

CALIFORNIA COASTAL COMMISSION

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W11a

Prepared November 15, 2021 for November 17, 2021 Hearing

To: Commissioners and Interested Persons

From: Stephanie Rexing, North Central Coast District Manager
Peter Benham, North Central Coast Coastal Planner

Subject: **STAFF REPORT ADDENDUM for W11a, CDP Amendment Application Number 2-15-1357-A1 (San Francisco Public Utilities Commission Armoring)**

In the time since the staff report for this item was published on October 29, 2021, staff has received correspondence from the Applicant, the Surfrider Foundation, and one additional commenter regarding the staff recommendation (all located in the correspondence package for this item), wherein all express issues with an extended deadline, albeit for different reasons. The Surfrider Foundation and the other commenter (a Surfrider member) indicate that any deadline extension should be accompanied by a requirement that the Applicant make changes to their longer-term project. The Applicant indicates that a 6-month deadline extension will not be a sufficient time frame to complete all of the necessary supporting documentation for their longer-term project, including completing a CEQA determination. The purpose of this addendum is to respond to these comments, as well as to add a violation finding to the staff report (which was inadvertently omitted from the published staff report). Please note that this addendum does not modify the base staff recommendation, which continues to be approval of the CDP amendment with conditions.

Regarding the Surfrider Foundation and other comments, both express concerns with the Applicant's conceptual design for the longer-term project (also known as Phase 2) and, if the deadline is extended, ask the Commission to direct the Applicant, through this CDP amendment, to modify the longer-term project to better reflect the Ocean Beach Master Plan, including reducing any reliance on armoring. However, the Applicant's longer-term project is not the subject of this CDP amendment, and in fact would be the subject of its own CDP application in the future. As of now, it is not exactly set what the Applicant may propose in that application. Further, the Applicant's proposed project parameters will necessarily be informed by the City's ongoing local process, including the EIR process (where the Draft EIR is scheduled to be released for public comment in the next few weeks). In that sense, the Commission is being asked to provide direction for a project that has not yet even been proposed through a CDP application, for which supporting documentation is still being developed, and for which

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staff has not yet developed even a preliminary recommendation. The context for such project consideration here is complex, including not only because of the breadth and scope of public infrastructure affected, but also because of the legal and other constraints associated with armoring at this location, and staff does not believe it prudent to provide direction now in light of such uncertainty, and when the proposed project will be the subject of its own CDP application. There will be time for the Commission to provide its direction when the City actually applies for the CDP and we collectively know what the proposed project and potential options may be. It is premature to provide such direction at this juncture in staff's view and may prove counter-productive depending on what the actual CDP application and project evaluation shows. In addition, it appears that what the Surfrider Foundation and the other commenter are asking for is the same direction that staff has consistently communicated to this Applicant for many years. Specifically, staff has long advised that the Applicant avoid armoring as much as possible in their longer-term project, and has always raised the possibility that an armoring project may not be approved at this location given the facts and the law. To be clear, staff's advice to date has focused on fairly general direction and recommendations based on the type of coastal resource issues that are generally associated with a project of this sort, but staff has not formally evaluated any proposed longer-term project for Coastal Act and LCP consistency because no such application has been submitted, and the project parameters are not finalized. Staff would recommend that the Commission refrain from commenting on a yet-to-be-submitted CDP application that is not finalized and won't be inside of a year or more.

Regarding the correspondence from the Applicant, and as described in the staff report, the Commission's 2015 approval of the underlying CDP here was meant to be interim, known as Phase 1, and a means of providing the City with enough time to prepare project materials in support of a longer-term project, known as Phase 2. In discussions and meetings with City staff since the staff report was published, staff now has a much better sense of the remaining tasks and their respective timelines for the City's proposed Phase 2 project. Critically, the City's CEQA process is not scheduled to be complete until November or December 2022, which would mean it would not be complete in time to have a Commission hearing on the proposed Phase 2 project before the CDP expired (i.e., the staff report recommends extending the deadline to July 1, 2022). Even if that CEQA timeline holds true, staff would not have adequate time to develop a staff recommendation and bring this matter to a hearing before early 2023 at the soonest.

Staff feels like the best practical solution to this timing problem at the current juncture is to acknowledge these practical realities, and to extend the CDP expiration until June 30, 2023 in order to allow time for the City to complete its remaining tasks. Importantly, this will provide the City time to complete its CEQA process, and for staff to process the resultant CDP application and schedule it for a Commission hearing for action, likely in early 2023 if the schedule holds, but allowing for some contingency time if needed. While not ideal, it appears to be a realistic assessment of where things stand, and a practical approach to bring this matter to final resolution. At the same time, it is imperative that the City approach these next steps with the urgency needed to complete

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the process as quickly as it can, hopefully sooner than identified, and at the least to not let the schedule slip. Staff believes that that is the City's intent, and we will work closely with the City to bring this matter to you as soon as possible.

Thus, the following changes are made to the staff report dated produced October 29, 2021:

- 1. Change Expiration.** Replace references as follows: (a) references to 'July 1, 2022' are replaced with 'June 30, 2023'; (b) references to 'six months' are replaced with 'eighteen months'; and (c) references to 'a hearing in early 2022' are replaced with 'a hearing in early 2023'.
- 2. Add a violation finding as Section 4 following the "Other Coastal Resources" section on staff report page 17 (and renumber the following "CEQA" section as Section 5) as follows:**

4. Violation

Violations of the Coastal Act exist at this location, including but not necessarily limited to: 1) unpermitted placement of 600 linear feet of revetment on the bluffs and beach at Ocean Beach in 1997; and 2) failure to obtain a follow-up regular CDP for an additional 440 linear feet of revetment placed on the bluffs and beach at Ocean Beach pursuant to an ECDP in 2010. In 2011, the Commission denied the City's application proposing: a) after-the-fact authorization for the unpermitted 1997 rock; b) authorization for the work temporarily authorized in 2010 by the ECDP; and c) additional armoring. Thus, the violations remain in place and are the subject of Commission Violation File Nos. V-2-10-003 and V-2-10-023. The subject violations will not be addressed by the Commission's action on this amendment application, rather it is expected that resolution will not begin to occur at the earliest until the Applicant's proposed Phase 2 application can be acted on by the Commission. The Commission's enforcement division continues to monitor the existing violations as a separate matter from the amendment application.

Although unpermitted development has taken place prior to submission of this 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 amendment does not constitute a waiver of any legal action with regard to the violations alleged herein, or any other violations at the subject location, nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken at the subject location without a coastal permit.