

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAIN DRIVE SUITE 103
SAN DIEGO, CA 92108
PHONE: (619) 767-2370
WEB: WWW.COASTAL.CA.GOV



Th20b

6-18-0288 (DESIMONE ET AL.)

MARCH 7, 2019

CORRESPONDENCE

- 1. Surfrider Foundation Public Comment Letter Dated April 9, 2018 (Pages 2-5)**
- 2. Surfrider Foundation Public Comment Letter Dated February 28, 2019 (Pages 6-15)**



San Diego County Chapter

April 9, 2018

Delivered via email

To: Gregory Wade
City Manager
Solana Beach

Re: Agenda Item B1 - CUP 17-17-27, 235, 241 & 245 Pacific Ave

Dear Mr. Wade,

We are writing to object to any shoreline protection for 245 Pacific Avenue. As stated on page 2 of the staff report, the property located at 245 Pacific Avenue cannot be granted a permit for any shoreline protection:

245 Pacific Avenue

The original structure at 245 Pacific Avenue was constructed in the mid to late 1950's and is located at the north end of the project site. A CCC permit was issued in 1996 for the construction of a new home (CCC CDP 6- 96-21). A condition of the CCC permit included a deed restriction waiving future rights to shoreline protection. As shown in Table 1 on the next

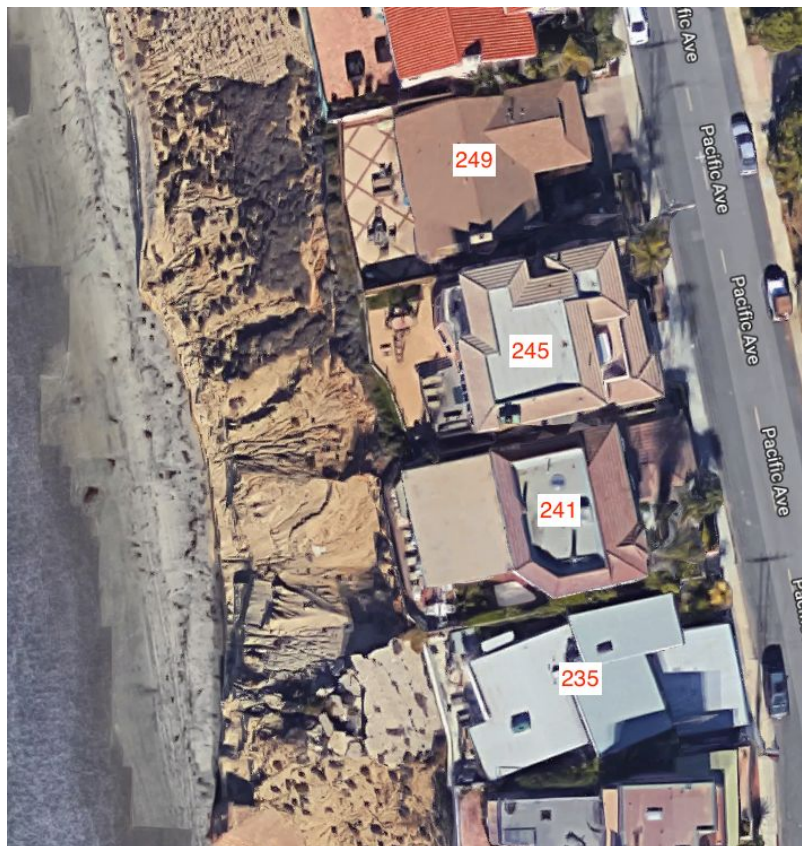
Coastal Commission staff report W16a-5-2014 provides more detail on this deed restriction (full staff report available at <https://documents.coastal.ca.gov/reports/2014/5/W16a-5-2014.pdf>)

"When the home at 245 Pacific Avenue was approved by the Commission, two options were provided to the landowner. The first option was to set the home back 40 feet from the bluff edge in a location that would have a higher likelihood to be safe for 75 years from bluff erosion. The second option was to set the home a minimum of 25 feet back from the bluff edge and waive all rights to construct any upper or lower bluff stabilization devices (other than filling of seacaves) to protect any portion of the residence located within the 40 ft. blufftop setback area, to utilize a foundation design that could be removed in the event of endangerment, and to record a deed restriction acknowledging that the portion of the home located closer than 40 ft. from the bluff edge would be removed if the bluff edge receded to within 10 ft. of the structure and that portion of the home was considered unsafe for occupancy. The applicant

chose the second option and sited the home 25 feet back from the bluff edge.”

The owners made the decision to site the home 25 feet back from the bluff edge and accept the long term consequences of this decision. The owners of 245 Pacific Ave waived their right to upper or lower bluff stabilization by building a new home so close to the edge of the bluff. If the home is indeed threatened, a sea wall is not allowed, and the threatened portion of the home should be removed per the deed restriction. The City of Solana Beach has a responsibility to respect this deed restriction.

In addition, 245 Pacific Avenue has previously been denied a seawall by the Coastal Commission. In 2014, 249 Pacific Avenue applied for a 49 ft-long seawall that would have provided partial protection to 245 Pacific Avenue. The Coastal Commission denied this request, and instead allowed 249 Pacific Avenue a 24 ft-long seawall that went no further than the southern extent of the bluff area fronting 249 Pacific Avenue. They determined that this shorter seawall would provide adequate protection for 249 Pacific Avenue.



We would also like to point out an error in the geologic report (page 14) and staff report on page 2:

was issued for a 2,040 square-foot addition (CCC CDP 6-89- 29). The subject site, along with most of Solana Beach, experienced severe amounts of coastal erosion as a result of the 1997-98 El Niño winter storms, which removed most of the sand from the beach during that winter. As a result of the lower bluff erosion, the upper bluff began to fail in a progressive manner, causing the need for emergency repairs to the upper bluff in 2008 (CCC CDP 6-08-76-G). SEC was the engineer and contractor for a previous project, involving an upper bluff drilled-pier caisson system. A series of upper-bluff failures at this site continue to migrate

The 1997-98 El Niño was not the impetus for the bluff collapse at this subject site. Bluff collapses and lower bluff erosion were happening at the site as early as 1972 as evidenced by the photograph on californiacoastline.org. The photograph shows the following:

- 1) The site area was in need of protection by presence of an unpermitted gunnite structure on the cliff face present in the 1972 photo.
- 2) The site had severe undercutting in the 1972 photo. Caves were also present.
- 3) The lack of vegetation on the bluff face indicates it was undergoing erosion.



<http://www.californiacoastline.org/cgi-bin/image.cgi?image=7241046&mode=big&last>

[mode=timecompare&flags=0&year=1972](#)

In summary, 245 Pacific Ave has previously waived its right to a sea wall and recorded this waiver as a deed restriction. The city has a responsibility to uphold this deed restriction and deny the sea wall permit application at 245 Pacific Ave.

Sincerely,

Kristin Brinner & Jim Jaffee
Residents of Solana Beach
Beach Preservation Committee co-chairs
San Diego County Chapter, Surfrider Foundation



San Diego County Chapter

February 28, 2019

Delivered via email

To: Karl Schwing
District Director, San Diego Coast
California Coastal Commission

Re: Item Th20b, 245, 241, & 235 Pacific Ave, Solana Beach CA

Dear Mr. Schwing,

It was with very heavy hearts that we read the staff report recommending approval of the proposed seawall in front of 245 Pacific Avenue. We don't necessarily disagree with staff's assertions that the possible alternatives are not very desirable if this seawall is denied. It would leave an unarmored gap that could result in the construction of more impactful protection on adjacent lots. It could result in the addition of upper bluff geogrid to slow erosion. The short-term impacts to the natural landform and visual quality of the bluff could be greater than the short-term impacts associated with the proposed seawall. However, we should take a step back to recognize what approval of this sea wall means long-term to the beaches of Solana Beach.

It is important to remember that the bluffs in Solana Beach are public property either by deed or easement. Despite this fact, a majority of the bluffs in Solana Beach are already armored. Public property has been taken from the public for use by private property owners. By allowing a new home constructed in 1996 (20 years after the Coastal Act), which has an explicit deed restriction waiving the rights for future shoreline armoring, to construct a seawall because of its northern and southern bluff-top neighbors, is effectively and indefinitely surrendering the publicly-owned bluffs and beach to private blufftop homeowners. We acknowledge that there is a condition that redevelopment of 235 or 241 Pacific Ave would trigger expiration of the CDP for 245 Pacific Ave's seawall. However, once there is a contiguous wall that stretches from 231 Pacific Ave north fronting a total of 33 lots (which is the result of the proposed 3-lot seawall), is it realistic that redevelopment of any one of those properties would result in the removal of the seawall in front of the redeveloped

property? Certainly not. In that future, not-so-hypothetical situation, the exact same argument is being made here. From the perspective of private property owners, a contiguous seawall is less aesthetically offensive and provides better protection to the neighboring homes. Taking this to its logical conclusion, any new home, regardless of the fact that it was built after the Coastal Act and in no way should be allowed a seawall, can now get a seawall in Solana Beach - as long as at least one of its nearby neighbors is a pre-Coastal Act home.



Aerial view of subject property (from Google Maps)

As you can see from the images captured by the California Coastal Records projects, starting at Tide Park at 475 Pacific Ave (approximately 1 mile north of 245 Pacific Ave) adding a sea wall in front of 235, 241, and 245 Pacific Ave will result in a continuous seawall fronting 33 properties (<https://www.californiacoastline.org/>, most recent images from 2013). Only 5 properties between Tide Beach Park and Fletcher Cove Beach park will be unarmored, resulting in armoring of almost the entire northern half of the city of Solana Beach.



Going South from Tide Park (475 Pacific Ave) to 235 Pacific Ave and beyond

Deed restrictions are not proving to be effective deterrents to construction of new development in hazardous locations that are subject to coastal erosion. 245 Pacific Ave is being granted a seawall despite a deed restriction, which is exactly what occurred in 2014 for the Bannasch home at 523-525 Pacific Avenue in Solana Beach.

From the 2014 Coastal Commission staff report concerning the Bannasch residence (application 6-13-0948), pages 12-13:

In July of 1991, the Commission approved CDP #6-91-81 for the demolition of the existing home at 523-525 Pacific Avenue that was built before the effective date of the Coastal Act and construction of a new 3,135 sq. ft. single family residence on one of the two lots and a boundary adjustment between the two lots....

At the time of the Commission action, the applicant was provided an option of either locating the home at least 40 feet from the bluff edge or locating the home closer than 40 feet from the bluff edge, subject to special conditions incorporating planned retreat from the bluff edge if the home was threatened by erosion in the future. The applicant chose to site the home 29 feet from the bluff edge and designed the home so that it could be removed if necessary. Conditions of the CDP required, in part, that a deed restriction be recorded against the property that prohibits the landowner from constructing any future upper or lower bluff stabilization devices and requires the landowner to remove the home if the bluff erodes to within 5 feet of it.

Despite this deed restriction from 1991, in 2014 the Coastal Commission approved seacave infills of a cumulative length of 92 feet and depths ranging from 3 to 19 feet.

Some may argue that pre-Coastal Act homes such as 241 and 235 Pacific Ave are nearing the end of their economic lives, so their future redevelopment will trigger the removal of their sea walls. However, this is a false hope as well. As we have seen time and time again in Solana Beach, clever homeowners and contractors have figured out how to ‘renovate’ homes up to 49.99%, thus staying below the 50% threshold that triggers ‘redevelopment’. Such conveniently adjusted ‘renovation’ and ‘redevelopment’ allows these homeowners to keep their seawalls in front of what is an essentially new home - a home that still has the protections granted to pre-Coastal Act homes. For example, 475 Pacific Ave (Mansukhani) in Solana Beach was recently ‘renovated’ as follows (from the 2/22/2017 City of Solana Beach Staff Report):

Table 3 – Project Comparison to Bluff Top Redevelopment Thresholds				
Structural Component	Existing	Proposed or Modified	Percent Change / Difference	LUP Threshold Exceeded?
Exterior Walls	578'-2"	279'-6.5"	48.35%	No
Floor Area	5,666 SF	5,455.4 SF	3.7%	No
Floor Structure	2346 SF	283.8 SF	12%	No

Roof Structure	3,843 SF	1,840.1 SF	47.9%	No
Foundation	3,293.7 SF	1,135.4 SF	34.5 %	No

Almost half of the exterior walls and the roof and a third of the home's foundation were replaced as part of this 'renovation'. In reality, the entire home was completely gutted, and anyone walking by the property would logically infer that the construction was in fact a brand new home being built. Pictures taken in February 2018 of the Mansukhani 'remodel' show how, in essence, a new home can be built even when staying below the 50% threshold.



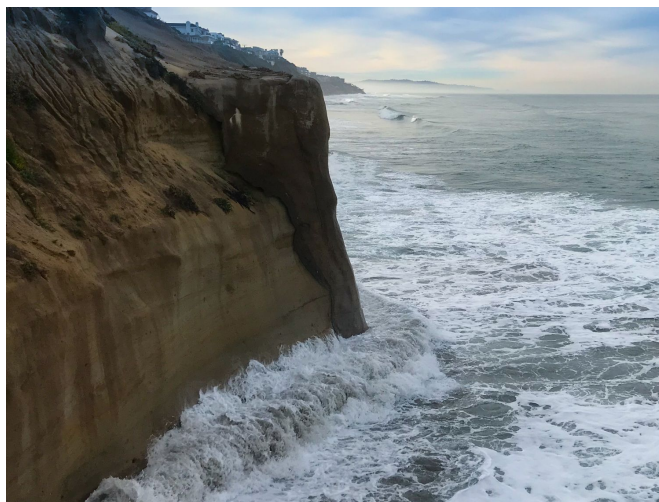
So here is where we stand today. Pre-Coastal Act homes can be 'renovated' to essentially a new home while still staying below the 50% redevelopment threshold that would trigger seawall removal. Deed restrictions are proving ineffective in preventing reckless development that then, illogically, receives a sea wall. By fixing the back of a naturally eroding bluff with seawalls, compounded by the accelerating rate of sea level rise, the public's beaches in Solana Beach will surely be completely lost in the not-so-distant future.

We moved to Solana Beach because we love our beaches, and we looked forward to bringing our children to the beaches as they grow up. In January of this year, the King Tides showed us what our future looks like, and it was not promising:

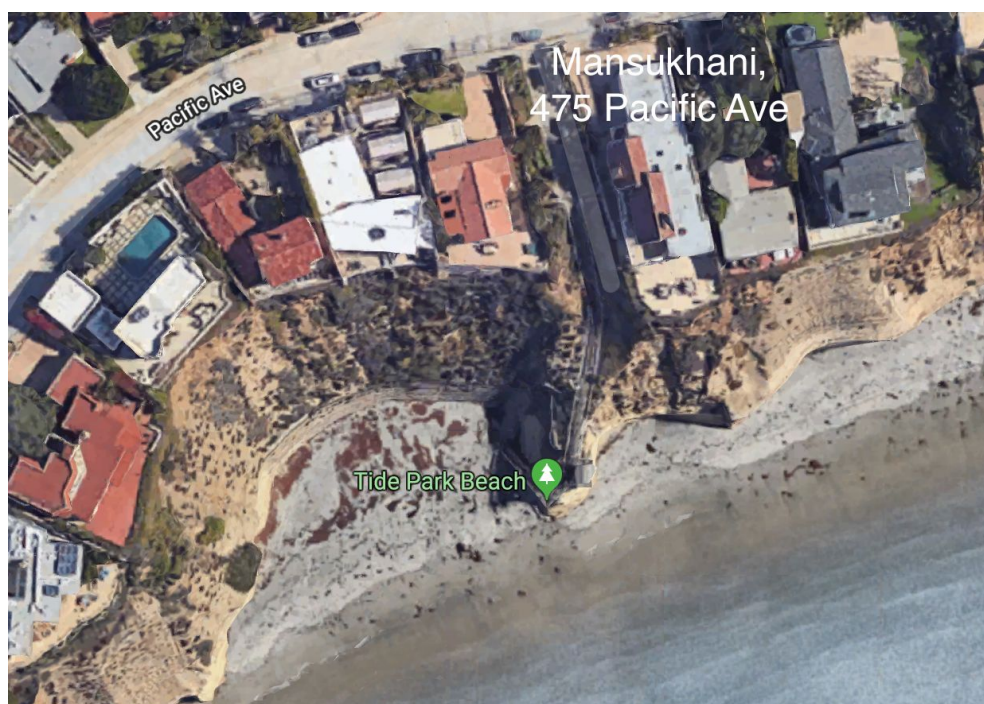
7 ft King Tide, January 2019



Looking north from Tide Park Beach Access



Looking south from Tide Park Beach Access



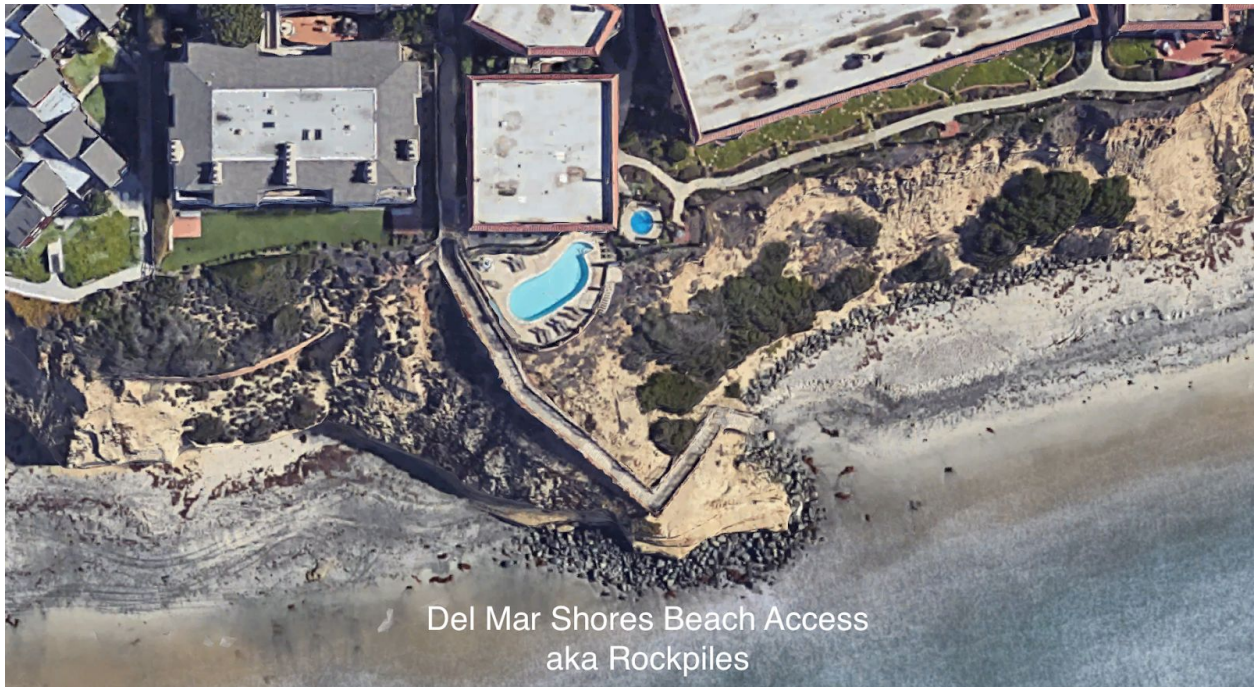
7 ft King Tide, January 2019



Looking north from Rockpiles



Looking south from Rockpiles



Del Mar Shores Beach Access
aka Rockpiles

In light of the devastating effects of seawalls (i.e. increased rate of beach sand erosion), these properties need to be viewed as individually as possible to prevent the armoring of the entire Solana Beach coastline, leading to the disappearance of public beaches. The seawalls proposed to front 241 and 249 Pacific Ave should be viewed as temporary structures. If those homes are ever redeveloped, they would no longer be entitled to those seawalls, which would then be hypothetically removable. Therefore, allowing 245 to have a seawall as proposed in the staff report is problematic due to the deed restriction, new construction, and the potential for a longer continuous seawall. Perhaps, if there were no seawall in front of 245 Pacific, and one of the

neighboring homes were redeveloped and the seawall was removed, a nice little pocket beach could be created as the bluffs would be allowed to retreat naturally.

The Coastal Act section 30253 states the following:

New development shall do all of the following...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.

Approval of this CDP would be in direct opposition to this statute. As such, if approved, stronger conditions should be placed on the CDP for 245 Pacific Ave, such as:

- 1) Immediately removing the portions of the home that are now threatened by erosion.
- 2) Agreeing in the future to remove portions of their home threatened by erosion when the adjacent properties are no longer in need of protection or is at the end of life.
- 3) Adding and enforcing higher mitigation fees, given the extraordinary circumstances for this property. Allowing a new home to build a sea wall despite section 30253 of the Coastal Act and a deed restriction forbidding exactly that activity should come with a high cost.

We understand that this is an argument largely based on principle - principles grounded in the California Constitution and the Coastal Act - but we cannot look at these situations in isolation. The broader implications must be considered. We cannot stand silent as our beaches are dying a death by a thousand cuts.

Sincerely,

Kristin Brinner and Jim Jaffee
Residents of Solana Beach
Co-Chairs of the Beach Preservation Committee
San Diego County Chapter , Surfrider Foundation

Julia Chunn-Heer
Policy Manager
San Diego County Chapter, Surfrider Foundation

Kaily Wakefield
Policy Coordinator

San Diego County Chapter, Surfrider Foundation