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W10a

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Staff: S.Rexing/J.Koppman/J.Manna - SF
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Hearing Date: 9/11/2019

STAFF REPORT: CDP HEARING

Application Number: 2-19-0295

Applicant: MHC San Francisco RV Resort, LP

Project Location: Along the beach and fronting the bluff seaward of San Francisco RV Resort at 700 Palmetto Avenue just north of Milagra Creek outfall in the City of Pacifica, San Mateo County (APN 009-074-020).

Project Description: Authorization for 5,900 tons of riprap (temporarily placed along 625 linear feet of beach and bluff at a 2:1 slope on an emergency basis); for an additional 1,200 tons of riprap along another 225 linear feet (to extend such armoring to the upcoast property line at 1.5:1 slope); restacking of the emergency riprap (to align to the new 1.5:1 slope, with all resulting riprap being 12 feet high, and encroaching 18 feet onto beach); and for construction of a replacement for the previously required public blufftop access trail, beach accessway, and related access amenities.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed armoring portion of the project is located along the beach and bluff seaward of the San Francisco RV Resort (RV Park), and the proposed trail and related improvements would be located on the blufftop seaward and to the south of the RV Park itself at 700 Palmetto Avenue, east of Highway 1 and north of the Milagra Outfall and the Pacifica Municipal Pier, in the City of Pacifica. The RV Park was originally approved by the Commission and developed atop the roughly 70-foot high bluff in 1983, and it currently includes approximately 122 recreational

vehicle (RV) spaces; a restroom facility; a clubhouse containing restrooms, laundry facilities, and common areas; a pool and hot tub; and some 20 public parking spaces spread over about 12 blufftop acres. Since the time when the RV Park was originally constructed, some 60 RV spaces as well as the Commission-required blufftop public trail and beach stairway have been lost to erosion and were never replaced in their authorized form. The lack of compliance with prior permit requirements regarding these required public accessways constitutes a violation that has existed on the site in one form or another since about 2003.¹

Following winter storms in 2016, riprap was temporarily authorized pursuant to an emergency CDP, resulting in the installation of approximately 5,900 tons of 8-10 ton riprap at the toe of the bluff at a 2:1 slope along approximately 625 linear feet of beach and bluff. The Applicant now seeks to both authorize that emergency rock and to extend the riprap an additional 225 linear feet at a 1.5:1 slope through adding some 1,200 tons of rock from the end of the existing emergency riprap up to the northern property line. The Applicant also proposes to reconfigure the emergency rock to align to the new 1.5:1 slope, with all resulting armoring being 12 feet tall and encroaching 18 feet onto beach. In addition, the Applicant proposes to reconstruct vertical and lateral public accessways that were required by prior Commission CDP, along with other access amenities along the lateral trail. The riprap is intended to protect the RV Park and related development, including a City sewer line that was reconstructed in conjunction with the development of the RV Park in the 1980s that runs underneath the site from the upcoast Esplanade subdivision to the inland street (i.e., Palmetto Avenue).

Staff has reviewed the proposal for this site, and has concluded that there are no “existing structures” located at the site as that term is understood in a Coastal Act armoring sense, including because the site was originally developed in the 1980s (and the City sewer line replaced) *after* passage of the Coastal Act in 1976. Therefore, the RV Park and the sewer line do not qualify for shoreline armoring under Coastal Act Section 30235 tests, and for other coastal resource impact reasons the Coastal Act directs denial of the proposed project. However, given that the City’s sewer line is within one storm cycle of being compromised here, and the restroom is in danger within one or two storm cycles (based on estimated bluff erosion of up to 20 horizontal feet in one bad storm event absent armoring), it is clear that development on the site is in fairly immediate danger from bluff erosion. And denial (and ultimately removal of the existing and only temporarily authorized emergency armoring that would accompany denial) would likely lead to such an outcome in the relatively short term. If the sewer line were to be undermined and compromised due to such denial, then it could reasonably be presumed that could lead to adverse impacts to the beach and ocean, inconsistent with Coastal Act policies affirmatively requiring protection of these resources. In other words, denial alone leads to conflicts between meeting the requirements of Coastal Act policies.

Therefore, staff believes that it is appropriate to approve a project through the Coastal Act’s conflict resolution procedures to allow adequate time for the Applicant and the City to develop a feasible adaptation plan for relocation of the sewer line and the RV Park restroom, and a

¹ Consistent with advice from both the State Attorney General and the Coastal Commission Chief Counsel (see memos dated June 20, 2014 and August 1, 2014, respectfully), Commissioners should not engage in any ex parte communications related to these violations.

reconfiguration of the RV Park overall, in light of the coastal hazard risks that apply here. The approved project would allow temporary authorization for the emergency riprap, provided that rock placed on the southern 225 linear feet of the beach/bluffs is relocated to the north to extend the riprap along the beach/bluffs in this northern location in order to help provide better protection for the threatened City sewer line and restroom structure located there. As such, the authorized project would be 625 linear feet from the northern property line, to just south of the restroom. The rock could remain for up to 5 years while the Applicant develops and implements a coastal hazards response plan that provides for relocation of the City sewer line and reconfiguration of the RV Park to address its coastal hazards risk, including reconstructing already required public accessways and adding other public amenities (such as a low-cost tent camping area, overlooks, picnic areas, etc.) to offset riprap impacts during the time it is present. In the interim (i.e., before 5 years) the Applicant would be required to develop interim public accessways to ensure continued public access utility as directed by past CDP requirements. Once relocation and reconfiguration activities are complete, required within 5 years, then the temporarily authorized riprap would be required to be removed and the beach and bluff areas restored to natural conditions.

Thus, staff recommends that the Commission approve a CDP for the proposed project with terms and conditions designed to plan for and address coastal hazard issues in the long run in a manner that is most protective of natural shorelines and natural shoreline processes, and that is consistent with the objective of maximizing and enhancing public recreational access and utility in this area. The motion is found on page 5 below.

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EXHIBITS

Exhibit 1: Project Location

Exhibit 2: Project Area Photos

Exhibit 3: Proposed Project Plans

Exhibit 4: Proposed Bluff Trail Preliminary Plans

Exhibit 5: Estimated Hazard Setbacks

Exhibit 6: Sewer Line Map

Exhibit 7: Prior CDPs (CDPs 3-83-212 & 3-83-172, City UP 453-83 and ECDP G-2-16- 0044)

Exhibit 8: Land Valuation

Exhibit 9: Easement Map

I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a CDP for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission **approve** Coastal Development Permit Number 2-19-0295 pursuant to the staff recommendation, and I recommend a **yes** vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number 2-19-0295 for the proposed development 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. 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 Applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Applicant 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.** The Permittees shall submit two full-size sets of Revised Final Plans for Phase I and Phase II development pursuant to the timing requirements indicated below to the Executive Director for review and written approval. The Plans shall be prepared by a licensed professional or professionals (i.e., geotechnical engineer, surveyor, etc.), shall be based on current professionally surveyed and certified topographic elevations for the entire site, and shall include a graphic scale.
 - (a) **Phase I. PRIOR TO ISSUANCE OF THE CDP** the Permittees shall submit two full-size sets of Revised Final Plans for Phase I. The Revised Final Plans for Phase I shall be in substantial conformance with the proposed plans (prepared by ENGEO Geotechnical titled “Site Plan” Figure No. 1, and dated received in the Coastal Commission’s North Central Coast District office on March 13, 2019 – **see Exhibit 3**), except that they shall be modified as identified below:
 - i. **Blufftop Area Fencing/Barriers.** For Phase I purposes, fencing that is visually permeable as possible may be constructed (or the existing fencing retained, but only for Phase I) along the edge of the coastal trail (identified as “Bluff” or “Blufftop” trail in the proposed plans) where such barriers shall be limited as much as possible, and only to those locations where required for public safety. Multiple rows of fencing between the seaward side of the coastal trail and the blufftop edge shall be prohibited.
 - ii. **Relocation of Southern Riprap.** The southernmost approximately 225 linear feet of riprap on the beach and fronting the bluffs shall be relocated to the northern 225 feet of the site adjacent to the current northern edge of the riprap and in the same configuration, and the underlying southernmost area restored to natural conditions.
 - iii. **Blufftop Development Removal.** All development at risk from bluff erosion until the time that the Coastal Hazard Response Plan (**Special Condition 2**) and the Public Access Management Plan (**Special Condition 3**) are developed and implemented, including pavement and underground utilities in the area of the former blufftop RV parking spaces partially lost to erosion, shall be removed and/or relocated and the underlying areas restored to natural conditions.
 - iv. **Interim Blufftop Coastal Trail.** The Plans shall include an interim blufftop coastal trail that can be utilized by the public until the time that the Coastal Hazard Response Plan (**Special Condition 2**) and the Public Access Management Plan (**Special Condition 3**) are developed and implemented. The trail shall be located as close to the blufftop edge as safely possible, extending along the entire seaward frontage of the property, and shall seamlessly connect to the coastal trail segment to the north of the site and to the public parking lot to the south of the site. The trail shall be a minimum of 8-feet wide, shall be made up of decomposed granite, and shall be appropriately delineated to ensure separation from RV Park use areas using methods and materials that best blend into the blufftop access aesthetic (e.g., landscaping, wooden post and rope barrier fencing, etc.). The trail shall remain open and accessible to the public during at least daylight hours (i.e., from one hour before sunrise to one hour after sunset). The trail shall be realigned inland as necessary to maintain its safe

- use, and the Plans shall identify all mechanisms to ensure same, including requirement for Executive Director approval of any realignment episodes.
- v. **Surveyed Benchmarks.** The Plans shall identify an appropriate number of surveyed benchmarks, including location and elevation, to be used for future monitoring evaluations (see also **Special Condition 5**).
 - vi. **Implementation.** The approved Phase I Plans shall be implemented, including that the interim coastal trail shall be available for public use, no later than Memorial Day of 2020 (i.e., May 25, 2020), where such deadline may be extended by the Executive Director for good cause.
- (b) **Phase II.** WITHIN THREE YEARS OF THE DATE OF THE APPROVAL OF THIS CDP (i.e., by September 11, 2022) the Permittees shall submit two full-size sets of Revised Final Plans for Phase II. The Revised Final Plans for Phase II shall include and provide for the following:
- i. **Public Access Improvements.** The Plans shall provide for all public access improvements identified in the approved Public Access Management Plan (see **Special Condition 3**) including as further described below, which shall be sited and designed to accommodate at least 30 years of expected erosion without the need for shoreline armoring, as well as to maximize coastal view protection and minimize visual intrusion, including through use of materials appropriate to the shoreline context that blend with the natural environment and existing improvements in the area, including:
 - A. **Blufftop Coastal Trail.** A new blufftop coastal trail to replace the interim Phase I coastal trail (and subject to the same design standards specified there) shall be established consistent with the terms and requirements set forth in **Special Condition 3** below, including that all such trail elements are required to be ambulatory and will be relocated inland as necessary to maintain a continuous coastal trail while adapting to future erosion that may affect the trail. The trail shall be implemented substantially consistent with the trail identified on the project plans entitled “Bluff Trail Preliminary Plans for San Francisco RV Resort” dated January 25, 2018 and dated received in the Coastal Commission’s North Central Coast District office on January 29, 2018 (see **Exhibit 4**), except that the trail shall remain open and accessible to the public during at least daylight hours (i.e., from one hour before sunrise to one hour after sunset), the trail shall be realigned inland as necessary to maintain its safe use, and the Plans shall identify all mechanisms to ensure same, including requirement for Executive Director approval of any realignment episodes.
 - B. **Vertical Beach Accessway.** An improved vertical public accessway (i.e., trail, stairway, etc.) shall be provided from the public parking area south of the RV Park down to the beach, including making use of the existing graded path (established via CDP Waiver 2-18-0975-W for maintenance on the Milagra Outfall) as appropriate. The accessway shall be improved with features that are

adaptable and easily movable in response to changing bluff conditions. The Plans shall provide that the accessway shall be modified as necessary to maintain its safe use, and the Plans shall identify all mechanisms to ensure same, including requirement for Executive Director approval of any modification episodes.

C. Tent Camping, Public Parking, Public Park, Public Overlook, and Picnic

Areas. The Plans shall provide for all the amenities shown on the proposed plans entitled “Bluff Trail Preliminary Plans for San Francisco RV Resort” dated January 25, 2018 and dated received in the Coastal Commission’s North Central Coast District office on January 29, 2018 (see **Exhibit 4**), including the public park area, the overlook areas with benches, and the picnic area. In addition, the Permittee shall develop a visitor-serving tent camping area for at least 10 camping spaces provided as a low-cost camping option (i.e., no more expensive than comparable State Parks camping options) onsite. The tent camping area shall be sited and designed to maximize its public utility and to blend into the blufftop shoreline aesthetic as much as possible. The Permittee shall also improve the public parking lot area on the southern end of the property by re-paving and striping the designated parking area, providing landscaping to offset its visual impacts, and providing an appropriate connection to the blufftop coastal trail and the vertical beach accessway. Such public access amenities shall be constructed of natural materials designed to blend into the natural setting as much as possible. In addition, the Plans shall provide for an adequate number (i.e., commensurate to the expected level of use) of bicycle racks, benches, picnic tables, trash and recycling receptacles, doggie mitt station, and other similar public use amenities distributed appropriately along the public access areas associated with the project in a way that maximizes their public access utility and minimizes their impact on public views.

D. Fencing/Barriers. All fencing at and near the blufftop edge fronting the site at the start of Phase II shall be removed. Wooden post and rope barriers, or similar, that aesthetically blends with the surrounding environment and that is as visually permeable as possible may be constructed along the edge of the coastal trail (identified as “Bluff” or “Blufftop” trail in the proposed plans) where such barriers shall be limited as much as possible, and only to those locations where required for public safety. Multiple rows of fencing between the seaward side of the coastal trail and the blufftop edge shall be prohibited.

E. Landscaping. Non-native and invasive plant species in the area between the coastal trail and the blufftop edge shall be removed and not be allowed to persist, and such area shall be landscaped with native and noninvasive plant species that are tolerant of salt air and salt spray. Areas surrounding the trail and other public access amenities and areas (including the public park, outlook area, picnic area, parking area, and tent camping area) on the site shall also be landscaped with the same native and noninvasive plant species to help ensure that such features appropriately blend into the shoreline aesthetic and improve public views. All such plants shall be kept in good growing condition and shall be replaced as necessary to maintain the approved vegetation over the life of the project. Regular

monitoring and provisions for remedial action (such as replanting as necessary) shall be identified to ensure landscaping success.

- F. Drainage.** A drainage system capable of collecting, filtering, treating, and appropriately directing site drainage shall be installed using appropriate BMPs to enhance water quality. All drainage and related elements on site and any related energy dissipation measures shall be camouflaged (e.g., randomly spaced, hidden with overhanging vegetation, etc.) so as to be hidden from view and/or inconspicuous as seen from the on top of the bluffs and the beach. All drainage elements shall be sited and designed to reduce the potential for drainage-caused erosion, and to be as inconspicuous as possible.
- G. Signage.** The Plans shall provide for the installation of informational, directional, and safety signage at appropriate locations. The signs shall be designed so as to provide clear public use information without adversely impacting public views and site character, with directional signs where the trail meets adjacent trail connections to the north and the public parking area at the southern end of the property. In addition, signs at the entrance to the RV Park and the parking area shall make clear that public trails, lateral and vertical accesses, parks, parking and other amenities are available onsite at the Park. At a minimum, at least one public access interpretive sign (appropriate to Pacifica shoreline issues, information, and/or history) shall be located at an appropriate location along the blufftop trail. Sign details showing the location, materials, design, and text of all public access signs shall be provided. Signs shall include the California Coastal Trail and California Coastal Commission emblems and recognition of the Coastal Commission's role in providing public access at this location.
- H. Easements.** The Plans shall identify the boundaries of all public access easement areas established pursuant to **Special Condition 7**.
- ii. Coastal Hazards Response.** The Plans shall provide for relocation of all development out of harm's way (i.e., re-sited to allow for at least 30 years of erosion and related impacts without placing such development in danger) pursuant to the approved Coastal Hazard Response Plan (see **Special Condition 2**). No new development, other than public access amenities that can be easily relocated further landward as further described above, shall be placed within the 30-year erosion area established through the Coastal Hazard Response Plan. The Plans shall indicate any reconfiguration of RV parking spaces or supporting utilities. The Plans shall also provide that all such development shall be modified as necessary to maintain its safe use, and the Plans shall identify all mechanisms to ensure same, including requirement for Executive Director approval of any modification episodes. All riprap temporarily authorized through this approval shall be removed and the affected area restored to natural conditions.
- iii. Implementation.** The approved Phase II Plans shall be implemented, including that all infrastructure shall be relocated and all public access improvements identified above shall be available for public use, no later than September 11, 2024.

The Revised Final Plans for Phase I and Phase II shall be submitted with evidence of City of Pacifica review and approval. All requirements above and all requirements of the approved Revised Final Plans for Phase I and Phase II shall be enforceable components of this CDP. The Permittees shall undertake development in accordance with this condition and the approved Revised Final Plans for Phase I and Phase II. Minor adjustments to these requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

- 2. Coastal Hazards Response Plan.** WITHIN TWO YEARS OF THE DATE OF THE APPROVAL OF THIS CDP (i.e., no later than September 11, 2021), the Permittee shall submit two copies of a Coastal Hazards Response Plan to the Executive Director for review and written approval. The Response Plan shall be developed in coordination with appropriate staff at the City of Pacifica. The Response Plan shall provide a clear long-term plan for relocation of all threatened City sewer infrastructure serving the RV Park to an area safe from 30 years of expected erosion absent shoreline armoring and related impacts without the need for shoreline armoring. In addition, the Response Plan shall provide for the relocation or removal of all private development (including the restroom facility, RV parking spaces, and associated utilities and pavement) out of harm's way (i.e., re-sited to allow for at least 30 years of erosion absent shoreline armoring and related impacts without placing such development in danger). The Response Plan shall provide details regarding the mechanisms, costs, and timing for relocation/removal activities, and for removal of the shoreline armoring as required. The Response Plan shall include requirements for Executive Director approval of any relocation/removal episodes. Any costs associated with new and/or upgraded sewer infrastructure (including rerouting of sewer pipes, etc.) shall also be identified. The Response Plan shall include a timeline of potential major relocation/removal events, including expected timeframes for planning, permitting, design, construction and eventual operation of any relocated site elements. Extension of the deadline for submittal of the Coastal Hazards Response Plan may be granted by the Executive Director for good cause, but in no event may it be extended beyond the three-year deadline established for submittal of Revised Final Plans for Phase II (see **Special Condition 2(b)(iii)**).

The Coastal Hazards Response Plan shall be submitted with evidence of City of Pacifica review and approval. All requirements above and all requirements of the approved Coastal Hazards Response Plan shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Coastal Hazards Response Plan. Minor adjustments to the above requirements, as well as to the Executive Director-approved Response Plan, which do not require a CDP amendment or new CDP (as determined by the Executive Director) may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

- 3. Public Access Management Plan.** WITHIN TWO YEARS OF THE DATE OF THE APPROVAL OF THIS CDP (i.e., no later than September 11, 2021) the Permittee shall submit two sets of a Public Access Management Plan (Plan) to the Executive Director for review and written approval. The Plan shall clearly describe the manner in which long-term public recreational access to the beach, along the blufftop coastal trail, and to the public access areas and amenities associated with the site and this CDP (see also **Special Condition**

1 above) is to be provided and managed, with the objective of maximizing public access and recreational use of all public access areas associated with the approved project (including the blufftop coastal trail, the vertical beach accessway, the overlooks, benches, picnic tables, public parks and parking areas, etc.) as described in this special condition and **Special Condition 1**. All public access improvements shall be sited and designed to be safe from erosion, and to be easily relocated inland in response to same while providing continued use and utility, as well as to maximize coastal view protection and minimize visual intrusion, including through use of materials appropriate to the shoreline context that blend with the natural environment and existing improvements in the area. The Plan shall at a minimum include and provide for all of the following:

- (a) **Public Access Areas and Amenities.** The Plan shall clearly identify and depict on a site plan all existing and required public access areas and amenities, including the lateral blufftop coastal trail, vertical beach accessway, public park, parking areas, and other public access amenities and improvements described herein and in **Special Condition 1**, as well as the existing public access easement/dedication areas (see **Special Condition 7**).
- (b) **Public Access Use Parameters.** All parameters for use of the blufftop coastal trail area, public parking, the vertical beach accessway, and all other access areas, improvements and amenities shall be clearly identified. All such public access areas, improvements, and amenities shall be publicly available for general public pedestrian access and other public access consistent with the terms and conditions of this CDP.
- (c) **No Public Access Disruption.** Development and uses within the Plan's public access areas that disrupt or degrade public access, including areas set aside for private uses, barriers to public access (such as planters, temporary structures, private use signs, fences, barriers, ropes, etc.) shall be prohibited. The public use areas, improvements, and amenities shall be maintained consistent with the approved Plan and in a manner that maximizes public use and enjoyment, including with respect to assuring they remain safe from erosion and other hazards.
- (d) **Public Access Use Hours.** All public access areas, improvements, and amenities shall be available to the general public 24 hours a day and shall be free of charge (other than the temp campsites) except that the blufftop coastal trail may be closed during nighttime hours (i.e., from one hour after sunset to one hour before sunrise).
- (e) **Public Access Construction.** All public access areas, improvements, and amenities associated with the approved project shall be constructed and available for public use as soon as possible, but no later than September 11, 2024.
- (f) **Public Access Areas and Amenities Maintained.** All public access areas, improvements, and amenities shall be constructed in a structurally sound manner and maintained in their approved state consistent with the terms and conditions of this CDP, including through ongoing repair, maintenance, or relocation (if necessary to respond to erosion) of all public access improvements. The Plans shall provide that all such access areas, improvements, and amenities shall be modified as necessary to maintain its safe use, and the Plans shall identify all mechanisms to ensure same, including requirement

for Executive Director approval of any modification episodes. Public use areas shall be maintained consistent with the approved Public Access Management Plan and in a manner that maximizes public use and enjoyment.

- (g) Implementation.** The Public Access Management Plan shall be implemented, including that all public access improvements identified above shall be available for public use, no later than September 11, 2024.

The Public Access Management Plan shall be submitted with evidence of City of Pacifica review and approval. All requirements above and all requirements of the approved Public Access Management Plan shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Public Access Management Plan. Minor adjustments to the above requirements, as well as to the Executive Director-approved Plan, which do not require a CDP amendment or new CDP (as determined by the Executive Director) may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

- 4. Construction Plan.** PRIOR TO ISSUANCE OF THE CDP, the Permittees shall submit two copies of a Construction Plan to the Executive Director for review and written approval. The Construction Plan shall, at a minimum, include and provide for the following:
- (a) Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the fullest extent feasible in order to have the least impact on public access and ocean resources, including by using, as feasible, inland areas for staging and storing construction equipment and materials. Special attention shall be given to siting and designing construction areas in order to minimize impacts on the ambiance and aesthetic values of the Coastal Trail area, including but not limited to public views across the site.
- (b) Construction Methods.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separate from public recreational use areas as much as possible (including using unobtrusive temporary fencing or equivalent measures to delineate construction areas), and including verification that equipment operation and equipment and material storage will not, to the maximum extent feasible, significantly degrade public views during construction. The Plan shall limit construction activities to avoid coastal resource impacts as much as possible.
- (c) Construction Timing.** Construction is prohibited during weekends; from the Saturday of Memorial Day through Labor Day inclusive; and during non-daytime hours (i.e., from one-hour after sunset to one-hour before sunrise), unless due to extenuating circumstances the Executive Director authorizes such work. Lighting of the work area is prohibited.
- (d) Construction BMPs.** The Construction Plan shall identify the type and location of all erosion control and water quality best management practices that will be implemented

during construction to protect coastal water quality, including at a minimum all of the following:

- i. **Runoff Protection.** Silt fences, straw wattles, or equivalent apparatus shall be installed at the perimeter of all construction areas to prevent construction-related runoff and sediment from discharging from the construction area, or entering into storm drains or otherwise offsite or towards the beach and ocean. Special attention shall be given to appropriate filtering and treating of all runoff, and all drainage points, including storm drains, shall be equipped with appropriate construction-related containment, filtration, and treatment equipment.
 - ii. **Equipment BMPs.** Equipment washing, refueling, and servicing shall take place at an appropriate off-site and inland location to help prevent leaks and spills of hazardous materials at the project site, at least 50 feet inland from the bluff edge and preferably on an existing hard surface area (e.g., a road) or an area where collection of materials is facilitated. All construction equipment shall also be inspected and maintained at a similarly sited inland location to prevent leaks and spills of hazardous materials at the project site.
 - iii. **Good Housekeeping BMPs.** The construction site shall maintain good construction housekeeping controls and procedures at all times (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain, including covering exposed piles of soil and wastes; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site; etc.).
 - iv. **Erosion and Sediment Controls.** All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each workday.
 - v. **No Intertidal Grading.** Grading of intertidal areas is prohibited, except removal of existing riprap is allowed in these areas if required to allow required removal.
 - vi. **Rubber-tired Construction Vehicles.** Only rubber-tired construction vehicles are allowed on the beach, except track vehicles may be used if the Executive Director determines that they are required to safely carry out construction. When transiting on the beach, all such vehicles shall remain as close to the bluff edge as possible and avoid contact with ocean waters.
 - vii. **Construction Material Storage.** All construction materials and equipment placed seaward of the bluff during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from these areas by one-hour after sunset each day that work occurs, except for necessary erosion and sediment controls and construction area boundary fencing where such controls and fencing are placed as close to the toe of the armoring or exposed bluff as possible, and are minimized in their extent.
- (e) **Restoration.** All coastal trail area, beach area and other public recreational access and use areas and all beach access points impacted by construction activities shall be restored

to their pre-construction condition or better within three days of completion of construction. Any native materials impacted shall be filtered as necessary to remove all construction debris.

- (f) Construction Site Documents.** The Construction Plan shall provide that copies of the signed CDP and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, as well as the public review requirements applicable to them, prior to commencement of construction.
- (g) Construction Coordinator.** The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that the construction coordinator's contact information (i.e., address, phone numbers, email, etc.), including, at a minimum, an email address and a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas while still protecting public views as much as possible, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name and contact information (i.e., address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. All complaints and all actions taken in response shall be summarized and provided to the Executive Director on at least a weekly basis.
- (h) Construction Specifications.** The construction specifications and materials shall include appropriate control provisions that require remediation for any work done inconsistent with the terms and conditions of this CDP.
- (i) Notification.** The Permittee shall notify planning staff of the Coastal Commission's North Central Coast District Office at least three working days in advance of commencement of construction, and immediately upon completion of construction.

The Construction Plan shall be submitted with evidence of City of Pacifica review and approval. All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this CDP. The Permittees shall undertake development in accordance with this condition and the approved Construction Plan. Minor adjustments to the above requirements, as well as to the Executive Director-approved Plan, which do not require a CDP amendment or new CDP (as determined by the Executive Director) may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

- 5. Shoreline Armoring Terms.** This CDP authorizes shoreline armoring pursuant to the following terms:

- (a) **Duration.** This CDP authorizes riprap on the beach and fronting the bluffs along approximately 625 linear feet (from approximately just south of the restroom building to the northern property line) as described in **Special Condition 1(a)(ii)** and shown on **Exhibit 3** until the time when the required Coastal Hazard Response and Public Access Management Plans have been implemented, but no later than 5 years from the date of this CDP approval (September 11, 2024), or when the site no longer requires armoring, whichever occurs first. At such time, or at such time as the infrastructure is removed or no longer requires armoring, the Permittees shall remove the approved armoring and appropriately restore the affected area subject to Executive Director approval of a plan to accomplish same with the least coastal resource impacts.
- (b) **Future Mitigation.** If the Permittees apply for a separate CDP or an amendment to this CDP to retain the above-described riprap past September 11, 2024, or to modify the such riprap, or to perform repair work affecting 50 percent or more of the riprap, then the Permittees shall be required to propose additional commensurate mitigation for the impacts of retaining the armoring and/or modifying it, including with respect to public views, public recreational access, shoreline processes, and all other affected coastal resources that have not already been mitigated through this CDP, at that time.
6. **Monitoring and Reporting.** The Permittees shall ensure that the condition and performance of the approved as-built project is regularly monitored and maintained. Such monitoring evaluation shall, at a minimum, address whether any significant weathering or damage has occurred that would adversely impact future performance, and identify any structural or other damage or wear and tear requiring repair to maintain the riprap in a structurally sound manner and its approved state, including at a minimum with regards to the following:
- (a) **Armoring.** The rock riprap revetment shall be monitored by a licensed civil engineer with experience in coastal structures and processes to ensure structural integrity, including at a minimum evaluation of slope competence, slumping, movement, outflanking, and undercutting. The public access area and amenities shall be evaluated for utility and compliance with CDP requirements on a regular basis.
- (b) **Photo Documentation.** All project elements shall be photographed bi-annually from an adequate number of inland and seaward locations as to provide complete photographic coverage of the approved project. All photographs shall be documented on a site plan that notes the location of each photographic viewpoint and the date and time of each photograph to allow naked eye comparison of the same views over time. Such photo documentation shall commence no later than the date of construction completion, and two copies of such initial photo documentation (including 8.5 x 11" color hard copy photos as well as electronic jpg copies) shall be submitted to the Executive Director for review and written approval no later than 30 days following completion of construction.
- (c) **Reporting.** Monitoring reports covering the above-described evaluations shall be submitted to the Executive Director for review and approval at yearly intervals by May 1st of the each year for the first 5 years following approval of this CDP, and then every 5 years thereafter for as long as the approved as-built project exists at this location. The reports shall identify the existing configuration and condition of the riprap, including

vertical and horizontal reference distances from riprap to surveyed benchmarks for use in future monitoring efforts, and shall recommend any actions necessary to maintain these project elements in their approved and required state, and shall include photographs (in color hard copy and digital format) that clearly show all components of the as-built project from at least the same vantage points as the initial photo documentation as well as subsequent monitoring reports. Any proposed actions necessary to maintain the approved as-built project in a structurally sound manner and its approved state shall be implemented within 30 days of Executive Director approval, unless a different time frame for implementation is identified by the Executive Director. In addition to the every year requirement, separate and additional monitoring reports shall be submitted within 30 days following either (1) an El Niño storm event comparable to a 20-year or larger storm, or (2) an earthquake of magnitude 5.5 or greater with an epicenter in San Mateo County or San Francisco County.

- 7. Future Maintenance/Repair.** This CDP authorizes future maintenance and repair as described in this Special Condition. The Permittees acknowledge and agree on behalf of themselves and all successors and assigns that it is the Permittees' responsibility to: (1) maintain the approved project (including both Phase I and Phase II improvements (see **Special Conditions 1 and 2**)) and all related development in a structurally sound manner, visually compatible with the beach and bluff shoreline surroundings, and in their approved and required states; (2) retrieve any failing portion of the permitted structures or related improvements that might otherwise substantially impair the use, aesthetic qualities, or environmental integrity of the beach and blufftop areas; and (3) bi-annually or more often inspect the riprap throughout its temporary authorization period for signs of compromise. Any such maintenance-oriented development associated with the approved riprap, public access improvements, and related development shall be subject to the following:

 - (a) Maintenance/Repair.** "Maintenance" and "repair" as understood in this Special Condition means development that would otherwise require a CDP whose purpose is to maintain in and/or repair to the approved state of the riprap and all public access improvements and amenities.
 - (b) Other Agency Approvals.** The Permittees acknowledge that these maintenance and repair stipulations do not obviate the need to obtain permits and/or authorizations from other agencies for any future maintenance or repair.
 - (c) Maintenance/Repair Notification.** At least two weeks prior to commencing any maintenance and/or repair activity, the Permittees shall notify, in writing, planning staff of the Coastal Commission's North Central Coast District Office. The notification shall include: (1) a detailed description of the maintenance/repair proposed; (2) any plans, engineering, geology, or other reports describing the event; (3) a construction plan that clearly describes construction areas and methods consistent with the parameters of **Special Condition 4** above; (4) other agency authorizations; and (5) any other supporting documentation describing the maintenance/repair event. Maintenance or repair may not commence until the Permittees have been informed by planning staff of the Coastal Commission's North Central Coast District Office that the maintenance proposed complies with this CDP. If the Permittees have not been given a verbal response or sent a

written response within 30 days of the notification being received in the North Central Coast District Office, the maintenance shall be authorized as if planning staff affirmatively indicated that the maintenance/repair complies with this CDP. The notification shall clearly indicate that maintenance/repair is proposed pursuant to this CDP, and that the lack of a response to the notification within 30 days constitutes approval of it as specified in the CDP. If the notification does not explicitly indicate same, then the automatic authorization provision does not apply. In the event of an emergency requiring immediate maintenance, the notification of such emergency shall be made as soon as possible, and shall (in addition to the foregoing information) clearly describe the nature of the emergency.

- (d) Maintenance/Repair Coordination.** Maintenance/repair activity shall, to the degree feasible, be coordinated with other maintenance/repair activity proposed in the immediate vicinity with the goal being to limit coastal resource impacts, including the length of time that construction occurs in and around the beach and beach access points. As such, the Permittees shall make reasonable efforts to coordinate their maintenance/repair activity with other adjacent property maintenance/repair activities, including adjusting their maintenance/repair activity scheduling as directed by planning staff of the Coastal Commission's North Central Coast District Office.
- (e) Restoration.** The Permittees shall restore all beach and other public access areas impacted by construction activities to their pre-construction condition or better within three days of completion of construction. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach. The Permittees shall notify planning staff of the Coastal Commission's North Central Coast District Office upon completion of restoration activities to allow for a site visit to verify that all beach-area restoration activities are complete. If planning staff should identify additional reasonable measures necessary to restore beach areas, such measures shall be implemented as quickly as feasible.
- (f) Noncompliance Provision.** If the Permittees are not in compliance with permitting requirements of the Coastal Act, including the terms and conditions of any Coastal Commission CDPs or other coastal authorizations that apply to the subject property, at the time that a maintenance/repair event is proposed, then maintenance/repair that might otherwise be allowed by the terms of this future maintenance/repair condition may be disallowed by the Executive Director until the Permittees are in full compliance with the permitting requirements of the Coastal Act, including all terms and conditions of any outstanding CDPs and other coastal authorizations that apply to the subject properties.
- (g) Emergency.** Notwithstanding the emergency notifications set forth in subsection (c) of this Special Condition, nothing in this condition shall affect the emergency authority provided by Coastal Act Section 30611, Coastal Act Section 30624, and Subchapter 4 of Chapter 5 of Title 14, Division 5.5, of the California Code of Regulations (Permits for Approval of Emergency Work).
- (h) Duration of Covered Riprap Maintenance/Repair.** Future maintenance of (1) the riprap under this CDP is allowed subject to the above terms throughout the 5-year

duration of the armoring authorization (see **Special Condition 7**); and (2) the public access improvements and other approved project elements for 5 years from the date of approval (i.e., until September 11, 2024), all subject to Executive Director review and approval before the end of each 5-year period to verify that there are not changed circumstances associated with such allowance of maintenance/repair events that necessitate re-review. The Permittees shall maintain the approved armoring structure, public access improvements, and all related development in their approved and required state.

8. Public Access Easement. WITHIN THREE YEARS OF THE DATE OF THE APPROVAL OF THIS CDP (i.e., no later than September 11, 2022), which deadline the Executive Director may extend for good cause, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private entity, approved by the Executive Director, a public access easement for public recreational access use and development in perpetuity, as described below.

a. Easement Area. The easement area shall consist of all public access areas identified in the approved Revised Final Plans (**Special Condition 1**), the approved Coastal Hazards Response Plan (**Special Condition 2**), and/or the approved Public Access Management Plan (**Special Condition 3**) including the blufftop coastal trail, the vertical beach accessway, the overlooks, benches, picnic tables, public parks and parking areas, as well as the beach and bluffs seaward of the inland extent of the identified public access improvements to the mean high tide line. Each area shall be available for general public access use and enjoyment. Such easement shall be located over the existing easements depicted by the red and yellow colored areas in **Exhibit 9** and shall be expanded to cover any new public access areas pursuant to the approved Revised Final Plans (**Special Condition 1**), the approved Coastal Hazards Response Plan (**Special Condition 2**), and/or the approved Public Access Management Plan (**Special Condition 3**). The Commission's intent is that the newly-offered areas encompass and be contiguous with existing easements, as shown in **Exhibit 9**, in order to create a unified area for public access use and enjoyment subject to the terms and conditions of this CDP.

b. Easement Restrictions. No development, as defined in Coastal Act Section 30106, shall occur within the easement area except for the following development authorized by this CDP:

- 1. Public Recreational Access.** Public recreational access improvements as identified in the approved Revised Final Plans (**Special Condition 1**), the approved Coastal Hazards Response Plan (**Special Condition 2**), and/or the approved Public Access Management Plan (**Special Condition 3**), including, but not limited to trail improvements, public parking, bicycle racks, benches, picnic tables, trash and recycling receptacles, doggie mitt station, and other similar public use amenities, and
- 2. Other Approved Project Elements.** Other project-related development as identified in the approved Revised Final Plans (**Special Condition 1**), the approved Coastal Hazards Response Plan (**Special Condition 2**), and/or the approved Public Access Management Plan (**Special Condition 3**), including rope and pole barriers or other

fencing, drainage and irrigation, native landscaping, signage, and the portions of the temporary riprap within the easement area that do not obstruct or detract from public access and recreational use of the easement area.

c. Ambulatory Easement. The public access easement shall be ambulatory, and the easement boundaries and amenities (e.g., path, trail, benches, etc.) shall move inland within the Permittee's property if relocation and/or reconstruction of access amenities in the easement area are necessary to retain their continuity and/or utility in response to erosion and related coastal hazards (see also **Special Condition 2**).

d. Other Easement Requirements.

1. Document. The document shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed, and it shall include a legal description and corresponding graphic depiction of the legal parcels subject to this CDP as well as a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the perimeter of the easement area prepared by a licensed surveyor based on an on-site inspection of the easement area.

2. Public Access Rights. The document shall provide that the offer of dedication shall not be used or construed to allow anyone to interfere with any rights of public access acquired through use which may exist on the property, and shall also provide that public access consistent with the terms and conditions of this CDP shall be uninterrupted at all times.

3. Duration. The offer to dedicate shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner in perpetuity, and shall be irrevocable for a period of 21 years, such period running from the date of recording, and indicate that the restrictions on the use of the land shall be in effect upon recording and remain as covenants, conditions and restrictions running with the land in perpetuity, notwithstanding any revocation of the offer.

9. Assumption of Risk, Waiver of Liability, and Indemnity. By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (a) that the project area is subject to coastal hazards, including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunamis, coastal flooding, landslide, earth movement, and the interaction of all of these, many of which will worsen with future sea level rise; (b) to assume the risks to the Permittee and the properties that are the subject of this CDP of injury and damage from such hazards in connection with this permitted development; (c) to waive any rights that the Permittee may have under Coastal Act Section 30235, the City of Pacifica LCP, or other applicable laws, to shoreline armoring beyond that allowed by this CDP to protect the development authorized by this CDP; (d) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (e) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the CDP against any and all liability, claims,

demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (f) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittees.

- 10. Public Rights.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that the Coastal Commission's approval of this CDP shall not constitute a waiver of any public rights that may exist on the properties involved. The Permittee shall not use this CDP as evidence of a waiver of any public rights that may exist on the properties now or in the future.
- 11. Real Estate Disclosure.** Disclosure documents related to any future marketing and/or sale of the subject property, including but not limited to specific marketing materials, sales contracts and similar documents, shall notify potential buyers of the terms and conditions of this CDP. A copy of this CDP shall be provided in all real estate disclosures.
- 12. Future Permitting.** All future proposed development related to this CDP shall require a new CDP or a CDP amendment that is processed through the Coastal Commission, unless the Executive Director determines a CDP or CDP amendment is not legally required.
- 13. Other Authorizations.** PRIOR TO CONSTRUCTION, the Permittees shall provide to the Executive Director written documentation of authorizations from the City of Pacifica, the California State Lands Commission, the Regional Water Quality Control Board, and the U.S. Army Corps of Engineers, or evidence that no such authorizations are required. The Permittees shall inform the Executive Director of any changes to the project required by any other such authorizations. Any such changes shall not be incorporated into the project until the Permittees obtain a Commission amendment to this CDP, unless the Executive Director determines that no amendment is legally required.
- 14. Liability for Costs and Attorneys' Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and/or (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this CDP, the interpretation and/or enforcement of CDP terms and conditions, or any other matter related to this CDP. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.
- 15. Deed Restriction.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit for Executive Director review and approval documentation demonstrating that the landowners have executed and recorded against the subject property governed by this CDP a deed restriction in a form and content acceptable to the Executive Director: (1) indicating that pursuant to this CDP, 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 CDP as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and graphic depiction of the parcels governed by this CDP. 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 CDP shall continue to restrict the use and enjoyment of the subject property so long as either this CDP or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property. The Executive Director may extend the deadline to record for good cause.

IV. FINDINGS AND DECLARATIONS

A. Project Location and Background

The proposed armoring project is located along the beach and bluff seaward of the San Francisco RV Resort (RV Park) located at 700 Palmetto Avenue, west of Highway 1 and north of the Milagra Outfall and the Pacifica Municipal Pier in the City of Pacifica. The RV Park was originally approved by the Commission and developed atop the 70-foot high bluff in 1983 (CDP 3-83-212),² and it currently includes some 122 recreational vehicle (RV) spaces; a restroom facility; a clubhouse containing restrooms, laundry facilities, and common areas; a pool and hot tub; and some 20 public parking spaces spread over about 12 blufftop acres. Since the time when the RV Park was originally constructed, some 60 RV spaces as well as the Commission-required blufftop public trail and beach stairway have been lost to erosion and never replaced in their authorized form. In fact, at one point in time the property owners erected double fencing along the frontage of the property that blocked the previous blufftop trail area across the site. More recently, in 2019, the Applicant reestablished the lateral access path with new low-profile black fencing and striping. Although the 20-space public parking lot is still available for public use, the only connection to the beach is currently via an informal, rugged and steep goat trail. The lack of compliance with prior permit requirements regarding these required public accessways constitutes a violation that has existed on the site in one form or another since about 2003.³

² Though it was undeveloped at the time, the Commission also approved a CDP (CDP 3-83-172) just one-month prior to the RV Park CDP approval that allowed a riprap revetment (approximately 22,000 tons and 1,650 linear feet) to be installed on the beach and bluffs fronting 12 single-family residences to the north of the RV Park site, and the undeveloped property that was to become the RV Park. Non-CDP City approvals associated with that armoring (UP-453-83 and PSD-313-83) required the RV Park to provide public access trails, a beach stairway, and parking, and stated that “[i]n the event of failure of any area west of RV spaces and such damage is determined to be the result of bluff movement,” then the “affected improvements are to be moved and reconstructed an appropriate distance” and “[i]f necessary, RV spaces shall be sacrificed to accomplish these changes. No attempt shall be made to reconstruct the bluff face in the event of such failure.” The riprap fronting the RV Park site eventually washed completely away by about 2009.

³ Consistent with advice from both the State Attorney General and the Coastal Commission Chief Counsel (see memos dated June 20, 2014 and August 1, 2014, respectfully), Commissioners should not engage in any ex parte communications related to these violations.

Following winter storms in 2016, riprap was temporarily authorized pursuant to an emergency CDP (ECDP G-2-16-0044), resulting in the installation of approximately 5,900 tons of 8-10 ton riprap at the toe of the bluff at a 2:1 slope (extending some 18 feet high)⁴ along approximately 625 linear feet of beach and bluff. The riprap was intended to protect the RV Park and related development, including a City sewer line that was reconstructed in conjunction with the development of the RV Park in the 1980s that runs underneath the site from the upcoast Esplanade subdivision to the inland street (i.e., Palmetto Avenue).

See **Exhibits 1 and 2** for a location map and project area photos. See **Exhibit 7** for prior permits.

B. Project Description

The Applicant now seeks to authorize both the emergency riprap as well as to extend the riprap an additional 225 linear feet (through adding some 1,200 tons of rock) from the end of the existing emergency riprap up to the northern property line. The new riprap would be installed at a 1.5:1 slope, 12 feet high⁵, and the emergency riprap that was placed would be reconfigured to a 1.5:1 slope, and to the 12 foot height, to match the new placed rock. The riprap is intended to protect the RV Park and related development, including a City sewer line that was reconstructed in conjunction with the development of the RV Park in the 1980s that runs underneath the site from the upcoast Esplanade subdivision to the inland street (i.e., Palmetto Avenue). In addition, the project proposes construction of a replacement for the previously required public lateral access trail along the blufftop, a vertical access to the beach, and other various access amenities. See **Exhibits 3 and 4** for proposed project plans.

C. Standard of Review

This proposed project is located in both the Commission's and the City of Pacifica's CDP jurisdictions, but the project is the subject of prior Coastal Commission CDP decisions and requirements, including the CDP for the original RV Park development, and represents the requisite follow-up regular CDP application for the Commission-issued ECDP for the temporary emergency riprap. The City, the Applicant, and the Commission have all agreed to a consolidated CDP review for the project, as allowed by Coastal Act Section 30601.3. As such, the standard of review for a consolidated CDP application is the Chapter 3 policies of the Coastal Act with the City of Pacifica's certified LCP providing non-binding guidance.

D. Coastal Hazards

Applicable Policies

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

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and

⁴ To an elevation of approximately +23 NAVD88.

⁵ To an elevation of approximately +17 NAVD88.

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.

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

New development shall do all of the following:

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

City of Pacifica LCP Land Use Plan (LUP) language and Implementation Plan (IP) standards provide additional guidance regarding coastal hazards and shoreline armoring, including the following on LUP pages C-24 through C-30:

West Edgemar/Pacific Manor Neighborhood – GEOLOGY.

...

*The City's Seismic Safety and Safety Element **requires the bluff setback to be adequate to accommodate a minimum 100-year event**, whether caused by seismic, geotechnical, or storm conditions. **The setback should be adequate to protect the structure for its design life.** The appropriate setback for each site will be determined on a case-by-case basis, depending on the site specific circumstances and hazards.*

*A Seismic Safety and Safety Element policy **prohibits the approval of projects which require seawalls as a mitigation measure. The policy also states that projects which eventually will need seawalls for the safety of the structures and residents should not be approved.** (emphasis added)*

West Edgemar/Pacific Manor Neighborhood – COASTAL ISSUES. *The major coastal planning issues in this neighborhood are: 1. The effect of geologic conditions on the use of undeveloped property along the bluffs...*

West Edgemar/Pacific Manor Neighborhood – SEAWALLS. *... In the future, property owners may want to construct protective structures which are more resistant to wave action. Should property owners desire a more substantive seawall, the cumulative effect on beach sand replenishment should be determined. Because beaches in this area are extremely narrow and exist only during low tide, seawall structures should be designed to*

minimize beach scour in the area as much as possible. Preferred structures would be those which provide the minimum amount of effective protection with a minimum reduction in beach sand. The preferred structure to achieve this result will likely be rock rip-rap rather than a concrete wall. Seawalls shall not extend beyond the mean high tide line.

And the LCP discusses this site specifically on LUP page C-29, stating:

*The other property committed for development is the largest, currently vacant bluff-top property, located north of the auto wrecking yard and south of existing residences along Esplanade Avenue. This +/-11 acre site has been approved for development of a full-service recreational vehicle park. **Protective setbacks will protect improvements during the park's economic life; in this case, because of the minimal level of site work required for installation of utilities, paving and drainage, the estimated economic life is quite low, approximately 15 years.** (emphasis added)*

Taken together, Coastal Act Sections 30235 and 30253, as well as the identified LCP policies, acknowledge that seawalls, revetments, retaining walls, groins and other such structural or “hard” methods designed to forestall erosion also alter natural landforms and natural shoreline processes. Accordingly, with the exception of new coastal dependent uses, Section 30235 limits the construction of shoreline armoring to that required to protect existing structures present at the time that CDP requirements began or public beaches in danger from erosion. Furthermore, Section 30253 requires that new development be sited, designed, and built in a manner so as to not require construction of shoreline armoring that would substantially alter natural landforms along the shoreline. The Coastal Act provides these limitations because shoreline armoring can and often does have a variety of significant negative impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline and beach dynamics on and off site, ultimately resulting in the loss of beaches, which are a fundamental coastal resource.

In addition, the Commission has typically interpreted Section 30235 to allow shoreline armoring only to protect existing *primary* structures.⁶ The Commission has at times historically permitted at-grade structures proposed to be located within required coastal hazard setback areas if such structures are expendable and capable of being removed or relocated rather than requiring an armoring device that would alter natural landforms and processes along bluffs, cliffs, and beaches.

These Coastal Act policies are reflected in the City’s LCP policies in similar but even more specific ways, including the LCP requirement that setbacks be sufficient to protect structures for their design life without seawalls, and the LCP requirement that actually prohibits seawalls. In addition, the LCP includes specific direction for this site, indicating that the estimated economic life of the RV Park “is quite low, approximately 15 years.” In other words, the LCP acknowledges the coastal hazard issues associated with this site, and recognizes that it would only be able to be economically viable in light of same for about 15 years (i.e., through about the

⁶ See, for example, CDPs 3-16-0345 (Honjo Seawall), 2-16-0684 (Aimco) and A-3-SCO-06-006 (Willmott).

1990s). The LCP likewise reflects Coastal Act tests for consideration of armoring, including requiring minimization of coastal resource impacts, such as to beaches, sand supply and public recreational access more broadly.

To protect these core coastal resources, the Coastal Act has a series of specific criteria that must be met in order to approve shoreline armoring. For example, shoreline protective devices compelled by Coastal Act Section 30235 must be supported by substantial evidence demonstrating: (1) there is an existing structure; (2) the existing structure is in danger from erosion; (3) shoreline altering construction is required to protect the existing threatened structure; and (4) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.⁷ The first three criteria pertaining to Section 30235 relate to whether the proposed armoring is necessary, while the fourth criterion applies to mitigation for some of the impacts of such armoring. The analysis below discusses both Section 30235 and 30253 issues.

Consistency Analysis

Existing Structures to be Protected

The first Section 30235 test is whether or not a structure for which armoring is proposed is considered “existing,” not in terms of whether it is extant today, but rather whether it existed in its current form when the Coastal Act came into effect (i.e., January 1, 1977) and hasn’t been redeveloped since.⁸ Specifically, the Coastal Act distinguishes between that type of “existing structure” development that is allowed the protection offered by shoreline armoring and other forms of development that are not pursuant to Section 30235. Under Coastal Act Section 30235, those type of existing structures are potentially allowed shoreline armoring if the remaining three criteria identified above are satisfied, and if it can be found otherwise consistent with the Coastal Act. In contrast, under Section 30253, new structures (i.e., all structures built on or after January 1, 1977, including those structures that may have originally been built before then, but that have been redeveloped since) are to be sited, designed, and built in a manner safe from coastal hazards without creating a need for shoreline altering armoring.

In this case, the proposed riprap is intended to protect the RV Park, its restroom building, and its related subsurface and surface development, and to protect a City sewer line that extends under

⁷ CDP approval also requires that projects be found consistent with the other policies of the Coastal Act in addition to these Section 30235 requirements.

⁸ As described in the Commission’s 2015 Sea Level Rise Policy Guidance, the Commission interprets the term “existing structures” in Section 30235 as meaning structures that were in existence on January 1, 1977, the effective date of the Coastal Act. In other words, Section 30235’s directive to permit shoreline armoring for structures in certain circumstances applies to development that lawfully existed as of January 1, 1977 and that has not subsequently been redeveloped (i.e., where changes to it since 1977 have been sufficient enough that it is considered a replacement structure required to conform to applicable Coastal Act and LCP provisions). This interpretation is the most reasonable way to construe and harmonize Sections 30235 and 30253, which together evince a broad legislative intent to allow armoring for development that existed when the Coastal Act was passed, when such development is in danger from erosion, but to avoid such armoring for development constructed consistent with the Act, which doesn’t allow shoreline altering armoring development to support same. This interpretation, which essentially “grandfathers” protection for development that predates the Coastal Act, is also supported by the Commission’s duty to protect public trust resources and interpret the Coastal Act in a liberal manner to accomplish its purposes.

the site from the Esplanade subdivision to Palmetto Avenue to the south, serving both (see **Exhibit 3**). As described above, the RV Park and all of its components were constructed in the 1980s *after* the effective date of the Coastal Act (and the requirements of 1972's Proposition 20 (The "Coastal Initiative")),⁹ and the sewer line was completely replaced at the same time. As a result, none of these structures qualify as "existing" under Coastal Act Section 30235, and the project does not meet the first required Section 30235 test. As a result, the RV Park and the sewer line do not qualify for shoreline armoring under Coastal Act Section 30235, and for other reasons (e.g., due to coastal hazard requirements and coastal resource impacts from the armoring), the Coastal Act directs denial of this component of the project.

Danger from Erosion

The second Section 30235 test is whether the existing structure is in danger from erosion. The Coastal Act allows shoreline armoring to be installed to protect existing structures that are in danger from erosion, but it does not define the phrase "in danger." There is a certain amount of risk involved in maintaining any development along the actively eroding California coastline that also can be directly subject to violent storms, wave attack, flooding, earthquakes, and other hazards. These risks can be exacerbated by such factors as sea level rise and localized geography that can focus storm energy at particular stretches of coastline. In a sense, all development along the immediate California coastline is in a certain amount of "danger." It is a matter of the degree of threat that distinguishes between danger that represents an ordinary and acceptable risk, and danger that requires shoreline armoring per 30235. Lacking Coastal Act definition, the Commission has in the past evaluated the immediacy of any threat in order to make a determination as to whether an existing structure is "in danger" for the purposes of Section 30235 considerations. While each case is evaluated based upon its own particular set of facts, the Commission has previously interpreted "in danger" to mean that an existing structure would be unsafe to use or otherwise occupy within the next two or three storm season cycles (generally, the next few years) if nothing were to be done (i.e., in the "no project" alternative).¹⁰

In terms of the degree of danger at the site, there is evidence that RV Park is in danger from erosion, both currently and in the past. The City of Pacifica's certified LCP states that bluffs in the West Edgemar neighborhood, where the RV Park is located are "60-80 feet high and highly erosive" and subject to high rates of wave erosion, much of which occurs in the winter when "high wave run-up and heavy rains are present." It is during these periods that larger chunks of bluff can slough off. For example, blufftop residential development in the subdivision just to the north of the RV Park experienced severe erosion that caused loss of their backyards in the 1982-83 winter El Niño storms. At the RV Park site, although not unexpected when it was constructed in the 1980s,¹¹ significant gradual, as well as more episodic, erosion has also occurred. To date,

⁹ Proposition 20, approved by California voters in November 1972, introduced coastal permitting requirements in February 1973. These were ultimately superseded by the Coastal Act in 1977.

¹⁰ See, for example, CDPs 3-07-019 (Pleasure Point seawall); 3-09-025 (Pebble Beach Company Beach Club seawall); 3-09-042 (O'Neill seawall); 2-10-039 (Land's End seawall); 3-14-0488 (Iceplant LLC seawall); and 2-17-0702 (Sharp Park Golf Course).

¹¹ For example, when the LUP was drafted in 1980, policies that remain in the certified version today found for this site that "setbacks will protect improvements during the park's economic life; in this case, because of the minimal level of site work required for installation of utilities, paving and drainage, the estimated economic life is quite low,

since 1993, the site has lost some 60 feet of the bluff,¹² leading to a loss of 51 RV spaces, with an additional 9 spaces currently unavailable to rent due to their proximity to the blufftop edge. In addition, the blufftop coastal trail required by the Commission eroded away, and the area has been fenced off to access periodically since early 2016.

The Applicant's geotechnical analysis estimates the average annualized rate of erosion here to be about 1.38 feet per year without armoring, and has estimated that past episodic events can result in a loss of 15-20 feet of bluff during a single storm season, or even during a single event. Such an episodic event in the winter of 2016 led to erosion of up to 15 feet of bluff in some areas of the site, and prompted the placement of the emergency riprap on the beach and bluffs fronting the site to protect the restroom structure and sewer line, which are now approximately 40 feet and 20 feet, respectively, from the actively eroding bluff edge at their closest points. In addition, the Applicant's geotechnical analysis indicates that, in order to achieve even present-day slope stability (without factoring in future bluff erosion), infrastructure would need to be sited approximately 26 feet (for a factor of safety 1.2 under static conditions) to 45 feet (for a factor of safety 1.5 under static conditions) inland of the blufftop edge. Currently the sewer line encroaches into this "zone of instability," getting as close to the blufftop edge as 20 feet in some areas. And clearly the risks to the sewer line would be substantially greater absent the presence of the emergency armoring.

Based on the Applicant's geotechnical analysis estimates, sewer line infrastructure is within roughly one storm cycle and the restroom is within roughly one or two storm cycles of being compromised here, and it is clear that such development on site is in danger from erosion as that term is understood in a Section 30235 context. The Coastal Commission's senior coastal engineer, Dr. Lesley Ewing, and its staff geologist, Dr. Joseph Street, evaluated the relevant project materials and concur with the Applicant's geotechnical analysis that the restroom structure and sewer line are both in immediate danger from erosion absent intervention here. Therefore, the onsite restroom structure and sewer line are "in danger from erosion" as that term is understood in a Coastal Act context, and thus the project meets the second test of Section 30235. However, because neither are "existing structures" for the purposes of the Section 30235, and for other reasons (e.g., due to coastal hazard requirements and coastal resource impacts from the armoring), the Coastal Act directs denial of this component of the project.

Such an outcome should not be unexpected to the Applicant given the history of development at the site, including the explicit recognition that development would not be economically viable here for long, and would require relocation as opposed to armoring, as explicitly identified for this site by the LCP, City permits, and the Commission's CDP in the 1980s (see above

approximately 15 years." And, as indicated above, related non-CDP City approvals related to the site at the time stated that "[i]n the event of failure of any area west of RV spaces and such damage is determined to be the result of bluff movement," then the "affected improvements are to be moved and reconstructed an appropriate distance" and "[i]f necessary, RV spaces shall be sacrificed to accomplish these changes. No attempt shall be made to reconstruct the bluff face in the event of such failure." In addition, the geologic reports prepared in support of the Commission's 1983 CDP approval for the RV Park found that all development within 50 feet of the blufftop edge (planters, walkways, paved surfacing, etc.) was to be considered temporary.

¹² Per the Applicant's geotechnical analysis.

discussion). In addition, that 1983 CDP required the RV Park and related development to be sited and designed so as to minimize risks to life and property (Section 30253(a)) and to assure structural stability and integrity absent shoreline altering armoring for its economic life (Section 30253(b)).

Feasible Protection Alternatives

The third test of Section 30235 that must be met is that the proposed armoring must be “required” to protect the existing structures in danger from erosion. In other words, shoreline armoring shall only be permitted if it is the only feasible alternative capable of protecting the existing endangered structures.¹³ Other alternatives to shoreline protective devices typically considered include the “no project” alternative, managed retreat (including abandonment and demolition of threatened structures), relocation of threatened structures and/or portions thereof, beach and sand replenishment programs, foundation underpinning, drainage and vegetation measures, and combinations of each. Additionally, if shoreline armoring is determined to be the only feasible alternative, this test also requires that the chosen structural design of the shoreline protective device be the least environmentally damaging option, including being the minimum necessary to protect the endangered structure in question.

The Applicant prepared an alternatives analysis for the proposed project, and each of the possible alternatives evaluated is discussed briefly below.

Non-Armoring Alternatives

The first option considered is the “no project” alternative, where this alternative includes removal of all emergency riprap. The “no-project” alternative here would mean that the restroom building and the City sewer line would continue to be in immediate danger, thereby making it likely they would be severely damaged and/or destroyed by storms and erosion in the very short term, potentially as soon as the next series of winter storms. Such damage to these structures could result in failure of critical infrastructure (the City sewer line), functional losses to the visitor-serving uses on site, and potential impacts to the beach and coastal waters below. This option would be inconsistent with the Coastal Act’s marine resource (Section 30230) and water quality (Section 30231) protections and is not by itself a feasible alternative in this case for these reasons.

Other alternatives to shoreline armoring typically considered include removal and/or relocation of the threatened structures away from coastal hazards risk; sand replenishment programs; drainage and vegetation measures on the blufftop; and combinations of each. In this case the Applicant’s alternatives analysis looked at other alternatives to armoring such as relocation, partial removal of threatened infrastructure, and drainage or erosion control measures.

In this case there are two primary threatened structures that would have to be relocated in the near term, namely the restroom building and the City sewer line, and continued viability of the RV Park overall would likely require some additional reconfiguration and relation onsite in such

¹³ Coastal Act Section 30108 defines feasibility as follows: “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

an alternative. For the restroom, the Applicant argues that there are no undeveloped areas on the property that would be able to accommodate the restroom structure without the loss of more RV spots. However, the Applicant's argument mis-frames the issues at play. Again, this Applicant is not entitled to armoring, and there has been constructive notice regarding the coastal hazard dangers associated with the site throughout its history, including that it was understood that an RV park here would have a fairly low economic lifetime (estimated by the LCP at 15 years), and future erosion was to be addressed via relocation, as erosion would persist despite armoring (per both City and Coastal Commission permits). Thus, in a similar manner, this Applicant is also not entitled to a specific number of RV spaces or any other development when faced with these very real hazard risks. The question for this alternative is whether restroom relocation is feasible to address the threat to it, and available evidence suggests it is. In fact, it appears that the restroom could be relocated inland, closer to the clubhouse structure and/or the clubhouse structure (located some 320 feet inland from the blufftop edge) could be expanded to provide additional restrooms. It is possible that this could result in the loss of a few RV spaces, but it would appear to be a feasible option to adapt to the effects of coastal erosion at the site. The only real limiting factor for this option would appear be the time needed to redesign the facility to accommodate additional restrooms in a new location and remove/reconstruct such facilities, essentially prior to the upcoming winter.

With respect to the sewer line, the Applicant's analysis argues that even if the restroom could be relocated, the City sewer line cannot be relocated as "there are no plans to remove or relocate the existing public utilities." The Applicant argues that the expense to do so could not be borne by this private Applicant, as such relocation of infrastructure may require construction of a new lift station that would add about \$850,000 to project costs. For all of these reasons, the Applicant found the relocation alternative not feasible in this case. However, as indicated above, the sewer line likewise is not entitled to shoreline armoring, and that fact *must* be a part of the evaluation as well. In addition, in discussions with City of Pacifica staff, it appears that there may be available options to decommission the most seaward extent of this sewer line, and instead hook it into the existing landward sewer lines (see **Exhibit 6** for sewer infrastructure configurations) without the need for a lift station.¹⁴ This option would likely require resizing 'downstream' sewer lines to provide additional capacity, and possibly restructuring the sewer system to the north to redirect flows from the subdivision inland. Again, as with the restroom relocation, this option would take more time than is available prior to this winter, including in terms of coordination of the effort with the City. Thus, relocation of the sewer line cannot occur in the immediate future without the potential for the loss of functionality to this critical public infrastructure.

The installation of improved drainage and additional landscaping atop the bluff is another option that is typically considered to address erosion threats. Appropriate drainage measures coupled with planting long-rooted native bluff species can help to stabilize some bluffs and extend the useful life of existing bluff setbacks. This option can be applied as a stand-alone alternative, but it is most often applied in tandem with other protective measures. In this case, the high level of estimated annual bluff retreat, the potential for large episodic erosion events, and the level of erosion that has already occurred indicate that the installation of improved drainage and

¹⁴ Email communication between Coastal Commission staff and City of Pacifica Public Works Department on August 13, 2019.

landscaping alone is unlikely to adequately protect existing structures in danger at this site. Such an option should be a part of whatever alternative is ultimately applied, but cannot suffice as a stand-alone measure to address threats to the restroom facility and the sewer line.

Beach nourishment is another option often considered to address erosion threats. Successful beach nourishment programs generally require large quantities of sand materials over a large area and are subject to very specific program parameters intended to maximize their efficacy and utility. Littoral cell sand drift in this area, and the area's exposure to fairly violent wave and storm events, add to the challenge for a successful beach nourishment effort at the project site, and also argue against beach nourishment as a feasible alternative. Beach nourishment is a feasible option in many parts of the coast, especially locations between headlands or promontories that can help to retain sand, but it's not been demonstrated as yet that a nourishment project could maintain an effective beach buttress in this project area in a way that also ensures protection of the endangered structures. Therefore, beach nourishment is not a feasible alternative in this case.

Another option often considered is planned or managed retreat, which when not referring to relocation (discussed above) refers to the intentional abandonment and demolition of the threatened structures. This concept suggests that the shoreline should be allowed to retreat absent the installation of armoring, once the existing structures have been removed. Beach formation is partly assisted by the sand-generating material in the bluffs as they erode, but more importantly natural erosion provides space for the natural equilibrium between the shoreline and the ocean to re-establish itself and for beaches to form naturally. Over the longer run, a more comprehensive strategy to address shoreline erosion and the impacts of armoring may be developed (e.g. planned or managed retreat, relocation of structures inland, abandonment of structures, etc.), however, such options are not currently feasible at this location, given the lack of a formalized managed retreat program for the City that otherwise provides regulatory guidance and requirements, including in relation to more detailed property-by-property plans designed to proactively address threats to public and private infrastructure without the need for armoring.

Thus, there do appear to be feasible non-armoring alternatives that could be applied in this case to address the threat to the restroom building, the sewer line, and the RV Park overall. However, the limiting factor in terms of feasibility is this time necessary to devise such an adaptive plan in light of the immediacy of the threat to this development. Thus, the relocation alternative appears feasible in the longer term (e.g., 3-5 years), but is not feasible in the shorter term.

Armoring Alternatives

In terms of armoring alternatives, there are a variety of different armoring measures that could be used. One common option often considered is riprap, such as that currently present that was placed pursuant to a ECDPs G-2-16-0044 in 2016, and what is proposed in this current proposed project. Riprap has been successfully used to protect endangered structures for many decades. Rock riprap revetments have the advantage that they can be installed relatively quickly to protect the base of bluffs. However, such riprap occupies significant beach space (roughly 15,000 square feet for the Applicant's proposal here), and often is easily dispersed and difficult to maintain in its approved configuration. Another type of armoring option that occupies less beach space and

can have reduced coastal resource impacts when armoring is appropriate is a vertical seawall that is designed to emulate coastal bluff landforms.¹⁵ In either event, though, neither option is feasible in this case because the threatened structures on the site are not entitled to armoring, and such armoring would lead to coastal resource impacts that would be inconsistent with the Act requiring denial.

Alternatives Conclusion

In summary, the RV Park, the restroom, and the sewer line all do not constitute “existing structures” for purposes of Coastal Act Section 30235, and aren’t entitled to armoring as a result. None of this should come as a surprise to the Applicant, including as there has been constructive notice regarding the coastal hazard dangers associated with the site throughout its history, including that it was understood that an RV park here would have a fairly low economic lifetime (estimated by the LCP at 15 years), and future erosion was to be addressed via relocation and not armoring (per both City and Coastal Commission permits). And there do appear to be feasible non-armoring alternatives that could be applied in this case to address the threat to the restroom building, the sewer line, and the RV Park overall, but these would require additional time (e.g., 3-5 years) to develop such an adaptive plan.

In short, the structures that are in danger at the site are not entitled to armoring, but they are in danger, and there are no feasible short term alternatives that can address the ramifications of the coastal hazard risk here prior to this winter. Armoring cannot be approved given its inconsistencies with the Coastal Act here, but without some form of protection, such threatened structures onsite pose a risk to coastal resources in the relatively short term. If the sewer line or the restroom were to be undermined and compromised due to such denial, then it could reasonably be presumed that that could lead to adverse impacts to the beach and ocean, inconsistent with Coastal Act policies affirmatively requiring protection of these resources. In other words, denial alone leads to conflicts between meeting the requirements of Coastal Act policies. Resolution of this conflict is accomplished through the conflict resolution provisions of the Coastal Act (i.e., Coastal Act Sections 30007.5 and 30200(b)), a procedure that allows for resolution of conflict between a policy or policies of the Coastal Act that warrant denial (here, coastal hazards policies) with a policy or policies that compel approval (here, protection of marine resources and water quality) by taking the action which, on balance, is most protective of significant coastal resources (see “Conflict Resolution” section below for further explanation justifying approval).

So, the Coastal Act-consistent solution is essentially a two-pronged approach: require planning to relocate public and private infrastructure on the site outside of coastal hazards areas (to ensure consistency with coastal hazards policies, including Section 30253) while, in the interim, retaining the existing revetment (with coastal resource impacts adequately mitigated for, as discussed below) to provide other necessary coastal hazards protection (including protection of marine resources and water quality per Sections 30230 and 30231). In this context the temporary approval of the emergency riprap placed pursuant to the ECDP, with some modifications, to allow adequate time for a relocation plan to be devised, can be found Coastal Act consistent in a

¹⁵ In fact, the Applicant originally proposed to remove the riprap and construct a vertical soil nail seawall as part of this application, but ultimately chose to pursue the riprap proposed now.

conflict resolution context. The combination of these two approaches (an interim and a longer-term solution) satisfies both Coastal Act Section 30253 requirements and the requirements of Sections 30230 and 30231 because it authorizes a temporary project now to protect critical public infrastructure and visitor serving recreational structures while simultaneously proactively planning for and implementing a relocation plan, including removal of the temporarily authorized armoring at that time.

Thus, **Special Condition 5** authorizes the riprap on a temporary 5-year basis (subject to required mitigations as described subsequently, and subject to term extension for good cause) to allow for the continued operation and function of the threatened infrastructure, including to protect marine resources, water quality and public health in the short term, while simultaneously allowing time to plan for relocation away from coastal hazard risks. To further ensure consistency with Coastal Act Section 30253 in the short-term, the temporarily authorized riprap should be the minimum necessary to protect the structures on-site that would potentially result in impacts to marine resources and water quality. Thus, **Special Condition 1** authorizes the riprap placed pursuant to ECDP G-2-16- 0044, with the requirement that the southern 225 linear feet of such riprap be relocated to the north in order to better provide protection for the threatened City sewer line that is situated there. **Special Condition 6** requires monitoring reports that evaluate the condition and performance of the riprap, including with recommendations, if any, for necessary maintenance, repair, changes, or modifications throughout the temporary authorization period. **Special Condition 2** requires a Coastal Hazards Response Plan that provides a clear long-term plan for relocation of all necessary City sewer infrastructure to an inland location not subject to the coastal hazards currently threatening it.

In addition, the Response Plan will provide for the relocation of structures such as the restroom facility, as well as RV parking spaces and associated utilities that are threatened, or will be threatened, during the continued economic life of the RV Park. Regarding appropriate economic life, the RV Park is located in an inherently dangerous and unstable location on a rapidly eroding coast. Given the more minor nature of the development and its hazardous location, it is reasonable to consider a shorter economic life of about 30 years. Therefore, any new development should be set back to avoid erosion and bluff failure over that 30-year time period without reliance on armoring. As identified in the Applicant's geotechnical reports¹⁶, the bluff area with a factor of safety of less than 1.5 under static conditions extends as far inland as 45 feet from the bluff edge. Assuming little to no sea level rise over this 30-year period, the bluff setback should be at least 87-feet.¹⁷ Taking into account an acceleration factor of a range of 1.5-

¹⁶ Geosoils, Inc. *Project Coastal Engineering Information for California Coastal Commission (CCC) for Shore Protection Permit, MHC San Francisco RV Resort, L.P. 700 Palmetto Avenue, Pacifica, San Mateo County, California. G-2-16-0044*, September 25, 2017.

ENGEO Incorporated. *Proposed Soil Nail Wall Retention System Pacifica, California, Geotechnical Exploration*, October 2, 2017.

¹⁷ Setback calculated as follows: $(1.38\text{ft/yr} \times 30\text{yr}) + 45\text{ feet}$ to account for slope stability = 87 feet as setback for 2050.

2x for sea level rise¹⁸ the high end bluff setback for the 30-year life without armoring is 128-feet (See **Exhibit 5** for setback visuals).¹⁹ All development located within this setback should be easily removable and relocatable. These erosion setbacks are preliminary estimates based on information submitted by the Applicant thus far. The setbacks could be modified by submission of new information to justify the change, subject to Executive Director review and approval through development of the Response Plan. The Response Plan is due in two years, but extension of that Plan deadline may be granted by the Executive Director for good cause. Once approved, the Applicant will submit Revised Final Plans for Phase II of the development for Executive Director Review and approval, due no later than 3 years after permit approval (or by September 2022) and undergo construction and implementation. Once fully implemented, required by the conditions as no later than 5 years after permit issuance, or September 2024, the Applicant will remove all shoreline protection placed pursuant to this temporary authorization.

In terms of recognizing and assuming the hazards risks for shoreline development, the Commission's experience in evaluating proposed developments in areas subject to hazards has been that permittees continue to pursue development despite periodic episodes of heavy storm damage and other such occurrences. Development in such dynamic environments is susceptible to damage due to such long-term and episodic processes. Past occurrences statewide have resulted in public costs (through low-interest loans, grants, subsidies, direct assistance, etc.) in the multiple millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden for damages onto the people of the State of California, applicants are regularly required to acknowledge site hazards and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see **Special Condition 9**).

Beach and Shoreline Access and Sand Supply Impacts

Given that **Special Condition 1** temporarily authorizes the riprap placed pursuant to the ECDP with some modifications, the Coastal Act requires mitigation of all impacts to shoreline sand supply from the shoreline protective device (where avoidance of impacts is not possible).

Some of the effects of engineered armoring structures on the beach (such as scour, end effects, and modification to the beach profile) are often temporary or may be difficult to distinguish from all the other actions that modify the shoreline. In addition, there are effects that are more qualitative (e.g., impacts to the character of the shoreline and visual quality) that are imprecise proxies for understanding the total impact of an armoring structure to the coastline. However, some of the effects that a shoreline armoring structure may have on natural shoreline processes can be quantified, including: (1) the loss of the beach area on which the structure is located; (2) the long-term loss of beach that will result when the back-beach location is fixed on an eroding

¹⁸ Applicant's geotechnical consultant estimated an increase in erosion by a factor of 1.5 based on a 1.1 foot increase in sea level rise by 2046; Commission Staff Geologist estimated an increase in erosion by a factor of 2 based on a high scenario of sea level rise of 1.9 feet by 2050.

¹⁹ Setback range calculated as follows: $((1.5 * 1.38 \text{ ft/yr}) * 30 \text{ yr}) + 45 \text{ feet}$ to account for slope stability = 107 for the low range setback for 2050; $((2 * 1.38 \text{ ft/yr}) * 30 \text{ yr}) + 45 \text{ feet}$ to account for slope stability = 128 feet as high end setback for 2050.

shoreline; and (3) the amount of material that would have been supplied to the beach if the bluff and back-beach were to erode naturally. The first two calculations affect beach and shoreline use areas, and the third is related to shoreline sand supply impacts, but all three impact public recreational access to the beach as it relates to sand supply and by extension beach and shoreline recreational areas.

Encroachment Area

Shoreline protective devices, regardless of their configuration, are all physical structures that occupy space that would otherwise be unencumbered. When a shoreline protective device is placed on a beach area, the underlying beach area cannot be used by the public. This generally results in a loss of public access and recreational opportunity as well as a loss of sand and areas from which sand generating materials can be derived. The area where the structure is placed will be altered from the time the protective device is constructed, and the extent or area occupied by the device will remain the same over time, until the structure is removed or moved from its initial location (or in the case of a revetment, as it spreads seaward over time). The beach area located beneath a shoreline protective device, referred to as the encroachment area, is the area of the structure's footprint.

In this case, the approved riprap will cover approximately 11,250 square feet of shoreline and beach area that would otherwise be unencumbered.²⁰ In addition, the currently present emergency rock has covered the approximately 22,500 square feet of sandy beach since it was first installed in 2016, some three years ago, and this coverage must also be considered for purposes of this follow-up CDP application.²¹ For analytic purposes, by proportionally translating the ECDP rock riprap and authorized project rock riprap footprints over their respective contributions to the total 8-year time period results in a total encroachment impact value of approximately 15,469 square feet.²²

Fixing the Back Beach (the "Coastal Squeeze")

On an eroding shoreline, a beach will typically continue to recreate itself between the waterline and the bluff as long as there is space to form a beach between the bluff and the ocean. As bluff erosion proceeds, the profile of the beach also retreats and the beach area migrates inland with the bluff. This process stops, however, when the backshore is fronted by a hardened, protective structure such as a revetment or a seawall. Experts generally agree that where the shoreline is eroding and armoring is installed, the armoring will eventually define the boundary between the

²⁰ As conditioned to allow the southernmost 225 feet of emergency rock to be relocated to the northern end of riprap, the resultant riprap would be approximately 625 feet long and 18 feet deep, occupying 11,250 square feet of beach area.

²¹ The emergency rock is similarly approximately 625 feet long and 36 feet deep, occupying 22,500 square feet of beach area.

²² The emergency rock configuration is 625 feet long and 36 feet deep (22,500 square feet) and the authorized rock configuration is 625 feet long and 18 feet deep (11,250). 22,500 square feet divided by 8 years multiplied by 3 years equals 8,438 square feet. 11,250 square feet divided by 8 years multiplied by 5 years equals 7,301 square feet. 8,438 square feet added to 7,301 square feet equals 15,469 square feet.

sea and the upland.²³ While the shoreline up and downcoast of the armoring continues to retreat and reform new beach areas, shoreline in front of the riprap armoring eventually stops at the armoring's seaward toe. This effect is also known as passive erosion, or "coastal squeeze." The sandy beach area will narrow, squeezed between the moving shoreline and the fixed backshore. This impact represents the loss of a beach as a direct result of the installed armoring. One need look no further for an example of this phenomenon than just north of the project site, where the pre-Coastal Act subdivisions have been armored over time, and the beach fronting that riprap armoring is relatively non-existent (see photos in **Exhibit 2**).

The coastal squeeze phenomenon caused by armoring is exacerbated by climate change and sea-level rise. As climate change causes seas to rise ever faster, beach and recreational shoreline areas will be lost at an increasingly rapid pace.²⁴ If the inland area cannot also retreat, eventually, there will be no available dry beach area and the shoreline will be fixed at the base of the armoring structure. In the case of an eroding shoreline, this represents the loss of a beach and shoreline recreational area as a direct result of the armoring. Specifically, beach areas are diminished as the beach is compressed between the ocean migrating landward and the fixed backshore. Such passive erosion impacts can be calculated over the time the proposed armoring is expected to be in place. Consistent with past practice, including the Commission's experience that shoreline armoring often needs to be reinforced, augmented, replaced, or substantially changed within twenty years of its original installation, and to provide for re-review on a regular basis to allow for consideration of possible changes in policy, law, and physical conditions associated with armoring, the Commission generally evaluates this impact for a typical duration period. Here this is a temporary 5-year authorization for the riprap that will expire once a Coastal Hazard Response plan is in place and implemented, plus the 3 years the emergency rock has been in place, for a total of 8 years. After this 8-year initial mitigation period, the effect of this

²³ See, for example: Kraus, Nicholas (1988) "Effects of Seawalls on the Beach: An Extended Literature Review", *Journal of Coastal Research*, Special Issue No. 4: 1-28; Kraus, Nicholas (1996) "Effects of Seawalls on the Beach: Part I An Updated Literature Review", *Journal of Coastal Research*, Vol.12: 691-701, pages 1-28; and Tait and Griggs (1990) "Beach Response to the Presence of a Seawall", *Shore and Beach*, 58, 11-28.

²⁴ Sea level has been rising for many years, and there is a growing body of evidence that there has been an increase in global temperature and that acceleration in the rate of sea level rise can be expected to accompany this increase in temperature. The Coastal Commission's Sea Level Rise Policy Guidance (2015) recommends using best available science at the time of application to understand the risks associated with sea level rise over the life of development. In March 2018, the California Ocean Protection Council adopted updated State Sea Level Rise Guidance, which incorporates recent scientific information and is now considered the best available science on sea level rise for the State of California. According to this Guidance, updated most recently in November 2018, the estimated range of sea level rise for the project area (based on the San Francisco tide gauge) for 2070 is approximately 1.9 to 3.5 feet; and 2.9 to 5.6 feet for 2090. Additionally, recent scientific studies have analyzed the potential for rapid ice loss and suggest that there could be extreme sea level rise of as much as 10 feet by 2100 (or an additional 5.2 and 8.3 feet of sea level rise that would be added to those estimates for 2070 and 2090, respectively), though this extreme scenario is currently less well understood. The observed trend for global sea level has been a long-term, persistent rise. Mean water level affects shoreline erosion several ways, and an increase in the average sea level will exacerbate all these conditions. On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore. This, too, leads to loss of the beach as a direct result of the armor as the beach is squeezed between the landward migrating ocean and the fixed backshore (e.g., even without any armoring, a 1-foot rise in sea level generally translates into a 40-foot inland migration of the land/ocean interface for a roughly 40:1 beach slope, typical of average sandy beach profiles).

approval is that the armoring will no longer be present. Should the Applicant need more time past the authorization period, additional impact analysis will be needed (see **Special Condition 5**) to assess the appropriate mitigation necessary at that time and moving forward.

The Commission has established a methodology for calculating passive erosion, or the long-term loss of beach due to fixing the back beach. The area of beach lost due to long-term erosion is equal to the long-term average annual erosion rate multiplied by the number of years that the back beach or bluff will be fixed, multiplied by the width of the property that will be protected. The average annualized erosion rate at this location has been estimated by the Applicant's geotechnical analyses to be approximately 1.38 feet per year. Applying the 1.38 feet per year average annual rate of erosion over the first 5 years that the 625-foot long riprap revetment will be present during its initial authorization, and adding in the 3 years that the 625-foot long emergency riprap has been present, equates to 6,900 square feet of beach will have been lost through the 8-year period due to armoring here.²⁵ Thus, the armoring here leads to a total loss of 6,900 square feet of beach that would have been created naturally if the back beach had not been fixed by the armoring through the first 8-year assessment period.

Thus, the armoring project leads to beach and shoreline use area impacts of approximately 22,369 square feet (15,469 square feet associated with the riprap's footprint and the temporary ECDP footprint, 6,900 square feet associated with passive erosion due to fixing the back beach) through the 8-year impact horizon. There is no doubt that such impacts represent a significant public recreational access impact, including a loss of the social-economic value of beach and shoreline recreational access, for which the Coastal Act requires mitigation.

The most obvious in-kind mitigation for these impacts would be to create a new 22,369 square-foot area of beach/shoreline to replace that which will be lost over the first 8 years with an identical area of beach/shoreline in close proximity to the lost beach/shoreline area. While in concept this would be the most direct mitigation approach, in reality, finding an area that can be turned into a beach and ensuring it does so appropriately over time is very difficult in practice. At the same time, the calculations of affected area do provide a means to identifying an appropriate relative scale for evaluating alternative mitigations. For example, in the past the Commission has looked at several ways to value such lost beach and shoreline areas in order to determine appropriate in-lieu mitigation fees, including evaluating the recreational value of the beach/shoreline in terms of the larger economy, as well as the real estate value of the land that would have otherwise gone to public beach/shoreline use.

In terms of the recreational beach/shoreline value, the Commission has recognized that in addition to the more qualitative social benefits of beaches and shoreline areas (e.g., recreational, aesthetic, habitat values, etc.), beaches and shoreline areas provide significant direct and indirect revenues to local economies, the state, and the nation. It is well known that the ocean and coastline of California contribute greatly to the state's economy through activities such as

²⁵ That is, 625 feet multiplied by 1.38 feet per year multiplied by 8 years equals 6,900 square feet.

tourism, fishing, recreation, and other commercial activities.²⁶ There is also value in just spending a day at the beach and having wildlife and clean water at that beach, and being able to walk along a stretch of beach and shoreline. There is also the societal benefit of beaches and shoreline areas, including the ways they contribute to local community and State social fabric and cultural identity, although it is difficult to put a price tag on either of these.

Thus, these recreational impacts are in many cases difficult to quantify, including at sites such as this where visitation data needed for certain economic impact models are lacking. In other cases (including cases where visitation data was also lacking), the Commission has found that using a real estate valuation method as a basis for identifying mitigation allows for objective quantification of the value of lost beach and shoreline area, and that this valuation is appropriate both in terms of the scope of the impacts and the rational basis for applying such methodology.²⁷ This method requires an evaluation of the cost of property that could be purchased and allowed to erode and turn into beach naturally to offset the area that will be lost due to the construction and continued placement of the proposed armoring over time.

Toward this end, the market values of representative blufftop properties near the project area supply a means to identify what it might cost to purchase such property and allow it to erode in this way to create offsetting beach/shoreline recreational space. Specifically, this review was conducted by looking at the sales of blufftop property in this specific area within the last three and a half years. This value is then divided by the property square footage to arrive at a price per square-foot. The price per square-foot calculated value serves as a way to gauge the cost of acquiring an equivalent blufftop property area that could be allowed to erode to provide an equivalent amount of beach and shoreline area to that which will be lost over the first 8-year mitigation timeframe.

This evaluation focused on a total of eight blufftop properties within the vicinity of the proposed project representing a range of properties for which sales information was available over the past three years (see **Exhibit 8**). The range of values starts at the high end for the property at 539 Esplanade Avenue with a value of \$292.53 per square-foot, to the low end for the property at 544 Dolphin Drive with a value of \$162.49 per square-foot, with an average of \$201.81 per square-foot.²⁸ This average per square-foot value represents a reasonable estimate of the market value of blufftop properties nearest the subject site based on actual sales data in the last three and a half years.²⁹ Given median sales prices have been rising in Pacifica, and coastal California, in general, over the same timeframe, such a value may slightly underestimate current costs, but it is

²⁶ See Coastal Commission's Adopted Sea Level Rise Policy Guidance at <https://www.coastal.ca.gov/climate/slrguidance.html>: "Just over 21 million people lived in California's coastal counties as of July 2014 (CDF 2014), and the state supports a \$40 billion coastal and ocean economy (NOEP 2010)."

²⁷ See, for example, CDPs 2-10-039 (Land's End Seawall), 2-11-009 (City of Pacifica Shoreline Protection), A-3-PSB-12-042 and A-3-PSB-12-043 (Pismo Seawalls), and 3-16-0345 (Honjo Seawall).

²⁸ The property sales used to derive the average price per square foot for blufftop properties in the immediate vicinity are for property sales at the following locations: 531 Esplanade (\$170.90/sq ft); 539 Esplanade (\$292.53/sq ft); 544 Dolphin (\$162.49/sq ft); 551 Esplanade (\$240.38/sq ft); 555 Esplanade (\$190.50/sq ft); 559 Esplanade (\$209.13/sq ft); 559 Dolphin (\$176.23/sq ft); and 105 West Avalon (\$172.31/sq ft).

²⁹ Source: Zillow.com and Trulia.com (December, 2018).

still a valid, if conservative, estimate for mitigation purposes.

Applying this land acquisition value to the 22,369 square-foot impact due to the proposed armoring over 8 years would result in a mitigation fee of \$4,514,288 for the loss of beach and shoreline use areas based on the initial 8-year mitigation period (i.e., 22,639 square feet x \$201.81/square foot = \$4,514,288). The Commission finds that this potential mitigation fee amount is most closely tied to specific property values in the vicinity of the project, and is thus both reasonably related and roughly proportional to the anticipated impacts of the proposed armoring on beach and shoreline use areas through the first 8 years it is in place.

Retention of Potential Beach Material

The final impact calculation pertains to the loss of sand and sand generating materials due to the project, and the way that that loss affects the larger sand supply system. Beach sand material comes to the shoreline from inland areas, carried by rivers and streams; from offshore deposits, carried by waves; and from coastal dunes and bluffs feeding the beach. Bluff retreat/shoreline erosion is one of several ways that sand and sand generating materials are added to the shoreline. Bluff retreat and erosion is a natural process resulting from many different factors such as erosion by wave action causing cave formation, enlargement and eventual collapse of caves; saturation of the bluff soil from groundwater causing the bluff to slough off; and natural bluff deterioration. For coastal dunes, the contribution to the system is typically more direct, with sand becoming part of the shoreline system during and as a result of climatic events, including wind, rain, and storms. When the bluff/shoreline is armored with shoreline armoring, the natural exchange of material from the armored area to the beach and shoreline is interrupted, and, if the armored bluff area would have otherwise eroded, there will be a measurable loss of material provided to the beach and shoreline, contributing to a loss of sandy beach.

In bluff areas, if natural erosion were allowed to continue (absent of any shoreline armoring), bluff sediment would be added to the beach, as well as to the larger littoral cell sand supply system fronting the bluffs. The volume of total material that would have gone into the sand supply system over the life of the shoreline structure would be the volume of material between (a) the likely future bluff face location with shoreline armoring; and (b) the likely future bluff face location without shoreline armoring. Using the Commission's methodology³⁰ the amount of beach-quality sand that would be retained due to the proposed revetment would be equal to 716 cubic yards of sand per year. Over the course of the initial 5-year mitigation horizon, and including the last 3 years that the emergency riprap has had the same effect, the proposed armoring would thus result in the loss of about 5,728 cubic yards of sand through the 8-year mitigation horizon (i.e., 716 cubic yards/year x 8 years = 5,728 cubic yards).

To mitigate for this loss of sand, the Commission oftentimes requires payment of an in-lieu fee

³⁰ Sand supply loss is calculated with a formula that utilizes factors such as the fraction of beach quality material in the bluff material; the length of time the back beach will be fixed; the predicted rate of erosion with no seawall; the height of the seawall; and the width of property to be armored. In this case, the fraction of beach quality material is 0.32, the height of the riprap is 18 feet for the emergency project thus far and 12 feet for the authorized project, the width of the property to be armored is 625 feet, the rate of retreat is 1.38 feet per year, and the time period the seawall is installed is 8 years accounting for the 5 year authorization period and the 3 years the emergency rock was in place.

to contribute to ongoing sand replenishment or other appropriate mitigation programs. In such cases, the Commission has typically mitigated for such sand retention impacts with an in-lieu fee based on the cost of buying and delivering an equivalent volume of beach quality sand to the affected area. In this case, as discussed above, the riprap would result in the retention of about 5,728 cubic yards of sandy material through the initial 8-year mitigation horizon. The Applicant did not submit bids for the cost of delivered sand for this specific site, however similar bids from the region (Half Moon Bay) have averaged out to be about \$50 per cubic yard.³¹ Thus, an in-lieu fee to address this initial sand retention impact would be approximately \$286,400.³²

Approvable Mitigation Package

In total, through the first 8-year mitigation timeframe, sand supply and related beach/shoreline loss impacts associated with the armoring would result in a required mitigation fee of \$3,949,102 (i.e., \$4,514,288 + \$286,400= \$4,800,688). Based on the above analysis, such a figure is both reasonably related and roughly proportional to the quantifiable impacts of the proposed armoring. However, rather than requiring a mitigation fee of \$4,800,688 to facilitate possible access improvements as a means of offsetting this identified impact, a series of immediate public access improvements nearby the project site, described in more detail below, can most effectively offset such impacts.

When viable, the Commission has historically offset identified impacts via in-kind public access improvement projects. While this option is generally only available with public agency Applicant, in this case there is a unique opportunity for this Applicant to work with the City, and with existing access requirements on site, on a series of projects that together can appropriately offset these beach and shoreline area recreational access impacts as part of an overall mitigation package. Such mitigation strategies can allow for bona fide improvements to public recreational access infrastructure and utility so that mitigation benefits can be realized in the near term and in the same area of the impacts, as opposed to fees that might not be spent for many years, and mitigation not timely realized as a result. The idea is typically to acknowledge that the value of a fee diminishes over time in terms of what it can provide, including as improvements only become more expensive to construct over time, and to place a premium on improvements that can be realized in the near term. The Applicant has been working with the City and Commission staff on such a strategy whereby the Applicant would fund and implement a series of public access improvements in the vicinity of the project to help offset project impacts.

Thus, on this point the Applicant is proposing a mitigation package that includes restoring access pursuant to previous permit requirements as well as a series of public access improvements on the blufftop, all of which would be managed for the public's use and enjoyment via a comprehensive public access management plan (see **Special Conditions 1, 2, and 3**). Specifically, the Applicant has voluntarily agreed to pay for and implement the following:

³¹ Although bids specific to this site were not submitted, and the bids relied upon from the Half Moon Bay project are unclear as to whether the sand actually constitutes delivered beach quality (as opposed to construction quality) sand, the \$50 average is similar to estimates in other projects for delivered beach-quality sand, albeit estimates from other areas, and thus the \$50 per cubic yard average in this case may be used as a proxy.

³² That is, \$50 per cubic yard multiplied by 5,728 cubic yards equals \$286,400.

- Reconstruction of all prior required blufftop trail and beach accessway elements and easements/dedication, but with required enhancements (see below).
- Construction of an improved beach accessway that would reinstate beach access that was previously required pursuant to the prior permit, but to install it in such a way as to assure it is more adaptable and more resilient to coastal hazards.³³
- Improvements to the existing public parking lot to the south of the RV Park in the form of repaving, restriping, and adding amenities to the lot.
- Installation of public access amenities (e.g., public benches, picnic tables, bicycle racks, signage, overlooks, etc.) and landscaping improvements.
- Landscaping, drainage, and fencing/barrier modifications to improve public access utility and public views.
- Ongoing maintenance of public access areas, improvements, and amenities.
- Recordation of an easement irrevocably offering to dedicate, an area for public recreational access use and development in perpetuity, over the areas that were previously required to be dedicated by previous permits. The dedication would also include new areas for public access that are created through the required Public Access Management and Hazard Response Plans, in order to create a unified area for public access use and enjoyment.
- In addition, in order to adequately mitigate for impacts, the Commission is also requiring, though the applicant has not volunteered, construction of a new tent camping area onsite that would support lower-cost visitor-serving amenities in the area and assure a wider range of accommodations for users onsite.

These types of improvements will enhance public recreational access amenities and utility in the project area, appropriately offsetting the beach/shoreline area impacts identified above. Further, development and implementation of the long-term Coastal Hazards Response Plan (**Special Condition 2**) will ensure the continuation of the visitor-serving overnight RV camping use on the property, enhance the visitor experience through improvements to the site overall as discussed above, and provide public benefits to the City through the planning, redesign, and contribution of funding to the relocation of the City sewer infrastructure. Lastly, the eventual removal of all armoring from the site will reestablish the natural beach below and allow for natural processes to erode the bluff and replenish the beach in light of future sea level rise.

Thus, in this case, the Commission finds it reasonable to mitigate for the above-identified

³³ The Applicant were already required by CDP-3-83-212 to provide a beach access stairway in this area (which was installed but subsequently washed out by storms and not yet replaced, as described above), and thus is currently required to provide a replacement beach access stairway by virtue of that CDP. Even though it is already required as mitigation for that prior project, it is appropriate to give the Applicant credit for the stairway proposed here inasmuch as it is a much more adaptable design, which will last longer, and its design provides additional 'value' in this sense that can be countenanced as part of the mitigation package.

armoring impacts, as well as to enhance and maximize public access and recreational opportunities in the project area as required by the Coastal Act, to require the Applicant to improve and maintain public recreational access areas, improvements, and amenities; to reinstate beach and blufftop land for public purposes; to enhance and increase the range of low-cost, visitor-serving uses onsite; to record easements for public use and enjoyment; and to eventually reestablish a natural shoreline and natural shoreline processes all with the objective of maximizing and enhancing public recreational access and utility in this area. This mitigation package strategy and approach is similar to compensatory projects and mitigation packages required by the Commission in the past.³⁴ In addition, this approach will allow public access improvements to be realized in the very near term, providing fairly immediate and tangible public benefits as opposed to an overall single fee approach that may not be used or applied for some time, reducing its effectiveness. In addition, the above-described recreational use and access improvement projects will likely be worth much more to users than the cost to develop these improvement projects, as they have an intrinsic value to the shoreline-visiting public, particularly given the time which the previously constructed amenities onsite have been offline due to ever-worsening erosive forces. In short, the above-described access improvement project appropriately mitigates for the conditioned riprap's sand supply and related public access impacts, consistent with the Coastal Act, in lieu of payment of the calculated mitigation fee.

Coastal Hazards Conclusion

There are no “existing structures” located at the site as that term is understood in a Coastal Act armoring sense, including because the site was originally developed in the 1980s (and the City sewer line replaced) *after* passage of the Coastal Act in 1976. Therefore, the RV Park does not qualify for shoreline armoring under Coastal Act Section 30235 tests, and for other coastal resource impact reasons the Coastal Act directs denial of the proposed project. However, given that the City’s sanitary sewer infrastructure is within one storm cycle of being compromised here, and the restroom is in danger within one or two storm cycles (based on estimated bluff erosion of up to 20 horizontal feet in one bad storm event absent armoring), it is clear that development on the site is in fairly immediate danger from bluff erosion. And denial (and ultimately removal of the existing and only temporarily authorized emergency armoring that would accompany denial) would likely lead to such an outcome in the relatively short term. If the sewer line or the restroom were to be undermined and compromised due to such denial, then it could reasonably be presumed that that could lead to adverse impacts to the beach and ocean, inconsistent with Coastal Act policies affirmatively requiring protection of these resources. In other words, denial alone leads to conflicts between meeting the requirements of Coastal Act policies.

Therefore, it is appropriate to approve a project through the Coastal Act’s conflict resolution procedures to allow adequate time for the Applicant and the City to develop a feasible adaptation plan for relocation of the sewer line and the restroom, and a reconfiguration of the RV Park overall, in light of the coastal hazard risks that apply here. The approved project would allow

³⁴ See, for example, CDPs 2-17-0702 (Sharp Park Armoring), 3-02-107 (Podesto), 2-16-0684 (Aimco), A-3-SCO-06-006 (Willmott), 3-09-029 (Rusconi), 3-09-042 (O’Neill), 3-10-044 (Crest Apartments), 2-11-009 (Pacifica drainage armoring), A-3-PSB-12-0042 and -0043 (Pismo Beach Oceanview Boulevard Seawalls), A-3-SCO-07-015/3-07-019 (Pleasure Point Seawall and Parkway), and 3-14-0488 (Iceplant LLC).

temporary authorization for the emergency riprap, provided that rock placed on the southern 225 linear feet of the beach/bluffs is relocated to the north to extend the riprap along the beach/bluffs there in order to help provide better protection for the threatened City sewer line located there. The authorized project would be 625 linear feet from the northern property line, to just south of the restroom, with the riprap height going up to 12 feet, and encroaching on the beach 18 feet. The temporarily approved emergency riprap would be stacked to a slope of 1.5/1. The rock could remain for 5 years while the Applicant develops and implements a coastal hazards response plan that provides for relocation of threatened City sewer infrastructure and reconfiguration of the RV Park to address its coastal hazards risk, including reconstructing already required public accessways and adding other public amenities (such as a low-cost tent camping area, overlooks, picnic areas, etc.) to offset riprap impacts during the time it is present. Once relocation and reconfiguration activities are complete, required within 5 years, then the temporarily authorized riprap would be required to be removed and the beach and bluff areas restored to natural conditions.

Thus, this CDP is designed to plan for and address coastal hazard issues in the long run in a manner that is most protective of natural shorelines and natural shoreline processes, and that is consistent with the objective of maximizing and enhancing public recreational access and utility in this area.

E. Public Access and Lower Cost Visitor-Serving Facilities

Applicable Policies

The San Francisco RV Resort is a commercial recreational, visitor-serving facility that also provides free public access facilities, and the proposed project raises issues associated with its continued use and function. As described in the preceding finding, the proposed armoring would result in quantifiable impacts to the public beach. Thus, the project's conformity with the Coastal Act public access and recreation policies is of issue. Coastal Act Sections 30210 through 30213, 30222 and 30223 specifically protect public access and recreation, especially lower cost recreation and visitor facilities, and prioritizes visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation. In particular:

***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. ...*

Section 30212.5. *Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

Section 30213. *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

Section 30222. *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Section 30223. *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

The Pacifica LCP includes nearly identical public access provisions (e.g., LCP Policies 1-5, 8 and 9), and also provides specific direction regarding the development of public access and recreational use on the subject property as envisioned and approved at the time of LCP adoption. Specifically, LUP Page C-28 directs that the site should “continue to be used for visitor-serving commercial uses, including visitor accommodations,” that future development is required to provide 20 public off-street parking spaces”, and that “Public beach access and parking should be maintained on-site by the developer until such facilities have been accepted for dedication by a public agency. Conditions of the [City's] project approval [(UP-453-83)] require the owner to maintain the bluff-top path and stairway, if necessary, at the expense of RV spaces.”

In addition, LCP Access Recommendation 5 for the south bank of Milagra Creek (i.e., near the 20-space public parking lot onsite) recommends the following with regards to access at the south end of the subject property:

Recommendation:

- 1) *The developer of the visitor-serving commercial site on the bank of Milagra Creek should provide developed public beach access. The location of the access should be based on geotechnical studies and integrated into the design for the commercial area in such a way that will be available to the public from Palmetto and will not conflict with the commercial use. The area picked should provide adequate space for access and some public beach parking to replace that removed by developing the campground.*
- 2) *The access should be designed to keep people on the path or stairway. The appearance of the access from the beach also should be considered in its design.*
- 3) *Maintenance of the access should be a part of the commercial development.*
- 4) *Since the on-street parking will be removed when the campground is developed, the developer should provide some off-street public parking at the access area. The*

adjacent visitor-serving commercial area to the south of the proposed campground should also provide beach visitor parking.

- 5) *Since the site is highly visible, the appearance of the commercial development should be attractive and the parking area and access landscaped to encourage its use.*

Consistency Analysis

Shoreline armoring can have significant adverse impacts to public access and recreation. Section 30210 of the Coastal Act requires the Commission to provide the general public maximum access and recreational opportunities, while respecting the rights of private property owners. Section 30211 prohibits development from interfering with the public's right of access to the sea. In approving new development, Section 30212(a) requires new development to provide access from the nearest public roadway to the shoreline and along the coast, save certain limited exceptions (such as where there already exists adequate access nearby), and Section 30212.5 requires distribution of public facilities, including parking facilities, to mitigate overcrowding or overuse of any single area. Section 30213 protects and encourages the provision of lower cost forms of access, such as the free public access parking lot, blufftop path, beach accessway, and public use of the beach for recreation and fishing, all which at one point existed on the subject property pursuant to prior permit requirements. Section 30220 protects coastal areas suited for ocean-oriented activities, such as the beach and offshore access available here, for such purposes. Lastly, Section 30222 prioritizes visitor-serving amenities providing for public recreational use.

The Coastal Act Section 30210 direction to maximize access represents a different threshold than to simply provide or protect such access. Namely, it is not enough to simply provide access to and along the coast, and not enough to simply protect access, rather such access must also be *maximized*. A constitutional mandate, maximizing access provides fundamental direction with respect to projects along the California coast that raise public access issues, like this one. In addition, the mean high tide line is predicted to move landward over time depending on the beach profile, seasonal tidal activity and continued sea level rise. As mentioned in the project description, this area is used by the public for overnight recreational vehicle camping as well as for free parking and access to the beach, and thus, it provides significant coastal access and recreational opportunities for residents and visitors alike. Therefore, it is critically important that the Commission assess whether the project would impact public access and recreation, and if so, provide measures to avoid or appropriately mitigate such impacts.

As indicated in the above LCP language and policies, and the past approvals and past conditions of the site, the subject property was intended to provide for commercial recreational, visitor-serving facilities to support visitors, fishing use and to provide beach access. Accordingly, in November of 1983 the Coastal Commission approved CDP 3-83-212 for construction of the original 182 RV Park with 20 public access parking spaces, blufftop public access trails, beach stairway, a store, spa, showers, laundromat, restrooms, sanitary dump and fuel station. As discussed further above in the project background, special conditions included as part of this CDP approval required a public access and recreation easement both laterally along the shoreline and vertically from Palmetto Avenue to the beach (along the previous Milagra Creek drainage course). The CDP also incorporated all City use permit (UP-453-83) and site development plan conditions, and these that more specifically outlined requirements for the blufftop path and required all areas west and south of the RV parking lot to be designated for public use. The

blufftop path was to be relocated inland if and when it was threatened by erosion and RV spaces were to be sacrificed to maintain such access. The City use permit also required that the property owners be responsible for repair and maintenance of the accessways.

As detailed in the coastal hazards section above, erosion at this location has led to the deterioration and loss of formal public access across the site and down to the beach including the required blufftop path and beach access path and staircase. The 20-space public parking lot is still available for public use but the only path down to the beach is currently informal, rugged and steep. Further, erosion has also affected the functionality of the visitor serving RV Park itself, resulting in the loss of 60 of the park's original 182 RV space capacity (loss of 51 RV spaces to bluff erosion, with an additional 9 spaces out of commission due to their proximity to the blufftop edge). The remaining 122 RV sites are still available to rent for an average cost per night of \$92 (rental spaces range from \$81- \$103 per night depending on the location). The most significant infrastructure currently at risk is the City's public sewer line and the RV Park restroom. Thus, measures need to be taken to bring the project into compliance with access conditions of their original CDP and City permits, and to address the hazard risk to the recreational uses in both the long- and short-term as part of this CDP approval.

As described in the previous finding, this CDP would authorize shoreline armoring to maintain and protect the functionality of the threatened restroom and sewer line on site in the short-term while the Applicant develops a longer term plan to remove and/or relocate threatened infrastructure inland, to then remove armoring, and to redesign the facility to provide for its continued use moving forward. However, the proposed shoreline protection would still have identifiable impacts on public recreational access, including through loss of beach/shoreline recreational use area where it is sited, incremental loss of beach due to the "coastal squeeze," and cumulative impacts to beach and shoreline recreation in the area for its temporary authorization period and accounting for the time since the emergency rock has been in place. Such impacts are predicted to be exacerbated as the years go on as sea levels rise, with sea level expected to rise between 0.5 feet to 1.8 feet by 2040.³⁵

As such, and only in a conflict resolution context, this approval allows for riprap to remain for the next 5 years in order to allow the Applicant time to plan for and implement an adaptation plan for the site, including removal of such armoring and restoration of the affected areas. In addition, the approval requires past required public access to be reconstructed and improved, and new public access improvements to be developed, as a means of offsetting the impacts associated with the approved project. Specifically, the approval includes **Special Condition 2** which requires the Applicant to submit a Coastal Hazard Response Plan to redesign the facility to be safe from hazards without shoreline protection for its ultimate remaining lifetime, including in terms of removing and/or relocating threatened infrastructure. This will ensure long-term viability of the commercial visitor-serving recreational use without the use of shoreline armoring, consistent with the Coastal Act policies. Further, **Special Condition 3** requires submittal of a Public Access Management Plan designed to provide immediate and temporary public access enhancements including installation of a temporary blufftop coastal trail in the

³⁵ State of California Sea-Level Rise Guidance (2018 Update); California Natural Resources Agency & Ocean Protection Council; Sacramento, California; March 14, 2018, 1-84.

short term, and more formalized permanent improvements including a new blufftop coastal trail with landscaping, a beach accessway, a tent camping area, a public park, and public benches and overlooks located outside of hazard areas in the long term (see **Exhibit 4 and 5**). **Special Condition 3** also requires that the Applicant to develop an improved vertical public accessway (i.e., trail, stairway, etc.) from the public parking area south of the RV Park down to the beach, including making use of the existing graded path established via CDP 2-18-0975-W for maintenance on the Milagra Outfall as appropriate.³⁶ And finally, **Special Condition 8** requires recordation of public access easements for the public's use and enjoyment on site. Such improvements will mitigate impacts to public access from the temporary shoreline armoring so that the Applicant can eventually remove all such armoring within 5 years, bringing the project into compliance with Coastal Act coastal hazard and public access and recreation policies. Lastly, the eventual removal of all armoring and restoration in this area will reestablish the natural beach below and allow for natural processes to erode the bluff and replenish the beach in light of future sea level rise.

The remaining public access and recreation impacts accrue due to project activities on the blufftop and on the beach, and from construction overall. With respect to construction impacts, this project will: require the movement of large equipment, workers, materials, and supplies in and around the shoreline area and public access points; include large equipment operations in these areas; result in the loss of public access use areas to a construction zone; and generally intrude and negatively impact the aesthetics, ambiance, serenity, and safety of the recreational experience at these locations. These public recreational use impacts can be minimized through both Applicant's proposed best management practices and construction parameters that limit the area of construction, limit the times when work can take place (e.g., to avoid both weekends and peak summer use months when recreational use is highest), clearly fence off the minimum construction area necessary, keep equipment out of coastal waters, require off-beach equipment and material storage during non-construction times, clearly delineate and avoid to the maximum extent possible public use areas, and restore all affected public access areas at the conclusion of construction. A construction plan is required to implement these measures (see **Special Condition 4**). In addition, to provide maximum information to the beach-going public during all construction, the Applicant must maintain copies of the CDP and approved construction plans available for public review at the construction site, as well as provide a construction coordinator whose contact information is posted at the sites to respond to any problems and/or inquiries that might arise (see **Special Condition 4**). Finally, minimized impacts that cannot be completely avoided can be offset by the public access mitigation package.

Public Access Conclusion

The project will cause adverse impacts to public access and recreation, including impacts to local sand supply. However, project conditions avoid and minimize these impacts, including required implementation of a Hazard Response Plan and Public Access Management Plan to eventually

³⁶ As part of CDP Waiver 2-18-0975-W to the City of Pacifica to repair and reinforcement the Milagra Creek Outfall, including removal of riprap, concrete debris, a concrete apron, and a 15-foot section of degraded pipe at the outfall's terminus, approved by the Commission on May 8, 2019, the City will construct a construction ingress and egress down the bluff and re-surface such egress with compacted aggregate base, to formalize and maintain such access.

remove all shoreline protection and offset unavoidable impacts in the short-term to beach area and sand supply. Further, the short term authorization will allow for continued use the visitor-serving facility while planning and redesign is underway. As conditioned, the project can be found consistent with the Coastal Act access and recreation policies sited above.

F. Public Views

Applicable Policies

Coastal Act Section 30251 states:

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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Coastal Act Section 30251 thus requires that scenic and visual qualities of coastal areas be considered and protected as a resource of public importance. New development must be sited and designed to protect public views to and along the ocean and in scenic coastal areas, and where feasible to restore and enhance visual quality in visually degraded areas. The City of Pacifica LCP also notes that in the West Edgemar – Pacific Manor neighborhood in which the RV Park is located, Highway 1 “provides a panoramic coastal view which should be considered in future development.” The proposed project is west of Highway 1 fronting the Pacific Ocean (i.e., between the highway and the ocean) and is therefore prominent in significant public views.

Coastal Act Section 30240(b) also protects the aesthetics of beach recreation areas such as those located directly adjacent to and at the project site.

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.

Highway 1 is a National Scenic Byway in this location and public views from Highway 1 are protected along this stretch of coast as required by the City’s LCP and Coastal Act. The proposed project includes the temporary authorization of riprap along the beach and bluffs fronting the property and the re-establishment of lateral and vertical public accessways along the blufftop and to the beach. Riprap development won’t be visible from Highway 1 as the riprap will be located along the shoreline below the bluff. The site itself is visible from Highway 1, but the improvements proposed on the blufftop will not significantly block such views, and landscaping can help soften the visual impact of such development. In fact, and especially regarding more close-up public views of and across the site, the required improvements and landscaping (i.e., associated with the trails, beach accessway, parking lot, overlooks, tent camping area, etc.),

should help enhance public views, as will the required removal of existing fencing and replacement of it with a more visually compatible barriers where needed in Phase II (**Special Condition 3**). Thus, the proposed project is not anticipated to significantly adversely affect public views towards the ocean, and should in many ways improve same when relocation and reconstruction is complete.

With respect to coastal views from other locations, the project site is adjacent to a beach area, and is proximate to the Esplanade Beach Overlook Trail and the Pacifica Esplanade Dog Beach to the north of the site and the Pacifica Municipal Pier and Pacifica Beach Park to the south of the site. While riprap is an unnatural feature along this coastline as it does not reflect the natural substrate that would normally occur here, it will be present only until plans are prepared that allow its removal. Although the proposed riprap revetment is unnatural and will temporarily impact public views, but not to a great extent, and only from views at beach level looking inland. Further, this is the best feasible alternative to both protect the site in the short-term and to allow for removal in the longer term as part of required adaptation here. As such, the longer term benefits of the proposed project will generally outweigh the minimal, temporary negative visual impacts that the public will experience. In any case, the project includes a variety of requirements to both offset impacts to and to improve public views, and these are sufficient in this context to address Coastal Act compliance. Thus, the proposed project can be found consistent with the scenic and visual resource policies of the Coastal Act.

G. Water Quality and Marine Resources

Applicable Policies

Coastal Act Section 30230 requires that marine resources be maintained, enhanced, and restored. New development must not interfere with the biological productivity of coastal waters or the continuance of healthy populations of marine species. Coastal Act Section 30230 states:

Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Coastal Act Section 30231 requires that the productivity of coastal waters necessary for the continuance of healthy populations of marine species shall be maintained and restored by minimizing waste water discharges and entrainment and controlling runoff, including for coastal streams such as Milagra Creek on the southern side of the site. Coastal Act Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation,

maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The Commission recognizes that the marine and coastal water resources involved with the proposed project are important coastal resources for which thoughtful consideration of potential project impacts is necessary. Given the proposed project is located at the shoreline interface with the Pacific Ocean, there is the potential for impacts to marine resources and coastal water quality. If no action is taken to prevent or slow down erosion before the Applicant develops a long-term plan to remove and/or relocate threatened sewer and restroom infrastructure, erosion could undermine the stability and functionality of the sewer line and the restroom resulting in debris and sewage being deposited and discharged to the adjacent beach and ocean. Thus, the proposed riprap is intended to temporarily protect such infrastructure on-site while the long-term plan is developed, and as such, approval of the project would protect water quality and marine resources, consistent with the provisions of the Coastal Act. The project is conditioned to include construction methods typically required by the Commission to protect water quality and marine resources during armoring construction, including construction site housekeeping controls and procedures, the use of appropriate erosion and sediment controls, and a prohibition on equipment washing, refueling, or servicing on the beach (see **Special Condition XX**). To further protect marine resources and offshore habitat, **Special Condition XX** requires construction documents to be kept at the site for inspection, and also requires a construction coordinator to be available to respond to any inquiries that arise during construction.

As conditioned, the project can be found consistent with Coastal Act Sections 30230 and 30231 regarding protection of marine resources and offshore habitat.

H. Conflict Resolution

Applicable Policies

Coastal Act Section 30007.5 states:

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Coastal Act Section 30200(b) states:

Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts.

As noted previously in this report, the proposed project is inconsistent with Coastal Act Sections 30235 and 30253 (and by extension other coastal resource policies implicated by the coastal

resource degradation that would accrue due to the proposed armoring). However, as previously described, and as further explained below, denying or modifying the proposed project to eliminate these inconsistencies would lead to nonconformity with other Coastal Act policies, namely Sections 30230 and 30231 (protecting marine resources and biological productivity). In such a situation, when a proposed project is inconsistent with a Chapter 3 policy, and denial or modification of the project would cause inconsistency with another policy, Section 30007.5 of the Coastal Act provides for resolution of such a policy conflict.

Analysis

Based on the Commission's history and practice, resolving conflicts through application of Section 30007.5 involves the following seven steps:

1. The project, as proposed, is inconsistent with at least one Chapter 3 policy
2. The project, if denied or modified to eliminate the inconsistency, would affect coastal resources in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires protection or enhancement of those resources
3. The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement
4. The project, if approved, would result in tangible resource enhancement over existing conditions
5. The benefits of the project are not independently required by some other body of law
6. The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to "create a conflict"
7. There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies

The proposed development meets all of the above criteria for applying conflict resolution, as follows:

Step 1

For the Commission to apply Section 30007.5, a proposed project must be inconsistent with an applicable Chapter 3 policy. Approval of the proposed development would be inconsistent with Coastal Act Section 30235 and 30253 (and by extension other coastal resource policies implicated by the coastal resource degradation that would accrue due to the proposed armoring), because the development proposed to be protected does not represent an "existing structure" built prior to the effective date of the Coastal Act (January 1, 1977) and not redeveloped since, and as such, is not entitled to armoring under the Coastal Act, and the proposed project otherwise would be inconsistent with other coastal resource protection policies due to its coastal resource impacts.

Step 2

The project, if denied or modified to eliminate the inconsistency, would affect coastal resources in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires protection or enhancement of those resources. A true conflict between Chapter 3 policies results from a proposed project that is inconsistent with one or more policies, and for which denial or modification of the project would be inconsistent with at least one other Chapter 3 policy. Further, the policy inconsistency that would be caused by denial or modification of a project must be with a policy that affirmatively mandates protection or enhancement of certain coastal resources.

Coastal Act Sections 30230 and 30231 affirmatively require the Commission to maintain and restore marine resources and the biological productivity and the quality of coastal waters where feasible. Without approval of the temporary armoring, there will be significant risk of erosion leading to problems from the sewer line being compromised. Specifically, such erosion could potentially undermine the stability and functionality of the sewer line, posing a risk of debris and sewage discharging to the beach and ocean below, resulting in impacts to marine resources and water quality. Thus, the proposed project would temporarily protect this infrastructure on-site while a long-term plan is developed to relocate or remove such infrastructure, and as such, approval of the project would protect water quality and marine resources, consistent with the provisions of the Coastal Act. This temporary armoring is necessary so that the Applicant can have adequate time to both work with the City and to develop a comprehensive Coastal Hazard Response Plan (**Special Conditions 2**) and Public Access Management Plan (**Special Condition 3**) that will relocate vulnerable infrastructure, *and* to redesign the site so that it can continue to provide for visitor serving overnight RV camping, which will be augmented with tent camping, construction of previously required access amenities (e.g., parking, blufftop trails, and beach accessway), and additional access amenities (e.g., overlooks, picnic areas, etc.).

In most cases, denying a proposed project will not cause adverse effects on coastal resources for which Coastal Act mandates protection or enhancement, but will simply maintain the status quo. However, in this case, denial of the proposed project would potentially result in significant impacts to marine resource and coastal water quality. Thus, a conflict between or among two or more Coastal Act policies is presented.

Step 3

The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement. For denial of a project to be inconsistent with a Chapter 3 policy, the proposed project would have to protect or enhance the resource values for which the applicable Coastal Act policy includes an affirmative mandate. That is, if denial of a project would conflict with an affirmatively mandated Coastal Act policy, approval of the project would have to conform to that policy. If the Commission were to interpret this conflict resolution provision otherwise, then any proposal, no matter how inconsistent with Chapter 3, that offered a slight incremental improvement over existing conditions could result in a conflict that would allow the use of Section 30007.5. The Commission concludes that the conflict resolution provisions were not intended to apply to such minor incremental improvements.

In this case, the approved project would maintain the biological productivity and quality of marine resources and coastal waters by allowing for the threatened infrastructure to be protected while a plan is developed to move it out of harm's way. As conditioned to require development

of a Coastal Hazard Response Plan (**Special Condition 2**) and Public Access Management Plan (**Special Condition 3**), the Applicant would within five years be required to relocate the threatened infrastructure; to redesign the facility to be safe from hazards without the need for shoreline armoring; to reestablish required vertical and lateral public accessways and related amenities; to provide additional public access enhancements including public viewpoints and a public park; and to develop a low-cost tent camping area. Thus, the project as conditioned is fully consistent with the Coastal Act marine resources and water quality policies, including because the Applicant would be required to provide mitigation for the short-term impacts from the temporary armoring.

Step 4

The project, if approved, would result in tangible resource enhancement over existing conditions. This is the case here for several reasons. First, as conditioned, the proposed development results in both short-term and longer term (i.e. after 5 years) public access and recreation enhancements to the site. In the short-term, temporary lateral and vertical public accessways would be reestablished across the site and overnight visitor-serving uses would continue, albeit at a reduced capacity. In the longer term following the initial 5-year period, lateral and vertical public accessway would be perfected and the facility would continue to provide for overnight RV camping and public access, all designed to be safe from hazards for at least thirty years of erosion, thus providing both a reestablishment of natural shoreline processes, including beach formation, along the bluffs, and providing an appropriate amount of visitor-serving use atop the bluff that recognizes the coastal hazard risks at this location.

Second, as discussed throughout this report, allowing for continued protection of the City sewer line will protect marine resources and water quality (Sections 30230 and 30231) from significant adverse impacts. Lastly, as conditioned, the project will remove and replace safety fencing currently impacting views to the ocean, and require improved drainage, native landscaping, and other improvements that are designed to improve public views of and across the site. Thus, the proposed project can be found consistent with other resource policies of the Coastal Act, as mitigated and conditioned, and will result in tangible resource enhancement over existing conditions.

Step 5

The benefits of the project are not independently required by some other body of law. The benefits that would cause denial of the project to be inconsistent with a Chapter 3 policy cannot be those that an applicant is already being required to provide pursuant to another agency's directive under another body of law. In other words, if the benefits would be provided regardless of the Commission's action on the proposed project, an applicant cannot seek approval of an otherwise unapprovable project on the basis that the project would produce those benefits. In other words, the Applicant does not get credit for resource enhancements that it is already being compelled to provide by other mandates. In this case, the proposed project's benefits are not required by another agency under another body of law.

Step 6

The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to artificially create a conflict. A project's benefits to coastal resources must be integral to the project purpose. If the project is inconsistent with a Chapter 3 policy, and the main elements of the project do not result in the cessation of ongoing

degradation of a resource the Commission is charged with enhancing, an applicant cannot “create a conflict” by adding to the project an independent component to remedy the resource degradation. The benefits of a project must be inherent in the purpose of the project. If this provision were otherwise, applicants could regularly “create conflicts” and then request that the Commission use Section 30007.5 to approve otherwise unapprovable projects. The conflict resolution provisions of the Coastal Act were not intended to foster such an artificial and easily manipulated process, and were not designed to barter amenities in exchange for project approval.

In this case the benefits of the project (i.e., maintenance and protection of marine resources and water quality) result from its primary purpose, namely temporarily armoring the shoreline in order to develop a long term Coastal Hazard Response Plan (**Special Condition 2**) and Public Access Management Plan (**Special Condition 3**) for the site that will provide for the continued recreational use and public access outside of the hazard areas.

Step 7

There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies. Possible alternatives for the proposed project include 1) a “no project” alternative, 2) immediate removal/relocation, and 3) armoring.

As previously discussed, the “no-project” alternative here would remove armoring and cause the City sewer line to be in fairly immediate danger, thereby making it likely it would be damaged and/or destroyed by storms and erosion in the very short term, as soon as the next series of winter storms. Such damage to the sewer line could result in failure of this critical public infrastructure, in addition to functional losses to the visitor-serving uses on site, and potential impacts to the beach and coastal waters below. This threat is inconsistent with the Coastal Act’s marine resource and water quality protections (Sections 30230 and 30231) and is not by itself a feasible alternative in this case for these reasons.

In terms of immediate removal/relocation of the City sewer line, it appears that there are options to decommission the most seaward extent of this sewer line and hook it into existing landward sanitary sewer lines (see **Exhibit 6** for sewer infrastructure configurations). This option would likely require resizing the downstream sewer lines to provide additional capacity and restructuring the sewer system to the north to redirect flows from the subdivision to the east. In other words, while feasible, this option requires additional time. Thus, relocation of the sewer line cannot occur in the immediate future without the loss of functionality to this critical public infrastructure affecting both the residential development to the north and the RV Park.

In terms of armoring alternatives, riprap has the advantage that it can be installed relatively quickly to protect the base of bluffs. However, such riprap occupies significant beach space (roughly 15,000 square feet for the Applicant’s proposal here), and often is easily dispersed and difficult to maintain in its approved configuration. While this armoring alternative may help to protect the site to varying degrees, it is nonetheless inconsistent with the Coastal Act as the RV Park and the sewer line are not existing structures per Coastal Act Section 30235, and in any case, it is not the least environmentally feasible alternative.

In conclusion, while alternatives exist, none of the identified alternatives would be both feasible and fully consistent with all relevant Chapter 3 policies.

Conflict Resolution Conclusion

Based on the above, the Commission finds that the proposed project presents a conflict between Section 30235 and 30253, on the one hand, and Sections 30230 and 30231 on the other, which must be resolved through application of Section 30007.5. With the conflict among Coastal Act policies established, the Commission must resolve the conflict in a manner which on balance is the most protective of significant coastal resources. In reaching this decision, the Commission evaluates the project's tangible, necessary resource enhancements over the current state and whether they are consistent with resource enhancements mandated in the Coastal Act. In the end, the Commission must determine whether its decision to either deny or approve a project is the decision that is most protective of significant coastal resources.

In this case, the Commission finds that the impacts on coastal resources from *not* constructing the project, as conditioned, would be more significant than the project's potential adverse effects to water quality and marine resources from allowing development as conditioned. Denying the proposed project because of its inconsistency with Sections 30235 and 30253 would result in damage to critical infrastructure associated with the functionality of the facility and is likely to lead to wastewater discharges into the ocean. In contrast, approving the development as conditioned would eventually lead to removal of the shoreline armoring and redesign of the facility and public access improvements outside of designated hazard areas.

Finally, the test for conflict resolution approval under Section 30007.5 is not for the project to be *more* protective of coastal resources, rather it must be *most* protective of *significant* coastal resources. In order for that finding to be made, the adverse coastal resource impacts caused by the project have to be avoided, minimized and mitigated to the maximum feasible extent. As such, and only in a conflict resolution context, this approval allows for riprap to remain for up to the next 5 years in order to allow the Applicant time to plan for and implement an adaptation plan for the site, including removal of such armoring and restoration of the affected areas. In addition, the approval requires past required public access to be reconstructed and improved, and new public access improvements to be developed, as a means of offsetting the impacts associated with the approved project. Specifically, the approval includes **Special Condition 2** which requires the Applicant to submit a Coastal Hazard Response Plan to redesign the facility to be safe from hazards without shoreline protection for its ultimate remaining lifetime, including in terms of removing and/or relocating threatened infrastructure. This will ensure ongoing viability of the commercial visitor-serving recreational use without the use of shoreline armoring, consistent with the Coastal Act policies. Further, **Special Condition 3** requires submittal of a Public Access Management Plan designed to provide immediate and temporary public access enhancements including installation of a temporary blufftop coastal trail in the short term, and more formalized permanent improvements including a new blufftop coastal trail with landscaping, a beach accessway, a tent camping area, a public park, and public benches and overlooks located outside of hazard areas in the longer term (see **Exhibits 4 and 5**). **Special Condition 3** also requires that the Applicant to develop an improved vertical public accessway (i.e., trail, stairway, etc.) from the public parking area south of the RV Park down to the beach, including making use of the existing graded path established via CDP 2-18-0975-W for

maintenance on the Milagra Outfall as appropriate.³⁷ Such improvements will mitigate impacts to public access from the temporary shoreline armoring prior to its eventual removal within 5 years, bringing the project into compliance with Coastal Act coastal hazard and public access and recreation policies. Lastly, the eventual removal of all armoring and restoration in this area will reestablish the natural beach below and allow for natural processes to erode the bluff and replenish the beach in light of future sea level rise.

Thus, the project as conditioned is most protective of significant coastal resources in the longer term.

I. Other Agency Approvals

City of Pacifica

The project includes components that will occur in the City of Pacifica. Accordingly, this approval is conditioned to ensure that the project (as conditioned and approved by this CDP) has received all necessary authorizations (or evidence that none are necessary) from the City (see **Special Condition 13**).

California State Lands Commission

The California State Lands Commission (CSLC) may require a lease or some other type of approval for the underlying armoring, and thus this permit is conditioned to require written evidence either of CSLC approval of the project or evidence that such approval is not required (see **Special Condition 13**).

Army Corps of Engineers

The U.S. Army Corps of Engineers (ACOE) has regulatory authority over the proposed project under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 1344) and Section 404 of the Clean Water Act. Section 10 of the Rivers and Harbors Act regulates the diking, filling and placement of structures in navigable waterways. Section 404 of the Clean Water Act regulates fill or discharge of materials into waters and ocean waters. Portions of the project may be located within ACOE jurisdiction and the use of equipment and machinery on the beach up to the high tide line also has the potential to impact these areas. Accordingly, this approval is conditioned to ensure that the project (as conditioned and approved by this CDP) has received all necessary authorizations (or evidence that none are necessary) from ACOE (see **Special Condition 13**).

J. Other

Public Rights

The area associated with this CDP application includes areas that are clearly public, as well as other areas historically used by the public, including the sandy beach and blufftop areas.

³⁷ As part of CDP Waiver 2-18-0975-W to the City of Pacifica to repair and reinforcement the Milagra Creek Outfall, including removal of riprap, concrete debris, a concrete apron, and a 15-foot section of degraded pipe at the outfall's terminus, approved by the Commission on May 8, 2019, the City will construct a construction ingress and egress down the bluff and re-surface such egress with compacted aggregate base, to formalize and maintain such access.

Although the Commission has identified areas of public land and public use herein, the Commission here does not intend its action waive *any* public rights that may exist on the affected properties, including the area inland of the revetment and public access improvements. Thus, this approval is conditioned to make that clear, and to require the Applicant to agree and acknowledge the same, including that this Applicant shall not use this CDP as evidence of a waiver of any public rights that may exist on these properties now or in the future (see **Special Condition 10**).

Future Permitting

The Commission herein fully expects to review any future proposed development at and/or directly related to this project and/or project area, including to ensure continued compliance with the terms and conditions of this CDP through such future proposals, but also to ensure that the any such future proposed development can be understood in terms of the same. Thus, any and all future proposed development at and/or directly related to this project, this project area, and/or this CDP shall require a new CDP or a CDP amendment that is processed through the Coastal Commission, unless the Executive Director determines a CDP or CDP amendment is not legally required (see **Special Condition 12**).

Disclosure

The proposed project represents a unique set of facts, including with respect to the site's past history associated with prior CDPs. And this CDP includes important conditions reflecting the set of facts as they apply to this approval, including the required conditions of approval. In order to ensure that the terms and conditions of this approval are clear to this Applicant as well as any future owners, this approval requires that the CDP terms and conditions be recorded as covenants, codes, and restrictions against use and enjoyment of the property, and for them to be explicitly disclosed in all real estate transactions (see **Special Conditions 11 and 15**).

Indemnification

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its actions on the pending CDP applications in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition 14** requiring reimbursement for any costs and attorneys' fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this CDP, or challenging any other aspect of its implementation, including with respect to condition compliance efforts (see **Special Condition 14**).

K. Violation Finding

Violations of the Coastal Act exist on the subject property including, but not limited to, the lack of compliance with maintenance of vertical and lateral access easements required by prior CDPs and other local entitlements. The approval of the at-issue project pursuant to the special conditions required, after the project is completed, will resolve the violations. Issuance of the CDP, compliance with all of the terms and conditions of the permit, and actual completion of the

approved project will result in resolution of the aforementioned violations of the Coastal Act on the subject property.

Although development has been out of compliance with prior permitting requirements prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. 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, and that which is required by prior permits, but is currently out of compliance on site. In fact, approval of this permit is possible only because of the conditions included herein and failure to comply with these conditions would also constitute a violation of this permit and of the Coastal Act. Accordingly, the Applicant remains subject to enforcement action just as it was prior to this permit approval for engaging in unpermitted development, unless and until the conditions of approval included in this permit are satisfied and the approved project completed, fully implementing all required mitigation.

L. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with CDP applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The City of Pacifica, acting as lead agency, determined this project was exempt from discretionary approvals and would require only a ministerial building permit, therefore exempting it from CEQA requirements. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA. The preceding findings in this report have discussed the relevant coastal resource issues with the proposal, and the CDP conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources. Further, all public comments received to date have been addressed in the preceding findings, which are incorporated herein in their entirety by reference.

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

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Geotechnical Exploration, prepared by ENGEEO, October 2, 2017
- Permit files CDP 3-83-212 and CDP-3-83-172, 1983
- Emergency Permit file ECDP G-2-16- 0044, 2016
- City of Pacifica Use Permit UP-453-83, 1983
- Temporary Construction Easement and Permanent Pubic Access Easement (RV Park, Pacifica, CA), Record No. 2006-079679, May 26, 2006
- Certificate of Acceptance and Acknowledgment by California Coastal Commission of Acceptance of Irrevocable Offer to Dedicated Public Access Easement and Declaration of Restrictions, Record No. 2004-249611, December 21, 2004
- Quitclaim Deed Public Access Easement City of Pacifica, San Mateo County, Record No. 2006-079678, May 26, 2006

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- MHC San Francisco RV Resort, LP (Applicant Group)
- City of Pacifica Planning Department
- City of Pacifica Public Works Department
- Surfrider Foundation