

CALIFORNIA COASTAL COMMISSION

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W18a

ADDENDUM

September 6, 2022

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item W18a**, Coastal Commission Permit Application **#6-21-0520 (Owens et al)**, for the Commission Meeting of September 7, 2022.

The purpose of this addendum is to make minor corrections and additions to the staff report and respond to a letter submitted by Surfrider Foundation on 9/2/2022. Staff recommends the following changes be made to the above-referenced staff report. Deletions shall be marked by ~~strike through~~ and additions shall be underlined:

1. On page 5, add a new subsection e. to Special Condition #2 as follows:

e. If, within two years of issuance of this CDP, the monitoring report identifies that repair or maintenance is required in the form of collecting and restacking rocks but not the importation of any new rocks, the applicants may submit a repair and maintenance plan for the review and written approval of the Executive Director who will determine if the scope of the work is covered by this coastal development permit or if an amendment is required.

2. On page 6, edit Special Condition #3 as follows:

3. Future Maintenance. The applicant shall maintain the existing revetment in its approved state. Any change in the design of the revetment or future additions or reinforcement of the revetment, 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, will require a coastal development permit. However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, the applicant 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. If, within two years of issuance of this CDP, the monitoring report required by Special Condition 2 of this coastal development permit, or through observation by the

applicant it is determined that additional repair or maintenance is required in the form of collecting and restacking a rocks but not the importation of any new rocks, the applicant may submit a repair and maintenance plan for the review and written approval of the Executive Director who will determine if the scope of the repair work is covered by this coastal development permit or if an amendment is required.

3. On page 7, add subdivision (b) and adjust formatting to Special Condition #10 as follows:

10. (a) Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, 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 covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

(b) The recorded document(s) shall include a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the revetment area prepared by a licensed surveyor based on an on-site inspection of the revetment.

4. On page 9, edit the first paragraph as follows:

The proposed development consists of repair and maintenance of an existing rock revetment located seaward of four residential structures and spanning four parcels at 1507, 1509, 1511, and 1513 South Pacific Street ([Exhibit 1](#)) adjacent to and directly south of Buccaneer Beach in the City of Oceanside. The property lines of these parcels extend to the ~~mean high tide line (MHTL) and the revetment is located on the private properties~~ ordinary high water mark, which at these sites was fixed by a Boundary Line Agreement (BLA) implemented by the City of Oceanside in 1963. The existing revetment is approximately 120 ft. long, 18 ft. high, and 32 ft. wide, though a portion of it is buried under sand. The original construction of the revetment was authorized by the Commission in May 1973 through issuance of Coastal Development Permit (CDP) No. F0366. Special Condition No. 5 of that approval required that, "upon disrepair to the walls' construction, any portion thereof must be recovered and replaced so as to accomplish continual maintenance." The applicant has indicated that several rocks have become dislodged from the revetment as a result of winter storms over the last few years and migrated seaward, and the revetment has also sunk into the sand.

5. On page 9, edit the third paragraph as follows:

The construction itself will take one month or less, will occur over a few hours each day during low tides and low wave conditions, and will require one excavator. The work will occur outside of summer season when sand levels are naturally lower, and thus grading required to locate the strewn rocks will be minimized. Equipment will access the site by following a path just to the north of 1507 S. Pacific, along the southern limit of Buccaneer Beach. Equipment will be stored at ~~1513 S. Pacific within the backyard area inland of the revetment~~ overnight in the driveway of 1511 S. Pacific ([Exhibit 4](#))

6. On page 15, edit the last paragraph of Section C as follows:

This monitoring will ensure that the applicants and the Commission are aware of any damage or changes to the revetment and can determine whether repairs or other actions are necessary to maintain the shoreline protection in its approved state. **Special Condition #2** requires the applicants to submit a monitoring report that evaluates the condition and performance of the revetment, and to submit recommendations, if any, for necessary maintenance, repair, changes or modifications to the project to assure its continued function. The monitoring will include measurements from benchmarks established in **Special Condition #5**, which will ensure that no seaward encroachment has occurred as required per **Special Condition #4**. The as-built plans required per **Special Condition #5** must identify at least three permanent benchmarks from fixed reference points per lot from which the elevation and seaward limit of the revetment can be referenced for measurements in the future. Permanent benchmarks were established on two of the lots in prior Commission action (A-6-OCN-06-134 and A-6-OCN-13-008). The benchmarks identified on the subject as-built plans for these two lots must be consistent with the previously established benchmarks. Finally, **Special Conditions #2 and #3** require the applicants to perform necessary repairs and maintenance through the coastal development permit process. Because some of the rocks that have migrated seaward are currently buried, it is possible that additional strewn rock will become exposed over time as sand levels vary. Therefore, Special Conditions #2 and #3 allow for very minor repairs to occur over the two years following issuance of this CDP, pursuant to Executive Director review and approval. Such work shall be limited to the collecting and restacking of a small amount of rock (i.e., 30 rocks or less), shall not include importation of any new rock or any changes to the filter fabric foundation, and shall not increase the height or footprint of the revetment as approved herein.

7. On page 17, edit the last paragraph as follows:

Currently, no lateral access easement exists for any of the subject lots. The City's LCP includes a requirement that new public beach access shall be dedicated laterally along the sandy beach in conjunction with restoration of the beach or new private development, whichever occurs first. Additionally, Section 30212 generally requires that new development provide access. However, the development proposed at this time has been determined to consist of repair and maintenance that was previously acknowledged and required through Special Condition #5 of the original CDP for the revetment (CDP# F0366), as well as Special Condition #4 of CDP# A-6-OCN-13-

008/Burgess for 1513 South Pacific and Special Condition #11 of CDP# A-6-OCN-06-134/Stroud for 1507 S. Pacific. Therefore, this project is not new development and no lateral access is required. However, in the future, should any of the homes within the project site propose new development, redevelopment of existing structures, or significantly alter the revetment, a new lateral access easement must be required at that time. In addition, incremental modifications to the revetment, including replacement and importation of additional rock, should be reviewed cumulatively over time to identify when the revetment has been redeveloped. At this time, the project will add new rock equal to 10% of the existing revetment's volume. When cumulative additions result in the addition of rock equal to 50% or more of the revetment's existing volume, it may be appropriate to consider this a new structure and require mitigation for impacts on public access and shoreline sand supply.

In a letter submitted in response to the staff report, Surfrider Foundation asserts that a Mean High Tide Line (MHTL) survey should be required to determine the exact location of the applicants' property lines and the location of potential public trust lands. However, the Commission does not typically require MHTL surveys for filing of CDP applications for repair and maintenance of permitted revetments. In this case, the project has been determined to be repair and maintenance, the proposed project will not encroach any further seaward than the existing revetment, and the work will include removing rock that has migrated onto the beach and restacking the rocks onto the revetment structure, thus improving conditions for the public. Therefore, a MHTL survey is not appropriate at this time for review of the subject proposal.

Surfrider also asserts that the revetment is likely below the MHTL by a significant amount because the revetment extends to a depth below 0 ft NGVD29 and, therefore, mitigation for encroachment onto state lands should be required. The Mean High Water tidal datum, used to determine the position of the MHTL elevation is approximately +2.3 feet NGVD29. However, the MHTL is ambulatory and dependent on changing ocean and sand levels. It is likely that at this site the portion of the revetment below the Mean High Water tidal datum is only exposed when sand levels are low. Surfrider provides an example of recent Commission action that required mitigation for impacts on public access; however, the example provided is for a seawall expansion (CDP# 6-21-0067/Laughlin & Greenberg) and the proposed project will not result in an expansion of the revetment. The project does not include any changes to current depth of the revetment, nor the seaward extent and therefore, the proposed maintenance will not encroach any further onto or towards potential public lands. Thus, mitigation is not required at this time.

Surfrider also requests an additional condition be imposed to require MHTL surveys and monitoring to track the migration of the MHTL over time. Staff agrees that, based on the elevations of the revetment, the MHTL could, at times, include or be landward of portions of the revetment. However, the public/private land boundary is fixed here due to a Boundary Line Agreement (BLA) implemented by the City of Oceanside in 1963. The Agreement fixes the ordinary high water mark as understood at that time. In addition, California State Lands Commission staff determined that any public trust lands in the project area have been legislatively granted to the City of Oceanside and as the

trustee, the City is responsible for the management, including permit and leasing authorization, of the trust lands (Letter from CSLC staff dated 12/13/2021). Nevertheless, it is of vital importance to the Commission that revetments and other shoreline protective devices, to the extent feasible, not take up public beach or affect coastal resources. To that goal, the addition of Special Condition 10(b) ensures that the Commission has a legal record of the placement of the revetment, and that the survey confirms the revetment is completely landward of the BLA, thus only taking up private land. However, in the case of the proposed project, regardless of whether any portion of the existing revetment is located seaward of the BLA, the revetment is a legally permitted structure in its current location. Only repair and maintenance of the structure is currently proposed, and the repairs will not result in the revetment extending any further seaward than currently permitted. At such time when the revetment requires substantial replacement or redevelopment, any encroachment only public property will be evaluated and if impacts to public access or recreation cannot be avoided, mitigation will be required.

8. On page 21, add the following to Appendix A – Substantive File Documents:
 - Letter from California State Lands Commission staff dated 12/13/2021
 - Boundary Line Agreement 37 (February 11, 1963)