

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO DISTRICT OFFICE  
 7575 METROPOLITAN DRIVE, SUITE 103  
 SAN DIEGO, CA 92108-4402  
 VOICE (619) 767-2370  
 FAX (619) 767-2384

**W17a**

Filed: 4/25/2019  
 49<sup>th</sup> Day: waived  
 Staff: M.Lasiter-SD  
 Staff Report: 11/19/2020  
 Hearing Date: 12/9/2020

## STAFF REPORT AND RECOMMENDATION ON APPEAL SUBSTANTIAL ISSUE & DE NOVO

<b>Local Government:</b>	<b>City of Coronado</b>
<b>Local Decision:</b>	<b>Approved as Submitted</b>
<b>Appeal Number:</b>	<b>A-6-COR-19-0027</b>
<b>Applicant:</b>	<b>Allan Arendsee</b>
<b>Location:</b>	409 1 <sup>st</sup> Street, Coronado, San Diego County. (APN No. 536-020-07)
<b>Project Description:</b>	Demolition of an existing 3 ft. high, 85 ft. long retaining wall and construction of a new 7 ft. high, 85 ft. long sheet pile retaining wall.
<b>Appellants:</b>	Commissioners Steve Padilla and Donne Brownsey
<b>Staff Recommendation:</b>	<b>Substantial Issue</b> and <b>Denial</b> on De Novo

---

### IMPORTANT HEARING PROCEDURE NOTE

The Commission will not take testimony on this “substantial issue” recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General, or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to three minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local

government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

## **SUMMARY OF STAFF RECOMMENDATION**

The project site is a bayfront lot in Coronado with an existing single-family residence, built in 1973 prior to adoption of the Coastal Act and certification of the City's Local Coastal Program (LCP), and a 3 ft. high, 85 ft. long curved retaining wall ([Exhibit 2](#)). The site is protected by a scattered riprap revetment on San Diego Unified Port District (Port) property to the north ([Exhibit 3](#)).

On April 9, 2019, the City of Coronado Planning Commission approved Coastal Development Permit (CDP) No. 2019-02 for the removal of the existing wall and construction of a new 7 ft. high (bottom elevation at +5 ft. and top elevation at +12 ft. Mean Lower Low Water (MLLW)), 85 ft. long straight sheet pile wall with the ability to be raised 2 additional feet, if needed ([Exhibit 4](#)). The retaining wall would be constructed along the property line and would connect to the neighboring retaining walls. During the public hearing for the subject CDP, the Planning Commission also overturned a determination by the Development Director that proposed plans for construction of a new residence on the subject site were not in conformance with the City's municipal code due to the absence of a side yard setback on the west side of the structure. By overturning the Development Director's decision, the Planning Commission approved the proposed design of a new three-story home, including a basement, on the project site. However, Section 86.70.052 of the City's Implementation Plan (IP) exempts the construction of single-family residences from CDP requirements, so only the retaining wall was approved under CDP 2019-02.

Section 86.76.10 B of the City's IP allows a retaining wall when it protects existing structures and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. The City's approval is inconsistent with this policy, however, and allows the construction of a new retaining wall to protect a new single-family residence and patio, which are not structures meriting protection by the retaining wall. While the current residence is considered an "existing structure" per the City's LCP, the applicant has indicated to staff that it is his intention to build a new home at the site following construction of the new retaining wall. Instead, the new residence should be sited and designed to be safe from flooding and sea level rise throughout its economic life in order to avoid the need for a new retaining wall, which serves as a shoreline protection structure. The retaining wall is also sited seaward of an existing retaining wall, which could impact the natural shoreline erosion process and is therefore also inconsistent with the second part of Section 86.76.10 B.

It is also unclear why a new retaining wall is necessary, given the site is protected by an existing retaining wall and riprap revetment. If the site is in need of protection, a range of alternatives should be analyzed to identify the least damaging alternative, and the alternatives could include maintaining or repairing the existing revetment. The applicant's engineer has stated that the applicant is restricted from doing any repair and

maintenance of the existing revetment; however, Port staff have indicated that they have not received a request from the applicant to repair, maintain or replace the revetment, as the Port has allowed for other properties on First Street, including 411 and 407 First St., which each are adjacent to the subject site.

The project includes landside construction directly adjacent to the San Diego Bay and has the potential to adversely impact water quality and biological resources, including adjacent eelgrass habitat. Specifically, runoff from the site during construction could increase the turbidity and sediment in the vicinity of the eelgrass habitat and could also impact other aquatic life. Chemicals or fuels could accidentally spill and be washed into the bay which would impact water quality. The City did not analyze potential water quality impacts during construction and the City's approval did not include any special conditions requiring best management practices to avoid adverse impacts to water quality and marine resources during construction. As such, the project is inconsistent with the policies and standards in the City's LCP related to the protection of water quality, marine resources and sensitive habitats.

Since the filing of the appeal, the applicant has submitted a revised project description that would retain the existing retaining wall and also construct a larger retaining wall than the one approved by the City. The revised project includes an 85 ft. long, 26 in. wide, 25 ft. high sheet pile wall (bottom elevation at -15 ft. and top elevation at +10 ft. MLLW) with a 4 ft. concrete cap ([Exhibit 5](#)).

As discussed above, approval of a retaining wall to protect a new home, as is the case here, would not be consistent with the City's LCP. As such, the retaining wall could only be found consistent with the LCP if it was determined that the existing structure, meaning the existing home, is at risk and that the retaining wall was designed to protect that existing structure. Based on the information provided by the applicant's engineer Geo Soils Inc. (GSI), it does not appear that the existing home is currently at risk from flooding, erosion, or sea level rise ([Exhibit 6](#)).

Specifically, the information provided by GSI notes that the home is not now at risk from flooding. While GSI does identify that the house could be at risk as a result of future sea level rise and a major 100-year storm or other various situations, GSI also indicates that flooding could temporarily be mitigated by flood shields<sup>1</sup>. GSI also notes that this site is subject to erosion of up to 1.8 feet per year now, and that this rate could increase in the future. GSI states that this erosion could impact some site improvements (presumably backyard improvements) within the next two years; however, it will be many years before erosion would threaten the house.

The letters from GSI evoke risks to the neighbors' properties to support the need for new shoreline protection at 409 First Street. However, GSI has not provided any specific information regarding the risks to the adjacent homes. Further, these property

---

<sup>1</sup> A flood shield is a temporary barrier placed in a doorway to prevent floodwaters from entering a structure during large storm or flood events.

owners are not co-applicants to the subject permit application and there is no record of them expressing concern that their homes are currently at risk in the project files.

Because of the above-described inconsistencies with the City's certified LCP, staff recommends that the Commission determine that the project raises a substantial issue. Staff further recommends that the Commission, on de novo review, **deny** the CDP application. The motions to adopt the staff recommendation are found on pages 8 and 17.

Standard of Review: Certified City of Coronado Local Coastal Program and the public access and recreation policies of Chapter 3 of the Coastal Act.

## TABLE OF CONTENTS

<b>I. APPELLANTS CONTEND .....</b>	<b>6</b>
<b>II. LOCAL GOVERNMENT ACTION .....</b>	<b>6</b>
<b>III. APPEAL PROCEDURES .....</b>	<b>6</b>
<b>IV. SUBSTANTIAL ISSUE MOTION AND RESOLUTION.....</b>	<b>8</b>
<b>V. SUBSTANTIAL ISSUE FINDINGS AND DECLARATIONS .....</b>	<b>8</b>
A. Project Description and Background .....	8
B. Shoreline Protection and Coastal Hazards.....	9
C. Water Quality and Biological Resources.....	15
D. Substantial Issue Factors.....	16
<b>VI. DE NOVO MOTION AND RESOLUTION .....</b>	<b>17</b>
<b>VII. DE NOVO FINDINGS AND DECLARATIONS .....</b>	<b>17</b>
A. Project Description and Background .....	17
B. Shoreline Protection and Coastal Hazard .....	18
C. Water Quality and Biological Resources.....	20
D. Local Coastal Planning .....	20
<b>APPENDIX A – SUBSTANTIVE FILE DOCUMENTS .....</b>	<b>22</b>

## EXHIBITS

[Exhibit 1 – Appeals by Commissioners Steve Padilla and Donne Brownsey](#)

[Exhibit 2 – Project Location](#)

[Exhibit 3 – Photos of Existing Development](#)

[Exhibit 4 – Project Plans Approved by the City](#)

[Exhibit 5 – Revised Project Plans](#)

[Exhibit 6 – Letters from the Applicant’s Engineer](#)

## **I. APPELLANTS CONTEND**

The project as approved by the City of Coronado does not conform to the City's certified Local Coastal Program (LCP) because 1) the shoreline protection device would be used to protect a new single family residence and patio, which are not structures that merit shoreline protection; instead the new residence should be sited and designed to be safe from flooding and sea level rise throughout its economic life in order to avoid the need for a new retaining wall; 2) the retaining wall is sited seaward of the existing retaining wall, which could impact the natural shoreline erosion process; 3) it is unclear why a new retaining wall is necessary, given the site is protected by an existing retaining wall and riprap revetment; and 4) construction of the project could result in adverse impacts to water quality and biological resources, including adjacent eelgrass habitat.

## **II. LOCAL GOVERNMENT ACTION**

The project was approved, as submitted, by the City of Coronado's Planning Commission on April 9, 2019.

## **III. APPEAL PROCEDURES**

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project, then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, those allowed to testify at the hearing will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project then, or at a later date, reviewing the project de novo in accordance with Sections 13057-13096 of the Commission's regulations. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable standard of review for the Commission

to consider is whether the proposed development is in conformity with the certified Local Coastal Program (LCP).

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also applicable Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

The Coastal Act requires that the Commission shall hear an appeal unless no substantial issue exists with respect to the grounds on which the appeal was filed under Section 30603. (§ 30625(b)(2).) Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

The City of Coronado has a certified Local Coastal Program (LCP), and the subject site is located in an area where the Commission retains appeal jurisdiction because it is located between the first public road and the sea. Therefore, before the Commission considers the appeal de novo, the appeal must establish that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603. In this case, for the reasons discussed further below, the Commission exercises

its discretion to determine that the development approved by the City raises substantial issue with regard to the appellants' contentions regarding coastal resources.

## **IV. SUBSTANTIAL ISSUE MOTION AND RESOLUTION**

### **Motion:**

I move that the Commission determine that Appeal No. A-6-COR-19-0027 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by affirmative vote of a majority of Commissioners present.

### **Resolution:**

The Commission hereby finds that Appeal No. A-6-COR-19-0027 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

## **V. SUBSTANTIAL ISSUE FINDINGS AND DECLARATIONS**

### **A. Project Description and Background**

The project site is a bayfront lot in Coronado ([Exhibit 2](#)) with an existing single-family residence and a 3 ft. high, 85 ft. long curvilinear retaining wall. The site is protected by a scattered riprap revetment on San Diego Unified Port District (Port) property to the north ([Exhibit 3](#)).

On April 9, 2019 the City of Coronado Planning Commission approved Coastal Development Permit (CDP) No. 2019-02 for the removal of the existing wall and construction of a 7 ft. high (bottom elevation at +5 ft. and top elevation at +12 ft. Mean Lower Low Water (MLLW)), 85 ft. long straight sheet pile wall with the ability to be raised 2 ft., if needed ([Exhibit 4](#)). The retaining wall would be constructed at natural grade (elevation +9.7 ft. MLLW) along the property line and would connect to the neighboring retaining walls on either side of the subject site. During the public hearing for the subject CDP, the Planning Commission also overturned a determination by the Development Director that proposed plans for construction of a new three-story home including a basement on the subject site were not in conformance with the City of Coronado's municipal code due to the absence of a side yard setback on the west side of the structure. By overturning the Development Director's decision, the Planning Commission approved the proposed design of a new home on the project site. However, Section 86.70.052 of the City's Local Coastal Program (LCP) Implementation



Plan (IP) exempts the construction of single-family homes from CDP requirements so only the retaining wall was approved under CDP 2019-02.

The Commission has appealed two other similar projects in the City of Coronado within the past two years. The approval of a retaining wall to protect a new home at 311 First Street was appealed at the same time as the subject appeal (Appeal No. A-6-COR-19-0028); however, the project application was withdrawn on May 21, 2019 by the applicant and the appeal was subsequently withdrawn. On June 6, 2019 Commission staff were notified by a neighbor that two retaining walls and a deck had been constructed without the benefit of a CDP during the construction of a new home at 621 First Street. Commission staff provided direction to the City that the property owners would need to apply for a CDP to authorize the development after-the fact but that Commission staff did not believe the retaining wall was in conformance with the City's LCP since it was constructed to protect a new home. The City approved the retaining wall on July 14, 2020 (CP No. 2019-08) and the decision was subsequently appealed by Commissioners Padilla and Brownsey on August 18, 2020 (Appeal No. A-6-COR-20-0045). Following both appeals, Commission staff requested a meeting with the City to discuss the issue of retaining walls being approved for new development in order to avoid future appeals; however, the City has yet to provide availability to meet.

On June 23, 1981, the City of Coronado's Land Use Plan (LUP) was deemed effectively certified, following the incorporation of modifications suggested in the Commission's March 13, 1981 action. Those modifications pertained to Shoreline Access, Recreation and Visitor-Serving Facilities, Visual Resources and Special Communities, Public Works and Locating and Planning New Development components of the City's LUP. The IP was certified with suggested modifications on September 28, 1983. The suggested modifications addressed exemptions from coastal permit requirements, definitions of several terms, procedures for recordation of documents, and minor corrections to the Coastal Permit Ordinance. The ordinances were amended, and the City assumed permit authority on January 11, 1984. There have been 22 amendments to the LCP since that time.

## **B. Shoreline Protection and Coastal Hazards**

The construction of a retaining wall to protect a new residence at the site would be inconsistent with several LCP policies relating to shoreline protection and coastal hazards, including: permitting of a retaining wall designed to protect a new structure, permitting new development that will substantially alter natural landforms, development of a permanent structure with insufficient distance from an eroding coastline and that requires shoreline protection from natural erosion processes, and permitting new development in areas of high flood hazard.

Relevant policies in the City of Coronado's certified LUP include:

### E. Diking, Dredging, Filling and Shoreline Structures

1. Require that new development shall assure coastal stability and structural integrity, and neither create nor contribute significantly to erosion or geologic instability.
2. Permit revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes 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. [...]
4. Require that any permanent building, or other structure proposed for construction be set back from an eroding beach coastline a distance sufficient to assure that the development will not be threatened by natural erosion processes during the lifetime of the structure without requiring shoreline protection structures. The builder, at the discretion of the City, shall provide a certification by a civil engineer that the proposed construction site meets this criteria.
5. Require that shoreline structures be planned and constructed so that they serve the purpose intended, and do not result in a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the activity including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.
6. Require that shoreline protection structures be designed to minimize their intrusion into public vistas by being unobtrusive and aesthetically pleasing when viewed from public streets, walk or bicycle ways, or waterways.
7. Require that shoreline protection structures be designed to minimize their own breakdown and disintegration to thereby minimize water pollution and the silting of coastal water ways.

### G. Hazard Areas

1. Require that new development in areas of high geologic, flood or fire hazard be designed in such a way to minimize risks to life and property.
2. Require that new development be designed in such a way to 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.
3. Reaffirm the City's environmental policies (as presented in the City's LCP report for Policy Group 103) and shoreline structures policies (as presented in the City's LCP report for Policy Group 104) as they relate to shoreline erosion.

In addition, the certified IP includes the following:

#### 86.74.030 Waterfront Development Setbacks

- A. Development setbacks shall be calculated from the parcel's property line subject to the provisions of subsections B and C of this section, which may require a greater setback.
- B. New development shall assure coastal stability and structural integrity, and neither create nor contribute significantly to erosion or geologic instability.
- C. Permanent buildings, or other structures proposed for construction (excluding refurbishment, renovation or addition to existing structures that do not extend the structures seaward or bayward) shall be set back from an eroding beach or coastline a distance sufficient to assure that the development will not require mitigation measures to protect the development from the natural erosion process during the economic lifetime of the structures. The builder, at the request of the City Coastal Permit Administrator, shall provide a certification by a civil engineer acceptable to the City that the proposed construction site meets these criteria.
- D. The City Coastal Permit Administrator may request through the City Council, the opinion of the Corps of Engineers, Scripps Oceanography Institute, or other qualified experts with regard to the possible erosion of beach area in the vicinity of the proposed construction in making a determination of required setbacks.

#### 86.76.010 Coastal Permit Required

- A. The construction or placement of any improvement which may significantly affect the natural erosion process resultant from the interaction of water bodies upon their shores, or cause significant adverse alteration of the bay or ocean environment shall require a coastal permit from the City. Without limitation, buildings, harbor channels, breakwaters, groins, piers, retaining walls, revetments, riprap, sea walls and similar items shall be governed by this chapter.
- B. An improvement or activity requiring a coastal permit under this chapter shall only be allowed when it serves coastal dependent uses, protects existing structures, removes public hazards, or protects public beaches in danger of erosion.
- C. In order for an improvement or activity requiring a coastal permit under this chapter to qualify for such a permit, the improvement or activity must be designed and constructed as follows:
1. To neither create nor contribute significantly to erosion or geologic instability;
  2. To minimize their own breakdown and disintegration;
  3. To minimize water pollution and the silting of coastal waterways;
  4. To not result in a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the coastal permit

requiring activity including land, air, water, minerals, flora, fauna, ambient noises and objects of historic or aesthetic significance;

5. To not preclude the public's right of access to (including without limitation) the ocean, bay or public beach where acquired through use, custom, legislative authorization, purchase, condemnation, judicial action, gift, bequeath or escheat;

6. To encourage or facilitate, where feasible, the phasing out or upgrading of marine structures causing water stagnation contributing to pollution problems or fish kills;

7. To minimize their intrusion into public vistas by being unobtrusive and aesthetically pleasing when viewed from public streets, walk or bicycle ways or waterways;

8. To minimize extensions or projections into the bay or ocean;

9. To facilitate public access where appropriate and feasible; and

10. To minimize or mitigate resultant adverse environmental impacts.

D. The applicant, at the determination of the Coastal Permit Administrator, shall provide a certification by a civil engineer acceptable to the City indicating that the proposed improvement or activity conforms to the above criteria. (Ord. 1533)

#### 86.76.020 Repair and Maintenance of Ocean and Bay Shore Improvements

Repair and maintenance activities or ocean and bay shore improvements which require City issuance of a building permit, encroachment permit or City review of an initial study shall require City issuance of a coastal permit. The coastal permit shall only be issued after certification that the repair or maintenance activities are necessary, appropriate, and designed, when feasible, to minimize or mitigate resultant adverse environmental impacts. The applicant, at the request of the City Coastal Permit Administrator, shall provide a certification by a civil engineer acceptable to the City that the proposed activities meet these criteria.

#### 86.76.040 Waterfront Land – Permitted Improvements

For waterfront land recorded on Miscellaneous Map 121 (Rancho Peninsula), Record of Survey 563, 2372, and Map 2544 (Bay View Estates), Record of Surveys 5191, 6014 and 6958, retaining walls, revetments, riprap, sea walls and similar development shall be permitted, with a coastal permit, subject to all other standards of this chapter, with the provision that such improvements may be situated in a manner so that the improvements' bayward faces may connect in a straight line the bayward faces of similar improvements on adjoining property.

Section 86.76.010 of the City's IP allows retaining walls, revetments, riprap, seawalls and similar improvements when it serves coastal dependent uses, protects existing structures, removes public hazards, or protects public beaches in danger or erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Policy E.4 of the City's LUP requires that structures "be set back from an eroding beach coastline a distance sufficient to assure that the development will not be threatened by natural processes during the lifetime of the structure without requiring shoreline protection structures" and Section 86.74.030 requires that new development "assure coastal stability and structural integrity and neither create nor contribute significantly to erosion or geologic instability."

The project site is located on a bayfront lot, and is therefore vulnerable to erosion, flooding, boat wake runup, and storm hazards. Sea level rise is expected to exacerbate existing coastal hazards by raising mean water levels and extending flood zones inland. As noted in the Commission's 2018 Sea Level Rise Guidance Science Update and other studies, increased sea level is expected to cause increased inundation of beaches, reduced accretion or increased erosion of beaches. Historically, the most common societal response to coastal hazards has been to construct shoreline protective devices in order to slow the erosion of beaches and bluffs, retain unstable slopes, and prevent flooding

As expressed by the certification of the LCP, the Chapter 3 policies of the Coastal Act discourage shoreline protection devices because they generally cause adverse impacts to coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes. Shoreline protection devices are physical structures that take up space and displace or modify prior uses of coastal land (e.g., beach recreation, habitat, etc.); this effect is often referred to as encroachment. Seawalls and, in particular, revetments, may have large horizontal footprints, displacing what would otherwise be sandy beach, and resulting in a long-term loss of beach area for public access, recreation and other uses. In addition to encroaching onto the beach, shoreline protection devices, by slowing or stopping natural processes of shoreline retreat, also prevent the future creation of new beach and eliminate a supply of new sand that would otherwise have resulted from bluff and shoreline erosion. Shoreline protection devices establish a fixed landward boundary of the back beach ("fixing the back beach"), and prevent the natural, on-going inland adjustment of the beach that occurs on an eroding coast; over time, this restriction of a beach's adaptive capacity can result in the narrowing or loss of the beach ("passive erosion"), as well as the narrowing or loss of sensitive marine habitats such as eelgrass, which provides areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Future sea level rise is expected to result in the drowning or "pinching out" of many California beaches (Vitousek et al. 2017), an effect that will only be exacerbated in locations with extensive shoreline protection.

By substituting hard materials (e.g., rock, concrete) in place of more erodible natural substrates (e.g., sand, soils, terrace deposits, sedimentary rocks), shoreline protection devices can also change wave reflection patterns, cause scour or winnowing of beach sediments along the shoreline, and increase erosion rates at unarmored locations up- and down-coast of the structure ("end effects"). In certain locations, shoreline protection devices may also interrupt or interfere with longshore and cross-shore sediment

transport, resulting in deposition of sand in one location at the expense of other locations further “down drift” along the coast. Broader effects of shoreline protection devices include changes to the recreational and beach use experience, impacts to beach and other coastal ecosystems, and impairment of the aesthetic and visual character of the coast.

Because shoreline protection devices, such as seawalls and revetments, can create adverse impacts on coastal processes, the City’s LUP Policy G.2 specifically prohibits development that could “...create [or] 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.” However, Section 86.76.010 B of the City’s IP recognizes that existing development may be protected by shoreline protective devices subject to certain conditions. This limitation is particularly important when considering new development, because if it is known that a new development may need shoreline protection in the future, it would be unlikely that such development could be found to be consistent with Policy G.1 of the City’s LUP, which requires new development to minimize risks to life and property.

In this case, Section 86.76.10 B of the City’s IP allows a retaining wall when it protects existing structures and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. The City’s approval, however, allows the construction of a new retaining wall to protect a new single-family residence and patio, which are not structures meriting protection by the retaining wall. While the CDP does not include approval of the new home, design plans for the new home were approved at the same local hearing as the retaining wall. The separate approvals raise piecemealing concerns. Even if the City intended for the approved retaining wall to protect the existing residence, rather than a new residence, the City’s approval should have considered the interrelated impacts and required a special condition requiring future removal of the retaining wall once the site is redeveloped with a new residence. While the current residence onsite is considered an “existing structure” according to the City’s LCP, the applicant has indicated several times to staff that it is his intention to build a new home at the site following construction of the new retaining wall. Instead, the new residence should be sited and designed to be safe from flooding and sea level rise throughout its economic life in order to avoid the need for a new retaining wall, which serves as a shoreline protection structure, and to be consistent with Section 86.74.030 C of the IP. The retaining wall is also sited seaward of an existing retaining wall, which could impact the natural shoreline erosion process and is therefore also inconsistent with the second part of Section 86.76.10 B.

In addition, it is unclear why a new retaining wall is necessary, given the site is protected by an existing retaining wall and riprap revetment. The applicant’s engineer has indicated that the revetment protects the property now but may fail in the future since it has not been maintained. The revetment is located on Port property, and the applicant’s engineer has stated that the applicant is restricted from doing any repair and maintenance of the existing revetment; however, Port staff have indicated that they have not received a request from the applicant to repair, maintain or replace the revetment. Port staff also indicated that the Port has allowed for other properties on

First Street to maintain or repair revetments on Port property, including 411 and 407 which are each adjacent to the subject property. Repairing the existing revetment would likely be the least damaging alternative and should therefore be considered prior to the subject project.

In its approval, the City found that the revetment was consistent with Sections 86.76.010 C-D and 86.76.040 of the IP. In regard to Section 86.76.010 C and D, the City cited certification from the applicant's engineer that the retaining wall as designed would be outside and above the influence of tides, wakes, and shoreline erosion and the work would not affect the course, location, or condition of the water body. In regard to Section 86.76.040, the City found that since the property was recorded on the identified maps, the retaining wall "shall be permitted, with a coastal permit, subject to all other standards of this chapter" (emphasis added). However, in its approval, the City failed to consider the other standards required in Chapter 86.76 of the IP, such as Section 86.76.010 B, as well as Policy E of the LUP.

In conclusion, the project approved by the City conflicts with a number of the certified LCP policies. Therefore, the Commission finds that a substantial issue exists with respect to the project's consistency with the coastal hazard provisions within the City's certified LCP.

### **C. Water Quality and Biological Resources**

Relevant policies in the City of Coronado's certified LUP include:

#### **D. Water and Marine Resources/Environmentally Sensitive Habitat Areas**

5. Maintain, enhance and, where feasible, restore marine resources. Special protection shall be given to areas and species of special biological or economic significance. Uses of the 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.

6. Maintain and, where feasible, restore the biological productivity and the quality of coastal waters and wetlands appropriate to maintain optimum populations of marine organisms and for the protection of human health through minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and encouraging waste water reclamation, and maintaining natural vegetation buffer areas that protect riparian habitats.

In addition, IP Section 86.76.010.C is cited above and is incorporated herein.

The project includes landside construction directly adjacent to the San Diego Bay. According to a 2017 survey conducted by the San Diego Unified Port District (Port), eelgrass (*Zostera marina*) is likely located in the bay adjacent to the site. Eelgrass is an aquatic plant consisting of tough cellulose leaves, which grows in dense beds in

shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat for a variety of fish and other wildlife, according to the California Eelgrass Mitigation Policy (CEMP) adopted by the National Marine Fisheries Service (NMFS) in coordination with a number of state and federal resource and regulatory agencies, including the Commission. For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species which is known to nest on nearby Naval Base Coronado, utilize eelgrass beds as foraging grounds.

The approved project has the potential to adversely impact water quality and biological resources, including adjacent eelgrass habitat. Specifically, runoff from the site during construction could increase the turbidity and sediment in the vicinity of the eelgrass habitat and could also impact other aquatic life. Chemicals or fuels could accidentally spill and be washed into the bay which would impact water quality. The City did not analyze potential water quality impacts during construction and the City's approval did not include any special conditions requiring best management practices to avoid adverse impacts to water quality and marine resources during construction.

In addition, shoreline protection devices should be sited to avoid impacts to eelgrass over time. In this case, the location of the approved retaining wall is further seaward than the existing retaining wall and would prevent the landward migration of eelgrass habitat in the future as sea level rises. Specifically, erosion at the base of the wall would occur, causing scour and ultimately reducing the size of the intertidal zone, which serves as an important part of the coastal ecosystem. As sea level rises, the eelgrass beds located adjacent to the proposed project will need to migrate landward since the beds need shallow, subtidal or intertidal unconsolidated sediments to survive. This habitat migration would not be possible if the proposed project were constructed, reducing this important habitat for marine organisms, including juvenile fish, as well as foraging habitat for birds.

In conclusion, the project approved by the City would result in adverse impacts to water quality and biological resources. Therefore, the Commission finds that a substantial issue exists with respect to the project's consistency with the water quality and marine resource provisions within the City's certified LCP.

#### **D. Substantial Issue Factors**

As discussed above, there is inadequate factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. While the extent and scope of the particular development is a retaining wall, the objections to the project by the appellants, including coastal hazards and protection of water quality and biological resources, raise substantial issues of regional and statewide significance due to increasing shorefront development and potential effects on the shoreline, water quality, and biological resources. The decision creates an adverse precedent with respect to the future interpretation of the City's LCP for shoreline protective structures on the First Street corridor. Therefore, the Commission finds that the local government's action does raise substantial Local Coastal Program policy issues.



## **VI. DE NOVO MOTION AND RESOLUTION**

### **Motion:**

I move that the Commission approve Coastal Development Permit A-6-COR-19-0027 for the development proposed by the applicant.

Staff recommends a **NO** vote on the foregoing motion. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

### **Resolution:**

The Commission hereby denies the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development will not conform with the City of Coronado Local Coastal Program. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures and alternatives that would substantially lessen any significant adverse effects of the development on the environment.

## **VII. DE NOVO FINDINGS AND DECLARATIONS**

### **A. Project Description and Background**

The detailed project description and history is described above within the Substantial Issue findings of this report and is incorporated herein by reference. Since the filing of the appeal, the applicant has submitted a revised project description that would retain the existing retaining wall and also construct a larger retaining wall than the one approved by the City. The revised project includes an 85 ft. long, 26 in. wide, 25 ft. high (bottom elevation at -15 ft MLLW and top elevation at +10 MLLW) sheet pile wall with a 4 ft. concrete cap ([Exhibit 5](#)).

In addition, Port staff has indicated that lateral shoreline access was once available to the public seaward of the site from Bayview Park to the east. Historical photographs of the area, including the 2010 photograph included in Figure 4 of the March 24, 2020 letter from the applicant's engineer, confirm the presence of a small trail ([Exhibit 6](#)). However, Commission staff conducted a site visit to Bayview Park on November 18, 2020 and found that access to the trail had been blocked by a fence and landscaping had been planted seaward of the wall at 411 First Street which is located between the park and the project site. Commission staff will follow up with the Port to identify whether the historical access that was available on Port property and adjacent to the subject site can be restored.

The standard of review is the certified City of Coronado Local Coastal Program and the public access and recreation policies of Chapter 3 of the Coastal Act.

## **B. Shoreline Protection and Coastal Hazard**

The Shoreline Protection and Coastal Hazard findings and the relevant shoreline protection and coastal hazard policies of the City of Coronado's certified LCP cited in the Substantial Issue findings of the staff report are incorporated herein.

The City's IP Section 86.76.010 allows a retaining wall only when it serves coastal dependent uses, protects existing structures, removes public hazards, or protects public beaches in danger of erosion. If the home is determined to be at risk, Section 86.76.010 further requires the development of shoreline protection devices to minimize or mitigate resultant adverse environmental impacts.

As discussed above, the applicant has revised the proposed project to include the construction of a sheet pile retaining wall that would extend approximately 25 ft. below ground with a 4 ft. concrete cap above ground. The City's LCP limits the use of shoreline protection devices such as the proposed project since these developments can adversely impact coastal resources. In this case, the proposed retaining wall would prevent natural erosion of the shoreline, resulting in changes to local sand supply and altered sediment transport along the shoreline. Erosion at the base of the wall would still occur, causing scour and ultimately reducing the size of the intertidal zone, which serves as an important part of the coastal ecosystem.

The existing home was built in 1973 prior to adoption of the Coastal Act and certification of the City's LCP. As discussed in the Substantial Issue findings of the staff report above, the applicant has indicated that, following approval of the proposed retaining wall, he intends to build a new home and patio at the site. Approval of a retaining wall to protect a new home and patio would not be consistent with Section 86.76.010 of the City's IP, which does not allow retaining walls or other shoreline protective devices for new development. Instead, the retaining wall could only be found consistent with the IP sections cited above if it was determined that the existing structure, meaning the existing home, is at risk and that the retaining wall was designed to protect that existing structure. If the existing home were determined to be at risk, Section 86.76.010 further requires the proposed project to be the least environmentally damaging alternative.

In response to information requests by Commission staff, the applicant submitted four letters from the applicant's engineer, Geo Soils Inc. (GSI), on July 2, 2019, August 28, 2019, March 24, 2020 and July 24, 2020 ([Exhibit 6](#)). Based on these letters, it does not appear that the existing home is currently at risk from flooding, erosion, or sea level rise or that the proposed project would be the least environmentally damaging feasible alternative. Specifically, the information provided by GSI notes that the home is not now at risk from flooding. While GSI does identify that the house could be at risk as a result of future sea level rise and a major 100-year storm or under other various situations, GSI also indicates in their August 28, 2019 correspondence, "flooding could temporarily

be mitigated by floodshields.”<sup>2</sup> GSI has strongly asserted that flooding is not due to groundwater; and while GSI does not make this assertion in the direct context of a flood shield, the lack of groundwater problems provides additional assurance that flood shields could be effective protection from temporary flooding during large storm or flooding events. GSI concludes that the house is not now at risk from flooding; but it could be at risk at some point in the future – a conclusion with which the Commission’s coastal engineer concurs.

The existing home is approximately 42 ft. from the high tide line. GSI notes that this site is subject to erosion of up to 1.8 feet per year now and that this rate could increase in the future. In its July 24, 2020 correspondence, GSI states that this erosion could impact some site improvements in the future (within the next two years); however, it will be many years before this amount of erosion would threaten the house. The site improvements that GSI states could be at risk in the near future are presumably accessory improvements in the backyard, but not the principal structure. With future erosion, the flood risks would move closer to the house and erosion would increase the flood risk over time. GSI has provided an analysis for an additional 18 feet of shoreline erosion and sea level rise of 0.9 feet that would bring the flooding to an elevation of 12.8 feet. Such flooding would overtop the existing retaining wall and would be just 0.2 feet below the finished floor elevation of the existing house. However, as noted previously by GSI, such flooding could be a risk to the house at some future time; but it is not currently at risk.

The letters from GSI evoke risks to the neighbors’ properties to support the need for new shore protection at 409 First Street. Specifically, GSI indicates that uniform shore protection is needed to protect the subject site and the adjacent properties from flanking erosion and that any gap in the shore protection or degradation of a segment of shore protection, as currently exists with the scattered riprap and debris fronting the site, jeopardizes the adjacent properties. However, GSI has not provided any specific information regarding the risks to the adjacent homes. Further, these property owners are not co-applicants to the subject permit application and there is no record of them expressing concern that their homes are at risk in the project files. Finally, there is an existing riprap revetment fronting both neighboring properties that has been maintained by the neighbors, with approval from the Port, and appears to be protecting the two properties.

Finally, even if the existing home was determined to be at risk, the proposed project does not appear to be the least environmentally damaging alternative. As a first approach, the applicant should analyze a range of potential alternatives to identify the alternative that minimizes or mitigates environmental impacts, as required by Section 86.76.010.C.10 of the City’s IP. This alternatives analysis should include softer alternatives that reduce erosion by dampening wave energy as it approaches the shoreline, but also provide valuable habitat that will enhance coastal resilience as sea

---

<sup>2</sup> A flood shield is a temporary barrier placed in a doorway to prevent floodwaters from entering a structure during large storm or flood events.

level rise occurs. Commission staff requested the applicant explore several of these approaches, including a living shoreline, perched sill, eelgrass bed expansion, or oyster reefs. GSI indicated that they were not aware of any of these approaches working in this area of San Diego Bay, and that Port staff had told them that the preferred approach to shoreline protection was to construct revetments and vertical walls. While a brief analysis was provided in the July 24, 2020 letter from GSI, these softer approaches should be analyzed more extensively prior to considering harder approaches such as the proposed project.

In addition, as mentioned in the Substantial Issue findings above, there is an existing riprap revetment fronting the subject property that the applicant has indicated is in disrepair. GSI indicates that the revetment does not meet the current Port of San Diego standards and that the applicant is restricted from performing any repairs to the revetment. Commission staff contacted the Port to discuss the subject project, and Port staff indicated that they do not have standards for shoreline protection. Further, they have not received a request from the applicant to repair, maintain or replace the revetment as the Port has allowed for other properties on First Street, including 411 and 407 which are each adjacent to the subject property. As such, should the applicant decide to retain the existing pre-Coastal home, and if the home were found to be at risk and in need of protection in the future, a range of alternatives should be explored to identify the least damaging alternative.

In conclusion, it is the applicant's intention to build a new home, patio and retaining wall at the site, however new shoreline protection is only allowed for existing development in danger from erosion. Thus, the subject project is inconsistent with the City's LCP. The information submitted by the applicant's engineer further indicates that the existing home is not currently at risk from flooding, erosion, or sea level rise, a conclusion with which the Commission's coastal engineer concurs. As such, the existing home is also not entitled to shoreline protection under the City's LCP. Finally, if the existing home were determined to be at risk in the future, the applicant must explore a range of alternatives, including softer approaches such as a living shoreline, as well as maintaining or repairing the existing riprap revetment, to identify the least damaging feasible alternative. As such, the Commission finds that the proposed project is not consistent with the shoreline protection and coastal hazard provisions of the City's certified IP.

## **C. Water Quality and Biological Resources**

The Water Quality and Biological Resource findings as well as the relevant water quality and biological resources policies of the City of Coronado's certified LCP cited above in the Substantial Issue findings of the staff report are incorporated herein.

## **D. Local Coastal Planning**

Section 30604(a) requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. The City of Coronado has a certified LCP.

Based on the preceding discussion in this report, the Commission finds that the proposed development is not consistent with all applicable provisions of the certified LCP and would result in adverse impacts to sensitive coastal resources. The Commission also finds, that based on the above, the proposed development would prejudice the ability of the City of Coronado to continue to implement its certified local coastal program by establishing an adverse precedent for how the City's program and resource protection measures are administered.

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

City of Coronado April 9, 2019 Staff Report