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STAFF REPORT
CDP APPLICATION

Application Number: **2-20-0221**

Applicant: Pacific View Villas Homeowners' Association

Project Location: At and seaward of the Pacific View Villas condominiums (200-224 Palmetto Avenue) on the blufftop and at the base of the bluff in the northern portion of the City of Pacifica in San Mateo County.

Project Description: Retain a modified stormwater management system (previously partially authorized temporarily via ECDP G-2-19-0047), including new after-the-fact (ATF) components not authorized by the ECDP; retain ATF (and partially restack) a rock revetment on the beach; and reestablish previously required public access easements and a 'loop' public access trail on the blufftop portion of the site. (Note: The Commission's enforcement division has opened an investigation into potential Coastal Act violations associated with this item and the site.)

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The Applicant proposes to authorize a stormwater management system that was previously partially approved on a temporary emergency basis (ECDP G-2-19-0047), consisting of blufftop drainage apparatus connected to a retaining wall and pier-secured 12-inch in diameter pipe draped over the bluff edge and face that outlets onto a rock revetment at the toe of the bluff (that itself would be restacked and enlarged as part of the proposed project), located at and seaward of the Pacific View Villas condominiums

at 200-224 Palmetto Avenue in the northern portion of the City of Pacifica in San Mateo County. In addition, a previously required blufftop public access trail would be reestablished and reopened (the trail has been closed for some time due to the Applicant's concerns regarding erosion dangers, but without CDP authority), and a sandy beach easement redone, as part of the proposed project. Portions of the proposed project are unpermitted, and thus here the Applicant is requesting after-the-fact (ATF) approval for them (related to unpermitted revetment augmentation and unpermitted additions to the temporarily authorized stormwater system), and other violations exist on the site (in relation to the unpermitted public access trail closure and development within and blocking a protected view inconsistent with the CDP).[1]

The Pacific View Villas occupy about 3 blufftop acres at the extreme northern edge of the City's West Edgemar-Pacific Manor neighborhood, and the site is generally sloped downwards from Palmetto Avenue towards the bluff edge, and down the roughly 100-foot-tall bluffs to the sandy beach. The original condominium development on the project site was authorized by the Commission in the early 1980s, including 13 condominium units and associated infrastructure as well as a blufftop public access trail connecting from Palmetto Avenue to the blufftop and then to the downcoast property (now Oceanaire apartments, and ultimately to Esplanade Avenue, thus forming a loop), and a shoreline/sandy beach access easement. At that time the Commission also authorized a drainage system on the blufftop and extending down over the bluff via a pipe toward the beach, including a relatively small (i.e., extending 40 linear feet along the bluff and occupying about 800 square feet of beach area) rock dissipation structure (or revetment).

Following issues with the site's drainage system in early 2019, ECDP G-2-19-0047 temporarily authorized a drainage collection and conveyance system consisting of above-ground, 12-inch diameter pipe stretching some 150 feet across the blufftop portion of property that was anchored to existing catch basins, connected to new retaining walls and piers near the blufftop edge, and then draped over the blufftop edge allowing drainage to discharge atop the rock dissipation revetment at the base of the bluff. Ultimately, however, the Applicant installed development that was not authorized by the ECDP, including adding a new catch basin in a new location, a rerouted storm drain, a new swale, and a new concrete headwall. In addition, at about this time staff also discovered that the rock dissipation revetment at the site had been significantly augmented without CDPs, and this violation was also added to the enforcement case. The Applicant now seeks to authorize this as-built drainage management system after-the-fact, to incorporate additional modifications to the system, to retain the augmented revetment after-the-fact (including via restacking about 200 cubic yards of displaced rock), and to reestablish, via realignment inland, the required blufftop public access trail.

The proposed revetment is not consistent with numerous Coastal Act policies protecting public beaches, bluffs, and public access, and it could not be approved unless required to be authorized based on the provisions of Coastal Act Section 30235. However, Section 30235 only allows armoring to protect "existing structures," meaning structures

[1] Each of these is being tracked as an alleged violation of the Coastal Act though Commission Enforcement Case V-2-20-0019, and should be understood in that way throughout this report.

that existed in that form at the Coastal Act's effective date (i.e., January 1, 1977) and that have not been redeveloped since. Here, there are no such structures located at this site because the property was originally developed in the 1980s. Therefore, none of the structures on the site are entitled to shoreline armoring under Coastal Act Section 30235. And the proposed armoring must be analyzed as a new and different revetment than what was originally approved as it is proposed to be retained after-the-fact at more than five times its original footprint (approved at 800 square feet and it's now 4,000 square feet) and over ten times its original volume (i.e., approved at 4,000 cubic feet and now it's 50,000 cubic feet). The armoring is not consistent with Section 30235 (or Section 30253 that doesn't allow such armoring to protect this drainage infrastructure), it is not consistent with other Coastal Act coastal resource protection standards (protecting the beach, the natural landform, public views, etc.), and as a result the Coastal Act requires the armoring to be denied and removed.

However, removal of the revetment could lead to erosion threats to the temporary onsite drainage system components nearest the blufftop edge in the fairly short term (i.e., within one storm cycle or so), and subsequently damage to and loss of the blufftop edge at the site were the drainage system to fail and take portions of the bluff along with it. This approach would be inconsistent with Coastal Act Sections 30230, 30231, and 30251 that affirmatively require that marine resources, water quality, and natural landforms be protected because the drainage system would be likely to fail in the short term and cause the failure of the bluff, leading to unnatural alteration of the bluff landform and infrastructure debris on the beach and in the ocean. Alternatively, the drainage system could be modified to collect drainage and deliver it inland of the immediate blufftop edge area and without armoring, which would address the issues identified above, but this alternative drainage system would take some time to design and construct, and to remove the existing temporary system and the revetment. Staff believes that this alternative system is feasible, but it could take six months to a year to implement,[2] during which time the rock dissipation revetment would need to remain as well. Given the project as proposed is not approvable and is not Coastal Act consistent even via conditions, this results in a Coastal Act conflict because both approval and denial of the project would harm important coastal resources and are both, in their own way, inconsistent with the Coastal Act.

Accordingly, staff recommends approval of a modified project through the Coastal Act's conflict resolution procedures,[3] to allow adequate time for the Applicant to develop a

[2] Including because staff believes that it will require a neutral third-party engineering review of such alternate drainage infrastructure options to help avoid a time-consuming scenario whereby the Commission's technical experts and the Applicant's technical consultants draw different conclusions over the same facts.

[3] Where the Coastal Act allows for conflicts between policies to be resolved in favor of the outcome that is the most protective of significant coastal resources (Sections 30007.5 and 30200(b)). Here where application of Coastal Act policies that would direct denial of the armoring would be in conflict with other Coastal Act policies that affirmatively require protection of the beach, the ocean, and the natural bluff landform, as detailed above. Staff believes that the resolution of that conflict that is most protective is a temporary authorization followed by implementing a more resource-protective longer-term project, all with proper mitigation, including offsetting compensatory mitigations for unavoidable coastal resource impacts. Staff notes that a reason that the Commission finds itself in this position is because the Commission

more resilient and Coastal Act consistent onsite drainage system in light of the coastal hazard risks and coastal resource issues engendered at this site. The approved project would allow temporary retention of the emergency drainage system and its revetment until Memorial Day weekend 2023, by which time such temporary development would be required to be removed, underlying areas restored, and a new drainage system installed that is located as far inland as possible and designed to convey drainage inland and not seaward (e.g., potentially linked into the already existing City of Pacifica storm drain system at Palmetto Avenue). The CDP would also ensure restoration of the public access loop trail on the blufftop portion of the property, recording a revised public access easement on the beach (and providing for adaptation of both easement areas moving forward, including required realignment inland over time, as a response to erosion), as well as other appropriate mitigations, including a mitigation fee of $1,703,362.86 to account for impacts from the unpermitted augmented revetment to date and for the next year that it remains temporarily. As in past Commission actions, the Commission's approval of the modified project is the approach that will be most Coastal Act consistent in the long run while also minimizing impacts to coastal resources.

Thus, staff recommends that the Commission approve a CDP with the conditions described above and that simultaneously provides for the longer-term protection of important coastal resources, including allowing for the continuation of natural shoreline processes at this location as much as possible after the longer-term project is implemented in roughly a year's time. The motion to implement staff's recommendation is found on Page 6 below.

cannot evaluate a 'clean slate' here, rather the context is that there is unpermitted development, both in and on the blufftop and bluff face, as well as on the beach, that constrains options. Given a clean slate, staff believes that the outcome of this recommendation upon full implementation (i.e., no armoring and restored sandy beach area, natural blufftop edge and bluff face, more limited drainage apparatus directed inland, etc.) would be the outcome that would have been recommended. Here, there is a requisite transitional period allocated so as to protect against potential problems, but the final outcome would be the same, albeit delayed.

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EXHIBITS

1. MOTION AND RESOLUTION

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

> ***Motion:*** *I move that the Commission* ***approve*** *Coastal Development Permit Number 2-20-0221 pursuant to the staff recommendation, and I recommend a* ***yes*** *vote.*
>
> ***Resolution to Approve CDP:*** *The Commission hereby approves Coastal Development Permit Number 2-20-0221 for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the Permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

2. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid, and development shall not commence until a copy of the permit, signed by the Applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration**. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Applicant to bind all future owners and possessors of the subject property to the terms and conditions.

3. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Approved Project.** This CDP temporarily authorizes the proposed drainage management system and revetment (as shown on the plans prepared by Lea & Braze Engineering, Inc. titled 'Pacific View Villas 200-224 Palmetto Ave Pacifica, California' and dated received in the Coastal Commission's North Central Coast District office on April 23, 2021 (see Exhibit 3)) until the Friday preceding Memorial Day 2023, which is May 26, 2023. This CDP also authorizes the subsequent removal of such temporary development and the restoration of the underlying areas to their pre-development state or better, the construction and operation of a revised drainage management system, the relocation and reconstruction of the public access loop trail and related amenities on the site, and subsequent measures to relocate and/or remove approved development should it be threatened by coastal hazards in the future, all subject to the terms and conditions of this CDP.

2. **Public Access Trail Plans.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two full-size sets of Trail Plans (that provide for the relocation and reconstruction of the public access loop trail and related amenities on the site) to the Executive Director for review and written approval. The Plans shall provide for a minimum 5-foot-wide trail in roughly the configuration shown in Exhibits 3 and 5, and at least one overlook location adjacent to the trail sufficient to accommodate and provide bench seating and sited and designed to maximize its public view utility. The trail and bench shall be sited and designed to be safe from erosion, to be easily relocated inland in response to same while providing continued use and utility, to seamlessly connect to the public access trail on the downcoast property, and to maximize coastal view protection and minimize visual intrusion, including through use of natural materials appropriate to the shoreline context that blend with the natural environment. The Trail Plans shall also provide for signs that clearly identify the trail's public nature and availability (one at the entrance to the trail at Palmetto Avenue and one at the entrance to the trail at the downcoast property) and an interpretive sign (specific to context associated with the view) at the overlook, all sited and designed to minimize visual impacts while providing clear, accurate, and easily understood information. The trail and all related development shall be installed and open to public use no later than the Friday preceding Memorial Day 2023 (i.e., no later than May 26, 2023).

   The Plans shall provide that all trail, overlook, signs, and amenities shall be modified as necessary to maintain safe public use, including to be relocated away from harm's way if threatened by coastal hazards, and the Plan shall identify all mechanisms to ensure same, including a requirement for Executive Director approval of any modification episodes. All requirements above and all requirements of the approved Trail Plans shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Trail Plans. Minor adjustments to these requirements, as well as to the Executive Director-approved Plans, which do not require a CDP amendment or new CDP (as determined by the Executive Director), may be allowed by the Executive

Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

3. **Revised Drainage System Plans.** WITHIN THREE MONTHS OF THE DATE OF CDP APPROVAL (i.e., no later than June 11, 2022), the Permittee shall submit two full-size sets of Revised Drainage System Plans to the Executive Director for review and written approval. The Plans shall be prepared by appropriate licensed professionals (i.e., geotechnical engineer, civil engineer, geologist, surveyor, etc.), shall be based on current professionally surveyed and certified topographic elevations for the entire site, and shall include a graphic scale. The Plans shall provide for all of the following:

   a. **Revised Drainage Management System.** The objective of the revised drainage management system shall be to eliminate or minimize drainage over the bluff by collecting site stormwater and related drainage (e.g., percolated drainage) and using it onsite as much as possible (e.g., for irrigation purposes) and then to convey excess drainage offsite in the least environmentally damaging feasible manner, including by locating all infrastructure away from the blufftop edge, directing all excess drainage offsite to inland areas, and eliminating discharge seaward of the blufftop edge. The Plans shall be accompanied by an analysis that quantifies all water volumes entering the site, volumes being collected, stored, used on site, directed off-site, etc. The analysis shall show that the chosen system best meets the terms and conditions of this CDP, where such analysis shall at the least evaluate the feasibility of using disaggregated collection and conveyance apparatus, storage tanks and pumps (where gravity cannot be used), dewatering wells, native landscaping, and other similar measures (whether alone or in combination) to meet Coastal Act requirements. The Plans and all supporting documentation and analyses shall be submitted with evidence of consultation with relevant City of Pacifica staff, including as it relates to conveyance of drainage to the City's storm drain system and requirements pertaining thereto.

   b. **Third-Party Review.** The Permittee shall fund independent third-party review of the Plans and all supporting documentation and analyses by a firm or firms approved by the Executive Director. Toward this end, the Plans shall be submitted with an initial fee of $3,000, and the Permittee shall reimburse the Coastal Commission within 10 days of being informed by the Executive Director of the remaining balance necessary to cover such required review.

   c. **Removal and Restoration.** The Plans shall clearly identify measures to be taken to remove all aspects of the temporarily approved drainage management system (and any related drainage elements) that do not constitute a part of the Executive Director approved Plans for the revised system, to remove all of the revetment, and to restore the underlying and affected areas to a condition that will both minimize the potential for surficial erosion and instability (i.e., areas of excavation and ground disturbance shall be filled, graded to match the surrounding areas, and revegetated with drought tolerant, native landscaping) and return such areas to a natural state as least as good or better than existing prior to disturbance.

d. Timing. By the Friday preceding Memorial Day 2023 (i.e., no later than May 26, 2023), the revised drainage management system shall be installed, all temporarily approved development shall be removed, and all affected areas shall be restored pursuant to the Executive Director approved Plans.

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

4. Construction Plan. PRIOR TO CONSTRUCTION, the Permittee shall submit two copies of Construction Plans to the Executive Director for review and written approval. The Construction Plans shall, at a minimum, include and provide for the following:

a. Construction Areas. The Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the fullest extent feasible in order to have the least impact on public access and ocean resources, including by using, as feasible, inland areas for staging and storing construction equipment and materials. Special attention shall be given to siting and designing construction areas in order to minimize impacts on the ambiance and aesthetic values of shoreline, including but not limited to public views across the site.

b. Construction Methods. The Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separate from public recreational use areas as much as possible (including using unobtrusive temporary fencing or equivalent measures to delineate construction areas), and including verification that equipment operation and equipment and material storage will not, to the maximum extent feasible, significantly degrade public views during construction. The Plan shall limit construction activities to avoid coastal resource impacts as much as possible.

c. Construction Timing. Construction is prohibited during weekends from the Saturday of Memorial Day weekend through to Labor Day, inclusive, and during non-daytime hours (i.e., from one-hour after sunset to one-hour before sunrise), unless due to extenuating circumstances the Executive Director authorizes such work. Lighting of the work area is prohibited.

d. Construction BMPs. The Plan shall identify the type and location of all erosion control and water quality best management practices that will be implemented during construction to protect coastal water quality, including at a minimum all of the following:

1. **Runoff Protection.** Silt fences, straw wattles, or equivalent apparatus shall be installed at the perimeter of all construction areas to prevent construction-related runoff and sediment from discharging from the construction area or entering into storm drains or otherwise offsite or towards the beach and ocean. Special attention shall be given to appropriate filtering and treating of all runoff, and all drainage points, including storm drains, shall be equipped with appropriate construction-related containment, filtration, and treatment equipment.

2. **Equipment BMPs.** Equipment washing, refueling, and servicing shall take place at an appropriate inland location to help prevent leaks and spills of hazardous materials at the project site, at least 50 feet inland from the blufftop edge and on an existing hard surface area (e.g., a road) or an area where collection of materials is facilitated. All construction equipment shall also be inspected and maintained at a similarly sited inland location to prevent leaks and spills of hazardous materials at the project site.

3. **Good Housekeeping BMPs.** The construction site shall maintain good construction housekeeping controls and procedures at all times (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain, including covering exposed piles of soil and wastes; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site; etc.).

4. **Erosion and Sediment Controls.** All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each workday.

5. **No Intertidal Grading.** Grading of intertidal areas is prohibited, except removal of rock when necessary to meet the terms and conditions of this CDP.

6. **Rubber-tired Construction Vehicles.** Only rubber-tired construction vehicles shall be allowed on the beach, except track vehicles may be used if the Executive Director determines that they are required to safely carry out construction. When transiting on the beach, all construction vehicles shall remain as close to the bluff edge as possible and avoid contact with intertidal areas and ocean waters.

7. **Construction Material Storage.** All construction materials and equipment placed seaward of the bluff during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from these areas by one-hour after sunset each day that work occurs, except for necessary erosion and sediment controls and construction area boundary fencing where such controls and fencing are placed as close to the work area as possible and are minimized in their extent.

e. **Property Owner Consent.** The Plan shall be submitted with evidence of the consent of all property owners where development is proposed, including in terms of construction activities and access, to implement the approved project consistent with the terms and conditions of this CDP.

f. **Restoration.** All beach area and other public recreational access and use areas and all beach access points impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any native materials shall be filtered as necessary to remove all construction debris.

g. **Construction Site Documents.** The Plan shall provide that copies of the signed CDP and the approved Construction Plan are maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, as well as the public review requirements applicable to them, prior to commencement of construction.

h. **Construction Coordinator.** The Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that the construction coordinator's contact information (i.e., address, phone numbers, email, etc.), including, at a minimum, an email address and a telephone number with voicemail capabilities that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas while still protecting public views as much as possible, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name and contact information (i.e., address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. All complaints and 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 control provisions that require remediation for any work done inconsistent with the terms and conditions of this CDP.

j. **Notification.** The Permittee shall notify planning staff of the Coastal Commission's North Central Coast District Office at least three working days in advance of commencement of construction, and immediately upon completion of construction.

All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this CDP. The Permittee shall undertake

development in accordance with this condition and the approved Construction Plan. Minor adjustments to the above requirements, as well as to the Executive Director-approved Plan, which do not require a CDP amendment or new CDP (as determined by the Executive Director) may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

5. **Public Access Management Plan.** WITHIN 6 MONTHS OF THE DATE OF CDP APPROVAL (i.e., no later than September 11, 2022), the Permittee shall submit two sets of a Public Access Management Plan to the Executive Director for review and written approval. The Plan shall clearly describe the manner in which long-term public recreational access along the (1) coastal trail crossing the blufftop portion of the property (see Special Conditions 2 and 6), and (2) the sandy beach easement area (see Special Condition 6 and Exhibit 5) are to be provided and managed, with the objective of maximizing public recreational access use and utility. The Plan shall at a minimum include and provide for all of the following:

   a. **Public Access Areas, Improvements, and Amenities.** The Plan shall clearly identify and depict on a site plan the blufftop coastal loop trail and all related amenities and signs, and the blufftop and sandy beach easement areas.

   b. **Public Access Use Parameters.** The Plan shall clearly identify that all such public access areas, improvements, and amenities shall be publicly available for general public access consistent with the terms and conditions of this CDP.

   c. **Public Access Disruptions Prohibited.** Development and uses within the Plan's public access areas that disrupt or degrade public access, including areas set aside for private uses, barriers to public access (such as planters, temporary structures, private use signs, fences, barriers, ropes, etc.) shall be prohibited. The public use areas, improvements, and amenities shall be maintained consistent with the approved Plan and in a manner that maximizes public use and enjoyment, including with respect to assuring they remain safe from erosion and other hazards.

   d. **Public Access Use Hours.** The blufftop coastal loop trail shall be available to the general public at least during all daylight hours (i.e., from one-hour before sunrise to one-hour after sunset), the sandy beach easement area shall be available to the general public at all times, and all public access areas shall be available free of charge.

   e. **Public Access Areas, Improvements, and Amenities Maintained.** All public access areas, improvements, and amenities shall be constructed in a structurally sound manner and maintained in their approved state consistent with the terms and conditions of this CDP, including through ongoing repair, maintenance, or relocation (if necessary to respond to erosion) of all public access improvements. The Plan shall provide that all such access areas, improvements, and amenities shall be modified as necessary to maintain safe public use, and the Plan shall identify all mechanisms to ensure same, including to be relocated away from

harm's way if threatened by coastal hazards, and including a requirement for Executive Director approval of any modification episodes. All public access areas, improvements, and amenities shall be maintained consistent with the approved Plan and in a manner that maximizes public use and enjoyment.

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

6. **Public Access Easement**. BY THE FRIDAY PRECEDING MEMORIAL DAY 2023 (i.e., no later than May 26, 2023), which deadline the Executive Director may extend for good cause, the Permittee shall execute and record a document or documents, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private entity, approved by the Executive Director, public access easements for public recreational access use, development, and enjoyment in perpetuity, as described below.

   a. **Easement Areas.** The easement areas shall consist of: (1) a blufftop easement area that matches the area allocated to the public access loop trail, the required overlook area, and all related signs and amenities (see **Special Condition 2**); and (2) a sandy beach easement area along the shoreline extending the width of the property parallel to the shoreline and extending seaward from the bluff face (where the inland edge of the easement area shall extend as far inland as necessary to capture sandy beach areas at all times of the year) to the mean high tide line (see Exhibit 5).

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

      1. **Temporarily Authorized Development.** All development temporarily authorized by this CDP, including restoration requirements pertaining thereto (see **Special Conditions 1 and 3**), shall be allowed within the easement areas no longer than is necessary, and no later than the Friday preceding Memorial Day 2023 (i.e., no later than May 26, 2023).

      2. **Public Recreational Access Improvements and Use.** Public recreational access improvements and use as identified in the approved Public Access Trail Plans (see **Special Condition 2**) and the approved Public Access Management Plan (see **Special Condition 5**) shall be allowed in the blufftop easement area. All general public access shall be allowed in the sandy beach easement area.

c. Ambulatory Easements. The easement areas shall be ambulatory, and the easement boundaries shall be revised and re-recorded pursuant to the same requirements as the original easement documents to encompass modified boundaries necessary if: (1) the trail, overlook, signs, and/or related amenities need to be moved inland out of harm's way consistent with **Special Conditions 2 and 5**); and/or (2) the bluff face erodes and thus the inland extent of the shoreline easement area extends inland as well.

d. Other Easement Requirements.

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

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

3. **Duration.** The offer(s) to dedicate shall run with the land in favor of the People of the State of California, binding successors and assigns of the Applicant or landowner in perpetuity and indicating that the restrictions on the use of the land shall be in effect upon recording and remain as covenants, conditions and restrictions running with the land in perpetuity, notwithstanding any revocation of the offer(s).

7. Revetment Mitigation Fee. PRIOR TO ISSUANCE OF THE CDP, or within such additional time as the Executive Director may grant for good cause, the Permittee shall submit evidence, in a form and content acceptable to the Executive Director, that a fee in the amount of $1,703,362.86, has been deposited into an interest-bearing account held by a public agency (e.g., San Mateo County, City of Pacifica, etc.) approved by the Executive Director. The purpose of the account, and all earned interest, shall be to mitigate lost beach values, including public access, recreational, ecological, and visual values, and funds from the account shall be used to aid in the provision, restoration or enhancement of public access and recreational opportunities along the shoreline in and near the City of Pacifica (including but not limited to, public access improvements, recreational amenities and/or acquisition of privately-owned beach or beach-fronting property for such uses). All interest earned on the fee will be payable to the account. All of the funds and any accrued interest shall be used for the above-stated purposes, in consultation with the Executive Director, within ten years of the funds being deposited into the account. Any funds and accrued interest not used by that time may be directed to other projects and/or accounts at the Executive Director's discretion. The funds shall be released only

upon approval of an appropriate project by the Executive Director, and subject to a Memorandum of Understanding (MOU) setting forth terms and conditions to ensure the funds will be expended in the manner intended by the Commission. If the MOU is terminated, the Executive Director may appoint an alternate entity to administer the funds consistent with the terms of this condition, via a revised/replacement MOU with the alternate entity. If the funds are to be held by the Coastal Conservancy, the funds shall be used pursuant to the existing MOU between the Coastal Commission and the Conservancy, dated August 2018, and for the purposes described above. In such case, at least thirty days prior to the transfer of the funds, the Permittee shall provide the Conservancy with any documentation necessary to the Conservancy, including information needed to effectuate transfer of the Funds to the Conservancy, unless the Permittee receives a waiver of this requirement in writing from the Conservancy's Executive Officer.

8. **Coastal Hazards Risk.** By acceptance of this CDP, the Permittee acknowledges and agrees on behalf of itself and all successors and assigns, to all of the following:

   a. **Coastal Hazards.** That the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tsunami, tidal scour, coastal flooding, landslides, bluff and geologic instability, bluff retreat, liquefaction, and the interaction of same, many of which will worsen with future sea level rise.

   b. **Assume Risks.** To assume the risks to the Permittee and the property that is the subject of this CDP of injury and damage from such coastal hazards in connection with this permitted development.

   c. **Waive Liability.** To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards.

   d. **Indemnification.** To indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of this CDP against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards.

   e. **Permittee Responsible.** That any adverse effects to property caused by the permitted development shall be fully the responsibility of the Permittee.

9. **Coastal Hazards Response.** By acceptance of this CDP, the Permittee acknowledges and agrees on behalf of itself and all successors and assigns, to all of the following:

   a. **CDP Intent.** The intent of this CDP is to allow for the approved project (see **Special Condition 1**), including a drainage management system and related development, to be used consistent with the terms and conditions of this CDP for only as long it remains safe for use without additional measures (beyond ordinary repair and/or maintenance, as articulated in this condition below) to protect such

development from coastal hazards (as these hazards are defined by **Special Condition 8(a)** above). The intent is also to ensure that such development or portions of it are removed, and the affected area restored under certain circumstances (as further described in this condition) consistent with the Removal and Restoration Plan required in subsection (c) of this special condition.

b. Shoreline Armoring Prohibited. Other than shoreline armoring temporarily allowed by this CDP (until no later than the Friday preceding Memorial Day 2023 (i.e., no later than May 26, 2023)), no shoreline armoring (including but not limited to seawalls, revetments, retaining walls, gabion baskets, tie backs, piers, groins, caissons/grade beam systems, etc.) shall ever be constructed to protect the CDP-approved development on the property including in the event that the development is threatened with damage or destruction from coastal hazards; and any rights to construct such shoreline armoring that may exist under applicable law shall be waived.

c. Removal and Restoration Plan. The Permittees shall submit two copies of a Removal and Restoration Plan (RRP) to the Executive Director for review and written approval that accounts for relocation/removal and restoration of affected areas if any of the following criteria are met:

1. **Unsafe Conditions.** If any portion of the approved project are threatened and/or damaged by coastal hazards and there are no feasible measures that could make the structures suitable for use without the use of shoreline armoring, the RRP shall provide that all such development is removed (and for the public access loop trail, relocated (see **Special Conditions 2 and 5**).

2. **Timing.** The RRP shall be submitted as soon as possible, but in no case later than 30 days after any of the above criteria are met. At a minimum the RRP shall provide that: (a) all removal areas must be restored as natural areas of a quality consistent with adjacent natural areas; and (b) all modifications necessary to maintain compliance with the terms and conditions of this CDP, including the objectives and performance standards of these conditions, must be implemented.

If the Executive Director determines that an amendment to this CDP or a separate CDP is legally required to implement the approved RRP, then the Permittees shall submit and complete the required application within 30 days of such determination. The RRP shall be implemented immediately upon Executive Director or Commission approval of the RRP, as the case may be. The Permittee shall undertake development in accordance with the approved RRP.

10. **Public Rights.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that the Coastal Commission's approval of this CDP shall not constitute a waiver of any public rights that may exist on the properties involved. The Permittee shall not use this CDP as evidence of a waiver of any public rights that may exist on the properties now or in the future.

11. **Real Estate Disclosure.** Disclosure documents related to any future marketing and/or sale of the subject property and/or individual units, including but not limited to specific marketing materials, sales contracts, and similar documents, shall notify potential buyers of the terms and conditions of this CDP. A copy of this CDP shall be provided in all real estate disclosures.

12. **Future Permitting.** All future proposed development related to this CDP shall require a new CDP or a CDP amendment that is processed through the Coastal Commission, unless the Executive Director determines a CDP or CDP amendment is not legally required. The standard of review for any such CDP or CDP amendment shall remain the Coastal Act, with the City of Pacifica LCP providing non-binding guidance. In addition, any exemptions from CDP requirements that might apply to such future proposed development that are provided for in Title 14 California Code of Regulations Sections 13252 and 13253 shall not apply.

13. **Other Authorizations.** PRIOR TO CONSTRUCTION, the Permittee shall provide to the Executive Director written documentation of authorizations from the City of Pacifica, the California State Lands Commission, the Regional Water Quality Control Board, and the U.S. Army Corps of Engineers, or evidence that no such authorizations are required. The Permittee shall inform the Executive Director of any changes to the project required by any other such authorizations. Any such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this CDP, unless the Executive Director determines that no amendment is legally required.

14. **Liability for Costs and Attorneys' Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and/or (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this CDP, the interpretation and/or enforcement of CDP terms and conditions, or any other matter related to this CDP. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors, and/or assigns.

15. **Deed Restriction.** BY THE FRIDAY PRECEDING MEMORIAL DAY 2023 (i.e., no later than May 26, 2023), which deadline the Executive Director may extend for good cause, the Permittee shall submit for Executive Director review and approval documentation demonstrating that the landowners have executed and recorded against the subject property governed by this CDP a deed restriction in a form and content acceptable to the Executive Director: (1) indicating that pursuant to this CDP, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this CDP as covenants,

conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and graphic depiction of the parcels governed by this CDP. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this CDP shall continue to restrict the use and enjoyment of the subject property so long as either this CDP or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

4. FINDINGS AND DECLARATIONS

A. Project Location

The proposed project is located at and seaward of the Pacific View Villas condominiums at 200-224 Palmetto Avenue, west of Palmetto Avenue and Highway 1 and north of Esplanade Avenue, in the City of Pacifica in San Mateo County (see location map in **Exhibit 1**). The Pacific View Villas development consists of 13 condominium units, with associated garages, driveways, parking, infrastructure, paths, and related development, all located on approximately 2.97 acres of property. Just upcoast of the site is the Dollaradio home[4] (which is the most upcoast developed site along the Pacifica shoreline), and downcoast is the Oceanaire apartment complex and Esplanade Avenue. The condominium development site is located on a blufftop in the northernmost stretch of the West Edgemar-Pacific Manor neighborhood, and site topography slopes downwards towards the blufftop edge. A public access trail on the blufftop that was previously required by the Commission is currently closed (the trail has been closed without CDP authorization for some time due to the Applicant's concerns regarding erosion dangers).[5] Immediately to the west of the property, the bluff edge drops off steeply down the roughly 100-foot-tall bluffs to the sandy beach and the Pacific Ocean. These bluff areas are currently developed with temporary storm drain improvements, including a pipe draped over the bluff edge that transmits water to a rock dissipation revetment on the beach below, which was partially authorized by ECDP G-2-19-0047 in 2019.[6] See **Exhibits 1 and 2** for location maps and site area photos.

[4] Originally a ship to shore radio transmission station first developed by Robert Dollar in the 1920s to serve as a communications port for his cargo steamships (thus, the moniker 'Dollaradio' that has attached to this site since), that was subsequently converted to private residential use in the 1940s.

[5] The required trail was closed in 2017 without CDP authorization, and it has been closed ever since. Such unpermitted closure is being tracked by the Commission as a violation (Violation Case V-2-20-0019).

[6] Ultimately, the Applicant installed development that was not authorized by the ECDP (including adding a new catch basin in a new location, a rerouted storm drain, a new swale, and a new concrete headwall) and such unpermitted development is also being tracked as a violation through Violation Case V-2-20-0019. In addition, at about this time staff also discovered that the rock dissipation revetment at the site had been significantly augmented without CDPs (increasing the footprint by about five times and increasing the mass by over ten times), and this too is being tracked as violation under V-2-20-0019.

B. Project Background

In 1982, the Coastal Commission approved a CDP allowing the construction of 19 condominium units, associated garages, driveways, street improvements, and related development at the subject site (CDP 3-82-228). That CDP approval also included a drainage management system that included an outlet pipe over the bluff and down to the beach, where such drainage was directed into a rock dissipation structure (referred to as a revetment in this report for ease of reference),[7] and a public access easement for the portion of the site seaward of the bluff and extending to the mean high tide line.[8] The CDP was amended in August 1983 to allow grading, installation of storm drain improvements, and associated cliff construction, and then subsequently modified in 1985 to reduce the number of units to 13 (including reducing the number of needed associated supporting development such as garages), and to add the requirement for a blufftop public access 'loop' trail (connecting from Palmetto Avenue to the blufftop and then to the downcoast property (now the Oceanaire apartments, and ultimately to Esplanade Avenue) thus forming a loop).[9] In 2010, the Commission authorized the reconstruction of the rock dissipation revetment in the configuration originally authorized by the base CDP (CDP waiver 2-10-012-W).[10]

Following issues with the site's drainage system in early 2019, where heavy storm activity led to the discharge pipe being severed along the bluff face, the Applicant requested an ECDP for the construction of a temporary drainage system to manage stormwater associated with the Pacific View Villas site. Absent this temporary emergency solution, the Applicant's geotechnical consultants later concluded that

[7] The revetment was approved to extend 40 linear feet along and 20 feet out from bluff (occupying about 800 square feet of beach area), at a 2:1 slope (thus roughly 10 feet tall).

[8] The revetment was thus allowed on top of 800 square feet of the public access easement area.

[9] Although processed as a CDP, namely CDP 3-85-156, this 1985 action was inextricably entwined with and based on the 1982 CDP as amended and is probably best understood as an amendment to those permits. Regardless, the underlying CDP authorizations for the site are made up of these three actions, and the terms and conditions associated with them.

[10] Two points are made here. First, the Applicant asserts that the 2010 action allowed the revetment to be significantly increased in size from the originally approved 40 linear feet along and 20 feet out from the bluff (i.e., an 800 square-foot footprint extending some 10 feet up the bluff with roughly 4,000 cubic feet of volume) to 80 linear feet along and 50 feet out from the bluff (a 4,000 square-foot footprint extending some 25 feet up the bluff with roughly 50,000 cubic feet of volume) and suggests that the plans for the 2010 action support this claim. This is inaccurate. In fact, the plans for the 2010 action lack any dimensions, and the action expressly states that the purpose is to allow the revetment to be reconstructed in the form it was originally approved in by the base CDP. For comparison, the enlarged revetment is and was five times the footprint and over 10 times the volume of what had originally been approved. According to air photos, the revetment was actually expanded to that larger size by 2008 without benefit of a CDP (again, see V-2-20-0019). And second, the Applicant has more recently asserted that the revetment was actually authorized to protect the condominiums and related blufftop development, which the Applicant asserts would be put in grave danger were it to be removed and/or reduced in size from its current unpermitted configuration. On this point, the Commission notes that the record clearly shows that the revetment's purpose was and always has been understood to be for energy dissipation for the drainage directed to it, and not as armoring to protect blufftop development. Arguably the revetment de facto does both, but it was never authorized or evaluated pursuant to the Coastal Act as an armoring structure to protect such blufftop development. This report addresses that issue as well, as is discussed subsequently.

adverse runoff conditions related to uncontrolled storm water discharge from the severed outlet pipe could have led to extreme erosion, accelerated bluff retreat, and threats to the property and infrastructure onsite, including because a ravine had formed from the pipe failure.[11] Thus, ECDP G-2-19-0047 was issued on November 18, 2019, and temporarily authorized a drainage collection and conveyance system consisting of above-ground 12-inch diameter plastic pipe stretching some 150 feet across blufftop portions of the property that was anchored to existing catch basins and supported by a 24-inch tall by 12-inch wide by 5.5-foot long retaining wall and two 18-inch diameter, 12-foot deep piers. The pipe was then draped over the blufftop edge allowing drainage to discharge atop the rock dissipation revetment at the base of the bluff. Ultimately, the as-built plans showing the temporary emergency project showed that the Applicant installed development that was not authorized by the ECDP (including that a 24" section of pipe was removed and replaced with a concrete headwall to act as a dam instead of plugging one of the existing pipes; an earthen swale and an additional catch basin were constructed; and the authorized catch basin was replaced with an area drain), all of which is being tracked by the Commission in Violation Case V-2-20-0019. In addition, at about this time Commission staff also discovered that the rock dissipation revetment at the site had been significantly augmented without CDPs,[12] and the condominiums themselves were constructed in a way that blocks ocean views from Palmetto Avenue when CDP 3-85-156 explicitly[13] required that these views be maintained, and these violations were also added to the enforcement case.[14]

See **Exhibit 4** for these prior permits and authorizations.

C. Project Description

The Applicant now seeks to authorize the as-built drainage management system after-the-fact (ATF) and to incorporate additional modifications to the system; to retain the augmented revetment ATF, including via restacking about 200 cubic yards of displaced rock; and to reestablish the required blufftop public access loop trail on the site.

Specifically, in addition to ECDP components described above, the proposed additional ATF modifications to the drainage management system would include: (1) lowering an above-grade catch basin inlet and connected piping to allow surface runoff to better flow

[11] See "Pacific View Villas HOA, Geotechnical Update Emergency Storm Drain Mitigation", prepared by Atlas Geosphere Consultants (March 20, 2020); and see "Reply to California Coastal Commission Geotechnical Review Comments", prepared by Atlas Geosphere Consultants (February 14, 2021).

[12] Now extending some 80 linear feet along the shoreline and covering some 4,000 square feet of beach, and thus five times the footprint and ten times the volume compared to what was originally approved.

[13] Special Condition 2 of 3-85-156 states as follows: "All structures shall be below the line-of-sight as viewed from three feet above Palmetto Avenue as proposed. It shall be the responsibility of the permittee to ensure that the entire ocean view within the view corridor is preserved. Any modification shall require prior Commission review and approval."

[14] Thus, to summarize site violations, Violation Case V-2-20-0019 includes unpermitted view blockage for the past 37 years (since 1985), unpermitted closure of the required blufftop public access loop trail for the past 5 years (since 2017), unpermitted expansion of the rock dissipation revetment for the past 14 years (since 2008), and unpermitted development associated with the emergency work for the past 3 years (since 2019).

into the catch basin; (2) further burying the top portion of the draped drainage pipe into the blufftop to enhance its anchoring and to allow for the reestablished public access pathway to be routed over the pipe that stretches across the property; (3) installing two additional 18-inch diameter, 12-foot deep piers to further anchor the draped pipe (as the Applicant asserts that the existing piers will not be long enough to support the weight of the pipe once the elevation is lowered); (4) installing four new subdrains in the flat meadow area on the blufftop to mitigate percolation of runoff; and (5) some 115 cubic yards of grading (25 cubic yards of cut and 90 cubic yards of fill) over an area of some 8,300 square feet to support the drainage system modifications and trail reestablishment.

As to the proposed ATF recognition of the augmented revetment, the rock dissipation revetment would increase in size from the originally permitted revetment that was allowed to extend 40 linear feet along and 20 feet out from bluff (occupying about 800 square feet of beach area), at a 2:1 slope (thus roughly 10 feet tall and a volume of 4,000 cubic feet), to a much larger augmented revetment that would extend 80 linear feet along and 50 feet out from the bluff (occupying about 4,000 square feet, or 5 times the originally permitted footprint on the beach) at a 2:1 slope (thus roughly 25 feet tall and a volume of 50,000 cubic feet), where the proposed augmented revetment would be about five times larger in terms of footprint and over ten times larger in terms of volume than the originally permitted configuration. The Applicant also proposes to retrieve and restack some 210 cubic yards of rock to achieve the final ATF revetment configuration.

Finally, the blufftop public access loop trail would be realigned inland of the existing trail location, including partially into the driveway area, and the old alignment restored.

See **Exhibit 3** for the proposed project plans.

D. Standard of Review

This proposed project spans both the Commission's and the City of Pacifica's CDP jurisdictions and relates to prior Coastal Commission CDP decisions and requirements, including the CDP for the original development, and represents the requisite follow-up CDP application for the Commission-issued, consolidated ECDP for the temporary stormwater management system. The City, the Applicant, and the Commission have all agreed to a consolidated CDP review for the project, as allowed by Coastal Act Section 30601.3 when public participation would not be substantially impaired by such consolidation. Pursuant to Section 30601.3, the standard of review for this consolidated CDP application is the Chapter 3 policies of the Coastal Act with the City of Pacifica's certified LCP providing non-binding guidance.

E. Coastal Hazards

Applicable Coastal Act Provisions

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 in order to be safe from hazards. Specifically:

> ***Section 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 fishkills should be phased out or upgraded where feasible.*
>
> ***Section 30253.*** *New development shall do all of the following: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. …*

LCP Policy Guidance

The City of Pacifica LCP establishes similar requirements for new development to address coastal hazards, including that new development is required to minimize risks to life and property, assure stability and structural integrity, and maintain safety and stability over time, including in relation to 100-year storm events and over the anticipated design life of the development, without shoreline armoring, as follows:

> ***LUP Policy 26 (Coastal Act Section 30253).*** *New development shall: (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.*
>
> ***IP Section 9-4.4404(a) Geotechnical Suitability. Intent.*** *The provisions of this Section shall apply to all new development requiring a coastal development permit in the CZ District and shall be subject to the regulations found in Article 43, Coastal Zone Combining District. The intent of these provisions is to minimize risks to life, property, and the natural environment by ensuring geotechnical suitability for all development.*
>
> ***IP Section 9-4.4404(c)(6) Geotechnical Suitability.*** *All geotechnical surveys shall, at a minimum, include the following information: Mitigation measures demonstrating that potential risks could be reduced to acceptable levels.*

Further, the LCP requires that new development be designed to avoid coastal resource impacts, including to prevent impacts from armoring on natural shoreline processes such as sand supply, and prohibits armoring to protect new development, including:

> ***IP Section 9-4.4406(c) Development Standards.*** *The following standards apply to all new development along the shoreline and on coastal bluffs. … (2) Shoreline Protection: Consistent with the City's Seismic Safety and Safety Element, new development which requires seawalls as a mitigation measure or projects which*

would eventually require seawalls for the safety of the structures shall be prohibited, unless without such seawall the property will be rendered undevelopable for any economically viable use.

Lastly, specific to the West Edgemar – Pacific Manor neighborhood, the LUP provides that:

LUP Page C-24 (West Edgemar – Pacific Manor). *Bluffs in this area are 60 to 80 feet high and highly erosive.*

Analysis

Taken together the Coastal Act and the certified LCP, as guidance, require new development to minimize risks to life and property while ensuring stability and structural integrity without contributing significantly to erosion, geologic instability, or destruction of the site or surrounding area (Coastal Act Section 30253, LUP Policy 26). Coastal Act Section 30253, IP Section 9-4.4406(c), and LUP Policies 23 and 26 also provide that new development that would rely on shoreline armoring is prohibited and that adverse impacts of shoreline armoring to coastal resources are required to be avoided, lessened, and mitigated for where unavoidable. In sum, the Coastal Act and LCP require that new development minimize risks to life and property in areas of coastal hazards, that new development be set back adequately to accommodate at least a 100-year event,[15] to ensure stability for the life of the development, to prohibit development that would require a seawall to ensure such safety and stability during its lifetime.

Coastal Act policies strongly discourage the use of shoreline protective devices. Shoreline protective devices, by their very nature, are almost always inconsistent with Coastal Act policies relating to coastal hazards, bluff alteration, visual resources, and public access. Coastal Act limitations are necessary because shoreline armoring can and often does have a variety of significant negative impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline and beach dynamics on and off site, ultimately resulting in the loss of beaches and adverse impacts to coastal vistas and areas for recreation, which are a fundamental coastal resource. Therefore, the Commission rarely approves construction of shoreline protective devices for new development projects due to their significant impacts on sensitive coastal bluffs, public beaches, public access, and visual resources.

Nevertheless, Coastal Act Section 30235 allows such armoring if it is required to protect "existing structures" in danger from erosion, where existing structures in that context means structures that existed in that form at the Coastal Act's effective date (i.e.,

[15] "The City's Seismic Safety and Safety Element requires the bluff setback to be adequate to accommodate a minimum 100-year event" (see LUP page C-19).

January 1, 1977) and that have not been redeveloped since.[16,17] Specifically, and as instructed by Section 30235, armoring is only required to be approved if substantial evidence demonstrates that: (1) there is an existing structure; (2) the existing structure is in danger from erosion; (3) shoreline altering construction is required to protect the existing threatened structure; and (4) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.[18] The first three criteria pertaining to Section 30235 relate to whether the proposed armoring is necessary, while the fourth criterion applies to mitigation for some of the impacts of such armoring. Thus, Section 30235 is a relief valve that allows for some shoreline armoring only for certain structures in existence when the Coastal Act was adopted, only if it is limited to that amount of armoring needed to protect a structure in danger from erosion, and only if the impacts to shoreline sand supply are eliminated or mitigated. The analysis below discusses both Section 30235 and 30253 issues.

Here the coastal hazard and armoring questions are directed to both the proposed-to-be-authorized ATF and modified drainage management system, and to the proposed-to-be-authorized ATF augmented rock revetment at the base of the bluffs. Some of these analyses overlap, but some are also distinct. Here, the Applicant asserts that the revetment is required for the drainage system to function properly and to assure the system remains competent, including so that it does not lead to uncontrolled runoff which would pose problematic erosional issues. In addition, the Applicant has more recently asserted that the revetment was authorized to protect the condominiums and related blufftop development, which the Applicant asserts would be put in grave danger were it to be removed and/or reduced to its permitted size. On this point, the Commission notes that the record clearly shows that the revetment's purpose was and

[16] 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 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.

[17] In addition, the Commission has typically interpreted Section 30235 to allow shoreline armoring only to protect existing primary structures (see, for example, CDPs 3-16-0345 (Honjo Seawall), 2-16-0684 (Aimco) and A-3-SCO-06-006 (Willmott)). The Commission has also historically permitted some at-grade structures proposed to be located within required coastal hazard setback areas if such structures are expendable and capable of being removed or relocated rather than requiring an armoring device that would alter natural landforms and processes along bluffs, cliffs, and beaches.

[18] Should Section 30235 apply, CDP approval also requires that projects be found consistent with the other provisions of the Coastal Act in addition to these Section 30235 requirements.

always has been understood to be for energy dissipation for the drainage directed to it, in order to protect the bluff face from being undermined due to unmanaged drainage, and not as armoring to protect the condominiums and/or other blufftop development. Arguably the revetment de facto does both, but it was never authorized or evaluated pursuant to the Coastal Act as an armoring structure to protect such blufftop development. In addition, the technical reports submitted in support of the current project focus on the blufftop and bluff face drainage elements, and only speak to the increase in erosion that may result from not managing drainage onsite, and do not identify imminent threats to the blufftop residential structures onsite.

In this case, the Applicant is requesting after-the-fact approval of an augmented revetment that is more than ten times the volume of the previously permitted revetment, and five times the previously authorized footprint. This means that the proposed revetment must be understood as a new and different armoring structure, and thus must be considered that way for Coastal Act analysis purposes. Even were the Applicant to propose, or the Commission to condition, the armoring structure to be reduced back to some smaller configuration (such as its original permitted configuration), that too would be considered a replacement structure that would be required to be analyzed for consistency with the Coastal Act, as it is not repair and maintenance. Specifically, the Coastal Act and its implementing regulations consider revetment projects to be repair and maintenance and not replacement structures when replacement of less than 50% of the revetment is proposed.[19] Here, the Applicant has already expanded and brought in well more than 50% of the revetment in new rock that has been used to expand its volume by over ten times. It would be difficult if not impossible to parse original rock (approximately 4,000 cubic feet of rock) from rock since brought in (at least 46,000 cubic feet of rock that has been imported since), where the rock brought in is <u>far</u> in excess of the 50% threshold (i.e., the 46,000 cubic feet of rock brought in represents more than 10 times the size, or well in excess of 50%, of the previously authorized revetment). Thus, a project of that sort would also need to be evaluated as a replacement structure, and not as repair and maintenance. In conclusion, the revetment must be evaluated against all Coastal Act tests for establishing such armoring at this location.

The proposed project raises many of the issues discussed above with respect to shoreline protective devices. With respect to hazards policies, the project is not consistent with Section 30253 of the Coastal Act because the proposed revetment constitutes a bluff retention device that substantially alters natural shorelines along bluffs and cliffs. The proposed drainage system is not consistent with Coastal Act policies as it requires a revetment that cannot be supported due to its adverse impacts on coastal resources such as beaches, sand supply, and visual resources. However, even though the project is not consistent with Section 30253 of the Coastal Act (nor other Chapter 3 policies discussed more fully below), it may still be authorized if it meets

[19] Title 14, Division 5.5, Section 13252 of the California Code of Regulations (CCR) states, in applicable part “Unless destroyed by natural disaster, the replacement of 50 percent or more of a single-family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under Section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.”

the standards in Section 30235.

Existing Structures to be Protected

The first Section 30235 test is whether or not a structure for which armoring is proposed is considered "existing," as described above. In this case, the proposed revetment is intended to protect the drainage system elements, like the pipe, as well as to provide for dissipation of drainage off the bluff in order to prevent undermining of the bluff that would worsen erosion. As described above, the drainage management system, including the pipe and other elements (as well as all the development on site, including the condos and associate development), was originally authorized and constructed in 1985 after the effective date of the Coastal Act (and the requirements of 1972's Proposition 20 (The "Coastal Initiative")).[20] The current drainage system was installed in 2019 via ECDP. As a result, the drainage management system (as well as the blufftop residential and related development for that matter) does not qualify as "existing" under Coastal Act Section 30235, and the project does not meet the first required Section 30235 test. This conclusion is important because when armoring qualifies for consideration under Section 30235, that section acts as an 'override' of sorts that can allow approval even when such approval leads to other Coastal Act inconsistencies. Here, the proposed revetment would lead to a series of such inconsistencies. For example, the proposed revetment in this case covers over 2,000 square feet of the natural bluff landform with a rock revetment (i.e., the 'back' of the revetment resting against the lower bluff), and substantially alters that natural bluff landform, all of which is inconsistent with Sections 30251 and 30253. It also leads to an unnatural pile of imported rock in the back beach area that degrades the public view, that is inconsistent with the beach/bluff character, and that is not subordinate to the character of the setting, inconsistent with Section 30251. In addition, it covers 4,000 square feet of beach with the same rock, thus eliminating that area from public use. In other words, the public loses access to a significant amount of sandy beach recreational area. This is the opposite of maximizing public recreational access opportunities, it interferes with the public's use of this area (an area that is subject to a public access easement), it eliminates that free access area from public use, it doesn't protect that area for water-oriented recreational activities (and recreational use more broadly), and it significantly degrades its value as a recreational area, all of which is inconsistent with Sections 30210, 30211, 30213, 30220, 30221, and 30240, respectively. Further, the revetment leads to other impacts over time, and has for the past 14 years while it has been in this configuration, such as blocking beach generating materials from falling to the beach and blocking natural processes that would serve to allow for beaches to naturally form and re-form in response to erosion and sea level rise. Instead, the revetment leads to a loss of such beach that would have been created absent its presence, and the loss of potential migration of the public trust, which is likewise inconsistent with Sections 30210, 30211, 30213, 30220, 30221, and 30240. These inconsistencies direct denial of the revetment. If Section 30235 were to be triggered here, it could act as an 'override' allowing for all of those impacts subject to mitigation, but it is not triggered. Thus, and as

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

discussed further below, the revetment is inconsistent with the Coastal Act, which directs its denial.

Danger from Erosion

The second Section 30235 test is whether the existing structure is in danger from erosion. The Coastal Act allows shoreline armoring to be installed to protect existing structures that are in danger from erosion, but it does not define the phrase "in danger." There is a certain amount of risk involved in maintaining any development along the actively eroding California coastline that also can be directly subject to violent storms, wave attack, flooding, earthquakes, and other hazards. These risks can be exacerbated by such factors as sea level rise and localized geography that can focus storm energy at particular stretches of coastline. In a sense, all development along the immediate California coastline is in a certain amount of "danger." It is a matter of the degree of threat that distinguishes between danger that represents an ordinary and acceptable risk, and danger that requires shoreline armoring per Section 30235. Lacking Coastal Act definition, the Commission has in the past evaluated the immediacy of any threat to determine whether an existing structure is "in danger" for the purposes of Section 30235 considerations. While each case is evaluated based upon its own particular set of facts, the Commission has previously interpreted "in danger" to mean that an existing structure would be unsafe to use or otherwise occupy within the next two or three storm season cycles (generally, the next few years) if nothing were to be done (i.e., in the "no project" alternative).[21]

Given the existing structure test is not met, it is immaterial for armoring consideration purposes as to whether there are any non-existing structures in danger from erosion. That said, the Commission has an obligation under Section 30253 to ensure that any risks are minimized, and to ensure stability is maintained, when development is proposed, provided it is without armoring. In terms of the degree of danger at the site, there is evidence that the blufftop drainage infrastructure is in danger from erosion, both currently and in the past. The City of Pacifica's certified LCP states that bluffs in the West Edgemar neighborhood, where the project site is located, are "60-80 feet high and highly erosive" and subject to high rates of erosion, much of which occurs in the winter when "high wave run-up and heavy rains are present." Notably, it is not uncommon during such times for larger chunks of bluff to slough off. For example, blufftop residential development just south of this site experienced severe erosion that caused loss of significant blufftop areas in the 1982-83 winter El Niño storms. At that apartment complex (Oceanaire Apartments), aerial photos show that storm-related bluff erosion led to the loss of between 53 and 90 feet of bluff in about 2.5 years.[22] Just south of that site along Esplanade another apartment complex was condemned due to erosion issues, and ultimately demolished in 2017 after portions of it began sliding into the ocean. Here, the Applicant's geotechnical analysis characterizes the site as "steep, more than 100-foot high bluff(s) underlain by generally weak marine terrace deposits,

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

[22] See CDP 2-10-039 (Land's End Seawall, now Oceanaire).

which are highly susceptible to erosion and landsliding from rainfall runoff and wave attack" and states that erosion here was further aggravated by uncontrolled storm water discharge out of the failed stormwater drainage system pipe that was severed flush with the bluff face during storm activity in February 2019.[23] In addition, the required blufftop public access trail was closed by the Applicant in 2017 when bluff erosion caused the bluff to erode up to the pathway (again see V-2-20-0019). A February 2017 report prepared for the Applicant concluded that normal bluff recession that preceded development of the site has been accelerated since the site was developed, and a review of satellite images indicated that the bluff had episodically retreated some 57 feet in the 14 years from 2002-2016,[24] or an annualized average erosion rate of 4.1 feet per year during that time period. This 2017 report concluded that erosion onsite is aggravated by end effects around the dissipation revetment, concentrated runoff onto the top of the bluff from inoperable and damaged storm drainage facilities, and infiltration of rainfall at the top of the bluff across the site's landscaped area when surface drainage facilities are clogged.

Ultimately, the Applicant's geotechnical analyses for the project estimated long-term average annualized erosion rates at the site to be about 1.38 feet/year, or the equivalent of about 34.5 feet of erosion over the 25 year design life of the proposed ATF and expanded drainage infrastructure project, and have further concluded that given sea level rise and increased storm frequency and intensity estimates, the revetment that provides dissipation of drainage could be overtopped and the overall drainage management system threatened.[25] In addition, these analyses conclude that absent the installed draped pipe drainage system (proposed for ATF authorization and additional augmentation), the bluff would sustain severe, irreparable damage, and aspects of the system installed pursuant to the ECDP and proposed for retention (a 4-inch atrium drain, as well as a 8-inch PVC storm drain line), are currently within 5 feet of the blufftop edge (which, when compared to the estimated erosion rate of 1.38 feet per year would be reached in just over three and half years, or one and a quarter years if the accelerated 14-year estimate were applied). Thus, and at the most conservative end, these structures are within one or two large storm cycles of being threatened and can be considered to be in danger from erosion applying the accelerated rate, and on the edge of being in danger using the long-term average annualized erosion rate established over the longer time frame.

To the Applicant's more recent point regarding the degree of danger to the condominiums and related development, there is currently no evidence that these structures are in imminent danger from erosion. It appears that the garages are at least 50 feet inland of the blufftop edge, and the condos about 55 feet inland at the closest point. According to the Applicant's erosion rate estimates, it would take 25 years for the

[23] Again, see "Pacific View Villas HOA, Geotechnical Update Emergency Storm Drain Mitigation", prepared by Atlas Geosphere Consultants (March 20, 2020).

[24] See "Engineering Geological Site Review, Public Access Path Pacific View Villas HOA", prepared by Earth Investigations Consultants, Inc. (February 23, 2017).

[25] See "Wave Runup Report; Existing Revetment Observations and Limited Coastal Hazard Analysis for Storm Drain Outlet at 200-224 Palmetto Avenue, Pacifica, San Mateo County, California", prepared by GeoSoils, Inc. (April 2, 2020).

bluff edge to retreat to within 5 feet of the nearest garage structures, while the nearest condos would remain about 25 feet from the bluff edge after 25 years. In ten years, at the same estimated erosion rate, the garages would remain more than 25 feet from the blufftop edge, and the condos at the closest point over 45 feet away. While recent history in Pacifica suggests that tens of feet of bluff can be lost during major episodic erosion events, the current building setbacks still provide a substantial buffer against bluff retreat. These structures appear to be at little or no risk over the next two to three storm seasons, and don't therefore meet the 'in danger from erosion' test as the Commission evaluates that term in Section 30235.

Thus, although none of the structures onsite are "existing structures" for the purposes of Section 30235, the proposed drainage management system nearest the blufftop edge and extending over the bluff can be considered "in danger" as the Commission understands that term. What that means here is that the Section 30253 requirements are relevant, and the Commission would need to minimize risk and help provide stability for the proposed ATF development without shoreline armoring.

Alternatives

The application fails the first Section 30235 test for armoring and thus armoring is not compelled for approval on that reason alone (and denial of the armoring is otherwise required for coastal resource protection reasons). That said, the drainage infrastructure nearest the bluff is in danger from erosion and raises Section 30253 issues. At the same time, and to be thorough, the Commission here also evaluates the third test of Section 30235 that must be met to allow armoring, namely whether the proposed armoring is "required" to protect any existing structures in danger from erosion (were there to be any, which there are not). In other words, shoreline armoring is only permitted if it is the only feasible alternative capable of protecting such existing endangered structures. Other alternatives to shoreline protective devices typically considered include the "no project" alternative, managed retreat (including abandonment and demolition of threatened structures), relocation of threatened structures and/or portions thereof, beach and sand replenishment programs, foundation underpinning, drainage and vegetation measures, and combinations of each. Additionally, if shoreline armoring is determined to be the only feasible alternative, this test also requires that the chosen structural design of the shoreline protective device be the least environmentally damaging option, including being the minimum necessary to protect the endangered structure in question. The Applicant prepared an alternatives analysis for the proposed project, and each of the possible alternatives evaluated is discussed briefly below.

<u>No Action Alternative</u>

The no action alternative would entail removal of the existing temporary drainage management system installed pursuant to G-2-19-0047 (as augmented without authorization), including the drainage pipe currently draped over the bluff, and associated piping and catch basins that manage stormwater and drainage on the blufftop onsite. Absent replacement, this would result in no effective drainage management onsite, and per the Applicant's consultant, "return the property to a state of emergency," since prior technical reports found mismanaged stormwater and surface drainage onsite aggravate already rapid erosion rates and lead to episodic erosion

events associated with heavy storms, which could eventually threaten large portions of the site, rendering this option an infeasible approach to managing drainage onsite because it would not sufficiently minimize risk and help ensure stability as required by Section 30253.

Slant Boring Alternative

This option would involve inserting a 12-inch outlet pipe diagonally through the bluff, into a drilled borehole, that would then daylight onto the proposed dissipation revetment at the lower bluff. This option would be visually more appealing than the installed emergency fix as it would underground the outlet pipe, which is currently sitting on the surface and then draped over the bluff edge. However, the inability to access the buried pipe in the event of it being compromised may mean it could not be repaired and could lead to further bluff failure, if not functioning as intended. This option would also include more grading and disturbance to the bluff and bluff face that could further compromise bluff stability. In addition, this process could result in native soil being compromised by drilling fluid and would necessitate imported soil to fill the receiving pit, creating more opportunity to compromise bluff stability. Finally, the Applicant's alternatives analysis states that removing the existing draped pipe would "result in severe, irreparable damage" to the bluff face, rendering this option infeasible, though no detailed reason is provided as to why that would be the case.

Strengthen Existing Emergency System Alternative

The Applicant's preferred alternative, which most closely resembles the proposed project, would be to stabilize and strengthen the existing draped pipe system that was installed on an emergency basis and would specifically involve: undergrounding the storm drain outlet line as it traverses the bluff (until it gets to the portion that drapes over the edge) to a depth of 12 inches, anchoring the pipe on 12-foot deep concrete piers just west of the catch basin, lowering the elevation of the catch basin to match existing surrounding grade in order to facilitate effective drainage, and installing four additional subdrains in the meadow area to percolate runoff.

While some benefits of this option are it would underground the outlet pipe to a certain extent, would mean less disturbance to the area and would reuse materials installed on an emergency basis, the pipe would still be visible as it daylights out of the bluff face to carry drainage down to the beach. The pipe would also be vulnerable to the elements along the bluff face and would require significant concrete piers and retention of the rock revetment at the toe to assure drainage dissipation. These project elements cause significant coastal resource impacts to overall and surrounding site stability and are not adaptable to the erosion threats present at the site. The revetment is also not approvable under the Coastal Act, which negates the ability of this option to adequately mitigate risks and to assure stability as required by Section 30253.[26] While the Applicant found this option to be the "optimal choice when considering resource use, construction

[26] And the piers too constitute a form of armoring inasmuch as they are intended to allow development to be placed in an area where it would otherwise not be allowed if it were properly setback to meet Coastal Act and LCP tests, and such proposed armoring is also not approvable under the Coastal Act for similar reasons as the revetment.

impacts, maintenance, future adaptability, and costs," it cannot be found Coastal Act consistent.

Connect to City Storm Drain Alternative

The final option considered by the Applicant involves connecting the existing catch basins onsite to the existing City of Pacifica stormwater drainage system in the Palmetto Avenue right-of-way which fronts the subject property. Importantly, this alternative was recommended by the Applicant's geotechnical consultants in a 2017 geological site review as a measure to assure future erosion does not worsen onsite.[27] However, this option would require the use of pumping infrastructure to convey the drainage from the site to the street level due to elevation differences, as City stormwater drainage infrastructure at street level is approximately 30 feet in elevation higher than the lowest of the existing catch basins on-site.[28] In addition, the Applicant states that in order to establish resiliency of this alternative (e.g., in the case of pump failure, electrical outages, etc.), a 10,000-gallon runoff storage tank would be necessary for instances when the system is not functioning properly. Other reasons why the Applicant found this alternative infeasible include costs to develop, implement and maintain (estimated to be in the millions of dollars); permitting fees to hook into the City system; increased demand on public stormwater runoff infrastructure; demands on electric grid to power the system; increased weight load to bluff areas; disturbance for installation of connecting pipes (approximately 230 feet); visual impacts of water storage tank; noise from operation of pump; and a reiteration of the point that removal of the existing draped outlet pipe would result in severe damage to the bluff. While no support for this last statement was offered, it appears the Applicant is referring to the time between when the pipe would have to be removed and a connection to the City storm drain system could be established, where onsite drainage might be mismanaged, and increased runoff might threaten bluff stability.

However, when considering this alternative, the Applicant's alternatives analysis neglects to discuss some of its benefits, namely that this approach would eliminate the need for the dissipation revetment at the toe of the bluff and on the beach, assuring coastal resource impacts to the beach and sand supply are avoided (discussion below). This alternative also removes the need for the buried piers proposed as a part of the preferred "Strengthen Existing Emergency System Alternative," which assures that this type of armoring, with its deep ground disturbance that could further compromise bluff stability, is avoided. In addition, this option also eliminates the need for the draped pipe over the bluff edge and down the bluff face which will avoid impacts to views up to the bluff and of the site from the beach, and the potential for it to contribute to landform alteration. This alternative may also present some advantages not identified, such as the use of storage tanks that could be used to supply irrigation water to the site (and could possibly be installed underground if necessary for site aesthetics). Finally, this alternative would be significantly more resilient to future bluff instability, which as previously discussed is already a concern and may be aggravated by sea level rise. In

[27] Again, see "Engineering Geological Site Review; Public Access Path Pacific View Villas HOA", prepared by Earth Investigations Consultants, Inc. (February 23, 2017).

[28] The in-street infrastructure is buried some 10 feet below the road surface, so a direct connection from these lowest catch basins would equate to some 20 feet of elevation gain.

addition, the Applicant has not factored in any mitigation costs for development of the system as proposed, which would be significant in their own right (see also below), and which argue against the feasibility of the proposed project.

Alternatives Analysis Conclusion

In summary, the threatened structures onsite, namely the pipe and drains that are near to the blufftop edge and down the bluff face, do not constitute "existing structures" for the purposes of Coastal Act Section 30235 and are not entitled to armoring as a result.[29] In addition, although the drainage infrastructure nearest the bluff is in nearer term danger from erosion, it is clear that a project without armoring and without such infrastructure in the bluff edge locations could be developed to address site drainage issues, including as evidenced by the Applicant's own consultants' recommendations from 2017. In short, the proposed project fails two of the required tests for shoreline armoring per Section 30253, and thus shoreline armoring is not compelled to be approved here. In addition, due to its significant impacts on coastal resources otherwise, such armoring must be denied for those reasons as well.

Given that, the real question is what type of non-armoring project should be approved in order to address site drainage issues consistent with Section 30253 requirements to minimize risks and to help assure stability. On this point it appears clear that onsite drainage management is important for this site, including as has been recommended by the Applicant's consultants as an important feature to minimize risks, assure stability, and avoid uncontrolled runoff. It is also clear to the Commission that there may be feasible alternatives that can avoid the bluff edge, bluff face, and base of bluff areas for this purpose, as described above. The issue thus is not what project to approve, as it appears clear to the Commission that the preferred project is one that has the objective of collecting site stormwater and related drainage (e.g., percolated drainage), using it onsite as much as possible (e.g., for irrigation purposes in amounts and locations that would not contribute to bluff instability), and then conveying excess such drainage offsite in the least environmentally damaging feasible manner, including by locating all infrastructure away from the blufftop edge and directing excess drainage offsite to inland areas (and not seaward of the blufftop edge). The issue is that such a project needs time to be developed, vetted, and installed without leading to increased erosion and danger in the short-term, and that is likely to take 6 months to a year. Given the project as proposed is not approvable and can't be made Coastal Act consistent via conditions, this presents a Coastal Act consistency dilemma because approval of the project is inconsistent with Chapter 3 policies (e.g., Sections 30235 and 30253), while denial of the project, would also be inconsistent with Chapter 3 policies, specifically, Sections 30230, 30231, and 30251 which protect marine resources, water quality, and natural landforms. Specifically, denial of the project and removal of the revetment could lead to erosion threats to the temporary onsite drainage system components nearest the blufftop edge in the fairly short-term (i.e., within one storm cycle), and subsequently damage to and loss of the blufftop edge at the site could result were the drainage system to fail and take portions of the bluff along with it. This approach would be inconsistent with Coastal Act Sections 30230, 30231, and 30251 that affirmatively

[29] The same goes for condominium and related residential development atop the bluff which was installed in the mid-1980s.

require that marine resources, water quality, and natural landforms be protected (because the drainage system would be likely to fail in the short-term and lead to infrastructure debris on the beach and in the ocean, and to lead to unnatural alteration of the bluff landform, all as discussed more in depth below).

Accordingly, the Commission believes that it is appropriate to approve a project that would not be fully consistent with Chapter 3 of the Coastal Act through the Coastal Act's conflict resolution procedures, to allow adequate time for the Applicant to develop a more resilient and Coastal Act consistent onsite drainage system in light of the coastal hazard risks and coastal resource issues engendered at this site. Consistent with past Commission actions, the Commission has authority under Coastal Act Sections 30007.5 and 30200(b) to resolve conflicts between a policy or policies of the Coastal Act that warrant denial (here, coastal hazards policies) with a policy or policies that compel approval (here, assuring site stability, protection of marine resources, and water quality) by taking the action which, on balance, is most protective of significant coastal resources (see "Conflict Resolution" section below for a fuller explanation justifying approval of a modified project in order to resolve a conflict between Chapter 3 policies). In short, application of the Coastal Act's policies that do not allow the proposed armoring are in conflict with policies protecting the natural bluff landform and the beaches below it because without the armoring, the drainage infrastructure is likely to fail, resulting in infrastructure debris on the beach and in the ocean, and lead to unnatural alteration of the bluff landform.

The approved project would allow temporary retention of the emergency drainage system and armoring for up to one year, until the long-term project can be devised and installed located as far inland as possible and designed to both convey drainage inland and not seaward (e.g., potentially linked into the already existing City of Pacifica storm drain system at Palmetto Avenue) and improve on-site landscaping to be less water intensive, upon which time such temporary development would be required to be removed, and underlying areas restored.

Therefore, the most Coastal Act-consistent solution here is essentially a two-pronged approach: require planning to address onsite drainage by developing a different drainage management system directing drainage inland and away from the blufftop edge (to ensure consistency with coastal hazards policies, including Section 30253) while, in the interim, retaining the existing drainage system with dissipation revetment (with coastal resource impacts adequately mitigated for, as discussed below) to provide other necessary coastal resource protection (including protection of marine resources and water quality per Sections 30230 and 30231) in the short-term while the longer-term plan is developed and installed. In this context the temporary approval of the emergency drainage system, with some modifications, can be found Coastal Act consistent in a conflict resolution context. The combination of these two approaches (an interim and a longer-term solution) satisfies Coastal Act Section 30235 and 30253 requirements and the requirements of Sections 30230, 30231, and 30251 because it authorizes a temporary project now to protect infrastructure and visitor serving recreational use (i.e., blufftop public access loop rail that would be required to be reestablished) while simultaneously proactively planning for and implementing a relocation plan, including removal of the armoring, at that time.

Thus, **Special Condition 1** describes the approved project. Namely that this CDP temporarily authorizes the proposed drainage management system and revetment for a little more than one year from the date of approval, timed to expire on the Friday before Memorial Day 2023 (i.e., until May 26, 2023) to avoid construction, including restoration efforts along the bluff and the beach, during the busy summer season. This CDP also authorizes the subsequent removal of such temporary development and the restoration of the underlying areas to their pre-development state or better, the construction and operation of a revised drainage management system, the relocation and reconstruction of the public access loop trail and related amenities on the site, and subsequent measures to relocate and/or remove approved development should it be threatened by coastal hazards in the future, all subject to the terms and conditions of the CDP. See **Special Condition 1**.

Special Condition 3 lays out the parameters for the Applicant to develop and implement a revised drainage management system before next year's Memorial Day weekend. That condition allows the Applicant three months from CDP approval to submit a set of plans that identify a revised system, as described above, as well as parameters for removal of temporary measures and restoration of affected areas. The plans must be accompanied by an analysis showing that the chosen system best meets the terms and conditions of the CDP, where such analysis must at the least evaluate the feasibility of using disaggregated collection and conveyance apparatus, storage tanks and pumps (where gravity cannot be used), dewatering wells, native landscaping, and other similar measures (whether alone or in combination) to meet Coastal Act requirements. The Plans and all supporting documentation and analyses must be submitted with evidence of consultation with relevant City of Pacifica staff, including as it relates to conveyance of drainage to the City's storm drain system and requirements pertaining thereto. **Special Condition 3** also requires the Applicant to fund independent third-party review of the submitted plans and all supporting documentation and analyses by a firm or firms approved by the Executive Director.[30] Staff believes that that allows for finalizing a plan by the end of summer in time to allow a project to commence at that time, and before the required deadline of Memorial Day weekend 2023. See **Special Condition 3**.

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

[30] Including because the Commission believes that it will require a neutral third-party engineering review of such alternate drainage infrastructure options to help ensure unbiased conclusions, and to avoid a time-consuming scenario whereby the Commission's technical experts and the Applicant's technical consultants draw different conclusions over the same facts.

agree to waive any claims of liability on the part of the Commission for allowing the development to proceed. Accordingly, this approval is conditioned for the Applicant to assume all risks and indemnify the Commission against all liability due to such hazards associated with developing at this location (see **Special Condition 8**).

In addition, **Special Condition 9** clarifies and codifies that the site was developed in the 1980s, and it is not allowed armoring to protect the development approved as part of this CDP, should development become threatened at some point due to coastal hazards. Thus, **Special Condition 9** identifies the parameters for evaluating future hazard response, including in terms of identifying triggers for removal and/or relocation as opposed to the use of armoring in the future. See **Special Condition 9**.[31]

Beach and Shoreline Access and Sand Supply Impacts

Given that the special conditions of this approval would temporarily authorize the revetment needed to dissipate drainage (and provide authorization for past unpermitted development), the Coastal Act requires mitigation of all impacts to shoreline sand supply from the shoreline protective device (including because avoidance of impacts is not possible).[32] Here, the dissipation revetment has a 5 times larger footprint and more than 10 times larger volume than its approved configuration for the past 14 years without authorization (since 2008), and it would remain that size for the next year until it could be removed. Thus, the impacts associated with that revetment, considered as a whole,[33] must be identified and mitigated for 15 years of impacts, considering the 14 years the revetment has been present in an unauthorized configuration, as well as the additional year the revetment is being approved temporarily (i.e., for a period from 2008 to 2023).

Some of the effects of these types of engineered armoring structures on the beach (such as scour, end effects, and modification to the beach profile) are often temporary or may be difficult to distinguish from all the other actions that modify the shoreline. In addition, there are effects that are more qualitative (e.g., impacts to the character of the shoreline and visual quality) that are imprecise proxies for understanding the total impact of an armoring structure to the coastline. However, some of the effects that a shoreline armoring structure may have on natural shoreline processes can be quantified, including: (1) the loss of the beach area on which the structure is located; (2) the long-term loss of beach that will result when the back-beach location is fixed on an eroding shoreline; and (3) the amount of material that would have been supplied to the beach if the bluff and back-beach were to erode naturally. The first two calculations

[31] **Special Condition 9** is similar to requirements placed on other projects where armoring is not allowed in the future (see, for example, CDPs 2-14-0673 (Lundberg) and A-2-SMC-19-0002 (Zubieta SFD)).

[32] The impacts from the embedded piers supporting the drainage system elements and that serve as armoring are more difficult to quantify in this context, including as they are buried and inland of the revetment. These elements have some impacts as well, but in this temporary approval context the Commission here uses its discretion to focus on the impacts of the revetment, which are slightly more tangible and relatively speaking larger, as a means of offsetting all such armoring impacts of the temporary armoring.

[33] As discussed previously, the revetment constitutes a new and different revetment than was originally approved, and it must be analyzed in that context.

affect beach and shoreline use areas, and the third is related to shoreline sand supply impacts, but all three impact public recreational access to the beach as it relates to sand supply and by extension beach and shoreline recreational areas.

Encroachment Area

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

In this case, the revetment has covered approximately 4,000 square feet of shoreline and beach area that would otherwise be unencumbered since 2008 and would remain in this configuration for another year, for a total of 15 years of such encroachment impacts.[34]

Fixing the Back Beach (the "Coastal Squeeze")

On an eroding shoreline, a beach will typically continue to re-create itself between the waterline and the bluff as long as there is space to form a beach between the bluff and the ocean. As bluff erosion proceeds, the profile of the beach also retreats, and the beach area migrates inland with the bluff. This process stops, however, when the backshore is fronted by a hardened, protective structure such as a revetment or a seawall. Experts generally agree that where the shoreline is eroding and armoring is installed, the armoring will eventually define the boundary between the sea and the upland.[35] While the shoreline up and downcoast of the armoring continues to retreat and reform new beach areas, shoreline in front of the riprap armoring eventually stops at the seaward toe of the armoring. This effect is also known as passive erosion, or "coastal squeeze." The sandy beach area will narrow, squeezed between the moving shoreline and the fixed backshore. This impact represents the loss of a beach as a direct result of the installed armoring. One need look no further for an example of this phenomenon than the project site, where the drainage improvements and associated dissipation revetment have been installed since the 80's and a resultant small headland has formed, making the beach fronting that riprap armoring smaller than both up- and

[34] As described previously, the revetment is approximately 80 linear feet along and 50 feet from the bluff, occupying 4,000 square feet of beach area.

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

downcoast of it (see **Exhibit 2**).

The coastal squeeze phenomenon caused by armoring is exacerbated by climate change and sea-level rise. As climate change causes seas to rise ever faster, beach and recreational shoreline areas will be lost at an increasingly rapid pace.[36] If the inland area cannot also retreat, eventually, there will be no available dry beach area and the shoreline will be fixed at the base of the armoring structure. In the case of an eroding shoreline, this represents the loss of a beach and shoreline recreational area as a direct result of the armoring. Specifically, beach areas are diminished as the beach is compressed between the ocean migrating landward and the fixed backshore. Such passive erosion impacts can be calculated over the time the proposed armoring is expected to be in place. Consistent with past practice, including the Commission's experience that shoreline armoring often needs to be reinforced, augmented, replaced, or substantially changed within twenty years of its original installation, and to provide for re-review on a regular basis to allow for consideration of possible changes in policy, law, and physical conditions associated with armoring, the Commission generally evaluates this impact for a typical duration period. Here there is a built-in duration to evaluate, namely the 15-year impact period associated with the current revetment.

The Commission has established a methodology for calculating passive erosion, or the long-term loss of beach due to fixing the back beach. The area of beach lost due to long-term erosion is equal to the long-term average annual erosion rate multiplied by the number of years that the back beach or bluff will be fixed, multiplied by the width of the property that will be protected. The average annualized erosion rate at this location has been estimated by the Applicant's geotechnical analyses to be approximately 1.38 feet per year.[37] Applying the 1.38 feet per year average annual rate of erosion over 15

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

[37] Although the Applicant's consultants have also identified a greater than 4 feet per year erosion rate, such rate was based on just a condensed period of time. Although that larger estimated rate would lead to significantly more impacts being calculated, the Commission here relies of the average annualized rate of 1.38 feet per year developed by the Applicant's consultants using a longer period of time.

years as applied to the 80-foot long revetment equates to 1,656 square feet of beach that will have been lost through that time period due to armoring here.[38] Thus, the armoring here leads to a loss of 1,656 square feet of beach that would have been created naturally if the back beach had not been fixed by the armoring through the 15-year assessment period.

Thus, the armoring aspects of this project associated with authorized armoring going forward, and unauthorized but mitigated for after-the-fact, leads to beach and shoreline use area impacts of approximately 5,656 square-feet (4,000 square feet associated with the footprint plus 1,656 square feet associated with passive erosion due to fixing the back beach) through the 15-year impact horizon. There is no doubt that such impacts represent a significant public recreational access impact, including a loss of the social-economic value of beach and shoreline recreational access, for which the Coastal Act requires mitigation.

The most obvious in-kind mitigation for these impacts would be to create a new nearly 5,656 square-foot area of beach/shoreline to replace that lost over the 15 years with an identical area of beach/shoreline in close proximity to the lost beach/shoreline area. While in concept this would be the most direct mitigation approach, in reality, finding an area that can be turned into a beach and ensuring it does so appropriately over time is very difficult in practice. At the same time, the calculations of affected area do provide a means to identifying an appropriate relative scale for evaluating alternative mitigations. For example, in the past the Commission has looked at several ways to value such lost beach and shoreline areas in order to determine appropriate in-lieu mitigation fees, including evaluating the recreational value of the beach/shoreline in terms of the larger economy, as well as the real estate value of the land that would have otherwise gone to public beach/shoreline use.

In terms of the recreational beach/shoreline value, the Commission has recognized that in addition to the more qualitative social benefits of beaches and shoreline areas (e.g., recreational, aesthetic, habitat values, etc.), beaches and shoreline areas provide significant direct and indirect revenues to local economies, the state, and the nation. It is well known that the ocean and coastline of California contribute greatly to the state's economy through activities such as tourism, fishing, recreation, and other commercial activities.[39] There is also value in just spending a day at the beach and having wildlife and clean water at that beach and being able to walk along a stretch of beach and shoreline. There is also the societal benefit of beaches and shoreline areas, including the ways they contribute to local community and State social fabric and cultural identity, although it is difficult to put a price tag on either of these.

Thus, these types of beach impacts are in many cases difficult to quantify, including at sites such as this where visitation data needed for certain economic impact models are lacking. In other cases (including cases where visitation data was also lacking), the

[38] That is, 80 feet multiplied by 1.38 feet per year multiplied by 15 years equals 1,656 square feet.

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

Commission has found that using a real estate valuation method as a basis for identifying mitigation allows for objective quantification of the value of lost beach and shoreline area, and that this valuation is appropriate both in terms of the scope of the impacts and the rational basis for applying such methodology.[40] This method requires an evaluation of the cost of property that could be purchased and allowed to erode and turn into beach naturally to offset the area that will be lost due to the construction and continued placement of the proposed armoring over time.

Toward this end, the market values of representative blufftop properties near the project area supply a means to identify what it might cost to purchase such property and allow it to erode in this way to create offsetting beach/shoreline recreational space. Specifically, this review was conducted by looking at the sales of blufftop property in this specific area within the last five years. This value is then divided by the property square footage to arrive at a price per square-foot. The price per square-foot calculated value serves as a way to gauge the cost of acquiring an equivalent blufftop property, where any development on it could be removed, and then the area could be allowed to erode to provide an equivalent amount of beach and shoreline area to that which will be lost over the 15-year mitigation timeframe.

This evaluation focused on a total of five blufftop properties within the vicinity of the proposed project representing a range of properties for which sales information was available over the past two years (see **Exhibit 6**). The range of values starts at the high end for the property at 559 Esplanade Avenue with a value of $316.51 per square-foot, to the low end for the property at 109 West Avalon with a value of $225.42 per square-foot, with an average of $283.81 per square-foot.[41] This average per square-foot value represents a reasonable estimate of the market value of blufftop properties nearest the subject site based on actual sales data in the last five years.[42] Given median sales prices have been rising in Pacifica, and coastal California, in general, over the same timeframe, such a value may slightly underestimate current costs, but it is still a valid, if conservative, estimate for mitigation purposes.

Applying this average land acquisition value to the 5,656 square-foot impact due to the armoring over 15 years would result in a mitigation fee of $1,605,229.36 for the loss of beach and shoreline use areas based on the 15-year mitigation period (i.e., 5,656 square feet x $283.81/square foot = $1,605,229.36). The Commission finds that this potential mitigation fee amount is most closely tied to specific property values in the vicinity of the project and is thus both reasonably related and roughly proportional to the anticipated impacts of the armoring on beach and shoreline use areas through the 15-year mitigation period.

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

[41] The property sales used to derive the average price per square foot for blufftop properties in the immediate vicinity are for property sales at the following locations: 548 Dolphin ($302.54/sq ft); 109 West Avalon ($225.42/sq ft); 543 Esplanade ($311.44/sq ft); 559 Esplanade ($316.51/sq ft); 315 Esplanade ($263.16/sq ft).

[42] Source: Zillow.com (February 2022).

Retention of Potential Beach Material

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

In bluff areas, if natural erosion were allowed to continue (absent of any shoreline armoring), bluff sediment would be added to the beach, as well as to the larger littoral cell sand supply system fronting the bluffs. The volume of total material that would have gone into the sand supply system over the life of the shoreline structure would be the volume of material between (a) the likely future bluff face location with shoreline armoring; and (b) the likely future bluff face location without shoreline armoring. Using the Commission's methodology[43] the amount of beach-quality sand that would be retained due to the revetment over 15 years would be equal to 1,962.67 cubic yards of sand.

To mitigate for this loss of sand, the Commission oftentimes requires payment of an in-lieu fee to contribute to ongoing sand replenishment or other appropriate mitigation programs. In such cases, the Commission has typically mitigated for such sand retention impacts with an in-lieu fee based on the cost of buying and delivering an equivalent volume of beach quality sand to the affected area. In this case, as discussed above, the revetment would result in the retention of about 1,962.67 cubic yards of sandy material through the 15-year mitigation period. The Applicant did not submit bids for the cost of delivered sand for this specific site, however similar bids from nearby (Half Moon Bay) have averaged out to be about $50 per cubic yard.[44] Thus, an in-lieu

[43] Sand supply loss is calculated with a formula that utilizes factors such as the fraction of beach quality material in the bluff material; the length of time the back beach will be fixed; the predicted rate of erosion with no seawall; the height of the seawall; and the width of property to be armored. In this case, the fraction of beach quality material was estimated by the Applicant's consultants to be 0.32; the height of the revetment is 25 feet; the width of the property that is armored is 80 feet; the rate of retreat is 1.38 feet per year; and the time period the of installation is 15 years.

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

fee to address this initial sand retention impact would be approximately $98,133.50.[45]

Required Mitigation Package

In total, through the 15-year mitigation timeframe, sand supply and related beach/shoreline loss impacts associated with the armoring would result in a required mitigation fee of $1,703,362.86 (i.e., $1,605,229.36 + $98,133.50 = $1,703,362.86). Based on the above analysis, such a figure is both reasonably related and roughly proportional to the quantifiable impacts of the proposed armoring. Although the Commission has historically attempted to offset identified impacts via in-kind public access improvement projects, there are no such obvious projects here. In fact, components that might make up such a mitigation package here (e.g., like the blufftop public access loop trail, public access easements on the blufftop and the beach, etc.) are already required and must be implemented regardless. In other words, they aren't available for mitigation purposes as to identify them for mitigation here would be to double count them. Lacking other feasible options, the Commission here requires payment of the mitigation fee.

Thus, **Special Condition 7** requires the Applicant to deposit $1,703,362.86 into an interest-bearing account designated by the Executive Director. The purpose of the account, and all earned interest, is to mitigate lost beach values, including public access, recreational, ecological, and visual values, and funds from the account shall be used to aid an Executive Director-approved public agency in the provision, restoration or enhancement of public access and recreational opportunities along the shoreline in the City of Pacifica (including but not limited to, public access improvements, recreational amenities and/or acquisition of privately-owned beach or beach-fronting property for such uses). Funds can be used to implement projects and/or purchase lands which provide public access or recreational opportunities along the shoreline, and not to fund operations, maintenance or planning studies. Funds will only be released upon approval of an appropriate project by the Executive Director, and only when accompanied by and provided for in an MOU between the implementing entity and the Executive Director setting forth terms and conditions to assure that the funds be expended in the manner intended by the Commission. If any such MOU is terminated, the Executive Director may reallocate funds back to the account and/or to alternate entities. All of the funds and any accrued interest must be used for the above-stated purposes, in consultation with the Executive Director, within ten years of the funds being deposited into the account. Any funds and accrued interest not used by that time may be directed to other projects and/or accounts at the Executive Director's discretion. See **Special Condition 7**.

Coastal Hazards Conclusion

There are no "existing structures" located at the site as that term is understood in a Coastal Act armoring sense, including because the site was originally developed in the 1980s (and the drainage system installed) after passage of the Coastal Act in 1976 and its 1977 effective date. Therefore, none of the structures onsite qualify for shoreline armoring under Coastal Act Section 30235 tests, and such armoring is inconsistent with

[45] That is, $50 per cubic yard multiplied by 1,962.67 cubic yards equals $98,133.50.

Section 30253 (and other coastal resource protection policies) and the project cannot be found consistent with the Coastal Act. However, given that elements of the onsite drainage system are potentially within one storm cycle of being compromised, it is clear that drainage infrastructure nearest the blufftop edge is in fairly immediate danger from bluff erosion. As such, denial (and ultimately removal of the existing and only temporarily authorized emergency drainage system, including the revetment, that would accompany denial) could lead to erosion threats to the onsite drainage system components nearest the blufftop edge in the fairly short term (i.e., within one storm cycle), and subsequently unnatural damage to and loss of the blufftop edge at the site were the drainage system to fail and take portions of the bluff along with it. This approach would be inconsistent with Coastal Act Sections 30230, 30231, and 30251 that affirmatively require that marine resources, water quality, and natural landforms be protected (because the drainage system would be likely to fail in the short term and lead to infrastructure debris on the beach and in the ocean, and to lead to unnatural alteration of the bluff landform). In other words, denial of the project would also be inconsistent with the Coastal Act, due to the practical reality that a revetment is currently providing protection to the blufftop drainage system, and the lack of such drainage system would artificially accelerate erosion, whereas removal could lead to significant coastal resource impacts, as described.

Therefore, it is appropriate to approve a project through the Coastal Act's conflict resolution procedures to allow adequate time for the Applicant to develop a more resilient and Coastal Act consistent onsite drainage system, in light of the coastal hazard risks that apply here. The approved project would allow temporary authorization for the emergency drainage system, which could remain for approximately one year while the Applicant develops and implements a longer-term plan that provides for a drainage system that collects and directs drainage inland, and not seaward of the blufftop edge, and then ultimately removal of the revetment and the temporary measures and restoration of that area. The Coastal Commission's senior coastal engineer, Dr. Lesley Ewing, coastal engineer, Jeremy Smith, and staff geologist, Dr. Joseph Street, evaluated the relevant project materials and concur with the Applicant's previous analysis regarding hazards, including importantly that drainage needs here can be met by an alternate system that collects site drainage and directs it inland, and not seaward of the blufftop edge. Thus, this CDP as conditioned is designed to plan for and address coastal hazard issues in the long run in a manner that not only meets Coastal Act coastal hazard requirements, but also one that is most protective of natural shorelines and natural shoreline processes, and coastal resources more generally (including as discussed below).

F. Public Views

Applicable Coastal Act Provisions

The Coastal Act provides that the scenic and visual qualities of coastal areas are resources of public importance that must be protected, and that new development is required to protect public views and be designed to be visually compatible with the surrounding area. Section 30251 states:

> ***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 landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

LCP Policy Guidance

The LCP reiterates the Coastal Act's protection of the scenic and visual qualities of coastal areas and emphasizes the need for development to protect views in scenic coastal areas, such as the blufftop of the Pacific View Villas site and the adjacent beach:

> ***LUP Policy 24 (Coastal Act 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*
>
> ***LUP Page C-27 – West Edgemar – Pacific Manor****. City and Coastal Commission approvals for conversion or new construction on other northern properties in this neighborhood contain conditions which require installation and/or dedication of bluff-top pathways west of the developed areas. Such trails are used to increase recreational opportunities where few exist and to mitigate the partial loss of ocean views from the street.*

Analysis

Together, the Coastal Act and the LCP, as guidance, provide that new development must be sited and designed to protect public coastal views as well as to be visually compatible with the character of surrounding areas. Coastal Act Section 30251 requires that scenic and visual qualities of coastal areas be considered and protected as a resource of public importance, and that all development must minimize landform alteration. New development must be sited and designed to protect public views to and along the ocean and in scenic coastal areas, and where feasible to restore and enhance visual quality in visually degraded areas. The City of Pacifica LCP also notes that in the West Edgemar – Pacific Manor neighborhood (in which the project site is located) Highway 1 "provides a panoramic coastal view which should be considered in future development." Though the project site is west of Highway 1 fronting the Pacific Ocean, and the proposed development will not be visible from Highway 1, the project site is within several significant public views. First, the project site is prominent in public views

from Palmetto Avenue.[46] In addition, it is also prominent in public views from the adjacent sandy beach, including importantly in terms of the proposed private drainage infrastructure and drainage pipe extending down the bluff, as well as the revetment on the beach, all of which introduce decidedly unnatural elements into public beach views. Finally, the site includes a required blufftop public access loop trail,[47] and the blufftop area drainage components are prominent in public views from that public trail.

The proposed project would allow for a prominent 12-inch diameter pipe draped over the blufftop edge and down its face, clearly visible against the otherwise natural bluff face. The project would also include the 80-foot long and 25-foot-high rock revetment at the toe of the bluff to dissipate stormwater from the drainage pipe. Both the pipe and the revetment would impact and significantly degrade public views from beach level. Similarly, public views from the blufftop public loop trail would also be encumbered by significant infrastructure at and just above ground level in the bluff. These impacts would be inconsistent with the above-described Coastal Act and LCP public view policies.[48] Denial of the proposed project would also have landform alteration concerns as it would result in drainage not being managed onsite, which will aggravate erosion and result in failure of the aspects of the drainage system closest to the bluff. Failure of these elements could result in them falling off the bluff onto the beach or failing and remaining suspended from the bluff, impacting the views from the beach up to the bluff and unnaturally altering the landforms present, inconsistent with Section 30251.

As described above, the approvable project here for coastal hazard reasons will help to alleviate some of these public view inconsistencies. Specifically, the longer-term project will remove such private infrastructure from the public beach view and should be able to eliminate it as well in the blufftop area where the public trail views are impacted. The public view impacts are the impacts from (1) the complete loss of public blufftop trail views for the last five years without CDP authorization; (2) the degradation of public blufftop trail views once the trail is reinstalled but before the longer-term project is implemented in a year; (3) the degradation of the public beach view due to both the pipe draped over the bluff as well as the revetment that was increased in footprint by five times and in volume by more than ten times without CDP authorization, and has been degrading the public beach view in that way for 14 years; (4) the next year when the pipe and revetment are allowed to remain to provide transitional bridge to the longer-term project, during which time the public beach view will continue to be degraded in this way; (5) the loss of the public view from Palmetto that has occurred without CDP authorization for 37 years; and (6) public view degradation associated with a major construction project on the beach and in the blufftop (including construction worker, equipment, storage, and activities) that are incongruous with a natural beach viewshed,

[46] The condominium development blocks some of these views when the underlying CDP does not allow this, and this view blockage has occurred without authorization for some 37 years (since 1985), which is being tracked by the Commission as a violation of the Coastal Act (V-2-20-0019).

[47] Which has been closed for the past 5 years (since 2017), and which closure was unpermitted and is also being tracked by V-2-20-0019.

[48] The Applicant has not proposed any modifications to address the unpermitted blocking of ocean views from Palmetto Avenue, and such degradation would continue, and also be inconsistent with Coastal Act and LCP view requirements.

a blufftop trail viewshed, and a Palmetto Avenue viewshed.

For the latter, a construction management plan that emphasizes public view protections as much as possible with a project of this scale and scope (see **Special Condition 4**) can help slightly alleviate impacts, but it cannot on its own completely eliminate such construction impacts. And achieving the longer-term project can similarly address such impacts prospectively moving forward once that project is completed, but that does not address mitigation requirements for these impacts. One way to address these impacts might be through an in-lieu mitigation fee, which could be added to the sand mitigation fee already required, but the Commission is not well-equipped to assign appropriate values to these public view impacts at this time. Another way would be to create new and/or to enhance existing public views, but there appears to be little that this Applicant has within its control in this respect.[49] As a result, identifying appropriate public viewshed mitigation for this project is challenging.

Here, the Commission applies a two-fold mitigation strategy. First, the required longer-term plan will return the beach viewshed to a natural condition, which will be a significant improvement moving forward. In addition, that longer-term plan will also enhance the blufftop trail viewshed and will include a new overlook with interpretational signage (see also findings that follow) that will enhance public view appreciation. Second, because there are not obvious mitigations available at this time for the other remaining impacts, the Commission here exercises its discretion to rely on the mitigation fee described above to help also offset remaining visual impacts as projects are funded through it over time.[50] As a result, that fee is also required for public view impact mitigation purposes as well, and as conditioned, the project can be found consistent with the Coastal Act's public view protection requirements.

G. Public Access

Applicable Coastal Act Provisions

The Coastal Act provides that maximum public access and recreational opportunities be provided at the coast and protects existing public access. In particular:

> ***Section 30210.*** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*
>
> ***Section 30211.*** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of*

[49] Other than perhaps eliminating some blufftop development, including that that was constructed in such a way as to block Palmetto Avenue views when the CDP did not allow that to occur, but that too is fraught with difficulties. Not the least of which is 13 independent condominium owners and the manner in which such removal might be identified and implemented.

[50] The Commission retains its discretion to further evaluate and address Palmetto view blockage violations separately.

terrestrial vegetation.

Section 30212(a). *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. …*

Section 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.*

Coastal Act Section 30240(b) protects sensitive habitat, as well as parks and recreation areas, such as the adjacent beach:

30240(b). *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

LCP Policy Guidance

The Pacifica LCP includes nearly identical public access provisions (e.g., LCP Policies 1-5, 8, 9, and 25) that mirror the Coastal Act language. The LCP further highlights that public recreational access to the coast must be maximized and protected:

IP Section 9-4.4300 (c) Purpose. *Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.*

IP Section 9-4.4400 (g) Purpose. *Maximize public access to and along the shoreline, while protecting the established rights of private property owners…*

The LCP also provides details on public access in the West Edgewood-Pacific Manor neighborhood where the project site is located. Although no access to the beach is

provided at the project site itself due to the 100-foot drop from the bluff edge to beach level, there are three public access points proximate to the project site in the surrounding neighborhood. The closest access point is located just south of the adjacent Oceanaire apartment complex to the south of the site, which provides a walkway and stairway system down the bluff to the beach area below. The LUP (Page C-31) envisions public access for this area as "improved trails in this neighborhood will form a promenade connected to beach access and unimproved trails within the bluff area to the north. This will provide a variety of access facilities unique in Pacifica and capable of serving diverse coastal recreation needs."

Analysis

Shoreline protective devices have significant adverse impacts to public access and recreation. Section 30210 of the Coastal Act requires the Commission to provide the general public maximum access and recreational opportunities, while respecting the rights of private property owners. Section 30211 prohibits development from interfering with the public's right of access to the sea, where acquired through use or by legislation. In approving new development. Section 30212 requires new development to provide access from the nearest public roadway to the shoreline and along the coast, save certain limited exceptions, such as existing adequate nearby access. The Coastal Act Section 30210 direction to maximize access represents a different threshold than to simply provide or protect such access and is fundamentally different from other like provisions in this respect: it is not enough to simply provide access to and along the coast, and not enough to simply protect access; rather such access must also be maximized. This terminology distinguishes the Coastal Act in certain respects and provides fundamental direction with respect to projects along the California coast that raise public access issues, like this one. In addition, the mean high tide line will move landward over time depending on the beach profile, seasonal tidal activity, and continued sea level rise. Therefore, it is also critically important that the Commission ensure that the project protects public access and recreational opportunities over the time period when the project remains and that it includes measures to avoid (and where unavoidable appropriately mitigate) potential public recreational access impacts.

As discussed in the Coastal Hazards section above (incorporated into this finding by reference), shoreline structures can have a variety of negative impacts on coastal resources, including adverse effects on beaches and sand supply, which ultimately result in the loss of the beach and associated impacts to public access. The proposed project's impact to sand supply, and ultimately to beach/shoreline area, would result in measurable impacts to beaches and beach area access. Critically, the proposed project would lead to a loss of available beach and shoreline recreation area for public access and recreation because it occupies some 4,000 square feet of beach (and an area that is subject to an access easement), and because the back of the beach/shoreline area will be fixed by the continued placement of the revetment, and the ocean interface will gradually move landward as sea level rises due to climate change. More specifically, sea level at the San Francisco tide gauge is expected to rise between 0.80 feet to 1.8 feet by 2040,[51] and thus it is likely that the armoring structure has had and will have

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

discernible impacts on public access and recreation for as long as it is in place. In fact, with sea levels anticipated to rise between 0.8 and nearly 1.8 feet within the next 20 years, less of the beach/shoreline area seaward of the revetment will be available and such availability will be for a shorter period of time each day.[52] Further, these impacts are predicted to be exacerbated as the years go on.

In addition, the concept that all of the public should be able to enjoy recreational access at these kinds of beaches and coastal areas is an important concept for environmental justice precepts in California. Coastal Act Section 30604(h) states that: "When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state."[53] In 2019, the Commission adopted an environmental justice policy,[54] committing to consider environmental justice principles, consistent with Coastal Act policies, in the agency's decision-making process and ensuring coastal protection benefits are accessible to everyone. In approving the policy, the Commission recognized that equitable coastal access is encompassed in and protected by the Coastal Act's Chapter 3 public access policies.

Such equitable public access and coastal recreation face the growing threat of coastal armoring, which, as described above, causes significant impacts to beaches and public access. The subject armoring protects a drainage system that helps slow erosion for a small amount of very expensive private property (e.g., condominiums at the Pacific View Villas site are valued at roughly $1 million per condominium unit,[55] and there are thirteen of them) at the direct expense of the public, particularly lower income and minority communities who may live farther inland but still want to be able to visit and enjoy a sandy beach like this one, and further exacerbates inequitable coastal access. In California, equitable coastal access and recreation opportunities for all populations has not been realized due to historic and social factors, such as discriminatory land use and economic policies and practices.[56] Spatial analysis of 2010 Census data shows a majority of Californians (70.9%) live within 62 miles of the coast, but populations closest to the coast are disproportionately white, affluent, and older than those who live farther inland.[57] Thus, the burdens of armoring structures further exacerbate inequitable coastal access and are disproportionately borne by lower income and minority

[52] As indicated earlier, at a roughly 40:1 slope of typical beaches, a rise in sea level from 0.8 feet to 1.8 feet in the next 20 years would equate to a new sand-ocean interface that moves inland some 32 to 72 feet, essentially drowning the available dry sandy beach at this location.

[53] Government Code Section 65040.12(e) defines environmental justice as "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies."

[54] California Coastal Commission Environmental Justice Policy, Adopted March 8, 2019, https://documents.coastal.ca.gov/assets/env-justice/CCC_EJ_Policy_FINAL.pdf.

[55] Per Zillow.com, February 2022.

[56] Robert Garcia and Erica Flores Baltodano, Free the Beach! Public Access, Equal Justice, and the California Coast, 2 Stanford Journal of Civil Rights and Civil Liberties, (143, 2005).

[57] Coastal Access Equity and the Implementation of the California Coastal Act (2016) Reineman, et al., Stanford Environmental Law Review Journal, v.36, pages 96-98.

communities who depend on the public beach for low-cost recreation and access to the coast. While benefiting from their protected oceanfront residences, coastal property owners in fact diminish public access as these areas become less accessible to visitors.

Public access at the subject site was originally required through the original 1980s era CDPs that allowed for the condominiums (CDP 3-82-228, as amended, and CDP 3-85-156), where the blufftop public loop trail as well as a public access easement seaward of the bluff (extending to mean high tide) were required. Although the blufftop trail was closed by the Applicant without a CDP in 2017, the proposed project would reestablish the trail, including through realignment approximately 25 feet inland of the closed pathway, which when realigned will run just seaward of the paved areas fronting the garages. And although the Commission originally allowed for the dissipation revetment to be located within the required beach easement through its 1980s-era authorizations, it only allowed an incursion of 800 square feet. Since that time, the Applicant has expanded the footprint by a magnitude of five, and the revetment has covered some 4,000 square feet of beach since 2010 without CDP authorization, and inconsistent with the underlying easement. As indicated earlier, such unpermitted development is currently being tracked by the Commission as a violation (V-2-20-0019).

As described above, the approvable project here for coastal hazard and public view reasons will help to alleviate some of these public access inconsistencies, and thus are required for Coastal Act public access consistency as well. Specifically, the proposed project will help to address the fact that the Applicant was previously required by the Commission to provide a blufftop public access loop trail and can be made to reestablish that trail to meet those prior requirements. **Special Condition 2** codifies that trail requirement. In addition, the longer-term project will remove the revetment completely, and will resolve beach area public access impacts moving forward when that is done (see **Special Conditions 1 and 3**). What the approvable project does not address in a public access impact sense are the impacts from (1) the complete loss of use of the public blufftop trail for the last five years without CDP authorization; (2) the degradation of public blufftop trail experience once the trail is reinstalled but before the longer-term project is implemented in a year; (3) the loss of sandy beach access given over to the revetment without CDP authorization, and corresponding public access impacts associated with same, over the past 14 years; (4) the violation of the beach access easement for the past 14 years; (5) the next year when the revetment is allowed to remain to provide a transitional bridge to the longer-term project, during which time the sandy beach and the easement will continue to be degraded in this way; and (6) public access degradation associated with a major construction project on the beach and in the blufftop (including construction worker, equipment, storage and activities) that will necessarily degrade and reduce public beach access.[58]

For the latter, a construction management plan that emphasizes public access protections as much as possible with a project of this scale and scope (see **Special**

[58] The project would require the movement of large equipment, workers, materials, and supplies in and around the shoreline area and public access points; include large equipment operations in these areas; result in the loss of public access use areas to a construction zone; and generally, intrude and negatively impact the aesthetics, ambiance, serenity, and safety of the recreational experience at these locations.

Condition 4) can help slightly alleviate such public access impacts, but it cannot on its own completely eliminate such impacts. And achieving the longer-term project can similarly address such public access impacts prospectively moving forward once that project is completed, but that does not address mitigation requirements for these impacts. Fortunately, the project provides some opportunities to offset such public access impacts. For example, **Special Condition 2** codifies that the trail must be reestablished, but it also includes more specific direction on trail parameters, it adds an overlook area (with a bench and interpretation) not previously required, it requires relocation inland (including a rolling easement) in the face of potential erosion, and thus provides additional mitigations above what was already previously required. In addition, **Special Condition 5** requires a public access management plan for the site, intended to codify 'best practices' and to ensure general public access to public access areas, improvements and amenities is provided, maintained, and managed, with the objective of maximizing public recreational access use and utility. In addition, **Special Condition 6** requires that the public access easements for the site (for the blufftop trail as well as for the sandy beach) be refined and re-recorded, including importantly to explicitly require and account for the need to be ambulatory in the face of ongoing erosion and sea level rise, also expanding upon previous requirements. In that sense, these conditions also provide a 'value added' series of mitigations past what is already required from past CDPs, which can help to offset the impacts identified above. And finally, **Special Condition 7's** in-lieu mitigation fee of $1,703,362.86 can help to also offset remaining public access impacts, including as the sandy beach and shoreline sand supply issues it is designed to offset are also public access impacts, even if the degree to which it can account for both must be tempered to avoid 'double-counting' that mitigation.

At the same time, the degree of access impacts needing mitigation is fairly significant, and argues for additional mitigation (e.g., additional in-lieu mitigation fees). Here, the Commission exercises its discretion to consider the access mitigations identified above to be sufficient for that purpose, and specifically the overlap between the coastal hazard requirements, which are also required here for access mitigation purposes.

As conditioned, the project can be found consistent with the Coastal Act's public access requirements.

H. Water Quality and Marine Resources

Applicable Coastal Act Provisions

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

> *Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will*

maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Coastal Act Section 30231 requires that the productivity of coastal waters necessary for the continuance of healthy populations of marine species shall be maintained and restored by minimizing wastewater discharges and entrainment and controlling runoff. Coastal Act Section 30231 states:

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

Analysis

The Commission recognizes that the marine and coastal water resources involved with the proposed project are important coastal resources for which thoughtful consideration of potential project impacts is necessary. Given the proposed project is located at the shoreline interface with the Pacific Ocean, there is the potential for impacts to marine resources and coastal water quality. Denial of the permit would require removal of the revetment before the Applicant develops the required longer-term plan to deal with onsite drainage and thus would undermine the stability and functionality of the installed drainage management system, potentially resulting in portions of the drainage system breaking down and the resultant debris being discharged and deposited to the adjacent beach and ocean and leading to aggravated and unnatural erosion and landform alteration. In short, such drainage management failures could lead to marine resources, water quality, and natural landforms not being protected as required by the Coastal Act (because the drainage system would be likely to fail in the short-term and lead to infrastructure debris on the beach and in the ocean, and to lead to unnatural alteration of the bluff landform).

As a temporary measure, the existing emergency stormwater management system and revetment will continue to protect such infrastructure on-site while the Applicant develops a longer-term and less environmentally damaging drainage management system. As such, approval of the project as conditioned would protect water quality and marine resources, consistent with the provisions of the Coastal Act when understood in a conflict resolution framework. The project is conditioned to include construction methods typically required by the Commission to protect water quality and marine resources during armoring construction, including construction site housekeeping controls and procedures, the use of appropriate erosion and sediment controls, and a prohibition on equipment washing, refueling, or servicing on the beach (see **Special Condition 4**). To further protect marine resources and offshore habitat, **Special Condition 4** requires construction documents to be kept at the site for inspection, and also requires a construction coordinator to be available to respond to any inquiries that arise during construction.

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

I. Other

Public Rights

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

Future Permitting

The Commission herein fully expects to review any future proposed development at and/or directly related to this project and/or project area, including to ensure continued compliance with the terms and conditions of this CDP through such future proposals, but also to ensure that any such future proposed development can be understood in terms of the same. Thus, any and all future proposed development at and/or directly related to this project, this project area, and/or this CDP shall require a new CDP or a CDP amendment that is processed through the Coastal Commission, unless the Executive Director determines a CDP or CDP amendment is not legally required. In addition, the Commission conditions this development to eliminate any CDP exemptions that may accrue in terms of future proposed improvements and/or repair/maintenance per CCR Sections 13250 and 13253, as allowed by those Sections. See **Special Condition 12**).

Disclosure

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

Indemnification

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its actions on the pending CDP applications in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition 14**

requiring reimbursement for any costs and attorneys' fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this CDP, or challenging any other aspect of its implementation, including with respect to condition compliance efforts (see **Special Condition 13**).

Other Agency Approvals

City of Pacifica

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

California State Lands Commission

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

Army Corps of Engineers

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

J. Violations

Violations of the Coastal Act exist on the subject property including, but not limited to, unpermitted view blockage for the past 37 years (since 1985), unpermitted closure of the required blufftop public access loop trail for the past 5 years (since 2017), unpermitted expansion of the rock dissipation revetment for the past 14 years (since 2008), and unpermitted development associated with the emergency work for the past 3 years (since 2019). These violations are the subject of Commission Violation File Number V-2-20-0019.

Except as explicitly noted, issuance of the CDP and compliance with the terms and conditions of this CDP will result in resolution of the aforementioned violations of the Coastal Act on the subject property. Although development 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 Chapter 3 policies of the Coastal Act. Commission review and action on this CDP does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement

of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a CDP. In fact, approval of this CDP is possible only because of the terms and conditions included herein, and failure to comply with these terms and conditions would also constitute a violation of this CDP and of the Coastal Act. Accordingly, the Applicant remains subject to enforcement action just as it was prior to this CDP approval for not complying with past CDPs and engaging in unpermitted development, unless and until the terms and conditions of this CDP are satisfied and the approved project completed, fully implementing all required mitigation.

K. Conflict Resolution

Applicable Coastal Act Provisions

Coastal Act Section 30007.5 states:

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

Coastal Act Section 30200(b) states:

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

As noted previously in this report, the proposed project is inconsistent with Coastal Act Sections 30235 and 30253, and it also inconsistent with a series of other coastal resource policies implicated by the coastal resource degradation that would accrue due to the proposed revetment. For example, the proposed revetment in this case covers over 2,000 square feet of the natural bluff landform with a rock revetment (i.e., the 'back' of the revetment resting against the lower bluff), and substantially alters that natural bluff landform, all of which is inconsistent with Sections 30251 and 30253. It also leads to an unnatural pile of imported rock in the back beach area that degrades the public view, that is inconsistent with the beach/bluff character, and that is not subordinate to the character of the setting, inconsistent with Section 30251. In addition, it covers 4,000 square feet of beach with the same rock, thus eliminating that area from public use. In other words, the public loses access to a significant amount of sandy beach recreational area. This is the opposite of maximizing public recreational access opportunities, it interferes with the public's use of this area (an area that is subject to a public access easement), it eliminates that free access area from public use, it doesn't protect that area for water-oriented recreational activities (and recreational use more broadly), and it significantly degrades its value as a recreational area, all of which is inconsistent with

Sections 30210, 30211, 30213, 30220, 30221, and 30240, respectively. Further, the revetment leads to other impacts over time, and has for the past 14 years while it has been in this configuration, such as blocking beach generating materials from falling to the beach and blocking natural processes that would serve to allow for beaches to naturally form and re-form in response to erosion and sea level rise. Instead, the revetment leads to a loss of such beach that would have been created absent its presence, and the loss of potential migration of the public trust, which is likewise inconsistent with Sections 30210, 30211, 30213, 30220, 30221, and 30240. These inconsistencies also direct denial of the revetment. If Section 30235 were to be triggered here, it may allow such impacts subject to mitigation, but it is not triggered. Thus, the revetment is inconsistent with the Coastal Act, which directs its denial.

However, as previously described, and as further explained below, denying, or modifying the proposed project to eliminate these inconsistencies would lead to nonconformity with other Coastal Act policies, namely Sections 30230 and 30231 (protecting marine resources and biological productivity), and Section 30251 (protecting natural landforms). In such a situation, when a proposed project is inconsistent with a Chapter 3 policy, and denial or modification of the project would cause inconsistency with another policy, Section 30007.5 of the Coastal Act provides for resolution of such a policy conflict.

Analysis

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

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

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

Step 1

For the Commission to apply Section 30007.5, a proposed project must be inconsistent with an applicable Chapter 3 policy. Approval of the proposed development would be inconsistent with Coastal Act Sections 30235 and 30253 (and by extension other coastal resource policies implicated by the coastal resource degradation that would accrue due to the proposed armoring) because the development proposed to be protected does not represent an “existing structure” built prior to the effective date of the Coastal Act (January 1, 1977) and not redeveloped since, and there are non-armoring alternatives available to minimize risks and ensure stability, and as such, is not entitled to armoring under the Coastal Act. The proposed project otherwise would be inconsistent with Coastal Act Sections 30230, 30231, and 30251 that affirmatively require that marine resources, water quality, and natural landforms be protected (because the drainage system would be likely to fail in the short term and lead to infrastructure debris on the beach and in the ocean, and to lead to unnatural alteration of the bluff landform).

Step 2

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

Coastal Act Sections 30230 and 30231 affirmatively require the Commission to maintain and restore marine resources productivity and the quality of coastal waters where feasible. Without approval of the temporary armoring, there will be significant risk of erosion leading to problems from the existing stormwater drainage system being compromised. Specifically, such erosion could potentially undermine the stability and functionality of the drainage system, posing a risk of debris from the drainage system breaking down and discharging to the beach and ocean below, resulting in impacts to marine resources and water quality. In addition, such an outcome would also lead to substantial unnatural landform alteration if elements of the failing drainage system were to impact the bluff, inconsistent with Section 30251. Thus, the proposed project would temporarily protect this infrastructure onsite while a longer-term plan is developed to direct site drainage inland and to avoid such bluff and beach area development over the long run, and as such, approval of the project would protect water quality and marine resources, and natural landforms over the longer term, consistent with the provisions of the Coastal Act. This temporary retention of the system, including the armoring, is necessary so that the Applicant can have adequate time to develop and implement the requisite longer-term plan that will relocate vulnerable infrastructure.

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

and natural landforms.[59] Thus, a conflict between or among two or more Coastal Act policies is presented.

Step 3

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

In this case, the approved project would maintain the quality of marine resources and coastal waters, and natural landforms, by allowing for the threatened infrastructure to be protected while a plan is developed to move it out of harm's way. As conditioned, the Applicant would be required, within approximately one year, to relocate the threatened infrastructure; to redesign the drainage facility to be safe from hazards without the need for shoreline armoring; to reestablish required public accessways and related amenities; to provide additional public access enhancements including public viewpoints; and to unify and record access easements. Thus, the project as conditioned is fully consistent with the Coastal Act marine resources, water quality policies, and landform alteration provisions, including because the Applicant would be required to provide mitigation for the short-term impacts from the temporary armoring.

Step 4

The fourth step requires that the project, if approved, would result in tangible resource enhancement over existing conditions, which is the case here for several reasons. First, as conditioned, the proposed development results in both short-term and longer-term (i.e., after 1 year) public access and recreation enhancements to the site. In the short-term, the blufftop public accessway would be reestablished across the site. In the longer-term following the initial 1-year period, the revetment would be removed from the beach, and a more resilient, less impactful drainage management system would be installed, all designed to be safe from hazards for the remaining expected life of the development, thus providing both a reestablishment of natural shoreline processes,

[59] The Commission notes that one reason that it finds itself in this position is because the Commission cannot evaluate a 'clean slate' here, rather the context is that there is unpermitted development, both in and on the blufftop and bluff face here, as well as on the beach, that constrains options. Were there to be a clean slate, the Commission believes that the outcome of this CDP approval upon full implementation (i.e., no armoring and restored sandy beach area, natural blufftop edge and bluff face, more limited drainage apparatus directed inland, etc.) would be the outcome that would have been pursued. Here, there is a requisite transitional period allocated so as to protect against potential problems, but the final outcome would be the same.

including beach formation, along the bluffs, and providing an appropriate amount of visitor-serving use atop the bluff that recognizes the coastal hazard risks at this location.

Second, as discussed throughout this report, allowing for continued protection of the existing temporary drainage system will protect marine resources and water quality (Sections 30230 and 30231) and natural landforms (Section 30251) from significant adverse impacts. Lastly, as conditioned, the project will remove and replace temporary aspects of the drainage system currently impacting views and require improved drainage and other improvements that are designed to improve public views of and across the site. Thus, the proposed project can be found consistent with other resource policies of the Coastal Act, as mitigated and conditioned, and will result in tangible resource enhancement over existing conditions.

Step 5

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

Step 6

The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to artificially create a conflict. A project's benefits to coastal resources must be integral to the project purpose. If the project is inconsistent with a Chapter 3 policy, and the main elements of the project do not result in the cessation of ongoing degradation of a resource the Commission is charged with enhancing, an applicant cannot "create a conflict" by adding to the project an independent component to remedy the resource degradation. The benefits of a project must be inherent in the purpose of the project. If this provision allowed otherwise, applicants could regularly "create conflicts" and then request that the Commission use Section 30007.5 to approve otherwise unapprovable projects. The conflict resolution provisions of the Coastal Act were not intended to foster such an artificial and easily manipulated process and were not designed to barter amenities in exchange for project approval.

In this case the benefits of the approved project (i.e., maintenance and protection of marine resources and water quality, and natural landforms) result from its primary purpose, namely temporarily armoring the shoreline and allowing a temporary drainage system, in order to develop a longer-term plan for the site that will provide for a more resilient drainage management system and will provide for the continued recreational use and public access outside of the hazard areas, and longer-term protection, and in some cases enhancement, of marine resources, water quality, and natural landforms.

Step 7
There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies. Possible alternatives for the proposed project include 1) a “no project” alternative, 2) slant boring alternative, and 3) permanentize the emergency solution alternative.

As previously discussed, the “no-project” alternative here would remove the temporarily installed drainage system and armoring onsite, thereby making it likely that onsite erosion would be exacerbated in the very short term as soon as the next series of winter storms. Such damage could result in failure of remaining infrastructure, in addition to functional losses to the visitor-serving uses onsite, and potential impacts to the beach and coastal waters below. This threat is inconsistent with the Coastal Act’s marine resource and water quality protections (Sections 30230 and 30231) and its natural landform protections (Section 30250) and is not by itself a feasible alternative in this case for these reasons.

In terms of the slant boring alternative, this option would not assure onsite drainage could be managed in the long-term as the buried pipe could fail or be compromised and become inaccessible to maintain. In addition, this option would still require the pipe to daylight on the bluff face, would still require the dissipation rock revetment at the toe of bluff, as well as a significant amount of grading and ground disturbance. In other words, while feasible, this option would not be any more Coastal Act consistent and would still impact important coastal resources. Thus, the slant boring alternative is not a more feasible option than the conditioned project.

Finally, the Applicant’s chosen alternative, to permanentize and strengthen the emergency system already installed, is not Coastal Act consistent for all of the reasons cited above, including it proposes armoring for structures not considered “existing” for Coastal Act purposes, it has significant adverse public access, public view, and related coastal resource impacts, and is not resilient to coastal hazards. This alternative is inconsistent with the Coastal Act as the drainage system is not an existing structure per Coastal Act Section 30235, it is not the least environmentally damaging feasible alternative, and it includes armoring inconsistent with Section 30253.

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

Conflict Resolution Conclusion
Based on the above, the Commission finds that the proposed project presents a conflict between Section 30235 and 30253, on the one hand, and Sections 30230, 30231, and 30251 on the other, which must be resolved through application of Section 30007.5. With the conflict among Coastal Act policies established, the Commission must resolve the conflict in a manner which on balance is the most protective of significant coastal resources. In reaching this decision, the Commission evaluates the project’s tangible, necessary resource enhancements over the current state and whether they are consistent with resource enhancements mandated in the Coastal Act. In the end, the Commission must determine whether its decision to either deny or approve a project is the decision that is most protective of significant coastal resources.

In this case, the Commission finds that the impacts on coastal resources from not constructing the project, as conditioned, would be more significant than the project's potential adverse effects to marine resources, water quality, and natural landforms from allowing development as conditioned. It is able to make this finding in this case solely based on the temporary nature of this approval – the adverse coastal resource impacts of the proposed project will be eliminated in about one year. In the absence of these conditions requiring removal of the drainage system and revetment, approval of this project would not be the alternative that is the most protective of significant coastal resources. While denying the proposed project because of its inconsistency with Sections 30235 and 30253 would result in damage to infrastructure associated with managing drainage onsite and is likely to lead to artificially increased erosion and discharges of debris onto the beach and into the ocean, denial would be the more resource protective outcome if the proposed development were approved for an extended period of time. In contrast, approving the development as conditioned will lead to removal of the shoreline armoring and redesign of the drainage system and public access improvements outside of designated hazard areas in approximately one year.

Finally, the test for conflict resolution approval under Section 30007.5 is not for the project to be more protective of coastal resources, rather it must be most protective of significant coastal resources. In order for that finding to be made, the adverse coastal resource impacts caused by the project have to be avoided, minimized, and mitigated to the maximum feasible extent. As such, and only in a conflict resolution context, this approval allows for riprap to remain for just over a year (until Memorial Day weekend 2023) in order to allow the Applicant time to plan for and implement an adaptation plan for the site, including installation of a more resilient drainage system, removal of armoring, realignment of the public access trail, and restoration of the affected areas. In addition, the approval requires past required public access to be reconstructed and improved, and new public access improvements to be developed, as a means of offsetting the impacts associated with the approved project. Specifically, the approval includes a longer-term redesign of the drainage facility to be safe from hazards without shoreline protection for its ultimate remaining lifetime, including in terms of directing such drainage collected inland (and potentially linking this system up with the existing City stormwater infrastructure). This will ensure ongoing viability of the development onsite, including public access trail use, without the need for and impacts associated with shoreline armoring, consistent with the Coastal Act policies. Further, this approval includes a mitigation fee and public access improvements that will help mitigate impacts to public access from the temporary shoreline armoring prior to its eventual removal, bringing the project into compliance with Coastal Act coastal hazard and public access and recreation policies. Lastly, the eventual removal of all armoring and restoration in this area will reestablish the natural beach below and allow for natural processes to erode the bluff and replenish the beach in light of future sea level rise.

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

L. CEQA

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding be made in conjunction with CDP applications showing the application to be

consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The City of Pacifica, acting as lead CEQA agency, determined the proposed project was exempt from non-CDP discretionary approvals, that it would require only ministerial local permits, and exempted it from CEQA requirements (CEQA Guidelines Section 15268). The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA. The preceding findings in this report have discussed the relevant coastal resource issues with the proposal, and the CDP terms and conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources. Further, all public comments received to date have been addressed in the preceding findings, which are incorporated herein in their entirety by reference.

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

5. APPENDICES

A. Substantive File Documents[60]

- "Pacific View Villas HOA, Geotechnical Update Emergency Storm Drain Mitigation", prepared by Atlas Geosphere Consultants (March 20, 2020)
- "Reply to California Coastal Commission Geotechnical Review Comments", prepared by Atlas Geosphere Consultants (February 14, 2021)
- "Engineering Geological Site Review, Public Access Path Pacific View Villas HOA", prepared by Earth Investigations Consultants, Inc. (February 23, 2017)
- "Wave Runup Report; Existing Revetment Observations and Limited Coastal Hazard Analysis for Storm Drain Outlet at 200-224 Palmetto Avenue, Pacifica, San Mateo County, California", prepared by GeoSoils, Inc. (April 2, 2020)
- Kraus, Nicholas (1988) "Effects of Seawalls on the Beach: An Extended Literature Review", Journal of Coastal Research, Special Issue No. 4: 1-28
- Kraus, Nicholas (1996) "Effects of Seawalls on the Beach: Part I An Updated Literature Review", Journal of Coastal Research, Vol.12: 691-701, pages 1-28

[60] These documents are available for review from the Commission's North Central Coast District office.

- Tait and Griggs (1990) “Beach Response to the Presence of a Seawall”, Shore and Beach, 58, 11-28
- Coastal Commission’s Adopted Sea Level Rise Policy Guidance (2015)
- State of California Sea-Level Rise Guidance (2018 Update); California Natural Resources Agency & Ocean Protection Council; Sacramento, California; March 14, 2018, 1-84
- California Coastal Commission Environmental Justice Policy
- Robert Garcia and Erica Flores Baltodano, Free the Beach! Public Access, Equal Justice, and the California Coast, 2 Stanford Journal of Civil Rights and Civil Liberties, (143, 2005).
- Coastal Access Equity and the Implementation of the California Coastal Act (2016) Reineman, et al., Stanford Environmental Law Review Journal, v.36, pages 96-98.
- “Alternatives Analysis of Stormwater Drainage System Options for Pacific View Villas (200-224 Palmetto Avenue, Pacifica, CA),” Schmitz & Associates Inc, October 15, 2020

B. Staff Contact with Agencies and Groups

- City of Pacifica Planning Department
- City of Pacifica Public Works
- Surfrider Foundation