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# F14a

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## STAFF REPORT CDP AMENDMENT

**Application Number:** 3-83-172-A9

**Applicant:** CRP/PSE Seaside Pacifica Owner, LLC

**Project Location:** Along the beach and base of the bluffs fronting Viewpointe at Seaside Mobile Home Park at 1300 Palmetto Avenue in the City of Pacifica, San Mateo County (APN 009-291-020).

**Project Description:** As-needed repair and maintenance of a riprap revetment (measuring 800 feet in length by 35-50 feet in width by 39 feet in height), including replacing and repositioning rock, over the next five years.

**Staff Recommendation:** Approval with Conditions

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### SUMMARY OF STAFF RECOMMENDATION

CDP 3-83-172-A2, as amended, authorizes a roughly 800-foot-long armoring structure (made up of a revetment partially fronted with concrete piers) fronting the 93-unit Viewpointe at Seaside Mobile Home Park upcoast of the Pacifica Pier in Pacifica. The Applicant proposes to collect existing riprap boulders that have rolled onto the beach and restack them within the existing revetment's approved configuration on an as-needed basis over the next five years. The Applicant states that each such riprap collection/restack episode would involve moving any dislodged rocks and would take place over 16-40 hours spread over four weeks (based on working during lower tides), and would be accomplished by an excavator (or similar equipment) that itself would gain access to the beach over a temporary sand ramp that would be constructed atop the revetment's downcoast corner. The sand from the temporary ramp would then be allowed to disperse and nourish the beach after completion of such activities.

The Viewpointe at Seaside armoring was originally approved in 1984 (via CDP 83-172-A2) and was amended in 2009 and 2016 (-A7 and -A8, respectively). It is important to note the odd permitting structure that occurred as part of the base permit. CDP 3-83-172 authorized part of a City of Pacifica Master Plan for shoreline protection and the subsequent amendments covered various armoring structures throughout the City to continue implementing the Plan. Instead of each armoring structure receiving an individual permit, they all received amendments to the same base permit (3-83-172) and each have conditions that are site-specific.<sup>1</sup> Therefore, only CDP amendments 3-83-172-A2, -A7, and -A8 (and now -A9) are specific to the Viewpointe at Seaside property. As the other amendments to the base CDP affected other armoring projects in different locations within the City, they are not impacted by this amendment, and the amended conditions in this report only apply to the Viewpointe at Seaside revetment. Please refer to **Exhibit 7** for all the conditions that apply to Viewpointe at Seaside.

Additionally, the mobile home park protected by the subject armoring was originally constructed in 1957, and it has not been redeveloped since the date of Coastal Act effectiveness (i. e. , January 1, 1977) in a way that it would, as a whole, mean that it can no longer be considered an “existing structure” eligible for armoring protection under Coastal Act Section 30235 because 50% or more has not been replaced (or ‘redeveloped,’ as that term is commonly used as a proxy).<sup>2</sup> The proposed repair work would also not modify the revetment in such a way that would require evaluation of it under the Coastal Act as a new replacement armoring structure.<sup>3</sup> Even if it did, although some individual units and other post-1977 development (e. g., the new clubhouse) do not constitute “existing structures” as that term is understood in Section 30235, it appears that the mobile home park as a whole remains an existing structure for which armoring continues to be allowed. Thus, here, staff has evaluated the potential coastal resource impacts from the potential repair episodes that would follow and has determined that these would be fairly limited and short-term during construction. As such, staff believes that those impacts are appropriately mitigated by the sand nourishment component of each such repair episode. To ensure that is the case, and to provide a clear framework otherwise for initiating and implementing such

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<sup>1</sup> CDP 3-83-172 authorized a revetment between 538 Esplanade and 700 Palmetto, -A1 authorized a revetment West of Shoreview, -A2 authorized the construction of the revetment for Viewpointe, -A3 authorized a revetment at Beach Blvd, and -A4, -A5, and -A6 authorized the Sharp Park Berm. To see all of the various conditions, and which applies to which location, please see Appendix A.

<sup>2</sup> Under the Commission’s regulations, structures, such as the mobile home park and all of its sundry development here, that are replaced by 50% are considered redeveloped and are no longer considered “existing” for purposes of Section 30235 analysis. Whether the metric applied for the 50% threshold analysis is the number of units that have been replaced or redeveloped (24 out of 93 units, or 26%), or it is the park as a whole (where the only major changes have been removal of a swimming pool and construction of a clubhouse accounting for 6% of the park, and both measured since the effective date of the Coastal Act (January 1, 1977)), neither reach the 50% threshold.

<sup>3</sup> Under the same Commission regulations, revetments that are replaced by 50% or more are considered replacement structures that must be evaluated as new revetments, including a full Section 30235 analysis as to whether they meet the tests inherent in that section. In contrast, the Commission has typically reviewed less than 50% revetment replacement, as is proposed here, not in terms of a full Section 30235 analysis of the whole revetment, but rather in terms of just the repair episode (or episodes) as measured against the Coastal Act.

repair episodes, this amendment includes several modified special conditions associated with the parameters for each event, construction BMPs, and monitoring over time. All other CDP conditions would remain the same and would continue to protect against coastal resource impacts otherwise.

As conditioned, staff recommends that the Commission approve the CDP amendment, and the motion to do so is found on **page 5** below.

It should be noted that violations of the Coastal Act and the LCP exist on the subject property, including but not necessarily limited to, unpermitted development through replacement of individual mobile home units, as well as redevelopment of other portions of the mobile home park common areas, including removal of a pool, construction of a clubhouse, and replacement of 24 units, all without benefit of a CDP or amendment to the underlying CDP. These Coastal Act violations are located within the City of Pacifica's permit jurisdiction and are not being addressed or resolved by the current CDP application for riprap repair and maintenance. In response to our Notice of Violation, the Applicant has declined to resolve the violations; the application does not include resolution of the violation, and, thus, even if this application is approved, and the permit is exercised, violations will remain on the subject property that will not be addressed by the Commission's action on this application. Therefore, the Commission continues to maintain open violation cases, and the Commission's enforcement division is considering options for future actions to address such violations.

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**EXHIBITS**

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Project Area Photos
- Exhibit 3 – Proposed Project Plans
- Exhibit 4 – Applicant’s Redevelopment Analysis
- Exhibit 5 – City Staff Letter dated December 29, 2015
- Exhibit 6 – Coastal Commission Staff Letter dated November 4, 2015
- Exhibit 7 – CDP 3-83-172 Conditions as Amended (through and including CDP Amendment 3-83-172-A9)

## 1. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a CDP amendment 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 amendment 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 Amendment Number 3-83-172-A9 pursuant to the staff recommendation, and I recommend a **yes** vote.*

**Resolution to Approve CDP Amendment:** *The Commission hereby approves Coastal Development Permit Amendment Number 3-83-172-A9 and adopts the findings set forth below on grounds that the amended development, as conditioned herein, will be in conformity with the Chapter 3 policies of the Coastal Act. Approval of the amended CDP 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 amended 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 amended development on the environment.*

## 2. CONDITIONS

This amended CDP is subject to the standard and special conditions shown in **Exhibit 7**. That exhibit includes the following changes attributable to CDP amendment 3-83-172-A9. Note that these modifications only apply to the Viewpointe at Seaside Mobile Home Park, and the previous amendments related to this property (3-83-172-A2, -A7, and -8), and not any of the other amendments under the same base permit, as further explained in the project history section.

### 1. **Special Condition 4 regarding future repair and maintenance under the CDP is replaced with the following:**

**4. Future Repair and Maintenance (for the Viewpointe at Seaside Mobile Home Park Site Only).** *This CDP authorizes maintenance and repair of the permitted revetment and the public access areas authorized by 3-83-172-A7, as described in this special condition. The Permittee acknowledges and agrees on behalf of itself and all successors and assigns that it is the Permittee's responsibility to: (1) maintain the permitted revetment, and all related development, and the public access areas in a structurally sound manner, as visually compatible as possible with the beach and bluff shoreline surroundings, and in their approved and required states as amended; (2) retrieve and reuse or dispose of any failing portions of the permitted revetment or related improvements that might otherwise substantially impair the use, aesthetic qualities, or natural resource integrity of the beach and bluff areas; and (3) bi-annually or more often inspect and photograph the revetment for signs of compromise, consistent with the requirements of **Special Condition 5(b)**.*

*Any such repair and maintenance development associated with the permitted revetment and related development, and all public access areas, 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 and/or repair the permitted revetment and all public access areas and amenities in their approved and/or required state pursuant to the terms and conditions of this CDP and as amended. Expansion or enlargement of the permitted revetment is prohibited. Maintenance and repairs shall be undertaken using only necessary equipment and shall be limited to removal, repositioning, or replacement of rock within the footprint of the existing approved structure. The permittee shall remove or redeposit any debris, rock, or material that becomes dislodged from the revetment as soon as possible after such detection of displacement occurs.*
- b. Monitoring.** *The permitted 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 movement, outflanking, and undercutting.*
- c. Other Agency Approvals.** *The Permittee acknowledges and agrees that the maintenance and repair provisions in this special condition do not obviate the need to obtain permits and/or authorizations from other agencies for any future maintenance or repair.*
- d. Maintenance/Repair Notification.** *At most two weeks after the discovery of the need for any maintenance and/or repair activity, the Permittee shall notify, in writing, the Commission’s Executive Director and its North Central Coast District Office. The Permittee’s notice shall clearly indicate that maintenance/repair is proposed pursuant to this CDP and 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, and that is consistent with the parameters of **Special Condition 7**; (4) other agency authorizations; (5) evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to such use of their properties for each potential maintenance/repair episode; and (6) any other supporting documentation describing the maintenance/repair event. Maintenance or repair activities identified in Subsection “a” of **Special Condition 4**: (i) may not commence until the Permittee has been informed by the Commission’s Executive Director in writing that the maintenance proposed complies with this CDP and does not require an amendment to this CDP, and (ii) shall be completed as soon as possible, but no later than 30 days after the date on which the Permittee is informed by the Commission’s Executive Director in writing that the work may commence unless the Executive Director approves a later completion date. Repair and maintenance activities other than those identified in Subsection “a” shall require an amendment to this permit or a new coastal development permit. In the event of an emergency requiring immediate*

*maintenance/repair, 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.*

- e. Maintenance/Repair Quantification.** *Each above-described notification shall include a clear description of the quantity and volume of rock removed and/or replaced during each repair or maintenance event, consistent with the parameters of **Special Condition 5(c)**.*
- f. Maintenance/Repair Coordination.** *Maintenance/repair activity shall, to the degree feasible, be coordinated with other maintenance/repair activities proposed in the immediate vicinity of the revetment, including on adjacent properties, with the goal being to minimize cumulative coastal resource impacts, including the length of time that construction occurs in and around the beach and beach access points.*
- g. Restoration.** *The Permittee 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. The Permittee shall notify the Commission's Executive Director and planning staff of the Coastal Commission's North Central Coast District Office in writing upon completion of restoration activities to allow for a site visit to verify that all project and beach-area restoration activities are complete.*
- h. Noncompliance Provision.** *If the Permittee is not in compliance with the 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 Permittee is 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.*
- i. Emergency.** *Notwithstanding the emergency notifications set forth in subsection (d) 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, of the California Code of Regulations (Permits for Approval of Emergency Work).*
- j. Duration of Covered Maintenance/Repair.** *Future repair and maintenance under this CDP is allowed subject to the terms and conditions of the CDP, including this special condition, for five years, which authorization shall expire on November 18, 2027. Such expiration may be extended by the Executive Director in up to five year increments: (1) if the Permittee makes a written request to the Executive Director that is received on or before the expiration date; (2) if prior maintenance/repair events were conducted consistent with the terms and conditions of the CDP; (3) if the Permittee is in compliance with the 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; and (4) if the Executive Director determines in writing that there are no changed circumstances that may affect the consistency of this maintenance/repair authorization with the Coastal Act, and extends the authorization in writing.*

**2. Special Condition 5 regarding monitoring and reporting under the CDP is replaced with the following:**

**5. Monitoring and Reporting (for the Viewpoint at Seaside Mobile Home Park Site Only).** *The Permittee shall ensure that the condition and performance of the permitted revetment, permitted piers, and permitted public access areas are regularly monitored, with reports to the Executive Director as described in this condition. Such monitoring evaluation shall, at a minimum, assess the effectiveness of authorized repair and maintenance events, assess 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, maintenance, or other work to maintain the revetment, piers, and public access areas in a structurally sound manner and their approved state, including at a minimum with regards to the following:*

- a. Armoring.** *The permitted revetment and piers shall be monitored by a licensed civil engineer with experience in coastal structures and processes to evaluate and ensure structural integrity, including at a minimum evaluation of movement, outflanking, and undercutting.*
- b. Photo Documentation.** *All monitored elements shall be photographed at least bi-annually from an adequate number of inland and seaward locations as to provide complete photographic coverage of the approved project and the monitored elements of it at a scale that allows ready comparison of applicable components, including from all vantage points included in the approved As-Built Plans (see **Special Condition 10**). 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, including to allow naked eye comparison of the same views over time. Such photo documentation shall commence no later than the date of construction completion.*
- c. Maintenance/Repair Quantification.** *Each monitoring report shall include a clear description of the quantity and volume of rock removed and/or replaced during each repair or maintenance event. In addition, the Permittee shall provide the Commission Executive Director a final description of the quality and volume of rock removed and/or replaced during a repair or maintenance event within one-month of the end of construction activities for each event.*
- d. Reporting.** *Monitoring reports covering the above-described evaluations shall be submitted to the Executive Director for review and approval by May 1st every year, with the first report due on May 1, 2023, and for as long as any part of the approved project exists. The reports shall at a minimum (1) identify the existing*



*configuration and condition of the armoring system and all public access areas, including providing vertical and horizontal reference distances between the approved As-Built Plans' surveyed reference markers and the inland benchmarks; (2) enumerate methods, results, and assessments including but not limited to, beach transect surveys to determine beach width and bluff slope as compared from both year to year and based on regional long-term averages; (3) provide measurements of length, width, and height of the revetment at time of evaluation; (4) include recommendations of any actions necessary in the foreseeable future to maintain these project elements in their approved and required state, including when such actions should be taken; (5) include all photo documentation (in color hard copy 8½ x 11 and digital jpg formats) for each viewpoint noted in the previous subsection arranged in a way to easily review changes over time; and (6) include all past Executive Director-approved monitoring reports as exhibits. If any proposed actions are imminently necessary to maintain the approved as-built project in a structurally sound manner and its approved state, such actions shall be implemented following Executive Director approval within a timeframe for implementation as identified by the Executive Director, consistent with **Special Conditions 4d and 7c**. In addition, 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.*

**3. Special Condition 7 regarding construction plan provisions under the CDP is replaced with the following:**

**7. Construction Plan (for the Viewpointe at Seaside Mobile Home Park Site Only).** *PRIOR TO COMMENCEMENT OF THE FIRST MAINTENANCE/REPAIR EPISODE COMMENCING IN 2022 OR LATER (pursuant to **Special Condition 4**), the Permittee shall submit two copies of a Construction Plan (in full-size and 11" x 17" formats with a graphic scale) to the Executive Director for review and approval. The Construction Plan is intended to be the base construction plan for multiple individual maintenance/repair episodes; as such, it is intended to be reviewed and approved once every five years, where minor modifications to it can be submitted separately with the future maintenance/repair notifications identified in **Special Condition 4**. Any substantial modifications to the Construction Plan may require an amendment to the permit, so such changes should be reviewed by the Executive Director prior to implementation. The expiration of the Construction Plan approval may be extended by the Executive Director in up to five-year increments. The Plan shall identify the parameters that will apply to maintenance/repair construction (for the first and any subsequent such maintenance/repair episodes), and shall include, at a minimum, the following:*

- a. Construction Areas.** *The Construction Plan shall identify the specific location of all construction areas, all staging and storage areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging that are to take place shall minimize impacts on public access and other coastal resources, including by using developed blufftop portions of the*

*Permittee's property for staging and storing construction and materials, and avoiding public properties and public use areas. The Permittee shall avoid impacting public access areas as much as possible. If public access impacts are anticipated, the Permittee shall provide a specific subplan for this purpose. Special attention shall also be given to siting and designing construction areas and activities in order to minimize impacts on the ambiance and aesthetic values of the public access areas and the beach area, as well as to minimize impacts on coastal resources more broadly, including but not limited to public views across the site. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, storage, and access corridor areas.*

- b. Construction Methods.** *The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep construction areas separated from public properties and public use areas (including through use of unobtrusive fencing and/or other similar measures to delineate construction areas), including verification that equipment operation and equipment and material storage will not significantly degrade public views during construction.*
- c. Construction Timing.** *No work shall occur during weekends unless, due to extenuating circumstances, the Executive Director authorizes such work. In addition, no work shall occur during the summer months (i. e., from the Saturday of Memorial Day weekend through Labor Day, inclusive) unless, due to extenuating circumstances, the Executive Director authorizes such work. In addition, all work shall take place during daylight hours (i. e., from one hour before sunrise to one hour after sunset). Nighttime work and lighting of the work area are prohibited.*
- d. Construction BMPs.** *The Construction Plan shall identify the type and location of all best management practices that will be implemented during construction to protect coastal resources on the site, including at a minimum all of the following:*
  - 1. In-Ocean Work Prohibited.** *Construction work or equipment operations shall not be conducted below the mean high water line unless tidal waters have receded from the authorized work areas.*
  - 2. Intertidal Grading Prohibited.** *Grading of intertidal areas is prohibited with one exception as follows: existing rock that has migrated seaward of the revetment, that is naturally exposed, and that can be retrieved without substantial excavation of the surrounding sediments, shall be retrieved and reused or removed to an appropriate disposal site offsite. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i. e., excavator equipment with mechanical extension arms).*
  - 3. Rubber-Tired Construction Equipment Required.** *Only rubber-tired construction vehicles are allowed on the beach, except track vehicles may be used if required to safely carry out construction and if such use is approved by the Executive Director. When transiting on the beach, all such vehicles*

*shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.*

- 4. Beach Area Storage.** *All construction materials and equipment placed on the beach 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 the beach area by sunset each day that work occurs. The only exceptions shall be for erosion and sediment controls (e. g., a silt fence at the base of the revetment) as necessary to contain rock and/or sediments at the revetment site, where such controls are placed as close to the toe of the revetment as possible, and are minimized in their extent.*
- 5. Runoff Protection.** *Silt fences, straw wattles, and equivalent apparatus shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging from the construction area, and/or entering into storm drains or otherwise offsite. 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 equipment and treatment materials.*
- 6. Equipment BMPs.** *Equipment washing, refueling, and/or servicing shall take place at an appropriate off-site location to prevent leaks and spills of hazardous materials at the project site. Equipment washing, refueling, and/or servicing shall not take place on the beach.*
- 7. Good Housekeeping.** *The construction site shall maintain good construction housekeeping controls and procedures (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 project site; etc.).*
- 8. 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 work day.*
- e. Beach Sand Ramp.** *All sand to be used to create the temporary access ramp from the blufftop to the beach shall be SE 30 or other beach quality sand similar to the beach sand at the site, and shall be imported from off-site (i. e., the use of extant beach sand from the site is prohibited). All such imported sand shall be allowed to remain and naturally disperse to the beach at the end of any particular maintenance/repair event.*
- f. Restoration.** *All public recreational use areas, all beach access points, and all beach areas 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.*

- g. 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, and the public review requirements applicable to them, prior to commencement of construction.*
- h. 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 his/her contact information (i. e. , address, phone numbers, email address, etc. ) including, at a minimum, a telephone number and an email 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 minimizing impacts to public views, 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 contact information (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 during construction.*
- i. Construction Specifications.** *All construction specifications and materials shall include appropriate penalty provisions that require remediation for any work done inconsistent with the terms and conditions of the CDP.*
- j. Notification.** *The Permittee shall notify the Commission Executive Director and 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.*

*All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this CDP. The Permittees shall undertake development in conformance with this condition and the approved Construction Plan. Minor adjustments to these construction plan requirements may be allowed by the Executive Director if such adjustments: (1) are deemed necessary due to extenuating circumstances; and (2) will not adversely impact coastal resources.*

- 4. Modify Special Condition 9 as follows, where changes are shown in underline and ~~strikeout~~ format (for additions and deletions, respectively) as applicable.**

**9. Generic Deed Restriction**

- ~~A.~~ PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, or within such additional time as the Executive Director may

grant for good cause, the permittee shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment, a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, 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 permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. 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 permit amendment shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

~~B. This Deed Restriction shall remain in full force and effect and shall bind owner(s) and all his/her/their assigns or successors-in-interest during the period that either the development authorized by the permit, or any part or modification thereof, or the permit, or any modification or amendment thereof, remains in existence on or within respect to, and thereby confers benefit upon, the property.~~

**5. Add Special Condition 14 as follows:**

**14. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (3-83-172-A9),** the Applicant shall submit to the Executive Director for review and approval documentation demonstrating that the Applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, 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 permit, as amended, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. 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 permit, as amended, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property. **This deed restriction shall supersede and replace the deed restriction(s) recorded pursuant to [Special Condition #9 of] Coastal Development Permit(s) #3-83-172-A7, approved on May 7<sup>th</sup>, 2009, which deed restriction is recorded as Instrument No. 2011-002738 in the official records of San Mateo County.**

**6. Add Special Condition 15 as follows:**

**15. Public Rights.** *The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. By acceptance of this permit, the permittee acknowledges, on behalf of itself and its successors in interest, that issuance of the permit and construction of the permitted development shall not constitute a waiver of any public rights that exist or may exist on the property now or in the future.*

**7. Add Special Condition 16 as follows:**

**16. Liability for Costs and Attorneys' Fees.** *By acceptance of this coastal development permit, the landowner/permittee agrees to reimburse the California Coastal Commission in full for all Coastal Commission costs and attorneys' fees including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay, which the Coastal Commission may incur in connection with the defense of any action brought by a party other than the landowner/permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this CDP. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.*

### 3. FINDINGS AND DECLARATIONS

#### A. Project Location

The project site is located along and seaward of the bluff fronting Viewpointe at Seaside,<sup>4</sup> a 93-unit mobile home park just south of Milagra Valley and upcoast of the Pacifica Pier at 1300 Palmetto Avenue in the City of Pacifica. The mobile home park was initially developed in 1957, and it occupies an area of almost ten acres that extends approximately 800 feet in shoreline length. The site is bordered to the north by commercial and industrial uses and to the south by single-family residential development. The western edge of the property fronts a steep coastal bluff that varies in height from approximately 30-40 feet, with the taller bluff landforms located toward the north. See **Exhibit 1 and 2** for a location map and photos of the site area.

#### B. Project History

The bluff and beach area fronting the site is covered by a riprap revetment partially fronted by a series of concrete piers that was approved by the Commission and constructed in 1984 (via CDP 3-83-172, as amended by -A2) after El Niño winter storms in 1983 caused the loss of up to 80 feet of bluff at this site. While originally approved in 1984 (via CDP-83-172-A2), the permit was amended in 2009 and 2016 (-A7 and -A8, respectively) and is detailed further below. It is important to note the odd permitting structure that occurred as part of the base permit. CDP 3-83-172 authorized part of a City of Pacifica Master Plan for shoreline protection and the subsequent amendments covered various armoring structures throughout the City. Instead of each armoring structure receiving an individual permit, they all received amendments to the same base

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<sup>4</sup> Previously also known as Cottages at Seaside, and before that as the Pacific Skies Mobile Estates.

permit (3-83-172) and each amendment has conditions that are site-specific.<sup>5</sup> Therefore, only CDP amendments 3-83-172-A2, -A7, and -A8 (and now -A9) are specific to the Viewpointe at Seaside property. As the other amendments to the base CDP affected other armoring projects in different locations within the City, they are not impacted by this amendment, and the amended conditions in this report only apply to the Viewpointe at Seaside revetment.

Originally, the northern roughly 600 feet of the revetment was fronted by 4-foot centered piers and the southern roughly 200 feet consisted of a revetment without piers. Additional piers were installed in the southern section in 1996 and authorized after-the-fact in the -A7 amendment. About 175 feet such piers have since been demolished by the elements and are no longer present (and were thus removed as part of **Special Condition 6** of the -A7 amendment. Therefore, only about 400 feet of such piers to the north, and a discontinuous section of about 50 feet of such piers further south, remain, all in various stages of decay that appear to have compromised structural integrity.

In addition to its original construction, significant (and then unpermitted) repairs and improvements to the authorized armoring structure occurred in the 2000s, and the Commission approved such development after-the-fact in 2009 (via CDP Amendment 3-83-172-A7), where that 2009 action authorized the armoring system in its current permitted configuration and allowed for repair and maintenance episodes within that approved configuration through 2014 (subsequently extended to 2019 via CDP Amendment 3-83-172-A8 in 2016). That 2009 authorization also required the removal of a series of unpermitted private encroachments into the blufftop area previously required by the Commission to be designated for public access in 1984. Additionally, and to better perfect public access areas associated with the CDP, the 2009 authorization also included dedication of public access easement areas that provided for improved public access.<sup>6</sup>

Additionally, the 2009 amendment added **Special Condition 4** which required the permittee to maintain the existing revetment for the life of the structure, and maintenance activities were limited to removal, repositioning, and/or replacement of rock within the footprint and configuration of the existing approved structure, and no further expansion or enlargement of the authorized revetment was permitted. Further, the amendment added **Special Condition 5** which required a Shoreline Protection Monitoring Plan, to be prepared and submitted annually by a licensed civil engineer with experience in coastal structures and processes for as long as the revetment exists.

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<sup>5</sup> CDP 3-83-172 authorized a revetment between 538 Esplanade and 700 Palmetto, -A1 authorized a revetment West of Shoreview, -A2 authorized the construction of the revetment for Viewpointe, -A3 authorized a revetment at Beach Blvd, and -A4, -A5, and -A6 authorized the Sharp Park Berm. To see all of the various conditions, and which applies to which location, refer to Appendix A.

<sup>6</sup> The Commission required a series of offers to dedicate public access easements for this purpose which were recorded in 2011 and which designated a lateral public access area on the beach, a blufftop public access way, and a public access way on Fifth Avenue to connect to Palmetto.

### **C. Project Description**

The Applicant proposes to collect existing riprap boulders that have rolled onto the beach and restack them within the existing revetment's approved configuration on an as-needed basis over the next five years. Such repair/maintenance events would be accomplished via a large excavator with an articulated 'thumb' that would access the beach from the blufftop via a temporary access ramp made of beach-quality sand that would be constructed over the revetment at the southern corner of the property. The sand from the temporary ramp would then be allowed to disperse and nourish the beach after completion of such activities. The excavator would only operate on the beach when the tide is low enough to avoid ocean waters, would be removed from the beach immediately after each such operation, and would be completely off the property at the end of each such event. Each maintenance event's duration would vary, but the Applicant estimates that it could take approximately 16 to 40 hours for each event spread over a time period of 4 weeks due to wave and tide conditions limiting the hours that such work could feasibly be accomplished. The Applicant proposes to provide a dedicated worker whose job is to ensure safety, and to allow the public to pass by the work area safely as needed. Additionally, maintenance activities and an approximate work schedule would be posted on site for each maintenance event. See **Exhibit 3** for the Applicant's proposed project plans.

### **D. Standard of Review**

The proposed project is located in a shoreline/beach area that is located within the Commission's retained CDP jurisdiction. In addition, the Commission retains authority over the base CDP that is proposed to be amended in this case, including amendments to it. Therefore, for both of these reasons, this CDP amendment is subject to Commission review and action, and the standard that the Commission must apply to the proposed project is conformity with Chapter 3 of the Coastal Act. The City of Pacifica certified Local Coastal Program (LCP) provides non-binding guidance.

### **E. CDP Amendment Determination**

#### **1. Analytical Framework**

Coastal Act Section 30610(d) generally exempts repair and/or maintenance of structures that do not result in an addition to, or enlargement or expansion of, the structure being repaired or maintained from Coastal Act permitting requirements. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission's regulations.

While some types of repair and maintenance projects are exempt from CDP requirements under Coastal Act Section 30610(d), extraordinary methods of repair and maintenance, as defined in Section 13252 of the Commission's regulations, require a CDP (or CDP amendment). Section 13252(a)(1)(B) specifies that extraordinary methods of repair and maintenance requiring a CDP include repair or maintenance of a revetment that involves placement of solid materials on a sandy beach, as is proposed here. However, as described in Section 13252(b), activities do not qualify as "repair" or "maintenance" if they involve the replacement of 50% or more of a revetment. In that



case, the development results in a replacement structure requiring a coastal development permit for the entire structure.

On the other hand, when an Applicant proposes extraordinary methods of repair and maintenance activities that require a CDP under Section 13252, the scope of the Commission's review is limited to whether the proposed *method* of repair and maintenance complies with Chapter 3 policies and does not extend to an evaluation of whether the structure itself is authorized or consistent with the Coastal Act.

The Applicant's proposed repair and maintenance qualifies as an extraordinary method of repair and maintenance that requires a CDP amendment under Section 13252 of the Commission's regulations. The maintenance activities are limited to removing, repositioning, or replacing rock within the authorized footprint of the structure. As proposed the revetment will remain in the same location, with the same dimensions and footprint as previously authorized. In addition, the Applicant does not propose to modify the approved configuration of the subject revetment, and the Applicant does not propose to replace 50% or more of the approved revetment to the extent that it would be considered a replacement structure. The revetment itself has been repaired and maintained, as authorized in its original configuration, and is not currently considered redeveloped.

As a result, the proposed project is appropriately considered a repair and maintenance project and not a replacement structure.

## **2. Coastal Hazards**

### ***Applicable Coastal Act Provisions and Analytic Framework***

The Coastal Act requires that new development minimize risks to life and property, assure stability and structural integrity, not contribute to instability, and not rely on shoreline armoring to be safe from hazards now or in the future. Section 30253 states:

**30253.** *New development shall do all 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. ...*

Further, the Coastal Act only allows for shoreline armoring in limited circumstances, where they protect existing structures. Section 30235 states:

**30235.** *Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and 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.*

Section 30253 requires that new development minimize risks to life and property in areas subject to coastal hazards, assure stability and structural integrity and not contribute to erosion or destruction of the site or surrounding area, or in any way require the construction of a shoreline protective device. In addition, Coastal Act Sections 30235 and 30253 together acknowledge that seawalls, revetments, bluff retaining walls, groins and other such structural or “hard” methods designed to forestall coastal erosion also alter natural landforms and natural shoreline processes. Accordingly, except for coastal-dependent uses, Section 30235 only allows shoreline protective devices when required to protect existing structures or public beaches in danger from erosion.

In this case, however, the analytical framework is not whether the proposed project meets the tests for allowable armoring under Sections 30235 and 30253, because the Commission addressed those questions in 1984 when it originally authorized the revetment. In other words, the Commission evaluated those Coastal Act tests at that time and determined that existing structures were in danger from erosion in a way that required armoring under the Coastal Act. Therefore, the question before the Commission in this CDP amendment application is only whether the *method* of repair and maintenance of the revetment is consistent with Chapter 3 of the Coastal Act. For purposes of the Coastal Act’s hazards policies, this means the Commission must evaluate whether the manner in which the Applicant proposes to maintain the revetment is consistent with Section 30253’s requirements to minimize risks to life and property in a hazardous area, and to assure stability, structural integrity, and not contribute to erosion or destruction of the surrounding site or area.

Because the repair and maintenance project does not involve a new proposed shoreline protective device, the Commission does not have to find the project consistent with Section 30235 of the Coastal Act. However, evidence reviewed by Commission staff indicates that the Applicant’s mobile home park has not been substantially redeveloped and that development that qualifies as “existing” under Section 30235 (i.e., in existence

prior to the effective date of the Coastal Act) continues to be protected by the revetment.<sup>7,8,9</sup>

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<sup>7</sup> Based on information provided by the Applicant, the mobile home park as an overall unit has stayed essentially the same since 1977, other than a swimming pool that was removed and single-story clubhouse that was added. Other than that, the basic layout of the park and its supporting infrastructure appears to have not been altered by 50% or more. As to individual units, from the Applicant's submitted materials, it appears that 24 out of the 93 total units, or 26%, have been completely replaced. While renovations may have occurred for 34 units, including a minor alteration to one unit, none of these have been redeveloped. Specifically, the analysis indicates that all structural elements appeared to be original as furnished by the manufacturer, and the age of the roofing and exterior wall structural elements were consistent with the other structural components of the units. The analysis identified that some units had roof coatings or shingles replaced, which could account for some of the visible signs of potential redevelopment that was noted from a review of aerial satellite imagery, but such development was more cosmetic than structural, and does not cross the 50% threshold to constitute redevelopment. As noted in the Applicant's analysis, mobile home units are generally pre-fabricated as integrated structures with roofs that consist of lateral rafters or trusses that sit atop sidewalls, and it is rare for the structural roof, foundation, or wall elements of mobile home units to be removed or replaced, either in part or in whole. Further, the analysis indicates that it is typical for the mobile homes' structural roof elements to last for many decades. Thus, it does not appear that the mobile home park as a whole has been redeveloped. However, as identified in the Applicant's redevelopment analysis (**Exhibit 4**), these replacements and redevelopments required CDPs, but the Commission is not aware of any such CDPs having been granted by the City. Thus, these developments too are being tracked by the Commission as Coastal Act and LCP violations (see violation finding that follows).

<sup>8</sup> 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 in that form on January 1, 1977, the effective date of the Coastal Act, and that have not been redeveloped since. 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 Coastal Act Sections 30235 and 30253 (the latter of which does not allow for such armoring to protect new development), which together evince a broad legislative intent to allow armoring for structures that existed when the Coastal Act was passed, when such structures are in danger from erosion (Section 30235), but to avoid such armoring for development constructed consistent with the Act, which does not allow shoreline altering armoring development to support same (Section 30253). This interpretation, which essentially "grandfathers" protection for certain structures that predate 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.

<sup>9</sup> Coastal Act Section 30610(d) and Title 14 of California Code of Regulations (CCR) Section 13252(b) help define when structures meet or don't meet the redevelopment threshold. CCR Section 13252(b) specifically states that replacement of 50% or more of a structure, including a mobile home park and individual mobile homes, is not repair and maintenance under Coastal Act Section 30610(d) but instead constitutes a replacement structure that must be evaluated for Coastal Act compliance purposes. In applying Section 13252(b), the Commission has, in the past, found that a structure will be considered a replacement structure (also referred to as redeveloped) if at least one of the following takes place: 1) 50% or more of the major structural components (i.e., including exterior walls, floor, roof structure, or foundation, where alterations are not additive between individual structural components) are replaced; 2) there is a 50% or more increase in gross floor area; 3) replacement of less than 50% of a major structural component results in cumulative alterations exceeding 50% or more of that major structural component (taking into account previous replacement work undertaken since January 1, 1977); and 4) less than a 50% increase in floor area where the alteration would result in a cumulative addition of 50% or more of the floor area, taking into account previous additions to the structure since January 1, 1977.

For the reasons discussed above, the proposed project is appropriately considered a repair and maintenance project and not a replacement project. Therefore, the scope of review is limited to an evaluation of whether the proposed method of repair and maintenance is consistent with Section 30253 of the Coastal Act.

### **Analysis**

As is the case now, and when the Commission originally approved the revetment in 1984, Pacifica's shoreline is subject to erosion problems of varying intensities. The shoreline at the subject site is primarily exposed to northwest and west ocean swells, waves, and storms of various intensities in the winter, and more infrequently to swells/waves/storms from the southwest. These swells, waves, and storms then intersect the coastal bluff at the subject property, a bluff that is generally comprised of surficial fill and dune overlying partially cemented marine terrace deposit materials. In other words, heavy-duty oceanic processes are attacking what should be considered a fairly unstable bluff landform on a regular basis. Perhaps unsurprisingly, this leads to a relatively high level of coastal erosion. For example, USGS estimates historical retreat from the 1930s to 2016 for the bluffs between this site and the 300 block of Esplanade to the north ranges from 1.8 to 3 feet/year. Of course, that is just the average annualized rate of erosion, and episodic events can be much more severe, and can be exacerbated by bluff sloughing due to ground saturation. For example, as referenced earlier, the bluff in front of the mobile home park receded almost 80 feet in a one-month period during the 1983 El Niño winter storms. Therefore, it is clear that the site is in danger from erosion absent the armoring here, and armoring repair and maintenance is necessary to protect the existing blufftop structures due to that ongoing threat.

In addition, rock revetments like the one at this site are "mobile" structures that move in response to wave action and changing sand levels. Rocks that are less durable also tend to decompose into smaller and more mobile rocks when subjected to large wave impacts. Both processes can result in changes to the dimensions and stability of the revetment structure as well as cause rocks to shift, migrate, or roll onto the beach.

The proposed repair and maintenance project involves replacing and repositioning dislodged rock back onto the structure within its prior approved footprint. The work will be conducted during low tide elevations to ensure that the equipment isn't impacted by wave runoff. Additionally, there will always be an observer with the equipment and an operator to protect the public and ensure that the public can safely walk past the work area. The project has been designed to minimize impacts to the beach itself by ensuring all equipment will be removed from the beach immediately after each work event and **Special Condition 7** requires the Applicant to implement a myriad of best management practices to ensure minimal beach impacts. The construction-related conditions of the permit continue to apply and will ensure that the approved repair and maintenance will be undertaken in a way that minimizes impacts to the beach and ensures the Applicant bears the risks of development in a potentially hazardous area. Furthermore, the purpose of the project is to repair a revetment to improve its structural integrity and support its continued effectiveness as a shoreline protective device that stabilizes the bluff above the beach.

However, the CDP conditions relating to monitoring of the revetment over time require revisions to reflect more current, and more Coastal Act consistent, methodologies for evaluating each individual repair/maintenance episode, including in terms of construction BMPs and more detailed monitoring. On the latter, and while the Applicant has generally provided the required monitoring reports throughout the years, they generally lack sufficient detail to adequately assess and monitor both shoreline change as well as changes specific to the degree to which the revetment has been replaced and must be considered a new replacement armoring structure under Coastal Act Section 30235. Although the revetment has not, to date, been so significantly modified as to constitute a replacement structure, considerable work has been done to the revetment over the years. Thus, it is important that monitoring track the extent and frequency of maintenance events to ensure that the revetment is not inadvertently redeveloped without proper Coastal Act authorization. Thus, existing **Special Conditions 4, 5, and 7** are updated (see updated Special Conditions in Section 2 of this report, above). The CDP's other conditions are unchanged, and they continue to ensure Coastal Act conformance with respect to coastal hazards otherwise (e.g.- conditions to require that the Applicant assume all risk for development in a hazardous location). See the full conditions as amended through and including this amendment action in **Exhibit 7**.

As conditioned, the Commission finds the proposed method of repair and maintenance is consistent with Coastal Act Section 30253.

### **3. Coastal Resource Protection**

#### ***Applicable Coastal Act Provisions***

The Coastal Act requires that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights and natural resource protection and that development not interfere with the public's right of access to the sea where access was acquired through use or legislation. Coastal Act policies specifically protect public access and recreation, as follows:

**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....*

**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 30220.** *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

**Section 30221.** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

**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.*

**Section 30240(b).** *Development in areas adjacent to ... 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 ... recreation areas.*

In terms of public view protection, Coastal Act Section 30251 states:

**Section 30251.** *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.*

The Coastal Act also protects the marine resources and habitat offshore of this site. Coastal Act Sections 30230 and 30231 provide:

**Section 30230.** *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.*

**Section 30231.** *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 water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

### **Analysis**

In addition to the mobile home park itself, and as described above, the beach has a dedicated lateral access area and the blufftop portion of the site also supports a public 'loop', required by the Coastal Commission as mitigation for certain project impacts in its 2009 action. That public trail enters the property at its northern property line from Palmetto Avenue and extends to the blufftop, then along the blufftop to the southern property line, and then back to Palmetto Avenue. As a result, the armoring at the site also protects this public trail, as would repair and maintenance of it. This trail can be considered coastal-dependent, which is another of the allowable criteria of Section 30235 to allow for armoring under the Coastal Act. In addition, dislodged rocks from the revetment can impede public access along the beach in the previously required public access easement area, and therefore repair and maintenance that relocates such rock back onto the revetment has the benefit of removing any such obstacles to continued public use. The updated monitoring provisions of **Special Condition 4** should also help to ensure that these required public access elements are appropriately protected against adverse impacts.

At the same time, each proposed repair and maintenance event would last for up to 16 to 40 hours spread over a time period of roughly 4 weeks due to wave and tide conditions limiting the hours maintenance can occur and would include a variety of temporary construction activities. For example, each event will require the movement of large equipment and workers across the public blufftop trail and onto and across the public beach access, and this will result in the loss of recreational trail and beach area to a construction zone (at the immediate project area), and generally intrude and negatively impact the aesthetics, ambiance, serenity, and safety of the recreational beach experience. These beach recreational use impacts can be contained through construction parameters that limit the area of construction, limit the times when work can take place, clearly fence off the minimum construction area necessary, require off-beach equipment and material storage during non-construction times, clearly delineate and avoid beach use areas, only allow excavator operation on the beach when the tide is low and removal otherwise, and a dedicated construction observer to ensure safety and to allow the public to pass the work area if needed, etc. (see revised **Special Condition 7**). At the same time, while these impacts can be reduced, such measures will not completely eliminate them, and thus mitigation for such impacts is required.

In terms of public views, the Commission already approved the subject armoring structure and found it Coastal Act consistent in terms of public views at the time in 1984. While the revetment itself will still remain a significant and unnatural visual impediment

along the coast that detracts from and impedes public views, the proposed maintenance will ensure that the condition of the revetment as authorized remains intact and that any rock that is displaced is recaptured, consistent with that original Commission action. That said, and as with public access impacts during each event, the public's view will also be marred by such construction activities when they occur. Again, these can be minimized through the required construction BMPs, but they cannot be eliminated, and also require mitigation.

As to the marine environment, each repair/maintenance event could have adverse impacts on the beach and coastal waters, due to the use of heavy equipment operations on the beach. Again, such impacts can be minimized by construction BMPs (e. g. , requiring that all work take place during daylight hours and prohibiting lighting of the beach area; prohibiting construction work or equipment operations below the mean high water line unless tidal waters have receded from the authorized work areas; limiting grading of intertidal areas; requiring the use of rubber-tired construction vehicles on the beach-except that track vehicles may be used if required to safely carry out construction; limiting construction materials and equipment placement on the beach to daylight construction hours, and where they are stored beyond the reach of tidal waters, where all such materials and equipment are removed in their entirety from the beach area by sunset each day that work occurs; prohibiting equipment washing, refueling, and/or servicing on the beach; requiring good construction site housekeeping controls and procedures, e.g., cleaning up all leaks, drips, and other spills immediately; keeping materials covered and out of the rain, including covering exposed piles of soil and wastes; disposing of all wastes properly, placing trash receptacles on site for that purpose, and covering open trash receptacles during wet weather; removing all construction debris from the beach; requiring erosion and sediment controls prior to the commencement of construction as well as at the end of each work day to prevent construction-related runoff and/or sediment from entering into the Pacific Ocean; etc.). Again, the associated impacts can be reduced in this way, but can't be eliminated by such BMPs.

Fortunately, these remaining public access, public view, and marine resource impacts can be appropriately offset by project design. Namely, the project includes the creation of a temporary access ramp made of beach-quality sand for each repair and maintenance event for construction access purposes, where the sand from the temporary ramp would then be allowed to disperse and nourish the beach after completion of each such repair and maintenance event. It is estimated that each such event would contribute approximately 16 cubic yards of sand to the beach environment, which would both nourish the beach as a space for public recreational use and marine habitats, as well as increase its scope in a way that helps to improve the beach viewshed. Thus, these remaining impacts are appropriately mitigated by this element of the project.

As conditioned, the Commission finds the proposed development consistent with Coastal Act provisions related to public recreational access, public views, and marine resources.



#### 4. CEQA

CEQA Section 21080.5(d)(2)(a) prohibits a proposed development from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the development may have on the environment. The City of Pacifica, acting as lead CEQA agency, determined the proposed project was categorically exempt from CEQA, and thus the City did not identify any significant adverse environmental effects from the proposed project.

The Coastal Commission's review, analysis, and decision-making process for CDPs and CDP amendments has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has analyzed the relevant coastal resource issues with the proposal and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. Further, all public comments received to date have been addressed in the preceding findings, which are incorporated herein in their entirety by reference. The Commission finds that only as modified and conditioned herein will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. Thus, the proposed project as modified 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).

#### F. Violation

Violations of the Coastal Act and the City of Pacifica's LCP exist on the subject property including, but not necessarily limited to, unpermitted replacement of 24 individual mobile home units, and redevelopment of other portions of the mobile home park common areas (including removal of a pool and construction of a 22,000 square-foot and single-story clubhouse) without the benefit of a CDP as required pursuant to the City of Pacifica LCP and the Coastal Act.<sup>10</sup> In fact, the Commission has not located any CDPs

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<sup>10</sup> For additional reference, City and Commission staff engaged on the question of required CDPs at the site in 2013. While City staff determined that repairs to, or complete replacements of, individual mobile home park units were exempt from CDP requirements, Commission staff disagreed. In addition, at that time the property owners were proposing to completely renovate and redo the mobile home park's infrastructure, and the two staffs similarly disagreed on CDP requirements for that project as well. At the time, City staff determined that the proposed renovation plans were development as defined by the Coastal Act and City of Pacifica LCP, but that they were exempt from a CDP under City of Pacifica IP Section 9-4.4303(h)(6)(vii), which exempts "repair and maintenance necessary for on-going operations of an existing facility which does not expand the footprint, floor area, height, or bulk of an existing facility" (see City staff letter in **Exhibit 5**). Commission staff disagreed with the City's approach and determined that those activities were significant improvements to, and replacement of, both park infrastructure as well as existing mobile homes within the park that would, among other things, create a potential expectation that the existing revetment seaward of the mobile home park would be allowed to be maintained and augmented in the future so as to protect any such new development, and indicated that all such development was not exempt, needed a CDP, and raised a series of Coastal Act and LCP issues (see Commission staff letter in **Exhibit 6**). Ultimately these disagreements were not resolved, including because the then-proposed development in question was abandoned by the property owner at that time. However, it continues to be the Commission's position that CDPs are required for development at this site, including associated with replacements of individual mobile home park units, unless such development is exempt by the Coastal Act, the Commission's regulations, and the LCP. Each of the 24-unit replacements required a CDP and the City did not approve any such CDPs.

for any development at the site in the time since CDPs were required by the Coastal Act in 1977 other than the CDP approvals associated with the armoring structure fronting the bluffs. At the same time, and based on the Applicant's evaluation, where the Applicant conducted a complete inspection and redevelopment analysis (see **Exhibit 4**),<sup>11</sup> it is clear that substantial development has occurred at the site. Again, all without CDPs.

According to the Applicant's own analysis, 24 mobile home units have been replaced entirely,<sup>12</sup> and it appears that 34 additional units may have been renovated in one way or the other.<sup>13</sup> Of these unit replacements and renovations, CDPs were required, but not obtained, for at least the majority of the cases.

To conclude, none of the development identified in this section above ever received CDPs, and thus it is all being tracked by the Commission as Coastal Act and LCP violations. These violations are located within the City of Pacifica's permit jurisdiction. In response to our Notice of Violation, the Applicant has declined to resolve the violations. Thus, even if this CDP is approved, and even if the CDP is properly exercised, violations will remain on the subject property that will not be addressed by the Commission's action on this application. Therefore, the Commission continues to maintain open violation cases, and the Commission's enforcement division is considering options for future actions to address such violations.

However, although development on the site has occurred without benefit of a CDP prior to submission of this CDP application, consideration of this application by the Commission has been based solely upon Coastal Act Chapter 3 and the certified City of Pacifica LCP. Commission review and action on this CDP does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of the development undertaken on the subject site without a CDP, or of any other development, except as otherwise expressed herein.

## 4. APPENDICES

### A. Substantive File Documents

- As-Built-Revetment Repair Site Plan, dated May 22, 2011
- Revetment Monitoring Reports, dated 2011 through 2021
- City CEQA Exemption Letter, dated January 13, 2022
- CDP and amendment files for CDP 3-83-172, as amended through and including 3-83-172-A9

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<sup>12</sup> At 105, 115, 121, 125, 129, 133 145, and 153 First Avenue; 232, 236, 252, and 256 Second Avenue; 305, 309, 328, 336, 337, 341, and 344 Third Avenue; 568, 572, and 576 Fifth Avenue; 618 Sixth Avenue; and 33 Dahlberg Avenue.

<sup>13</sup> Meaning that according to the Applicant the remaining 35 units have not been modified since 1977. Enforcement staff has not been able to verify whether additional units were also modified or replaced.

- Master set of conditions for all amendments under 3-83-172

**B. Staff Contacts with Agencies and Groups**

- City of Pacifica Planning Department
- Surfrider Foundation