINDINGS AND DECLARATIONS

#### A. PROJECT DESCRIPTION/HISTORY

The proposed project is maintenance and repair of five existing seacave concrete infills approved by the Commission in 1996 (CDP #6-96-102). The five infills are located on the coastal bluffs below the Solana Beach and Tennis Club, an existing 152-unit, multi-story condominium complex in the City of Solana Beach ([see Exhibit #2](#)). The site was developed in the early 1970s, prior to passage of the Coastal Act. Currently, the closest portions of the condominium buildings are approximately 15.2 feet from the bluff edge. The bluffs are owned by the condominium homeowners association and there is an existing easement for public recreational use located from the mean high tide line to approximately the toe of the bluff, which was accepted by the County of San Diego in 1972. The site is located approximately 0.3 miles from Fletcher Cove, the main coastal access point in Solana Beach.

The five existing infills cover approximately 250 square feet of the bluff face below the condominium complex. The concrete filled caves range in height from 3 to 11 feet and range in depth from 4 ½ to 24 feet. Since the caves were filled, on-going erosion of the natural bluff face has resulted in various portions of the concrete infill extending beyond the face of the bluff and encroaching onto the sandy beach. As proposed, any portion of the infill that protrudes more than 6 inches beyond the face of the bluff will be removed. Work will consist of excavation of any sand covering the infill down to the bedrock shore platform. Two-inch-diameter holes, 12-inch deep on center, will be drilled into the infill, parallel to the surrounding natural bluff face, below or slightly landward of the existing drip line. A water-based expansive mortar product will be poured into the drilled holes. As the mortar cures, it will expand and split the infill along the line of 2-inch diameter holes. Minor hand-trimming will be performed to sand down the jagged edges of the infill and the beach sand will be replaced. All infill fragments will be hauled off-site.

The Commission certified the City's Land Use Plan (LUP) in 2012; however, the City of Solana Beach does not yet have an implementation plan; thus, the LCP is not fully certified. Therefore, the Chapter 3 policies of the Coastal Act are the standard of review, with the City's certified LUP used as guidance.

**Site History:**

The five existing seacave infills on the subject site were originally approved by the Commission on November 12, 1996 (Ref: CDP #6-96-102/Solana Beach & Tennis Club). The Commission found at that time that the existing condominium development “would probably not be immediately imperiled in the event of slope failure on the site,” but that the “caves, cracks, fissures, and joints within the exposed bedrock units will eventually enlarge and threaten the stability of the bluffs, and that plugging and filling of the sea caves is necessary to protect dwelling units on top of the bluff threatened by the collapse of the caves.” The Commission determined that failure to fill the sea caves would perpetuate the risk of future bluff failures that could threaten the existing buildings.

The existing seacave infill construction consisted of a 12-inch thick cast-in-place or precast soil/cement mix facing embedded a minimum of one foot into the bedrock at the base of the bluff. The area behind the facing was backfilled with an air-blown soil/cement mixture, and the facing was anchored to this mixture with 18-inch long reinforcing bars. The sea cave plugging and filling procedure was designed with a leaner soil-cement mix on the external facade and a stronger mix internally. This process was intended to allow the erosion of the plugs to match the rate of natural erosion of the adjacent bluff at least until the stronger material was exposed. The external facade was then colored and textured to match the natural bluff.

Special conditions on the project required on-going monitoring and evaluation of the infills and that if, contrary to the expected performance of the fill material, any of the sea cave plugs was found to extend seaward of the face of the natural bluff by more than 6 inches in any location, the applicant apply for a coastal development permit to correct this deficiency ([see Exhibit #4](#)). The current project is intended to fulfill this condition.

Portions of the concrete infills have not eroded at the same rate as the adjacent natural bluffs. A geotechnical report, dated January 30, 2018, provides an analysis of the performance of the existing ‘leaner soil-cement mix’ concrete infills:

*“We have observed that marine erosion is starting to flank the side and bottom edge of the concrete infills at the base of the sea cliff. . . . This erosion will continue to grow as wave forces erode the lower sea cliff. The erosion has resulted in concrete infill edges that protrude beyond the face of the sea cliff. These protrusions have become unsightly and likely contribute to accelerated erosion of the sea cliff immediately adjacent to the infill by trapping wave energy. As these notches enlarge adjacent the existing infills, blockfall failures will eventually jeopardize the bluff-top improvements.”*

The applicant does not provide an explanation of why the infills have retreated at a slower pace in the 2018 geotechnical report but does acknowledge that in monitoring reports prepared by Vinje & Middleton Engineering, Inc., from 1998 to 2005, little erosion of the infills was noted. In an amendment request to the original permit approving the construction of the five seacave infills, the applicant stated that the reason

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why the infills have retreated at a slower pace than the natural Torrey Sandstone bluff material at the subject site is because:

*“ . . .the Torrey Sandstone has widely ranging strengths at any given location. Concrete, erodible or otherwise, has a relatively uniform strength. In areas where the formation is locally weaker than the infill, differential erosion will occur. In areas where the infill and formation have similar strength properties, erosion will be similar. . . (Ref: TerraCosta Letter dated June 25, 2014).”*

The applicant has stated that the properties of the concrete mix used in 1996 were stronger and less erodible than the material used in subsequent projects. However, the infills at the subject site have protruded onto the beach by more than 6 inches for at least 5 years now, and there have been several proposals by the applicant to address the encroachments. As described below under section B. Geologic Stability, not all of the required monitoring reports were submitted as required by the original permit. Monitoring reports were resumed when it was apparent that the infill was protruding by more than 6 inches beyond the bluff face, and thus, it is likely that the first application to remove the encroachment should have been submitted for Commission review earlier than it was.

This project was approved by the City of Solana Beach in 2013 (Ref: Resolution 2013-039 approved April 24, 2013). The applicant then applied to the Commission for a CDP (CDP 6-96-102-A1). However, after discussions with Commission staff, in 2014, the applicant modified the project proposal to include filling a 75-foot long notch in the coastal bluff and to remove more of the portions of existing infill located seaward of the bluff face. As a result of the modified project proposal, the City alerted the applicant that a new City Resolution would be required. The applicant withdrew CDP 6-96-102-A1 in 2015 in order to obtain a new City Resolution (Ref: Resolution 2015-094 approved August 25, 2015), and applied for a new CDP amendment in 2015 to infill the 75-foot long notch and maintain and repair the existing infills including removal of protruding concrete edges, additional concrete infilling where undermining and flanking of the infill had occurred, and installation of carved and colored erodible concrete on the face of the existing infills (6-96-102-A2). However, in January 2016, the Commission denied the permit amendment due to a lack of sufficient evidence that the proposed erodible concrete would be correctly constructed and would have compression strength comparable to the adjacent natural bluffs.

In January 2018, the applicants applied for the subject permit. Originally, the proposed project included infilling a 75 ft. long, 3-6 ft. high, 1-4 ft. deep, 370 sq. ft. notch in a coastal bluff with erodible concrete and maintaining the five existing seacaves including removal of concrete protruding beyond the bluff face, adding additional erodible concrete where existing infills are undermined and/or flanked, and replacing approximately 6 inches of existing concrete with 6 inches of carved and colored erodible concrete flush with bluff face. The project was originally scheduled to be heard on the Commission's June 2018 agenda, but the applicant requested a postponement to respond to staff's recommendation.

Since then, the applicant has revised the proposed project to consist of only maintaining and repairing the five existing seacaves by removing the portions of the fill extending into the beach by more than 6 inches; no new concrete is proposed.

## **B. GEOLOGIC STABILITY**

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 relevant LUP policies.

Section 30235 of the Coastal Act states, in part:

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

Section 30253 of the Act states, in part:

*New development shall do all of the following:*

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

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

Page 13 of the Hazards and Shoreline/Bluff Development chapter states the following, in part:

- *Infill/Bluff Stabilization – Seacave/Notch Infill (See Appendix B Figure 1A) – This first solution is designed to address sea caves and undercut portions of the lower dense sandstone bluff where the clean sand lens is not yet exposed. If left uncorrected, the sea cave/undercut will eventually lead to block failures of the lower sandstone, exposure of the clean sand lens and landward bluff retreat. This failure exposes the clean sand lens of the upper bluff terrace deposits triggering rapid erosion and landward retreat of the upper bluff, which*

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*eventually endangers the structures at the top of the bluff. If treated at this stage, the Bluff Retention Device will minimize the need for a future higher seawall and future upper bluff repair. This alternative is not designed as a structural wall, is not reinforced, does not include tiebacks, and uses only erodible concrete which shall erode at the same erosion rate as the surrounding natural bluff material. The infill is required to maintain a textured and colored face mimicking the existing bluff material. Erodible concrete seacave/notch infills are designed to erode with the natural bluff and, when maintained to do so, are not subject to the sand supply mitigation, public access and recreation mitigation, encroachment/removal agreement, or authorization timeline policies of the LUP.*

The LUP defines Bluff Retention Devices as follows:

***Bluff Retention Devices*** means a structure or other device, including seacave/notch infills, dripline infill, coastal structures, upper bluff systems, and temporary emergency devices, designed to retain the bluff and protect a bluff home or other principal structure, or coastal dependent use from the effects of wave action erosion and other natural forces.

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.*

Policies 4.18 and 4.48 of the Hazards and Shoreline/Bluff Development chapter state the following in regards to the required analysis for the expansion and/or alteration of an existing seacave/notch infill:



*Policy 4.18: A legally permitted bluff retention device shall not be factored into setback calculations. Expansion and/or alteration of a legally permitted bluff retention device shall include a reassessment of the need for the shoreline protective device and any modifications warranted to the protective device to eliminate or reduce any adverse impacts it has on coastal resources or public access, including but not limited to, a condition for a reassessment and reauthorization of the modified device pursuant to Policy 4.53.*

*Policy 4.48: A Seacave/Notch Infill shall be approved only if all the findings set forth below can be made and the stated criteria satisfied.*

[ . . . ]

*B. The Seacave/Notch Infill shall be designed and constructed:*

- 1. To avoid migration of the Seacave/Notch Infill onto the beach;*
- 2. To be re-contoured to the face of the bluff, as needed, on a routine basis, through a CDP or exemption, to ensure the seacave/notch infill conforms to the face of the adjoining natural bluff over time, and continues to meet all relevant aesthetic, and structural criteria established by the City;*
- 3. To serve its primary purpose which is to delay the need for a larger coastal structure, and designed to be removable, to the extent feasible, provided all other requirements under the LCP are satisfied; and,*
- 4. To satisfy all other relevant LCP and City Design Standards, set forth for Bluff Retention Devices.*

The bluffs in Solana Beach are typically approximately 80 feet high, (the bluff at the subject site is approximately 65 feet high), and include a “clean sands” lens located between the Torrey Sandstone and Marine Terrace Deposits (at approximately elevation 25 to 35 feet). The clean sand layer has been described as a very loose sandy material with a limited amount of capillary tension and a very minor amount of cohesion, both of which cause the sandy material to dissipate easily, making this clean sand layer, once exposed, susceptible to wind-blown erosion and continued sloughing as the sand dries out and loses the capillary tension that initially held the materials together.

When ongoing wave action, often exacerbated by a lack of beach sand, results in bluff retreat and erosion, the presence of the clean sands creates a process where the clean sands rapidly undermine the upper sloping terrace deposits, causing the upper bluff to collapse, thereby exposing more clean sands to wind erosion, which then results in more upper bluff collapses. This cycle can occur so quickly (over months or days, rather than years) that the upper bluff never achieves a stable angle of repose.

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The process of undercutting and notching of the bluffs seen along the Solana Beach shoreline represents the natural process of bluff retreat and erosion in this portion of North San Diego County. The process has clearly accelerated in Solana Beach over the last two decades, as the amount of sand on the beaches has decreased and the bluffs are subject to more frequent wave action. Because all of the bluff top lots in Solana Beach (aside from one vacant lot at 523 Pacific Avenue) are currently developed with single and multi-family structures, there is very little opportunity for the bluffs to retreat without adversely affecting the safety and stability of bluff-top principal structures. Thus, some amount of shoreline protection along much of Solana Beach may be unavoidable. However, the cycle of large collapses and retreat can be slowed through the construction of erodible concrete seacave/notch infills.

The formation of the notch overhangs along this portion of the Solana Beach shoreline is generally attributed to increasing amounts of wave action. The lower bluff along this section of shoreline consists of Torrey Sandstone, which is one of the least resistant bedrock formations along the North County coast. As waves impact the Torrey Sandstone, notches are formed creating an overhanging layer of Torrey Sandstone. As the overhang loses support from beneath, its weight along with any structural weakness in the Torrey Sandstone formation eventually leads to a block-like failure. These existing overhangs will eventually collapse, exposing the clean sands and undermining the upper bluff and triggering progressive upper-bluff failures.

The applicant acknowledges that the five existing seacaves on the site are not eroding with the natural bluffs. As described above, the mixture used to fill these caves is no longer used, because it does not provide the appropriate level of erodibility. Even so, the impacts of the infill were limited through the conditions applied to the original permit that require if any portion of the infills are found to extend seaward of the drip line of the natural bluff by more than six inches in any location, maintenance or a new permit is required to correct the differential.

Special Condition #2 of CDP #6-96-102, the permit allowing the original seacave fill, required the applicant to submit monitoring reports on an annual basis for the first three years of the project by May 1 (beginning the first season after construction of the project was completed). After the first three years, the reports were to be submitted at 5-year intervals following the last report. Special Condition #3 of CDP #6-96-102 required the applicant to apply for a coastal development permit to implement corrective measures if a monitoring report indicated that an infill extended seaward of the face of the natural bluff by more than six inches. The applicant submitted monitoring reports in compliance with the condition for 1998, 1999, 2000, and 2005. The 2005 monitoring report did not state nor indicate that the 5 existing infills were protruding significantly seaward of the natural bluff face. The next monitoring report, which had to be submitted by May 1, 2010, was not submitted in compliance with Special Condition #2 of CDP #6-96-102. Non-compliance with the monitoring requirements of the original permit resulted in unpermitted development on the subject site. Approximately 7 years passed before the applicant submitted the first amendment request (CDP #6-96-102-A1) on June 21, 2013, to remove the edges of the existing infill protruding seaward of the natural bluff material. In the amendment request, the applicant submitted an Infill Monitoring Report prepared

by TerraCosta dated 12/23/13. The report indicated that the infills were extending seaward of the drip line by more than six inches in several locations. The latest monitoring report, dated 01/05/18, provides pictures and cross-sections of the infills showing the protruding edges of the existing infills. The applicant is now proposing to remove the protruding edges of the existing infills.

Special Condition #2 of CDP #6-96-102, which is still in effect, requires the applicant to submit a monitoring report at 5-year intervals following the last report. The next monitoring report was due May 1, 2018, but provided early on January 5, 2018. However, **Special Condition #2** of this permit, requires submittal of a report to the Executive Director of the Coastal Commission on June 1<sup>st</sup> every two years for a six-year period beginning after completion of construction. Submission of this report will serve to satisfy the on-going requirements of Special Condition #2 of CDP #6-96-102.

Furthermore, because non-erodible shoreline protection has impacts on public access, **Special Condition #3** notifies the applicant that failure to submit a monitoring report required pursuant to **Special Condition #2** (or follow up coastal development permit or amendment when required) will presumably constitute a violation of public access provisions of the Coastal Act and, thus, the applicant will be subject to civil penalties pursuant to Section 30821 of the Coastal Act commencing from the date a deadline to submit a monitoring report or amendment is not met.

**Special Condition #7** requires the permittee to maintain the seacave infills in their approved state, and also requires that if at any time after project completion, any portion of the seacave infills is found to extend seaward of the face of the natural bluff by more than six inches in any location, or the stringline of the adjacent natural bluff on either side of each infill, the applicant must shall obtain and implement a coastal development permit or amendment to remove or remedy the excess infill such that no portion of the infill remains seaward of the drip line. Minor re-grouting or exempt maintenance as allowed by Section 13252 of Title 14, the California Code of Regulations (e.g., restoring color, texture, etc.) does not require an additional coastal development permit or amendment. However, whenever changes or maintenance on the seacave infills is proposed, the applicant must contact the Commission office to determine whether permits are necessary. Thus, the Commission can be assured that, as conditioned, the infill will be properly maintained and will erode or be physically removed at the same rate as the adjacent bluff and that any adverse impacts to shoreline processes have been or will be avoided, minimized, or mitigated.

Although the Commission finds that the seacave infills have been designed to minimize the risks associated with its implementation, the Commission also recognizes the inherent risk of shoreline development. The seacave infills will be subject to wave action and will be at or landward of the drip line of the eroding bluff above the infill. Thus, there is a risk of bluff failure during the removal of protruding portions of the existing infills. In addition, there is a risk of damage to the seacave infills or damage to property as a result of wave action on the seacave infills. Given that the applicant has chosen to construct the infills despite these risks, the applicant must assume the risks. Accordingly, **Special Condition #8** requires that the applicant assume these risks and waive any claim of

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damage or liability against the Commission for approval of this application. To ensure that future property owners are properly informed regarding the terms and conditions of this approval, **Special Condition #5** requires a deed restriction to be recorded against the properties involved in the application.

Section 30253 requires that new development be independently stable and safe and not require the construction of protective devices that alter the natural landform of the bluffs. In addition, Policy 4.18 of the City's approved LUP requires that existing legally permitted bluff retention devices not be factored into setback calculations for new development or redevelopment of bluff-top properties. Such future development must be located in an area where the development is consistent with Coastal Act and/or applicable LCP requirements regarding geologic safety and protection from hazards as if the protection did not exist, including whatever remains of the seacave infills. Thus, **Special Condition #10** prohibits future development and redevelopment of the bluff top site from relying on the existing shoreline protection for stability.

**Special Condition #10** also defines "redevelopment" pursuant to the City's LUP. As quoted above, this includes alterations, including additions, exterior or interior renovations, or demolition that results in a 50 percent or greater alteration of a major structural component (including exterior walls, floor and roof structures, and foundation) or a 50 percent increase in floor area, cumulatively over time on or after certification of the City's LUP. Furthermore, changes to major structural elements are not additive between individual elements, while alterations to individual major structural elements are cumulative. Thus, if in the future, the applicant proposed to modify 40% of the exterior walls and 30% of the roof structure; this would not be considered redevelopment because it relates to two different major structural components. However, if the applicant was to come back for a subsequent CDP to modify an additional 10% of the exterior walls (50% total) or an additional 20% of the roof structure, (50% total) the project would be considered redevelopment because it would result in a cumulative alteration to 50% of a major structural component. Additions are also cumulative over time, such that an initial 25% addition would not be considered redevelopment; but a subsequent 25% addition, relative to the initial floor area, would result in a cumulative 50% increase in floor area, and would thus constitute redevelopment.

### **Conclusion**

In summary, given the amount of coastal erosion that has occurred in the area over the last several years, Solana Beach is currently faced with how to protect bluff top homes from erosion while minimizing or avoiding impacts to public coastal resources. The subject site is an area where preventive measures such as the subject seacave infills represent a feasible alternative to a seawall. The project is distinguishable from the 2016 denial because it is only a proposal to maintain and repair the existing seacave infills. The proposed project will remove protruding concrete currently encroaching on public beach area in accordance with the original permit requirements.

Therefore, the Commission finds that approval of the proposed maintenance and repairs to the seacave infills consistent with the long-term goals of Sections 30235 and 30253 of

the Coastal Act regarding the protection of natural shoreline processes, natural landforms and local shoreline sand supply.

### C. VISUAL RESOURCES

Sections 30240, 30250 and 30251 of the Coastal Act require that the scenic and visual qualities of coastal areas be protected, that new development adjacent to park and recreation areas be sited so as to not degrade or impact the areas and that new development not significantly adversely affect coastal resources:

#### ***Section 30240***

[ . . . ]

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

#### ***Section 30251***

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

In addition, the following certified City of Solana Beach LUP language, although not the standard of review, provides pertinent guidance regarding the protection of coastal zone visual resources:

***Policy 4.30:*** *Limit buildings and structures on the sloped face and toe of the bluff to lifeguard towers, subsurface public utility drainage pipes or lines, bluff retention devices, public stairs and related public infrastructure which satisfy the criteria established in the LCP. No other permanent structures shall be permitted on a bluff face. Such structures shall be maintained so that they do not contribute to further erosion of the bluff face and are to be visually compatible with the surrounding area to the maximum extent feasible.*

***Policy 4.38:*** *Maximize the natural, aesthetic appeal and scenic beauty of the beaches and bluffs by avoiding and minimizing the size of bluff retention devices, preserving the maximum amount of unaltered or natural bluff face, and minimizing encroachment of the bluff retention device on the beach, to the extent feasible, while ensuring that any such bluff retention device*

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*accomplishes its intended purpose of protecting existing principal structures in danger from erosion.*

The proposed development is located on the face of a coastal bluff at or landward of the drip line and at or near the same level as the existing sandy beach. There are numerous filled seacaves along the bluffs in Solana Beach and these represent a fairly prominent feature of the shoreline in this area. However, these infills, while visible, are relatively inconspicuous and do not represent a significant visual blight. In addition, at times when the sand levels are high, these infills are less visible. Seacave infills are considerably less visually prominent and have less public access impacts than traditional seawall projects or riprap revetments.

However, the infills at the subject site currently encroach on the beach and beyond the bluff face in an unnatural manner. The proposed removal of concrete that protrudes beyond the bluff face is expected to result in an improved, more natural appearance. **Special Condition #1** requires the applicant to submit revised final plans showing the specific dimensions and profile of each existing seacave infill including the length of the protruding infill measured from the dripline. **Special Conditions #2 and #8** require the applicant to remove or remedy any excess infill that extends more than six inches seaward of the drip line to ensure the material remains flush with the surrounding bluffs in the future. **Special Condition #6** also addresses this concern and requires the applicant to submit as-built plans within 60 days of construction of the proposed development to assure the infill has been constructed according to the approved plans.

Thus, the project has been designed and conditioned to match the surrounding natural bluffs to the maximum extent feasible, thereby improving visual quality. Therefore, the Commission finds that the subject development is consistent with the visual resource and recreation policies of the Coastal Act.

### **D. PUBLIC ACCESS**

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. Coastal Act Sections 30210, 30211, 30212, 30212.5, and 30221 require that public access and use of the coast shall be maximized, that development shall not interfere with the public's right to access the coast and use of dry sand beaches, and that oceanfront land suitable for recreational activities shall be protected.

#### *Section 30210*

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

Section 30211

*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 accessways 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. [...]*

Section 30221

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

In addition, the following certified City of Solana Beach Land Use Plan (LUP) language provides additional guidance regarding mitigation for erodible concrete seacave/notch infills:

Page 13 of the Hazards and Shoreline/Bluff Development chapter, cited above, states the following, in part:

- ***Erodible concrete seacave/notch infills are designed to erode with the natural bluff and, when maintained to do so, are not subject to the sand supply mitigation, public access and recreation mitigation, encroachment/removal agreement, or authorization timeline policies of the LUP.*** [Emphasis Added]

The subject project is located on the public bluff formation directly adjacent to a public beach. The mean high tide line is located at the toe of the bluff. Although public lateral access is available along the entire stretch of coastline in this area, vertical access is available only at a limited number of public accessways. The site is approximately 0.3 miles north of the City's main beach accessway at Fletcher Cove.

Consistent with the requirement of the original permit, the subject project will remove portion of the existing seacave fill located at least 6 inches beyond the face of the bluff, removing these minor impediments to public access and recreation.

Shoreline protection projects have the potential to impact existing lateral access along the beach. Structures that fix the back of the beach stop the landward migration of the beach profile while the seaward edge continues to erode, thereby reducing the amount of dry sandy beach available to the public. The Commission has not typically required the payment of funds to mitigate for the public access and recreation impacts of erodible concrete seacaves in Solana Beach, because they do not have the same type of adverse impacts that other types of shoreline armoring do, as described above. Thus, the Solana Beach LUP does not require sand supply or public access and recreation mitigation for erodible concrete seacave/notch infills when properly designed and maintained.

(However, prior to approval of the LUP, in 2000, the Commission did accept a mitigation fee of \$21,153 offered by the previous property owners to mitigate non-specific impacts to sand supply, resulting from a seacave infill located on the subject site (CDP #6-00-066/Monroe & Pierce).

**Special Conditions #2 and #8** ensures that regular monitoring will be conducted and if any portion of the seacave infills does not erode landward encroaching onto the public beach the encroaching portions will be removed. These conditions are necessary to ensure that the seacave infills do not encroach onto the public beach in the future.

The beach area fronting the subject site is a public resource, and thus, the protection of beach along the toe of the bluff is important to maintain access. This stretch of beach has historically been used by the public for access and recreation purposes. **Special Condition #9** acknowledges that the issuance of this permit does not waive the public rights that exist on the property. The use of the beach or public parking areas for the staging of construction materials and equipment also adversely impacts the public's ability to gain access to the beach. As proposed, all vehicles and equipment for the project will enter and exit through Fletcher Cove but no equipment or supplies will be stored or parked in Fletcher Cove or on the beach. **Special Condition #4** prohibits the applicant from storing vehicles on the beach overnight, using any public parking spaces within the Fletcher Cove Parking Lot for staging and storage of equipment, and prohibits washing or cleaning construction equipment on the beach or in the parking lot. **Special Condition #4** also prohibits construction on the sandy beach during weekends and holidays throughout the year, or from Memorial Day to Labor Day of any year. Therefore, as conditioned, the Commission finds that the subject proposal will not result in any significant adverse impacts on beach access or public recreation consistent with Sections 30210, 30211, 30212.5, 30221, 30223 and 30252, pursuant to Section 30604(c) of the Coastal Act.

## **E. UNPERMITTED DEVELOPMENT**

The unpermitted development on the subject property consists of non-compliance with Special Condition #2 of CDP #6-96-102 that requires the applicant to submit monitoring reports on an annual basis for the first three years of the project by May 1 (beginning the first season after construction of the project was completed). After the first three years, the reports were to be submitted at 5-year intervals following the last report. The applicant submitted monitoring reports in compliance with the condition for 1998, 1999,



2000, and 2005. However, a monitoring report for 2010 was not submitted pursuant to Special Condition #2 of CDP #6-96-102. Subsequent monitoring reports were submitted in 2013 and 2018. There was a 3-year period of noncompliance with Special Condition #2 of CDP #6-96-102 from 2010 to 2013.

The current permit requires the applicant to submit a monitoring report, prepared by a licensed geologist or geotechnical engineer, to the Executive Director of the Coastal Commission on June 1<sup>st</sup> every two years for a six-year period beginning after completion of construction. Special Condition #2 of CDP #6-96-102 is still in effect and requires compliance through the submittal of monitoring reports, but this condition may be satisfied concurrently with Special Condition #3 of this permit. Compliance with all of the terms and conditions of both permits will bring the applicant into compliance with the aforementioned violations of the Coastal Act on the subject property going forward.

To ensure that the concrete extending onto the beach is removed in a timely manner as required by the original permit conditions, **Special Condition #11** requires that the applicant satisfies **Special Condition #5** within 180 days and all other prior-to-issuance conditions of this permit within 60 days of Commission action, or within such additional time as the Executive Director may grant for good cause. The two time frames acknowledge that the recordation and Executive Director review of a deed restriction (Special Condition #5) can be time-consuming and thus allow for additional time for that requirement, but all other conditions should be complied with promptly, to allow removal of the encroachment as soon as feasible.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on 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 development, other than the development addressed herein, undertaken on the subject site without a coastal permit.

## **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.

The Commission has certified the City's Local Coastal Program Land Use Plan, but the City has not yet completed, nor has the Commission reviewed any implementing ordinances. Thus, the City's LCP is not fully certified, and Chapter 3 of the Coastal Act is the standard of review. However, as cited above, the certified LUP contains provisions relating to shoreline protection including policies related to erodible concrete seacave infills. The LUP establishes that erodible concrete seacave infills, when maintained properly, are not subject to the sand supply mitigation, public access and recreation mitigation, encroachment removal agreement, or authorization timeline policies of the

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LUP. The project site is designated for Open Space Recreation in the City of Solana Beach LUP. The project, as conditioned, supports recreation as it prevents impacts to the beach.

As conditioned, the subject development is consistent with the land use designation and the shoreline protection policies of the LUP. Based on the above findings, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. 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.

### **G. CONSISTENCY WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

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 Council of the City of Solana Beach found that the proposed development was exempt from CEQA pursuant to State CEQA guidelines sections 15301(d) (Existing Facilities) and 15304(c) (Minor Alterations to Land).

As conditioned, 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).

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- City of Solana Beach certified LUP
- City of Solana Beach General Plan and Zoning Ordinance
- City of Solana Beach City Council Resolution 2015-094
- Infill Monitoring Report prepared by TerraCosta (Dec 2013)
- Geotechnical Report prepared by TerraCosta (Jan 2018)
- CDP #6-96-102
- CDP #6-96-102-A2