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# W21a

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## STAFF REPORT: AMENDMENT

**Application No.:** 6-05-072-A2

**Applicant:** Las Brisas Homeowners Association

**Agent:** Bob Trettin

**Location:** On the bluff face below 135 South Sierra Avenue, Solana Beach, San Diego County. (APN Nos: 298-010-54-01 to -36)

**Original Project Description:** Construction of an approximately 120 ft.-long, 2 ft. 4 in.-wide, 35 ft.-high, colored and textured concrete tiedback seawall, concrete backfill, and fill of seacave/notches with erodible concrete below 36 condominium structures.

**Proposed Amendment:** Construction of an approximately 60 ft. long micropile lateral return wall extension (perpendicular to the shore) tied into the southern end of an existing 120 ft.-long, 35 ft.-high seawall.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The proposed project is the construction of a new return wall extension for a seawall previously authorized by the Commission. The seawall was first approved by the Commission in 2005. In 2010 the Commission approved a CDP amendment to construct a return wall extension. Recently, a bluff collapse occurred in 2019,

necessitating the closure of a Commission-required public accessway at the top of the bluff and threatening the condominium structure immediately inland of the public accessway. The proposed return wall will extend perpendicular to the southern end of the seawall to the top of the bluff approximately 60 feet. The work will be located entirely on the privately-owned bluff, inland of and perpendicular to the existing seawall fronting the Las Brisas condominiums.

The first criterion of Section 30235 of the Coastal Act for determining whether shoreline protection shall be permitted is whether there is an existing structure, public beach area, or a coastal dependent use. The condominium structure was constructed prior to enactment of the Coastal Act in 1977 pursuant to a CDP issued by the Regional Commission. Thus, the residence is considered "existing" for purposes of Section 30235 of the Coastal Act and meets the first criterion.

The second criterion of Section 30235 for determining whether shoreline protection shall be permitted is if the existing structure is in danger from erosion. The applicants' geotechnical representative has demonstrated that the blufftop residential structure is in danger from erosion due to ongoing bluff collapse and exposure of the clean sand lens. Although there is currently an approved seawall fronting the property, the recent failure of the bluff above the southern end of the seawall necessitates the return wall extension. The Commission's engineer and geologist concur that the current factor of safety at the most seaward condominium building is indicative of a failing slope and that additional stabilization measures are warranted to protect the residence. In addition, the return wall extension will protect the public accessway, which is immediately inland of the failure area, between the bluff edge and the condominium building.

The third criterion of Section 30235 is that the proposed bluff or shoreline protective device is the least environmentally damaging feasible alternative for protecting the threatened structure, coastal-dependent use, or public beach. Consistent with Coastal Act requirements, and special conditions of a prior CDP for this site, the applicant has provided an alternatives analysis. However, there is no feasible less environmentally damaging alternative to protect the existing residences. The applicants' project engineer has demonstrated that construction of the proposed return wall extension would increase the factor of safety for the bluff beneath the structure to an adequate level.

The Commission's geologist and engineers have reviewed the geotechnical information provided by the applicants and concur that the proposed return wall extension is necessary to protect the existing bluff top condominium structure, and that there are no less environmentally damaging feasible alternatives to the proposed project. Further construction of this seawall augmentation is consistent with the requirements of the Commission's approval of the original seawall, which requires the applicant to maintain the seawall in its approved state.

Although construction of the return wall extension is required to protect the existing principal structure, Section 30235 of the Coastal Act requires that the shoreline protection be designed to eliminate or mitigate adverse impacts on local shoreline sand supply. The Commission's original approval of the existing 120-foot long seawall included mitigation for the loss of sand from the bluffs behind the seawall and the loss of

beach area. In its approval of the first return wall extension on this site, the Commission found that that return wall would prevent no new sand from entering the littoral system and would not exacerbate conditions already caused by construction of the original seawall. Mitigation for loss of sand from the bluffs at this site was already accounted for in the approval of the original seawall and thus, no additional mitigation was necessary. Similarly, the currently proposed return wall will not prevent any new or additional sand from entering the littoral system and thus no new mitigation is required. In addition, in its approval of the first return wall extension, the Commission did not require additional mitigation for impacts on public beach area as mitigation for beach area impacts were accounted for in the original seawall's approval. As was the case then, the proposed return wall extension will be constructed behind the original seawall (perpendicular to the shore) in an area that is coastal bluff. Therefore, no public beach area will be directly impacted as a result of the return wall extension and no mitigation is required.

While the Commission's approval of the original seawall required mitigation for impacts on sand supply and beach area, it did so with a limited timeframe. The Commission's approval of the original seawall was limited to the expected 22-year lifespan of the seawall and the CDP required mitigation for impacts that would occur over these 22 years. Before the end of the 22-year design life, the applicant is required to submit a CDP application to either remove the seawall or extend the mitigation based on the expected extended life of the seawall. Therefore, to align the duration of the currently proposed return wall extension with the approval of the original seawall, **Special Condition #4** of this CDP limits the duration of the subject approval to November 21, 2028. By November 21, 2027, one year prior to the expiration of the authorization, the applicants will be required to submit a CDP application to either remove the original seawall and the subject return wall extension or extend the mitigation based on the expected life of the shoreline/bluff protection on this site. At that time, if the applicants seek additional authorization to retain the shoreline/bluff protection, additional mitigation will be required for the continued impacts on shoreline sand supply and public access resulting from the continued presence of the protection.

As this is an amendment to a prior CDP approved by the Commission, **Special Condition #1** memorializes that all prior conditions of approval remain in full force and effect. Thus, the applicants will be required to continue to conduct monitoring of the shoreline and bluff protection on the subject site as required per the Commission's original action and communicate with the Commission if any maintenance, repair, or changes are necessary based on the results of such monitoring.

**Special Condition #2** requires the applicants to submit final approved project plans that are in substantial conformance with the plans submitted with the CDP application. To ensure the proposed shoreline armoring extension has been constructed properly and consistent with the approved plans, **Special Condition #3** requires as-built plans certified by a registered civil engineer to be submitted within 30 days of completion of the project.

**Special Condition #7** requires that during the construction of the project, the permittee may not store any construction materials or waste where it will be or could potentially be

subject to wave erosion and dispersion. Additionally, to assure that the subject development will not adversely impact marine resources and water quality through the pollution of the ocean waters, **Special Condition #8** requires the applicants to submit a Water Quality Best Management Practices Plan that incorporates structural and nonstructural Best Management Practices for the construction of the proposed seawall. **Special Condition #9** requires that copies of the signed CDP and approved construction plan shall be maintained on-site during all construction and that a construction coordinator be designated.

Due to the inherent risk of shoreline development, **Special Condition #5** requires the applicants to assume the risk, waive liability and indemnify the Commission against damages that might result from the proposed shoreline devices or their construction. **Special Condition #6** requires the applicant to record a deed restriction imposing the conditions of this permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property or that the CC&Rs be modified to reflect the obligation imposed on the homeowners association by the permit amendment conditions.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-05-072-A2, as conditioned. The motion is on Page 6. The standard of review is Chapter 3 of the Coastal Act, with the certified LUP used as guidance.

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### EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Proposed Site Plan](#)

[Exhibit 3 – Project Plans](#)

[Exhibit 4 – Existing Conditions on the Site](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve the proposed amendment to Coastal Development Permit 6-05-072-A2 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

### Resolution:

The Commission hereby approves the Coastal Development Permit amendment for the proposed project and adopts the findings set forth below on grounds that the development as amended and 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.

## II. 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 of 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.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

NOTE: Appendix A, attached, includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by all subsequent amendments, including this amendment no. 6-05-072-A2. All of the Commission's adopted special conditions and any changes in the project description proposed by the applicant and approved by the Commission in this or previous actions continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on amendment no. 6-05-072-A2 are shown in the following section. Within Appendix A, changes to the previously approved special conditions are also shown in strikeout/underline format. This will result in one set of adopted special conditions.

A2-1. **Prior Conditions of Approval.** All terms and conditions of the original approvals of Coastal Development Permit 6-05-72 (Special Conditions 1-13) and 6-05-072-A1 (Special Conditions A1-1 to A1-5) shall remain in full force and effect.

A2-2. **Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and written approval of the Executive Director, final plans for the permitted development. Said plans shall be in substantial conformance with the plans submitted with this application by GeoStabilization International and dated 10/20/2021.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to the coastal development permit unless the Executive Director determines that no amendment is legally necessary.

A2-3. **As-Built Plans. WITHIN 30 DAYS OF COMPLETION OF CONSTRUCTION,** the permittee shall submit two copies of As-Built Plans showing all development completed pursuant to this coastal development permit; all property lines; and all residential development inland of the seawall structure. The As-Built Plans shall be substantially consistent with the approved project plans described in Special Condition #1, including providing for all requirements specified in those plans. The As-Built Plans shall include a graphic scale and all elevation(s) shall be described in relation to the North American Vertical Datum of 1988 (NAVD88). The As-Built Plans shall include color photographs or images of sufficient resolution to clearly show all components of the as-built project, with a site plan that notes the location of each photographic viewpoint and the date and time of each photograph. At a minimum, the photographs shall be taken from representative viewpoints of beaches located upcoast, downcoast, and seaward of the project site. The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and processes. The engineer shall verify that the shoreline armoring has been constructed in conformance with the approved final plans.

**A2-4. Permit Term.**

- (a) This coastal development permit amendment authorizes development on a temporary basis only. The development is authorized until November 21, 2028, after which time the authorization for continuation or retention of any development approved as part of this permit amendment shall cease. After the authorization for the development expires, the retention of this development will require the issuance of a new coastal development permit or an amendment to this coastal development permit.
- (b) If the permittee wishes to retain the project beyond the term for which this permit provides authorization, then no later than November 21, 2027, the permittee shall submit a complete coastal development permit amendment application for the reauthorization of the return wall or removal of the return wall, as part of the application required per Special Condition #2 of CDP #6-05-072. Failure to either (1) obtain a permit amendment authorizing the permittee to retain the development for an additional term or (2) remove the project shall constitute a violation of the terms and conditions of this Coastal Development Permit. The Executive Director may grant the permittee additional time to file the application for good cause.
- (c) All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions, unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

**A2-5. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, landslide, bluff retreat, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project 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 hazards.

**A2-6. Deed Restriction/CC&R's Modification.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant homeowners' association (HOA) shall do one of the following:

- (a) Submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed



restriction in a manner that will cause said deed restriction to appear on the title to the individual condominium units, and otherwise in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment, as they apply to the HOA, as covenants, conditions and restrictions on the use and enjoyment of the individual condominium units. The deed restriction shall include a legal description of the entire parcel or parcels against which it is recorded. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit amendment shall continue to restrict the use and enjoyment of the subject property so long as either this permit amendment or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property, or;

- (b) Modify the condominium association's Declaration of Restrictions or CC&Rs, as applicable, in a form and content acceptable to the Executive Director, to reflect the obligations imposed on the homeowners' association all the conditions of this permit. This addition to the CC&Rs shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit.

**A2-7. Storage and Staging Areas/Access Corridors.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that, at a minimum:

- (a) No overnight storage of equipment or materials may occur on sandy beach or at the Fletcher Cove Parking Lot, and the use of other public parking spaces shall be minimized. The permittee may not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery may be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to construct the seawall. Construction equipment may not be washed on the beach or public parking lots or access roads;
- (b) Construction access corridors shall be located in a manner that has the least impact on public access to and along the shoreline;
- (c) No work may occur on the beach on weekends or holidays or between Memorial Day weekend and Labor Day of any year;
- (d) The applicants shall submit evidence that the approved plans and plan notes have been incorporated into construction bid documents; and

- (e) The permittees shall remove all construction materials and equipment from the staging site and restore the staging site to its prior-to-construction condition within 72 hours following completion of the development.

The permittees shall undertake the development in accordance with the approved final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- A2-8. **Water Quality – Best Management Practices.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director a Water Quality Best Management Practices Plan that ensures no shotcrete or other construction byproduct will be allowed onto the sandy beach or allowed to enter into coastal waters. The Plan shall apply to both concrete pouring/pumping activities as well as shotcrete/concrete application activities. During shotcrete/concrete application specifically, the Plan shall at a minimum provide for all shotcrete/concrete to be contained through the use of tarps or similar barriers that completely enclose the construction area and that prevent shotcrete/concrete contact with beach sands and coastal waters. All shotcrete and other construction byproduct shall be properly collected and disposed of off-site.

The applicants shall undertake the development in accordance with the approved Plan. Any proposed changes to the approved Plan shall be reported to the Executive Director. No changes to the Plan shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- A2-9. **Construction Site Documents & Construction Coordinator.** DURING ALL CONSTRUCTION:

- (a) **Construction Site Documents.** Copies of the signed coastal development permit and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
- (b) **Construction Coordinator.** A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the coordinator's contact information (office address, office and mobile phone numbers, e-mail address) for the duration of construction shall be conspicuously posted at the job site where such contact information is

readily visible from public viewing areas, along with an 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, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 72 hours of receipt of the complaint or inquiry.

- (c) **Notification.** The permittee shall notify planning staff of the Coastal Commission's San Diego Coast District Office at least three working days in advance of commencement of construction or maintenance activities, and immediately upon completion of construction or maintenance activities.

## IV. FINDINGS AND DECLARATIONS

### A. Project Description and Background

#### Proposed Project

The applicant proposes to construct a new lateral return wall extension, tied into and perpendicular to the southern end of an existing lower seawall. The return wall will extend approximately 60-feet to the top of the bluff. The work will be located entirely on the privately-owned bluff, inland of, behind, and perpendicular to the existing seawall fronting the Las Brisas condominiums ([Exhibit 2](#)). The new return wall extension will be constructed with a micropile design. Micropiles are small-diameter piles (about 2 inches in diameter) grouted into predrilled holes and are installed closer together than conventional pile foundations. The heights of the micropiles, and the depths to which they are buried, will vary between eight and 65-feet long depending on their location along the bluff and to ensure up 5-foot embedment into the Torrey Sandstone Formation underlying the site. There will be 51 micropiles spaced 18-inches apart, which will result in a return wall that is approximately 18 inches wide. Exposed areas of the micropile return wall will be covered with hand-sculpted, colored shotcrete to match the natural bluff surface and color. To the north of the return wall, areas of failed mid to upper bluff will be reconstructed with geogrid and soil and covered with a hydroseed application that utilizes drought resistant, salt tolerant native species. ([Exhibit 3](#))

#### Background/Permit History

The Las Brisas Condominiums consist of three buildings containing a total of 36 condominiums ([Exhibit 1](#)). To the west of the condominium buildings and following along the top of the bluffs is a public access easement that provides coastal views for the public and access for emergency vehicles. The bluffs below the existing condominium complex currently contain a 120 ft.-long, 35 ft.-high seawall at the base of an approximately 84 ft. high bluff. The seawall extends from the northern property line to within a few feet of the southern property line and follows the contour of the natural

bluff. Fletcher Cove Beach Park is located approximately 100 feet to the north of the seawall. There is also an approximately 120 ft.-long seawall approximately 200 ft. to the south of the subject property that fronts the Surfsong Condominiums (CDP #6-03-33/Surfsong).

- CDP #F1003: In 1974, the San Diego Regional Commission approved the construction of the subject condominiums with conditions that included a requirement to provide a 10 ft. wide public access easement paralleling the upper edge of the bluff to provide public views of the shoreline. The public viewing area is accessed from an existing public access stairway leading from the public parking lot at Fletcher Cove Park.
- CDP #6-85-189: In May of 1985, the Commission approved the fill of a seacave beneath the subject property as a preventive measure.
- CDP #6-04-156: At the July 2005 hearing, the Commission denied an application from Las Brisas to construct a 120-ft. long seawall. The Commission found that the development had not been designed to effectively mitigate for the adverse impacts that would occur to shoreline sand supply, and, by extension, to public access and recreational opportunities.
- CDP #6-05-072: In October 2005, the Commission approved a subsequent application for the 120 ft.-long, 35 ft.-high Las Brisas seawall with requirements that a mitigation fee be imposed for impacts to beach sand supply and public access and recreation. This approval required mitigation over the anticipated 22-year design life of the seawall. It also included a requirement that before the end of this 22-year authorization, the applicant submit a CDP amendment to either remove the seawall, or retain the seawall and provide additional mitigation.
- CDP #6-10-017-G: On January 16, 2010 a significant failure occurred along the section of lower coastal bluff beginning at the southern terminus of the Las Brisas seawall and extending south approximately 70 ft. The failure resulted in a loss of approximately 5 to 8 ft. in depth of the coastal bluff and exposed approximately 7 to 8 ft. of the southern end of the Las Brisas seawall. Therefore, on March 22, 2010 the Executive Director of the Commission approved an emergency permit to address this unexpected occurrence of marine erosion/bluff collapse and exposure of the clean sands lens, which required immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. This emergency permit allowed for the construction of a 5 ft. long, 2 ft. 4 in. wide, 35 ft. high (perpendicular to the shore) extension to the existing return wall on the southern end of the existing seawall. The majority of the work on the return wall extension was completed in May and June of 2010. Scheduling the work for this project was problematic because the CDP was necessary in order for the applicant to obtain a development review permit from the City of Solana Beach. The City issued the development review permit April 28, 2010, which included conditions that took several weeks to complete. Thus, work could not begin until late May, and the tides were not favorable. Therefore, the City and the Executive Director of the Commission granted the applicant an extension to work up until June 18, 2010 (the Commission emergency CDP originally specified that the work must be completed within 66 days of the date of issuance, i.e. by May 27, 2010).

- CDP #6-05-072-A1: In October 2010, the Commission approved the follow-up to the emergency CDP for construction of the 5 ft.-long, 2 ft. 4 in.-wide, 35 ft.-high extension to the existing return wall on the southern end of the seawall. The return wall extension was notched at least 1 ft. into the existing bluff face at the base of the bluff and extended 5 ft. out perpendicularly to a point at which it was flush with the existing seawall. The toe of the return wall extension was embedded at least 4 ft. below the top of the bedrock/wave-cut platform to match the existing seawall depth. The face of the return wall extension was hand sculpted, colored, and textured to match the nearby coastal bluff and the existing seawall.

#### Standard of Review

The Commission has certified the City of Solana Beach's Land Use Plan (LUP); however, the City does not yet have a certified Implementation Plan (IP). Therefore, the Chapter 3 policies of the Coastal Act are the standard of review, with the certified LUP used as guidance.

### **B. Coastal Hazards/Site Stability**

Section 30235 of the Coastal Act states:

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 [...]

Section 30253 of the Coastal Act states:

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.

[ . . . ]

Page 13 of the Solana Beach certified Land Use Plan's Hazards and Shoreline/Bluff Development chapter states the following, in part:

The following describes the types of preferred bluff retention systems to protect the lower bluff only:

[. . .]

Higher Seawall/Clean Sand Lens Encapsulation (See Appendix B Figure 2) – If the clean sand lens has been exposed, it may be necessary to build a seawall high enough [to] cover this segment of the bluff face. This method consists of a structurally engineered seawall (with tiebacks into the sandstone) approximately 35' high to protect and encapsulate the clean sand lens at the base of the terrace deposits. The wall is required to have a textured face mimicking the existing material. If treated at this stage, the bluff retention system will minimize or prevent the need for future mid or upper bluff stabilization.

Policy 4.16 of the Solana Beach certified Land Use Plan states, in part:

The City will consider participating in studies to fill information gaps on the regional effects of bluff retention devices, on beach and bluff erosion, and methods to protect the shoreline, and counteract erosion.

Policy 4.17 of the Solana Beach certified Land Use Plan states:

New development shall be set back a safe distance from the bluff edge, with a reasonable margin of safety, to eliminate the need for bluff retention devices to protect the new improvements. All new development, including additions to existing structures, on bluff property shall be landward of the Geologic Setback Line (GSL) as set forth in Policy 4.25. This requirement shall apply to the principal structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems, etc. Accessory structures such as decks, patios, and walkways, which are at-grade and do not require structural foundations may extend into the setback area no closer than five feet from the bluff edge. On lots with a legally established bluff retention device, the required geologic analysis shall describe the condition of the existing seawall; identify any impacts it may be having on public access and recreation, scenic views, sand supply and other coastal resources; and evaluate options to mitigate any previously unmitigated impacts of the structure or modify, replace, or remove the existing protective device in a manner that would eliminate or reduce those impacts. In addition, any significant alteration or improvement to the existing structure shall trigger such review (i.e. the analysis of the seawall) and any unavoidable impacts shall be mitigated.

Policy 4.18 of the Solana Beach certified Land Use Plan states:

A legally permitted bluff retention device shall not be factored into setback calculations. Expansion and/or alteration of a legally permitted bluff retention device shall include a reassessment of the need for the shoreline protective device and any modifications warranted to the protective device to eliminate or reduce any adverse impacts it has on coastal resources or public access, including but not limited to, a condition for a reassessment and reauthorization of the modified device pursuant to Policy 4.52.

Policy 4.34 of the Solana Beach certified Land Use Plan states, in part, that the City shall:

Identify, evaluate and pursue all feasible potential sources of revenue for funding the City's shoreline management policies and programs as contained in the LUP. . . Potential sources of funding may include, without limitation:

- Regional Sediment Management and opportunistic sand funding sources.
- Use of monies held by SANDAG from previous CCC sand and recreation mitigation fees collected for bluff retention devices in the City
- City assessed Sand Mitigation Fees, which may be expended for sand replenishment and retention projects.

[ . . . ]

Policy 4.45 of the Solana Beach certified Land Use Plan states, in part:

The City has adopted preferred bluff retention solutions . . . to streamline and expedite the City permit process for bluff retention devices. The preferred bluff retention solutions are designed to meet the following goals and objectives:

- (1) Locate bluff retention devices as far landward as feasible;
- (2) Minimize alteration of the bluff face;
- (3) Minimize visual impacts from public viewing areas;
- (4) Minimize impacts to adjacent properties including public bluffs and beach area; and,
- (5) Conduct annual visual inspection and maintenance as needed.

[ . . . ]

Policy 4.47 of the Solana Beach certified Land Use Plan states:

All proposed development on a beach or along the shoreline, including a shoreline protection structure located within the jurisdiction of the State Lands Commission: (1) must be reviewed and evaluated in writing by the State Lands Commission and (2) may not be permitted if the State Lands Commission determines that the proposed development is located on public tidelands or would adversely impact tidelands unless State Lands Commission approval is given in writing.

Policy 4.49 of the Solana Beach certified Land Use Plan states:

Coastal structures shall be approved by the City only if all the following applicable findings can be made and the stated criteria satisfied. The permit shall be valid until

the currently existing structure requiring protection is redeveloped (per definition of Bluff Top Redevelopment in the LUP), is no longer present, or no longer requires a protective device, whichever occurs first and subject to an encroachment/removal agreement approved by the City.

(a) Based upon the advice and recommendation of a licensed Geotechnical or Civil Engineer, the City makes the findings set forth below.

(1) A bluff failure is imminent that would threaten a bluff home, city facility, city infrastructure, and/or other principal structure.

(2) The coastal structure is more likely than not to preclude the need for a larger coastal structure or upper bluff retention structure. Taking into consideration any applicable conditions of previous permit approvals for development at the subject site, a determination must be made based on a detailed alternatives analysis that none of the following alternatives to the coastal structure are currently feasible, including:

- A Seacave/Notch Infill;
- A smaller coastal structure; or
- Other remedial measures capable of protecting the bluff home, city facility, non-city-owned utilities, and/or city infrastructure, which might include other non-beach and bluff face stabilizing measures, taking into account impacts on the near and long term integrity and appearance of the natural bluff face, and contiguous bluff properties;

(3) The bluff property owner did not create the necessity for the coastal structure by unreasonably failing to implement generally accepted erosion and drainage control measures, such as reasonable management of surface drainage, plantings and irrigation, or by otherwise unreasonably acting or failing to act with respect to the bluff property. In determining whether or not the bluff property owner's actions were reasonable, the City shall take into account whether or not the bluff property owner acted intentionally, with or without knowledge, and shall consider all other relevant credible scientific evidence, as well as, relevant facts and circumstances.

(4) The location, size, design and operational characteristics of the proposed coastal structure will not create a significant adverse effect on adjacent public or private property, natural resources, or public use of, or access to, the beach, beyond the environmental impact typically associated with a similar coastal structure and the coastal structure is the minimum size necessary to protect the principal structure, has been designed to minimize all environmental impacts, and provides mitigation for all coastal and environmental impacts, as provided for in this LCP.

(b) The coastal structure shall meet City Design Standards, which shall include the following criteria to ensure the coastal structure will be:



- (1) Constructed to resemble as closely as possible the natural color, texture and form of the adjacent bluffs;
  - (2) Landscaped, contoured, maintained and repaired to blend in with the existing environment;
  - (3) Designed so that it will serve its primary purpose of protecting the bluff home or other principal structure, provided all other requirements under the implementing ordinances are satisfied, with minimal adverse impacts to the bluff face;
  - (4) Reduced in size and scope, to the extent feasible, without adversely impacting the applicants' bluff property and other properties; and
  - (5) Placed at the most feasible landward location considering the importance of preserving the maximum amount of natural bluff and ensuring adequate bluff stability to protect the bluff home, City facility, or City infrastructure.
- (c) Mitigation for the impacts to shoreline sand supply, public access and recreation and any other relevant coastal resource impacted by the coastal structure is required and shall be assessed in 20-year increments, starting with the building permit completion certification date. Property owners shall apply for a CDP amendment prior to expiration of each 20-year mitigation period, proposing mitigation for coastal resource impacts associated with retention of the coastal structure beyond the preceding 20-year mitigation period and shall include consideration of alternative feasible measures in which the permittee can modify the coastal structure to lessen the coastal structure's impacts on coastal resources. Monitoring reports to the City and the Coastal Commission shall be required every five years from the date of CDP issuance until CDP expiration, which evaluate whether or not the coastal structure is still required to protect the existing structure it was designed to protect. The permittee is required to submit a CDP application to remove the authorized coastal structure within six months of a determination that the coastal structure is no longer required to protect the existing structure it was designed to protect.

Policy 4.52 of the Solana Beach certified Land Use Plan states:

An upper bluff system shall be approved only if all the following applicable findings can be made and the stated criteria will be satisfied. The permit shall be valid until the currently existing structure requiring protection is redeveloped (per definition of Bluff Top Redevelopment in the LUP), is no longer present, or no longer requires a protective device, whichever occurs first and subject to an encroachment/removal agreement approved by the City.

- (a) Based on the advice and recommendation of a licensed Geotechnical or Civil Engineer, the City makes the findings set forth below.

(1) A bluff failure is imminent that would threaten a bluff home, city facility, city infrastructure, and/or other principal structure in danger from erosion.

(2) The bluff home, city facility, city infrastructure, and/or principal structure is more likely than not to be in danger within one year after the date an application is made to the City.

Taking into consideration any applicable conditions of previous permit approval for development at the subject site, determination must be made based on a detailed alternatives analysis that none of the following alternatives to the upper bluff system are then currently feasible, including:

- No upper bluff system;
- Vegetation;
- Controls of surface water and site drainage;
- A revised building footprint and foundation system (e.g. caissons) with a setback that avoids future exposure and alteration of the natural landform;
- A smaller upper bluff system;
- Other remedial measures capable of protecting the bluff home, city facility, non-city-owned utilities, and/or city infrastructure which might include tiebacks, other feasible non-beach and bluff face stabilizing measures, taking into account impacts on the near and long term integrity and appearance of the natural bluff face, the public beach, and, contiguous bluff properties; and,
- Removal and relocation of all, or portions, of the affected bluff home, city facilities or city infrastructure.

(3) The bluff property owner did not create the necessity for the upper bluff system by unreasonably failing to implement generally accepted erosion and drainage control measures, such as reasonable management of surface drainage, plantings and irrigation, or by otherwise unreasonably acting or failing to act with respect to the bluff property. In determining whether or not the bluff property owner's actions were reasonable, the City shall take into account whether or not the bluff property owner acted intentionally, with or without knowledge, and shall consider all other relevant credible scientific evidence as well as relevant facts and circumstances.

(4) The location, size, design and operational characteristics of the proposed upper bluff system will not create a significant adverse effect on adjacent public or private property, natural resources, or public use of, or access to, the beach, beyond the environmental impact typically associated with a similar upper bluff system and the upper bluff system is the minimize size necessary to protect the existing principal structure, has been designed to minimize all environmental impacts, and provides mitigation for all coastal and environmental impacts, as provided for in this LCP.

(b) The upper bluff system shall meet City Design Standards applicable to bluff retention devices, including ensuring the natural bluff face is preserved to the greatest extent feasible, by using soft systems such as Geogrid, Geoweb, and planted with native species. The upper bluff system shall be designed to minimize alterations of natural landforms and shall not have a material adverse visual impact. The upper bluff slope shall be designed to have both vertical and horizontal relief.

(c) All upper bluff systems shall be subject to the same permitting time frames as specified for a coastal structure, and may be subject to removal based upon the same time frames and similar criteria set forth for removal of coastal structures, as reasonably determined by the City.

(d) Mitigation for the impacts to shoreline and sand supply, public access and recreation and any other relevant coastal resource impacted by the upper bluff system is required and shall be assessed in 20-year increments, starting with the building permit completion certification date. Property owners shall apply for a CDP amendment prior to expiration of each 20-year mitigation period, proposing mitigation for coastal resource impacts associated with retention of the upper bluff system beyond the preceding 20-year mitigation period and shall include consideration of alternative feasible measures in which the permittee can modify the upper bluff system to lessen the upper bluff system's impacts on coastal resources. Monitoring reports to the City and the Coastal Commission shall be required every five years from the date of the CDP issuance until CDP expiration, which evaluate whether or not the upper bluff system is still required to protect the existing structure it was designed to protect. The permittee is required to submit a CDP application to remove the authorized upper bluff system within six months of a determination that the upper bluff system is no longer required to protect the existing structure it was designed to protect.

Policy 4.53 of the Solana Beach certified Land Use Plan states:

All permits for bluff retention devices shall expire when the currently existing blufftop structure requiring protection is redeveloped (per definition of Bluff Top Redevelopment in the LUP), is no longer present, or no longer requires a protective device, whichever occurs first and a new CDP must be obtained. Prior to expiration of the permit, the bluff top property owner shall apply for a coastal development permit to remove, modify or retain the protective device. In addition, expansion and/or alteration of a legally permitted existing bluff retention device shall require a new CDP and be subject to the requirements of this policy.

The CDP application shall include a re-assessment of need for the device, the need for any repair or maintenance of the device, and the potential for removal based on changed conditions. The CDP application shall include an evaluation of:

- The age, condition and economic life of the existing principal structure;
- Changed geologic site conditions including but not limited to, changes relative to sea level rise, implementation of a long-term, large scale sand replenishment or shoreline restoration program; and

- Any impact to coastal resources, including but not limited to public access and recreation.

The CDP shall include a condition requiring reassessment of the impacts of the device in 20-year mitigation periods pursuant to Policies 4.48 and 4.51.

No permit shall be issued for retention of a bluff retention device unless the City finds that the bluff retention device is still required to protect an existing principal structure in danger from erosion, that it will minimize further alteration of the natural landform of the bluff, and that adequate mitigation for coastal resource impacts, including but not limited to impacts to the public beach has been provided.

Policy 4.60 of the Solana Beach certified Land Use Plan states:

Existing bluff retention devices which are not considered preferred bluff retention solutions and do not conform to the provisions of the LCP, including the structural or aesthetic requirements[,] may be repaired and maintained to the extent that such repairs and/or maintenance conform to the provisions of the LCP.

In Chapter 8, the Solana Beach certified Land Use Plan defines Bluff Top Redevelopment as follows:

Bluff Top Redevelopment: Shall apply to proposed development located between the sea and the first public road paralleling the sea (or lagoon) that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, (3) and/or demolition of an existing bluff home or other principal structure, or portions thereof, which results in:

(a) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.

(b) Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LUP; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area, taking into consideration previous additions approved on or after the date of certification of the LUP.

The Coastal Act and certified LUP acknowledge that seawalls, revetments, cliff retaining walls, groins and other such structural or “hard” methods designed to forestall erosion and alter natural landforms and natural shoreline processes result in a variety of

negative impacts on coastal resources, including adverse effects on sand supply, public access and recreation, coastal views, natural landforms, and overall shoreline beach dynamics on- and off-site, including ultimately resulting in the loss of beach. The Commission has interpreted Section 30235 as a more specific overriding policy that requires the approval of CDPs for construction intended to protect coastal-dependent uses or existing structures if all other Chapter 3 policies are satisfied.

Coastal Act Section 30235 provides that shoreline protection devices “shall” be permitted when all of the following four criteria are met: (1) there is an existing structure, public beach area, or coastal dependent use; (2) the existing structure, public beach area, or coastal dependent use is in danger from erosion; (3) shoreline-altering construction is required to protect the existing threatened structure or public beach area, or to serve the coastal dependent use; and (4) the required protection is designed to eliminate or mitigate its adverse impacts on shoreline sand supply. The first three criteria relate to whether the proposed shoreline protection device is necessary and are addressed in this section, while the fourth question applies to avoiding or mitigating any unavoidable impacts from the development and is addressed in Section C. Public Access and Recreation. In addition, even where all four criteria are satisfied, and thus, shoreline protection devices must be permitted; a shoreline protective device must be located, designed, and maintained in a manner that is consistent with all other Chapter 3 policies.

### **Existing Structures**

The first criterion of Section 30235 of the Coastal Act for determining whether shoreline protection shall be permitted is if there is an existing structure, public beach area, or coastal dependent use. The Commission interprets “existing structure” in Section 30235 as a principal structure developed before January 1, 1977, the effective date of the Coastal Act. The City of Solana Beach has a certified LUP without an Implementation Plan, and the LUP does not contain a definition for what constitutes an “existing structure” for the purpose of shoreline protection entitlement.

In 2018, the Commission adopted its Updated Sea Level Rise Policy Guidance<sup>1</sup> which continued to support the Commission’s interpretation of Sections 30235, including that of “existing structure” (Page 164 of the Guidance), and 30253. Coastal Act Section 30253 requires that “new development...assure stability and structural integrity, and neither create nor contribute significantly to erosion...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.” The Commission has long applied this policy to ensure safe development, in particular to implement appropriate blufftop and shoreline setbacks for new development. Such setbacks are based on an assessment of projected erosion and related hazards at the site for the life of the

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<sup>1</sup> Available at <https://coastal.ca.gov/climate/slr/>.

proposed development and help ensure that seawalls and other protective devices that could lead to adverse impacts would not be necessary in the future.

Read together, the most reasonable and straightforward interpretation of Coastal Act Sections 30235 and 30253 is that they evince a broad legislative intent to allow shoreline protection for development that was in existence when the Coastal Act was passed, but avoid such protective structures for new development now subject to the Act. In this way, the Coastal Act's broad purpose to protect natural shoreline resources and public access and recreation would be implemented to the maximum extent when new, yet-to-be-entitled development is being considered, while shoreline development that was already entitled in 1976 would be "grandfathered" and allowed shoreline protection if it otherwise met Coastal Act policies.

In terms of the subject application, the Las Brisas Condominium complex was constructed in 1974, pursuant to CDP #F1003 that was approved by the San Diego Coast Regional Commission. Thus, because the structure was built prior to January 1, 1977, the condominium building is considered an "existing structure" for purposes of Section 30235 of the Coastal Act.

### **In Danger from Erosion**

The next criterion of Section 30235 of the Coastal Act for determining whether shoreline protection shall be permitted is if the existing structure, public beach area, or coastal dependent use is in danger from erosion.

In the majority of the City of Solana Beach there is a "clean sand" lens located between the Torrey Sandstone and Marine Terrace deposits at approximately elevation +25 to +35 feet Mean Sea Level (MSL). This clean sand lens consists of a layer of sand with a limited amount of capillary tension and a very minor amount of cohesion, which causes the material to erode easily, making this clean sand lens, once exposed, susceptible to windblown erosion and continued sloughing as the sand dries out and loses the capillary tension that initially held the materials together. Geotechnical reports associated with developments near this site have stated that minor disturbances such as gentle sea breezes, landing birds, or vibrations from low-flying helicopters can be sufficient triggers of small- or large-volume bluff collapses, since the loss of the clean sand eliminates the support for the overlying, slightly more cemented, terrace deposits. Because of the cohesionless character of the clean sand, once deposits are exposed, they continue to slump on an ongoing basis. Continued sloughage results in the further exposure of more clean sand, and ongoing upper bluff collapse. This cycle occurs so quickly (over months or days, rather than years) that the upper bluff may never achieve a stable angle of repose. Unless the base of the bluff is afforded shoreline protection and the clean sand lens is contained, additional bluff failures can further expose the layer of clean sand and result in a potential upper bluff failure and an immediate threat to the structures at the top of the bluff.

The factor of safety is an indicator of slope stability, where a value of 1.5 is the industry-standard value for static geologic stability of new development placed on a slope. In theory, failure occurs when the factor of safety drops to 1.0. In numerous past decisions

the Commission has determined that a static factor of safety below 1.2, along with other evidence of erosion and instability, is indicative of an elevated risk of bluff failure.

The subject site has a history of erosion and instability, as evident by the previous requests for shoreline and bluff protection. Most recently, in 2019 there was a significant failure immediately south of the existing seawall ([Exhibit 4](#)). This failure has undergone progressive headward retreat. As a result, pedestrian access to the public accessway along the top of the bluffs in front of the condominiums has been closed. The most southwestern condominium structure, known within the complex as Building 3, is located approximately 27 feet from the bluff edge and the public access easement/emergency vehicle access is between 0 and 10 feet from the bluff edge.

The slope stability analyses submitted by the applicants' engineers indicate a relatively low factor of safety and only marginal stability at Building 3. An analysis performed in 2020 indicates that the factor of safety at the southwest corner of Building 3 was as low as 1.231 (TerraCosta 2020). The applicant's engineers assert that "although the southwest corner of the existing building is not imminently threatened, it could potentially reach that threshold following a single event failure which causes the bluff, down to the area of the clean sand lens, to retreat eastward by several additional feet. Based on the existing bluff failure, which extends from the clean sand lens to the top of bluff, such a single event failure into the rear yard/public easement area could occur at any time" (TerraCosta 2020). An additional analysis performed in 2021, indicates that at Building 3 the calculated factor of safety is 1.19 (static) (GeoSoils, 2021). In combination, the relatively low factors of safety demonstrated by the applicant's technical consultants and the recent observations of active, on-going erosion indicate that the residences are at risk from further bluff collapse.

In addition, the public access path located between the bluff edge and the condominium building is also in danger from erosion. The slope stability analysis submitted by the applicants' engineers also indicate a low factor of safety of 1.021 in the area of the public access easement (TerraCosta 2020), and the easement is immediately threatened by the active erosion occurring in the 2019 bluff failure area.

Further, Special Condition #7 of the CDP for the original seawall requires the applicant to maintain the seawall in its approved state. Maintenance of the seawall includes maintaining the color, texture, and integrity. The proposed project is attempting to restore the bluff to its original condition by providing back-fill. Thus, it is consistent with the requirements of the Commission's prior action.

Therefore, the applicants' engineers have submitted sufficient evidence and the Commission's staff geologist and engineers agree that the condominium residence and the public access path is in danger from erosion for purposes of Section 30235.

### **"Required" to Protect Existing Structures**

In the Commission's prior approval of the seawall at the subject property, Special Condition #6 of CDP #6-05-072 required that alternative measures must be considered in the future, should the permittee seek a CDP to construct additional bluff or shoreline

protective devices. The condition lists several alternatives that must be considered. The condition requires that no additional bluff or shoreline protective devices shall be constructed on the adjacent bluff face above the approved seawall or on the beach in front of the proposed seawall unless the alternatives outlined in the condition are demonstrated to be infeasible.

### Alternatives Analysis

In response to the requirement of this special condition, as well as the Coastal Act requirement that any protection be the least damaging alternative, the applicant provided the following analysis to demonstrate that no other feasible less-environmentally damaging alternatives exist to address the threat to the existing structure:

- No project: Not implementing any project would not provide adequate protection for the residence, which would be at risk with further failures. The no project alternative would result in further undermining of the southwestern most condominium building and would also result in failure of the public accessway easement/emergency vehicle access road.
- Relocation of all or portions of threatened principal structure: Without construction of the proposed return wall extension, the bluff will continue to erode, thereby placing the entire Building 3 at risk of failure. Relocation would require demolition of Building 3 and relocation of the nine condominium units within it to a new location. There is not sufficient space of the Las Brisas property to relocate portions or all of the threatened structure, and the applicant asserts that costs would be prohibitive.
- Structural underpinning of the threatened structure: Underpinning of the threatened structure would not address the impacts of continued erosion and bluff failure resulting from erosion of the clean sand lens and bluff materials above it. Ultimately, the structural underpinning would be impacted by ongoing failure. In the short-term, underpinning would not protect the public access easement/emergency vehicle accessway.
- Regrading/revegetating the failed upper bluff scarp: Regrading/revegetating the failed upper bluff scarp was deemed an infeasible alternative because the failure area spans the subject Las Brisas property and the neighboring Surfsong property. This alternative would require repair of the failure area south of the project site on the Surfsong property, which is not proposed. This alternative would also assume that no further failures would occur in the clean sand lens, undercut sections of the lower coastal bluff, and/or existing seacaves to the south of the subject property. This alternative also assumes that the clean sand lens would not continue to fail north and up-bluff across the Las Brisas site, but would be contained because of the regrading. However, because no work is proposed on the neighboring property, it is anticipated that the existing failure of the bluff immediately south of the subject property will continue to erode and exposed areas of the clean sand lens to the south of the subject property will also continue to erode, additional upslope failure will impact the subject site. In addition, not addressing the exposed clean sand lens on the subject property will



ultimately allow continued additional failure that would undermine any recontouring or landscaping.

- Extension of the existing seawall approximately 50 feet to the south and reconstruction/landscaping of the failed bluff areas: This alternative would require the applicant to construct a major coastal bluff seawall (approximately 35 feet high and 50 feet long) and reconstruct the coastal bluff on the private neighboring property of the Surfson Condominiums. Ultimately, continued failures in the cleans sand lens to the south would require further seawall extensions and the continued progression of the seawall to the south.

The Commission's geologist and engineers have reviewed the information on potential alternatives provided by the applicants and concur that there are no feasible less environmentally damaging alternatives to the proposed project. It is evident from the slope stability analyses that the return wall extension is necessary to provide at least moderate stabilization improvements to the bluff beneath the residence and to stabilize the public accessway. The proposal to construct the new return wall extension is the least environmentally damaging feasible alternative. Following construction of the proposed project, the applicants' project engineer has demonstrated that the factor of safety for the structures will be increased to an adequate level.

### **Sand Supply/In Lieu Mitigation Fee**

Although construction of the return wall extension is required to protect the existing principal structure on the site, Section 30235 of the Coastal Act requires that the shoreline protection be designed to eliminate or mitigate adverse impacts on local shoreline sand supply. There are a number of adverse impacts to public resources associated with the construction of shoreline protection. The natural shoreline processes referenced in Section 30235, such as the formation and retention of sandy beaches, can be significantly altered by construction of a seawall, since bluff retreat is one of several ways that beach area and beach quality sand is added to the shoreline. This retreat is a natural process resulting from many different factors such as erosion by wave action causing cave formation, enlargement and eventual collapse, saturation of the bluff soil from ground water causing the bluff to slough off and natural bluff deterioration. When a seawall is constructed on the beach at the toe of the bluff, it directly impedes these natural processes.

Some of the effects of a shoreline protective structure on the beach, such as scour, end effects and modification to the beach profile, are temporary or difficult to distinguish from all the other actions which modify the shoreline. Seawalls also have non-quantifiable effects to the character of the shoreline and visual quality. However, some of the effects that a structure may have on natural shoreline processes can be quantified. Three of the effects from a shoreline protective device which can be quantified are: 1) loss of the beach area on which the structure is located; 2) the long-term loss of beach which will result when the back beach location is fixed on an eroding shoreline; and 3) the amount of material which would have been supplied to the beach if the back beach or bluff were to erode naturally.

The Commission's staff engineer and geologist have determined that the proposed return wall extension will create no new impacts that would require additional sand supply mitigation. The Commission's original approval of the existing 120-foot long seawall included mitigation for the loss of sand from the bluffs behind the seawall. In its approval of the first return wall extension on this site, the Commission found that that return wall would prevent no new sand from entering the littoral system and, because mitigation for this loss of sand was already accounted for in the permit for the original seawall, no additional mitigation was necessary (CDP #6-05-072-A1). Similarly, the currently proposed return wall will not prevent any new sand from entering the littoral system. Thus, no additional mitigation for impacts on sandy supply is necessary at this time.

In addition, in its approval of the first return wall extension, the Commission did not require additional mitigation for impacts on public beach area. The Commission found that the return wall extension would be constructed behind the original return wall (perpendicular to the shore) in an area that, previous to the significant failure of the lower coastal bluff which occurred on January 16, 2010, was coastal bluff. Therefore, no public beach area would be directly impacted as a result of the return wall extension. Similarly, the currently proposed new return wall extension will not occupy any new public beach area, and impacts for loss of this beach area were adequately mitigated for in the Commission's approval of the original seawall.

#### **Duration of Armoring Approval**

While the Commission is required to approve shoreline armoring to provide protection for the existing structure, the shoreline armoring can impede public access to and along the shoreline, impact beaches and related habitats, and visually impair the coastal area. Thus, it is important to limit the life of the shoreline armoring to that of the structure it is required to protect and to ensure impacts are adequately mitigated.

Sections 30235 and 30253 require new development on a bluff top lot to be sited and designed so that it does not require the construction of new shoreline armoring or rely on existing shoreline armoring. However, if the approval of shoreline armoring is not expressly linked to a particular bluff top structure, shoreline armoring could remain long after the structure it was required to protect has been removed, and therefore may encourage the construction of new structures and additions to existing structures in an unsafe location while continuing to adversely affect resources, including sand supply and recreation.

The Commission's approval of the original seawall fronting the subject site limited the approval duration to the expected 22-year lifespan of the seawall (CDP #6-05-072). The CDP required mitigation for impacts that would occur over these 22 years. Special Condition #2 of the original CDP requires the applicant to amend the CDP before the end of the 22-year design life so as to either remove the seawall or extend the mitigation based on the expected extended life of the seawall.

Therefore, to align the duration of the proposed return wall extension with the approval of the original seawall, **Special Condition #4** of this CDP amendment limits the

duration of the subject approval to November 21, 2028. By November 21, 2027, one year prior to the expiration of the authorization, the applicants will be required to submit a CDP application to either remove the original seawall and the subject return wall extension, or extend the mitigation based on the expected life of the shoreline/bluff protection on this site. At that time, if the applicants seek additional authorization to retain the shoreline/bluff protection, additional mitigation will be required for the continued impacts on shoreline sand supply and public access resulting from the continued presence of the protection. Mitigation shall be provided consistent with the relevant standard of review at that time.

In a comment letter submitted to the City during the local review process, members of the Surfrider Foundation requested that the City require additional mitigation for the proposed return wall extension. Surfrider objected to the City's approval of the return wall without additional sand mitigation or public recreation impact mitigation and asserted that additional mitigation should be imposed and is a requirement of the Commission's prior approval of the original seawall (CDP #6-05-072). Special Condition #2 of that approval requires that if the permittees request to enlarge or reconstruct the seawall within its initial design life, then "the permittee shall provide mitigation for the effects of the additional size of the seawall or the extended effects of the existing seawall on shoreline sand supply and public recreational use for the expected life of the seawall beyond the initial 22 year design life." However, as stated previously, construction of the proposed return wall extension will not result in any additional impacts on sand supply or public access. In addition, this approval is not extending the authorization period for the original seawall. The previously-imposed requirement to return for authorization at the end of the seawall's design life is still in effect, and the proposed new return wall is approved with a limited authorization to align with this time frame. Thus, additional mitigation may be imposed for impacts on sand supply and public recreation in the future, but mitigation is not required at this time for the subject project.

As this is an amendment to a prior CDP approved by the Commission, **Special Condition #1** memorializes that all prior conditions of approval remain in full force and effect. Thus, the applicants will be required to continue to conduct monitoring of the shoreline and bluff protection on the subject site as required per the Commission's original action on CDP #6-050-072 and communicate with the Commission if any maintenance, repair, or changes are necessary based on the results of such monitoring.

**Special Condition #2** requires the applicants to submit final approved project plans that are in substantial conformance with the plans submitted with the CDP application. To ensure the proposed shoreline armoring extension has been constructed properly and consistent with the approved plans, **Special Condition #3** requires that, within 30 days of completion of the project, as-built plans certified by a registered civil engineer be submitted verifying that the bluff protection has been constructed in accordance with the approved plans. **Special Condition #9** requires that during all construction, copies of the signed CDP and approved construction plan shall be maintained on-site and that a construction coordinator be designated.

Due to the inherent risk of shoreline development, **Special Condition #5** requires the applicants to waive liability and indemnify the Commission against damages that might result from the proposed shoreline devices or their construction. The risks of the proposed development include that the proposed shoreline devices will not protect against damage to the bluff top structures from bluff collapse and erosion. In addition, the structure itself may cause damage either to the bluff top structures or to neighboring properties by increasing erosion of the bluffs. Such damage may also result from wave action that damages the seawall. Although as conditioned, the project minimizes these risks, the risks cannot be eliminated entirely. Given that the applicants have chosen to construct the proposed shoreline device despite these risks, the applicants must assume the risks.

**Special Condition #6** requires the applicant to record a deed restriction imposing the conditions of this permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property or that the CC&Rs be modified to reflect the obligation imposed on the homeowners association by the permit amendment conditions. Only as conditioned can the proposed project be found consistent with Sections 30235 and 30253 of the Coastal Act.

## **Conclusion**

In summary, the Commission's geologist and engineers have reviewed the geotechnical information provided by the applicants and concur that the proposed return wall extension on the bluff below the Las Brisas is necessary to protect the existing bluff top residential structure, and that there are no less environmentally damaging feasible alternatives to the proposed project. Given the low factor of safety on the subject bluff, the exposed clean sand lens and active bluff erosion, and the proximity of the existing structures to the bluff edge, the Commission finds that the existing primary blufftop structure at is in danger from erosion and that the proposed return wall extension and geogrid structure is necessary to protect the existing bluff top structure that was originally constructed prior to the Coastal Act's enactment. Installation of the proposed project will also protect the Commission-required public accessway. Authorization for the protection is only valid for a limited period that aligns with prior Commission authorization for the original seawall fronting the subject site. Because mitigation for impacts on shoreline sand supply and public access were required per the CDP for the original seawall, and the proposed return wall will not result in any new additional impacts, no mitigation is required at this time. At the end of the permit term, the applicants will be required to seek a CDP to either remove the existing seawall and proposed return wall or retain the protective structures and provide additional mitigation. As conditioned, there are no other less damaging alternatives available to reduce the risk from bluff erosion and there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment. Thus, the Commission is required to approve the proposed protection for the residential structures. Therefore, as conditioned, the Commission finds that the proposed return wall extension to the existing seawall is consistent with Sections 30235 and 30253 of the Coastal Act and relevant policies of the City's LUP.

### **C. Public Access and Recreation**

Section 30210 of the Coastal Act states:

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 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects

Section 30221 of the Coastal Act states:

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 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30235 of the Coastal Act states:

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.

Section 30240(b) of the Coastal Act states:

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.

Policy 4.50 of the Solana Beach certified Land Use Plan states:

The bluff property owner shall pay for the cost of the coastal structure or Infill and pay a Sand Mitigation Fee and a Public Recreation Fee per LUP Policy 4.38. These mitigation fees are not intended to be duplicative with fees assessed by other agencies. It is anticipated the fees assessed as required by this LCP will be in conjunction with, and not duplicative of, the mitigation fees typically assessed by the CCC and the CSLC for impacts to coastal resources from shoreline protective devices.

Sand Mitigation Fee - to mitigate for actual loss of beach quality sand which would otherwise have been deposited on the beach. For all development involving the construction of a bluff retention device, a Sand Mitigation Fee shall be collected by the City which shall be used for beach sand replenishment and/or retention purposes. The mitigation fee shall be deposited in an interest-bearing account designated by the City Manager of Solana Beach in lieu of providing sand to replace the sand that would be lost due to the impacts of any proposed protective structure. The methodology used to determine the appropriate mitigation fee has been approved by the CCC and is contained in LUP Appendix A. The funds shall solely be used to implement projects which provide sand to the City's beaches, not to fund other public operations, maintenance, or planning studies.

Sand Mitigation Fees must be expended for sand replenishment and potentially for retention projects as a first priority and may be expended for public access and public recreation improvements as secondary priorities where an analysis done by the City determines that there are no near-term, priority sand replenishment Capital Improvement Projects (CIP) identified by the City where the money could be allocated. The Sand Mitigation funds shall be released for secondary priorities on upon written approval of an appropriate project by the City Council and the Executive Director of the Coastal Commission.

Public Recreation Fee – The City and the CCC have developed a method for calculating a Public Recreation Fee for the City of Solana Beach. To mitigate for impacts to public access and recreation resulting from loss of beach area, for all development involving construction of a bluff retention device, a Public Access and Recreation Fee shall be collected by the City which shall be deposited in an interest-bearing account designated by the City Manager of Solana Beach in lieu of providing beach area to replace the public access and coastal recreation benefits that would be lost due to the impacts of any proposed protective structure. The method used to determine the appropriate mitigation fee has been approved by the CCC and is contained in LUP Appendix C. The funds shall solely be used to implement projects which augment and enhance public access and coastal recreation along the shoreline, not to fund other public operations, maintenance or planning studies.

Project applicants have the option of proposing a public recreation/access project in lieu of payment of Public Recreation Fees to the City. At the City's discretion, these

projects may be accepted if it can be demonstrated that they would provide a directly-related recreation and/or access benefit to the general public.

Public Recreation Fees must be expended for public access and public recreation improvements as a first priority and for sand replenishment and retention as secondary priorities where an analysis done by the City determines that there are no near-term, priority public recreation or public access CIP identified by the City where the money could be allocated. The Public Recreation funds shall be released for secondary priorities only upon written approval of an appropriate project by the City Council and the Executive Director of the Coastal Commission.

Section 30235 of the Coastal Act requires that shoreline protection be designed to eliminate or mitigate adverse impacts on local shoreline sand supply. An issue of major concern facing California today is the fast pace of disappearing beaches due to natural processes (i.e., erosion, subsidence and storm events) and anthropogenic factors (coastal development, shoreline armoring, and sand supply interruptions). Seawalls, revetments, and other types of hard armoring have long been used to protect backshore development from erosion and flooding, but future accelerated sea level rise and extreme storm events will increase the rate of beach loss and potential exposure of the backshore to hazards. Hard armoring already results in unintended ecological and public access consequences, such as loss of biodiversity and ecosystem services and displacement of recreational beach area with protective structures.

The project site is located adjacent to a public beach utilized by local residents and visitors for a variety of recreational activities such as swimming, surfing, jogging, walking, fishing, beachcombing and sunbathing. The Las Brisas seawall is located approximately 120 feet to the south of Fletcher Cove Beach Park, which contains the main public pedestrian and vehicle beach access ramp to the City's approximately 1-mile long stretch of beach.

The Commission's staff engineers have determined that the proposed return wall extension will create no new impacts that would require additional access/recreation mitigation. The proposed return wall extension will be constructed behind the current return wall (perpendicular to the shore) in an area that is coastal bluff. The proposed return wall provides shoreline protection for the same area of bluff (the same sand and other materials) that are kept in place within the bluff by the existing seawall. The Commission required mitigation for the public access and recreation impacts of the existing seawall; thus, because the proposed return wall provides protection for the same bluff area addressed in the permit for the original seawall, there is no additional impact caused by the return wall that would require additional mitigation. No public beach area will be impacted as a result of the return wall extension. Thus, no additional mitigation is required. However, mitigation for the original seawall was only assessed and required for the expected 22-year design life of the original seawall. The Commission required that at the end of that authorization period, the applicant either remove the seawall, or provide additional mitigation for the extended seawall duration. **Special Condition #4** aligns the authorization for this return wall extension with the authorization and mitigation period for the original seawall. Therefore, the applicants will be required to submit a CDP application to either remove the entirety of the protection

on this site (original seawall and proposed return wall extension) or seek further authorization for the protection and provide adequate mitigation. Thus, as conditioned, the Commission finds the project consistent with the public access and recreation policies of the Coastal Act.

To ensure that construction activities do not result in adverse impacts on public access, such as through the use of the beach or public parking areas for staging of construction materials and equipment, **Special Condition #7** requires that the applicants submit a construction staging and material storage plan for the subject development. **Special Condition #7** prohibits the applicants from storing vehicles on the beach overnight, using any public parking spaces at the Fletcher Cove Parking Lot overnight for staging and storage of equipment, and prohibits washing or cleaning construction equipment on the beach or in the parking lot. The special condition also prohibits construction on the sandy beach during weekends and holidays and from Memorial Day to Labor Day of any year.

In summary, the proposed return wall extension will not result in any new impacts on public access since it will protect the same bluff area addressed in the permit for the original seawall, and will occupy area that is coastal bluff and does not provide beach area. Therefore, as conditioned, the proposed development can be found to be consistent with the public access and recreation policies of the Coastal Act and the City's certified LUP.

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

Section 30230 of the Coastal Act 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.

Section 30231 of the Coastal Act 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.

Policy 3.84 of the Solana Beach certified Land Use Plan states:



New development shall not result in the degradation of the water quality of groundwater basins or coastal surface waters including the ocean, coastal streams, or wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely impact groundwater, the ocean, coastal streams, or wetlands, consistent with the requirements of the RWQCB's municipal stormwater permit and the California Ocean Plan.

Policy 3.85 of the Solana Beach certified Land Use Plan states:

Development must be designed to avoid or minimize to the maximum extent feasible, the introduction of pollutants of concern into coastal waters. To meet the requirement to minimize "pollutants of concern," new development shall incorporate a BMP or a combination of BMPs best suited to reduce pollutant loading to the maximum extent feasible.

The proposed project will be constructed immediately adjacent to the sandy beach and ocean. Thus, construction methods must be devised to ensure that water quality is protected, including assuring that shotcrete material does not mix with or pollute ocean waters. With appropriate BMPs, the potential for this polluted material from the site making its way into the ocean will be eliminated. **Special Condition #7** requires that during the construction of the project, the permittee may not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. Additionally, to further assure that the subject development will not result in the pollution of the ocean waters, **Special Condition #8** requires the applicants to submit a Water Quality Best Management Practices Plan that incorporates structural and nonstructural Best Management Practices (BMPs), for Executive Director approval, for the construction of the proposed seawall. Therefore, as conditioned, the Commission finds the proposed development consistent with the marine and water quality protection policies of the Coastal Act.

A negligible amount of native flora currently exists on the face of the bluff where the seawall and geogrid structure are proposed to be installed. The project includes reconstruction of the failed mid to upper bluff with geogrid and soil and covered with a hydroseed application that utilizes drought resistant, salt tolerant native species. **Special Condition #2** requires submission of a final plans consistent with the ones submitted with the CDP application to ensure that only non-invasive (or native), drought-tolerant plants are planted onsite and to demonstrate that any existing irrigation systems on the bluff top have been removed, as these would impact the ability of the seawall and other shoreline protection devices to adequately stabilize the site.

The Commission finds that the proposed project, as conditioned, will ensure that all environmental impacts will be minimized to the maximum extent feasible. Therefore, the proposed project can be found consistent with biological resources and water quality protection policies of the Coastal Act and the City's certified LUP.

## **E. Visual Resources/Natural Landforms**

Section 30240 of the Coastal Act states, in part:

[ . . . ]

(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.

Section 30251 of the Coastal Act states:

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.

Policy 4.29 of the Solana Beach certified Land Use Plan states:

Limit buildings and structures on the sloped face and toe of the bluff to lifeguard towers, subsurface public utility drainage pipes or lines, bluff retention devices, public stairs and related public infrastructure which satisfy the criteria established in the LCP. No other permanent structures shall be permitted on a bluff face. Such structures shall be maintained so that they do not contribute to further erosion of the bluff face and are to be visually compatible with the surrounding area to the maximum extent feasible.

Policy 4.37 of the Solana Beach certified Land Use Plan states:

Maximize the natural, aesthetic appeal and scenic beauty of the beaches and bluffs by avoiding and minimizing the size of bluff retention devices, preserving the maximum amount of unaltered or natural bluff face, and minimizing encroachment of the bluff retention device on the beach, to the extent feasible, while ensuring that any such bluff retention device accomplishes its intended purpose of protecting existing principal structures in danger from erosion.

Policy 4.55 of the Solana Beach certified Land Use Plan states:

To achieve a well maintained, aesthetically pleasing, and safer shoreline, coordination among property owners regarding maintenance and repair of all bluff retention devices is strongly encouraged. This may also result in cost savings through the realization of economies of scale to achieve these goals by coordination through an assessing entity. All bluff retention devices existing as of the date of certification of the LCP, to the extent they do not conform to the requirements of the LCP, shall be deemed non-conforming. A bluff property owner may elect to conform his/her/its bluff property or bluff retention device to the LCP at

any time. If the City finds that an existing bluff retention device that is required to protect existing principal structures in danger from erosion is structurally unsound, is unsafe, or is materially jeopardizing contiguous private or public principal structures for which there is no other adequate and feasible solution, then the City may require reconstruction of the bluff retention device.

As stated above, the proposed development will occur on the face of a coastal bluff adjacent to the public beach. Much of the bluff along the Solana Beach coastline has been armored at its base, primarily by seawalls, all of which substantially alter the appearance of the bluffs, particularly those that have not been camouflaged to replicate the appearance of a natural bluff face. However, the technology in design of seawalls has improved dramatically over the last two decades. Seawalls now typically involve sculpted and colored concrete that upon completion closely mimic the natural surface of the lower bluff face. To mitigate the visual impacts of the proposed return wall extension, the applicant proposes to color and texture the return wall extension with shotcrete colored and textured to match the appearance of the natural bluff. The visual treatment proposed is similar to the visual treatment approved by the Commission in recent years for seawalls along the Solana Beach shoreline (Ref: CDP# 6-21-0278/DeSimone, et al., #6-21-0067 Laughlin & Greenberg) and will match the existing Las Brisas seawall and the adjacent natural bluff.

To the north of the new return wall, the applicant proposes to reconstruct the failed bluff area with a geogrid soil system and will revegetate the area with a hydroseed application that utilizes drought resistant, salt tolerant native species. The Commission has previously approved several geogrid structures along the Solana Beach shoreline and the most recent ones have been required to mimic the natural undulating bluff landforms in the vicinity to the maximum extent feasible. Although a reconstructed slope still alters a natural landform, it can result in a more natural appearance that blends in better with any adjacent unaltered bluff landforms. In this case, the reconstructed area will not extend across the length of the subject property, but will be limited to the area where the failure has occurred. The applicants have also proposed to install hydroseed on the proposed geogrid structure. **Special Condition #2** requires that final plans be submitted in substantial conformance with the ones submitted with this application.

Therefore, as conditioned, the Commission finds that potential visual impacts associated with the proposed development have been reduced to the maximum extent feasible and the proposed development will include measures to prevent impacts that would significantly degrade the adjacent park and recreation area. Thus, the project is consistent with Sections 30240 and 30251 of the Coastal Act and the City's certified LUP.

## F. Local Coastal Planning

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the

local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The City's Local Coastal Program Land Use Plan was effectively certified in June 2013. However, the City has not yet developed implementing ordinances; thus, a complete LCP has not yet been certified.

The location of the proposed shoreline armoring is designated for Open Space Recreation in the City of Solana Beach LUP and General Plan. As conditioned, the subject development is consistent with these requirements. Site-specific geotechnical evidence has been submitted indicating that the existing principal structure at the top of the bluff is in danger, there are no feasible less environmentally damaging alternatives, and appropriate mitigation will be provided. Based on the above findings, the proposed development is consistent with the Chapter 3 policies of the Coastal Act in that the need for the shoreline protective devices has been documented and its adverse impacts on coastal resources will be mitigated.

Therefore, the Commission finds the proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act, and will not prejudice the ability of the City of Solana Beach to complete a certifiable local coastal program. These issues of shoreline planning will need to continue to be addressed in a comprehensive manner in the future through the City's LCP certification process.

## **G. California Environmental Quality Act**

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (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 which the activity may have on the environment. The City of Solana Beach found that the proposed development is categorically exempt per Section 15269 of the CEQA guidelines as an emergency repair.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing biological resources, water quality, and visual resources will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## APPENDIX A – CONDITIONS OF APPROVAL

The permit is subject to the following conditions:

### Permit No. 6-05-072

1. **Final Revised Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director, final plans for the seawall, concrete backfill, and seacave/notch fills in substantial conformance with the submitted plans dated June 3, 2004 and as Revised on March 25, 2005, by Soil Engineering Construction. Said plans shall first be approved by the City of Solana Beach and be revised to include the following:
  - a. Sufficient detail regarding the construction method and technology utilized for constructing the seawall so as to demonstrate that the design will gradually blend into the adjacent natural bluff. The north and south sides of the seawall shall be designed and constructed to minimize the erosive effects of the approved seawall on the adjacent bluffs.
  - b. Sufficient detail regarding the construction method and technology utilized for texturing and coloring the seawall to confirm, and be of sufficient detail to verify, that the seawall and return wall's color and texture closely matches the adjacent natural bluffs, including provision of a color board indicating the color of the fill material.
  - c. As noted on the plans for Repairs to Lower Bluff (Revised 3/25/05), any existing permanent irrigation system located within 150 feet from the bluff edge shall be removed or capped.
  - d. All runoff from impervious surfaces on the top of the bluff shall be collected and directed away from the bluff edge towards the street.

Existing accessory improvements (i.e., decks, patios, walls, etc.) located in the geologic setback area on the site shall be detailed and drawn to scale on the final approved site plan and shall include measurements of the distance between the accessory improvements and the bluff edge (as defined by Section 13577 of the California Code of Regulations) taken at 3 or more locations. The locations for these measurements shall be identified through permanent markers, benchmarks, survey position, written description, or other method that enables accurate determination of the location of structures on the site. Any future permitted accessory improvements shall be located no closer than 5 feet landward of the natural bluff edge.

The permittees shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Mitigation for Impacts to Public Recreational Use and Sand Supply.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that a fee of \$271,658.08 (\$248,680.72 for loss of sandy beach area, and thus, loss of public recreational impacts + \$22,977.36 for loss of sand) has been deposited in an interest bearing account designated by the Executive Director, in-lieu of providing the total amount of sand to replace the sand that will be lost due to the impacts of the proposed protective structure and to mitigate for the loss of public recreational use over 22 years resulting from effects associated with the placement of the structure on the public beach at the toe of the natural bluffs. All interest earned by the account shall be payable to the account for the purposes stated below.

The required in-lieu fee mitigation covers impacts only through the identified 22-year design life of the seawall. No later than 21 years after the issuance of this permit, the permittees or their successor in interest shall apply for and obtain an amendment to this permit that either requires the removal of the seawall within its initial design life or requires mitigation for the effects of the seawall on shoreline sand supply, and thus public recreational use, for the expected life of the seawall beyond the initial 22 year design life. If within the initial design life of the seawall the permittees or their successor in interest obtain a coastal development permit or an amendment to this permit to enlarge or reconstruct the seawall or perform repair work that extends the expected life of the seawall, the permittee shall provide mitigation for the effects of the additional size of the seawall or the extended effects of the existing seawall on shoreline sand supply and public recreational use for the expected life of the seawall beyond the initial 22 year design life.

The purpose of the account shall be to establish a beach sand replenishment fund to aid SANDAG, or a Commission-approved alternate entity, in the restoration of the beaches within San Diego County. The funds shall be used solely to implement projects which provide sand to the region's beaches, not to fund operations, maintenance or planning studies. The funds shall be released only upon approval of an appropriate project by the Executive Director of the Coastal Commission. The funds shall be released as provided for in a MOA between SANDAG, or a Commission-approved alternate entity, and the Commission, setting forth terms and conditions to assure that the in-lieu fee will be expended in the manner intended by the Commission. If the MOA is terminated, the Commission can appoint an alternative entity to administer the fund.

3. **Monitoring Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, a monitoring program prepared by a licensed civil engineer or geotechnical engineer to monitor the performance of the

seawall, concrete backfill and exposed seacave/notch infills which requires the following:

- a. An annual evaluation of the condition and performance of the seawall, concrete backfill and exposed seacave/notch infills addressing whether any significant weathering or damage has occurred that would adversely impact the future performance of the structures. This evaluation shall include an assessment of the color and texture of the seawall and concrete backfill comparing the appearance of the structures to the surrounding native bluffs.
- b. Annual measurements of any differential retreat between the natural bluff face and the seawall face, at the north and south ends of the seawall and at 20-foot intervals (maximum) along the top of the seawall face/bluff face intersection. The program shall describe the method by which such measurements shall be taken.
- c. Provisions for submittal of a report to the Executive Director of the Coastal Commission by May 1 of each year (beginning the first year after construction of the project is completed) for a period of three years, and then each third year following the last annual report, for the life of the approved seawall and seacave/notch infills. However, reports shall be submitted in the Spring immediately following either:
  1. A significant storm event – comparable to or greater than a 20-year storm.
  2. An earthquake of magnitude 5.5 or greater with an epicenter in San Diego County or offshore.

Thus reports may be submitted more frequently depending on the occurrence of the above events in any given year.

- d. Each report shall be prepared by a licensed civil, geotechnical engineer or geologist. The report shall contain the measurements and evaluation required in sections a and b above. The report shall also summarize all measurements and analyze trends such as erosion of the bluffs or changes in sea level and the stability of the overall bluff face, including the upper bluff area, and the impact of the seawall on the bluffs to either side of the wall. In addition, each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the project.
- e. An agreement that the permittee shall apply for a coastal development permit within 90 days of submission of the report required in subsection c. above for any necessary maintenance, repair, changes or modifications to the project recommended by the report that require a coastal development permit and implement the repairs, changes, etc. approved in any such permit.

The permittee shall undertake monitoring in accordance with the approved monitoring program. Any proposed changes to the approved monitoring program

shall be reported to the Executive Director. No changes to the monitoring program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. **Storage and Staging Areas/Access Corridors.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that:
- a. No overnight storage of equipment or materials shall occur on the public beach or in public parking spaces at Fletcher Cove. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to construct the seawall and notch fill. Construction equipment shall not be washed on the beach or in the Fletcher Cove parking lot.
  - b. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
  - c. No work shall occur on the beach on weekends, holidays or between Memorial Day weekend and Labor Day of any year.
  - d. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. **Storm Design/Certified Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit certification by a registered civil engineer that the proposed shoreline protective devices are designed to withstand storms comparable to the winter storms of 1982-83.

In addition, **within 60 days following construction**, the permittee shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the seawall, concrete backfill and seacave/notch infills have been constructed in conformance with the approved plans for the project. These plans shall also show the elevations of the clean sand lens along the bluff face and the contacts of this lens with the Torrey Formation and terrace deposits.



6. **Future Response to Erosion.** If in the future the permittees seek a coastal development permit to construct additional bluff or shoreline protective devices, the permittees will be required to include in the permit application information concerning alternatives to the proposed bluff or shoreline protection that will eliminate impacts to scenic visual resources, recreation and shoreline processes. Alternatives shall include but not be limited to: relocation of all or portions of the principle structure that are threatened, structural underpinning, and other remedial measures capable of protecting the principal structure and providing reasonable use of the property, without constructing bluff or shoreline stabilization devices. The information concerning these alternatives must be sufficiently detailed to enable the Coastal Commission or the applicable certified local government to evaluate the feasibility of each alternative, and whether each alternative is capable of protecting existing structures that are in danger from erosion. No additional bluff or shoreline protective devices shall be constructed on the adjacent bluff face above the approved seawall or on the beach in front of the proposed seawall unless the alternatives required above are demonstrated to be infeasible. No shoreline protective devices shall be constructed in order to protect ancillary improvements (patios, decks, fences, landscaping, etc.) located between the principal residential structures and the ocean.
7. **Future Maintenance.** The permittee shall maintain the permitted seawall, concrete backfill and seacave/notch infills in its approved state. Maintenance of the seawall and seacave/notch infills includes maintaining the color, texture and integrity. Any change in the design of the project or future additions/reinforcement of the seawall, backfill or seacave/notch infills beyond exempt maintenance as defined in Section 13252 of Title 14 of the California Code of Regulations to restore the structure to its original condition as approved herein, will require a coastal development permit. **However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, including maintenance of the color of the structures to ensure a continued match with the surrounding native bluffs, the permittee shall contact the Executive Director to determine whether a coastal development permit or an amendment to this permit is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance.**
8. **Other Permits.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director copies of all other required local, state or federal discretionary permits for the development authorized by CDP #6-04-156. The applicant shall inform the Executive Director of any changes to the project required by other local, state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

9. **State Lands Commission Approval. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval, a written determination from the State Lands Commission that:
- a) No state lands are involved in the development; or
  - b) State lands are involved in the development, and all permits required by the State Lands Commission have been obtained; or
  - c) State lands may be involved in the development, but pending a final determination of state lands involvement, an agreement has been made by the applicant with the State Lands Commission for the project to proceed without prejudice to the determination.
10. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that exist or may exist on the property.
11. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from erosion and coastal bluff collapse; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project 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 hazards.
12. **Deed Restriction/CC&R's Modification. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant homeowners' association (HOA) shall do one of the following:
- A. Submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction in a manner that will cause said deed restriction to appear on the title to the individual condominium units, and otherwise in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as they apply to the HOA, as covenants, conditions and restrictions on the use and enjoyment of the individual condominium units. The deed restriction shall include a legal description of the entire parcel or parcels

against which it is recorded. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property, or;

**B.** Modify the condominium association's Declaration of Restrictions or CC&Rs, as applicable, in a form and content acceptable to the Executive Director, to reflect the obligations imposed on the homeowners' association by conditions 2, 3, 6, 7, 10, and 11, above. This addition to the CC&Rs shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit.

13. **Best Management Practices. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit for review and written approval of the Executive Director, a Best Management Plan that effectively assures no shotcrete or other construction byproduct will be allowed onto the sandy beach and/or allowed to enter into coastal waters. The Plan shall apply to both concrete pouring/pumping activities as well as shotcrete/concrete application activities. During shotcrete/concrete application specifically, the Plan shall at a minimum provide for all shotcrete/concrete to be contained through the use of tarps or similar barriers that completely enclose the application area and that prevent shotcrete/concrete contact with beach sands and/or coastal waters. All shotcrete and other construction byproduct shall be properly collected and disposed of off-site.

The applicant shall undertake the development in accordance with the approved Plan. Any proposed changes to the approved Plan shall be reported to the Executive Director. No changes to the Plan shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### **Permit No. 6-05-072-A1**

- A1-1. **Prior Conditions of Approval.** All terms and conditions of the original approval of Coastal Development Permit 6-05-72 shall remain in full force and effect.
- A1-2. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit amendment, the applicant, on behalf of (1) itself; (2) its successors and assigns; and (3) any other holder of the possessory interest in the development authorized by this permit amendment, acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit amendment of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally

waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project 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 hazards; and (v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit amendment requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).

**A1-3. Deed Restriction/CC&R's Modification. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT,** the applicant homeowners' association (HOA) shall do one of the following:

- a. Submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction in a manner that will cause said deed restriction to appear on the title to the individual condominium units, and otherwise in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment, as they apply to the HOA, as covenants, conditions and restrictions on the use and enjoyment of the individual condominium units. The deed restriction shall include a legal description of the entire parcel or parcels against which it is recorded. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit amendment shall continue to restrict the use and enjoyment of the subject property so long as either this permit amendment or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property, or;
- b. Modify the condominium association's Declaration of Restrictions or CC&Rs, as applicable, in a form and content acceptable to the Executive Director, to reflect the obligations imposed on the homeowners' association by condition 2, above. This addition to the CC&Rs shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit.

**A1-4. As-Built Plans. WITHIN 60 DAYS OF COMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT AMENDMENT** the permittee shall submit certification by a registered civil engineer, acceptable to the Executive Director,

verifying the return wall extension been constructed in conformance with the approved plans for the project.

- A1-5. **Condition Compliance. WITHIN 60 DAYS OF COMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT AMENDMENT**, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit amendment. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

**Permit No. 6-05-072-A2**

- A2-1. **Prior Conditions of Approval.** All terms and conditions of the original approvals of Coastal Development Permit 6-05-72 (Special Conditions 1-13) and 6-05-072-A1 (Special Conditions A1-1 to A1-5) shall remain in full force and effect.

- A2-2. **Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, final plans for the permitted development. Said plans shall be in substantial conformance with the plans submitted with this application by GeoStabilization International and dated 10/20/2021.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to the coastal development permit unless the Executive Director determines that no amendment is legally necessary.

- A2-3. **As-Built Plans. WITHIN 30 DAYS OF COMPLETION OF CONSTRUCTION**, the permittee shall submit two copies of As-Built Plans showing all development completed pursuant to this coastal development permit; all property lines; and all residential development inland of the seawall structure. The As-Built Plans shall be substantially consistent with the approved project plans described in Special Condition #1, including providing for all requirements specified in those plans. The As-Built Plans shall include a graphic scale and all elevation(s) shall be described in relation to the North American Vertical Datum of 1988 (NAVD88). The As-Built Plans shall include color photographs or images of sufficient resolution to clearly show all components of the as-built project, with a site plan that notes the location of each photographic viewpoint and the date and time of each photograph. At a minimum, the photographs shall be taken from representative viewpoints of beaches located upcoast, downcoast, and seaward of the project site. The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and processes. The

engineer shall verify that the shoreline armoring has been constructed in conformance with the approved final plans.

**A2-4. Permit Term.**

- (a) This coastal development permit amendment authorizes development on a temporary basis only. The development is authorized until November 21, 2028, after which time the authorization for continuation or retention of any development approved as part of this permit amendment shall cease. After the authorization for the development expires, the retention of this development will require the issuance of a new coastal development permit or an amendment to this coastal development permit.
- (b) If the permittee wishes to retain the project beyond the term for which this permit provides authorization, then no later than November 21, 2027, the permittee shall submit a complete coastal development permit amendment application for the reauthorization of the return wall or removal of the return wall, as part of the application required per Special Condition #2 of CDP #6-05-072. Failure to either (1) obtain a permit amendment authorizing the permittee to retain the development for an additional term or (2) remove the project shall constitute a violation of the terms and conditions of this Coastal Development Permit. The Executive Director may grant the permittee additional time to file the application for good cause.
- (c) All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions, unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

**A2-5. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, landslide, bluff retreat, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project 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 hazards.

**A2-6. Deed Restriction/CC&R's Modification.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant homeowners' association (HOA) shall do one of the following:

- (a) Submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction in a manner that will cause said deed restriction to appear on the title to the individual condominium units, and otherwise in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment, as they apply to the HOA, as covenants, conditions and restrictions on the use and enjoyment of the individual condominium units. The deed restriction shall include a legal description of the entire parcel or parcels against which it is recorded. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit amendment shall continue to restrict the use and enjoyment of the subject property so long as either this permit amendment or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property, or;
- (b) Modify the condominium association's Declaration of Restrictions or CC&Rs, as applicable, in a form and content acceptable to the Executive Director, to reflect the obligations imposed on the homeowners' association all the conditions of this permit. This addition to the CC&Rs shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit.

**A2-7. Storage and Staging Areas/Access Corridors.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that, at a minimum:

- (a) No overnight storage of equipment or materials may occur on sandy beach or at the Fletcher Cove Parking Lot, and the use of other public parking spaces shall be minimized. The permittee may not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery may be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to construct the seawall. Construction equipment may not be washed on the beach or public parking lots or access roads;
- (b) Construction access corridors shall be located in a manner that has the least impact on public access to and along the shoreline;

- (c) No work may occur on the beach on weekends or holidays or between Memorial Day weekend and Labor Day of any year;
- (d) The applicants shall submit evidence that the approved plans and plan notes have been incorporated into construction bid documents; and
- (e) The permittees shall remove all construction materials and equipment from the staging site and restore the staging site to its prior-to-construction condition within 72 hours following completion of the development.

The permittees shall undertake the development in accordance with the approved final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**A2-8. Water Quality – Best Management Practices.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director a Water Quality Best Management Practices Plan that ensures no shotcrete or other construction byproduct will be allowed onto the sandy beach or allowed to enter into coastal waters. The Plan shall apply to both concrete pouring/pumping activities as well as shotcrete/concrete application activities. During shotcrete/concrete application specifically, the Plan shall at a minimum provide for all shotcrete/concrete to be contained through the use of tarps or similar barriers that completely enclose the construction area and that prevent shotcrete/concrete contact with beach sands and coastal waters. All shotcrete and other construction byproduct shall be properly collected and disposed of off-site.

The applicants shall undertake the development in accordance with the approved Plan. Any proposed changes to the approved Plan shall be reported to the Executive Director. No changes to the Plan shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**A2-9. Construction Site Documents & Construction Coordinator.** DURING ALL CONSTRUCTION:

- (a) **Construction Site Documents.** Copies of the signed coastal development permit and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.



- (b) **Construction Coordinator.** A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the coordinator's contact information (office address, office and mobile phone numbers, e-mail address) for the duration of construction shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with an 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, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 72 hours of receipt of the complaint or inquiry.
  
- (c) **Notification.** The permittee shall notify planning staff of the Coastal Commission's San Diego Coast District Office at least three working days in advance of commencement of construction or maintenance activities, and immediately upon completion of construction or maintenance activities.

## **APPENDIX B – SUBSTANTIVE FILE DOCUMENTS**

- City of Solana Beach certified Land Use Plan
- Geotechnical Update, GeoSoils Inc, October 22, 2021
- Coastal Bluff Evaluation and Project Recommendations, TerraCosta, September 25, 2020
- Las Brisas Condominiums Bluff Stabilization Engineering Design Submittal, GeoStabilization International, October 15, 2021