

CALIFORNIA COASTAL COMMISSION

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Th11b

ADDENDUM

June 7, 2021

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th11b**, Coastal Commission Permit Application **#6-21-0278 (DeSimone, Schragger, Jokipii, & Oene)**, for the Commission Meeting of June 10, 2021

The purpose of this addendum is to make minor additions and corrections to the staff report and to respond to a comment letter submitted by Surfrider dated 6/4/21. Staff recommends the following changes be made to the above-referenced staff report. Deletions shall be marked by ~~strikethrough~~ and additions shall be underlined:

1. On Page 4 of the staff report, the third sentence of the fourth paragraph shall be corrected as follows:

As noted, the applicants have asserted that the seaward portion of the residence at 245 Pacific Avenue is at risk, and the Commission's engineer and geologist do not dispute this claim.

2. On Page 7 of the staff report, under **EXHIBITS**, the following exhibit shall be added to the list:

[Exhibit 13 – Surfrider Letter](#)

3. On Page 20 of the staff report, the fourth sentence of the first paragraph shall be corrected as follows:

The proposed protection would be located on the City-owned public beach and bluff, the seawall below ~~an existing~~ single-family residence located at 245 Pacific Avenue, and the geogrid also below 245 Pacific Avenue that will support a geogrid approved by the Commission below two three adjacent residences at ~~245,~~ 241, and 235 Pacific Avenue, in the City of Solana Beach.

4. On Page 21 of the staff report, the second sentence of the first paragraph after the table shall be corrected as follows:

That project proposed construction of a 150 ft. long seawall fronting three adjacent existing single-family residences located at 235, 241, and 245 Pacific Avenue, and construction of a geogrid bluff retention device below all three homes (Exhibit #4).

5. On Page 35 of the staff report, the following shall be inserted after the first complete paragraph:

In a letter suggesting modifications to the staff recommendation (Exhibit #13), Surfrider asserts that the owner of the home at 245 Pacific Avenue should be “accountable” for the need to construct shoreline protection as that home was constructed closer to the bluff edge in exchange for an agreement to a limited waiver of future shoreline protection. However, the proposed seawall is not required to protect the residence at 245 Pacific Avenue, even though the residence will benefit from the proposed project. If the residence at 245 Pacific Avenue was not present (e.g., vacant lot) and the geological conditions documented at the project persisted on the City-owned bluff, the seawall would still be needed to protect the existing blufftop residences at 249, 241, and 235 Pacific Avenue. The fact that residence at 245 Pacific Avenue was constructed closer to the bluff has no bearing on the need for the proposed shoreline protection.

6. On Page 46 of the staff report, above the subsection Duration of Armoring Approval, the following paragraphs shall be added:

On June 4, 2021, after the staff report was first issued, Surfrider submitted a letter objecting to the staff recommendation and suggesting several revisions to the conditions and findings if the Commission approves the project (Exhibit #13). The letter takes issue with the subject shoreline protection being characterized as the least environmentally damaging feasible alternative, rather than a legal and financial decision. However, the Coastal Act and CEQA require an assessment of alternatives, and as described, there are no feasible alternatives to the proposed project, and all feasible mitigation measures that would substantially lessen the adverse impacts of the project have been incorporated into the project. Thus, the project is the least environmentally damaging feasible alternative.

The letter also requests that the Commission “put blufftop property owners on notice that their homes have an expiration date,” perhaps by tying the life of the structure to the life of the seawall; limit redevelopment to ensure that the economic life of existing homes cannot be indefinitely extended, and incorporate enforcement into the terms of **Special Condition #14**, which requires recordation of a deed restriction notifying future property owners of the terms and restrictions of the subject permit. Surfrider suggests that the existing deed restriction placed on the property at 245 Pacific Avenue through CDP #6-96-021 requiring removal

of any portion of the principal residence located seaward of the 40 ft. blufftop setback if the bluff recedes to within 10 feet of the principal residence, and the site has been determined to be unsafe for occupancy, will not be enforced by the City of Solana Beach, and thus, additional enforcement provisions are required.

As described herein, all structures in a sense have an “expiration date,” as time and wear will eventually require demolition or substantial renovation. The Commission acknowledges that with any definition of “redevelopment,” such as relying on an analysis of structural components as defined in the City of Solana Beach LUP, some property owners will design projects that extend right up to the limits of redevelopment. However, in Solana Beach, the LUP’s very detailed definition of what constitutes redevelopment includes identifying and tracking structural changes cumulatively over time starting from the date of certification of the LCP, including changes to interior walls, roofs, and foundations, elements which have not been traditionally captured in definitions of redevelopment. This allows remodels to occur, but significantly limits major structural changes. Thus, over time, it is expected that most homes will have to be brought into conformance with current LCP standards, and at that time, will have to be constructed so as not to require shoreline protection.

In the case of the subject project, while the homes are not tied to the life of the seawall, three of the four blufftop homes were constructed prior to passage of the Coastal Act, and may well reach the end of their economic lives and be reconstructed before the seawall does. At such time when any of the homes is redeveloped, **Special Condition #4** prohibits reliance on the shoreline protection and **Special Condition #7** requires reassessment of the seawall in 20 years to determine if it is still necessary. These conditions, and all the special conditions, including the requirement for recordation of a deed restriction, are enforceable by the Commission. As described above, at this time the circumstances that would trigger removal of portions of the residence at 245 Pacific Avenue have not been met.

The letter also notes that setback calculations should be tied into state-wide sea level rise information. The Commission’s geologist and engineer review use the best available science to assess appropriate setbacks for new development, taking into account several factors, including sea level rise.

7. On Page 58 of the staff report, the following shall be inserted after Figure 1:

In a June 4, 2020 letter suggesting modifications to the staff recommendation ([Exhibit #13](#)), Surfrider asserts that stronger mitigation is required to offset the construction of a seawall in front of 245 Pacific Avenue, and that the City’s mitigation formula does not adequately value the beach and bluff property that will be impacted by the seawall. Surfrider asserts that the certified LUP specifies that mitigation be charged for existing (constructed prior to the effective date to the Coastal Act) homes but is silent as to how to calculate mitigation fees for new

homes like 245 Pacific Avenue; therefore, it is within the Commission's discretion to increase the mitigation fees for this circumstance.

The certified LUP, used for guidance in Solana Beach, contains a formula for assessing a mitigation fee that uses quantifiable factors such as the volume of lost sand over a 20-year period or the bluff retreat rate. Other factors, including beach attendance, are either obtained from surveys conducted by the City or through population growth estimates. The methods used to determine the appropriate mitigation fee for impacts to sand supply and public access and recreation are included in Appendix A and Appendix C of the City's certified LUP, respectively. As analyzed above in Section C. Public Access and Recreation, **Special Condition #8** requires mitigation consistent with the methods contained in the certified LUP. The LCP is not silent as to how to calculate mitigation fees for an existing home; the mitigation fee is based on the width and length of the seawall, regardless of whether the homes above the seawall were constructed prior to or after passage of the Coastal Act. Further, the Commission must respect the provisions of a certified LUP (see *Douda v. California Coastal Com.* (2008) 159 Cal.App.4th 1181) unless there is good reason to deviate. Nevertheless, the applicants have proposed a donation of \$140,000 to fund public access and public recreation improvements in Solana Beach or the surrounding area. Therefore, the Commission determines that the project in its current form will minimize and mitigate the impacts of the proposed seawall and is the least environmentally damaging alternative.

8. On Page 60 of the staff report, the following shall be inserted after the first complete paragraph:

In a June 4, 2020 letter suggesting modifications to the staff recommendation ([Exhibit #13](#)), Surfrider requests that the Commission require an encroachment permit rather than leaving it to the discretion of the City, as required by **Special Condition #11**. This condition requires the applicants to obtain the necessary approvals from the City to build on City property; however, the City ultimately has discretion over whether an encroachment agreement is required. The requirements and conditions of the CDP apply regardless of the City's encroachment permit requirements.