

**CALIFORNIA COASTAL COMMISSION**

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# W18a

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-21-0520

**Applicant:** Kimberly Owens, et al

**Location:** 1507-1513 South Pacific Street, Oceanside, San Diego County. (APN 153-012-38-00, 153-012-39-00, 153-012-40-00, 153-012-41-00)

**Project Description:** Maintenance to an existing permitted approximately 120 ft. long, 18 ft. high, 32 ft. wide rock revetment fronting four residentially-developed lots, including relocating and restacking existing rock and importing up to 144 tons of new rock.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The proposed development consists of repair and maintenance work to an existing, permitted revetment located along the shoreline seaward of four residences (comprised of four separate lots). The project consists of relocating existing rocks that have become dislodged from the revetment and are currently located within the sandy beach area and re-stacking these stones back onto the revetment structure. The project also includes importation of 144 tons of new rock, which represents just less than 10% of the volume of the existing revetment. Over time, the revetment has settled; importation of new rock will return the revetment to a height necessary to provide adequate protection for the residences. The project does not include any work to the foundation, will not increase

the existing footprint of the revetment, and will not increase the height of the revetment beyond previous approvals.

The subject revetment was originally authorized through a Commission-issued Coastal Development Permit (CDP) in 1973, which included a requirement that the revetment be maintained and repaired (CDP# F0366). More recent CDPs for two of the subject lots included similar requirements to monitor and maintain the revetment in its approved state. The proposed application implements maintenance required by these prior CDPs. **Special Condition #s 1, 5, and 7** require the development to be undertaken consistent with the approved project plans. **Special Condition #4** prohibits any future encroachment of the revetment seaward of the approved location.

To limit impacts to public access and recreation associated with future damage or changes to the revetment, **Special Condition #2** requires long-term monitoring of the revetment. 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. The monitoring will include measurements from permanent benchmarks established in **Special Condition #5**, which will ensure that no seaward encroachment has occurred. Finally, **Special Conditions #2 and #3** require the applicants to perform necessary repairs and maintenance through the coastal development permit process.

Also, due to the site's proximity to the ocean and potential for future flooding, **Special Condition #6** requires the applicants to acknowledge the hazards present on-site, assume the risk of such hazards, and accept full liability for developing in a hazardous location.

Finally, to ensure no impacts to coastal resources occur during construction, **Special Condition #8** requires the applicant to submit a Construction Pollution Prevention Plan identifying appropriate BMPs to minimize potential impacts from construction-related pollutants. **Special Condition #9** requires submittal of a final encroachment agreement indicating that the City has agreed to allow construction access across City property. **Special Condition #10** requires a deed restriction to be recorded in order to ensure buyers of the property are aware of this permit's conditions.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-20-0520, as conditioned. The motion is on page 4. The standard of review is Chapter 3 of the Coastal Act with provisions of the Oceanside LCP used for guidance.

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## EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Project Location](#)

[Exhibit 3 – Project Plans](#)

[Exhibit 4 – Construction Access and Storage Plans](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 6-21-0520 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 for the proposed project and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## 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

1. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final plans for the permitted development. Said plans shall be in substantial conformance with the plans prepared by GeoSoils, Inc. dated November 16, 2021, but shall be revised to include the following:
  - a. Beach sand conditions shall be restored to pre-work conditions.
  - b. The finished height of the revetment shall be no higher than 14.4MSL at 1507 S. Pacific and no higher than 13.5MSL at 1513 S. Pacific.

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.

2. **Long-Term Monitoring Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a long-term monitoring plan for the existing shoreline protection. The purpose of the plan is to monitor and identify damage or changes to the revetment such that repair and maintenance is completed in a timely manner to avoid further encroachment of the revetment on the beach. The monitoring plan shall incorporate, but not be limited to the following:
  - a. An evaluation of the current condition and performance of the revetment, addressing any migration or movement of rock which may have occurred on the site and any significant weathering or damage to the revetment that may adversely impact its future performance;
  - b. Measurements taken from the benchmarks established in the survey as required in Special Condition No. 5 of CDP #6-21-0520 to determine settling or seaward movement of the revetment. Changes in the beach profile fronting the site shall be noted and the potential impact of these changes on the effectiveness of the revetment evaluated;
  - c. Recommendations on any necessary maintenance needs, changes, or modifications to the revetment to assure its continued function and to assure no encroachment beyond the permitted toe; and
  - d. An agreement that the permittee shall apply for a coastal development permit within 90 days of submission of the report for any necessary maintenance, repair, changes or modifications to the project recommended by the report that require a coastal development permit and to implement the repairs, changes, etc. approved in any such permit.

The above-cited monitoring information shall be summarized in a report, prepared by a licensed engineer familiar with shoreline processes, submitted to

the Executive Director for review and written approval. The report shall be submitted to the Executive Director and the City of Oceanside Engineering Department yearly after each winter storm season and prior to the 1st of May, starting with May 1, 2023 for the first 5 years after completion of construction. After the completion of five (5) annual reports, monitoring will be lessened to once every five (5) years, with the first report due by May 1, 2028. Monitoring once every five (5) years shall continue throughout the life of the revetment or until the revetment is removed or replaced under a separate coastal development permit.

The permittee shall undertake development in accordance with the approved monitoring program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the 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.

- 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.
- 4. No Future Seaward Extension of Shoreline Protective Devices.** By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device, shall be undertaken if such activity extends the footprint seaward of the existing device. By acceptance of this permit, the applicant waives, on behalf of itself and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235.
- 5. As-Built Plans.** Within 60 days of completion of the project, or within such additional time as the Executive Director may grant for good cause, the applicant shall submit as-built plans for the approved revetment and associated structures and submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the revetment has been constructed in conformance with the approved plans for the project. The plans shall identify at least three permanent benchmarks from fixed reference point(s) per lot from which the elevation and seaward limit of the revetment can be referenced for measurements in the future. On properties at 1507 and 1513 S. Pacific Street,

these benchmarks shall be consistent with those previously established in past Commission action on CDP #s A-6-OCN-06-134 and A-6-OCN-13-008.

- 6. 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 storm waves, flooding, and erosion; (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.
- 7. Project Modifications.** Only that work specifically described in this permit is authorized. Any additional work, including but not limited to the importation of additional rock beyond that authorized herein or modifications to the revetment's foundation, requires separate authorization from the Commission or Executive Director, as appropriate. If, during construction, site conditions warrant changes to the project, the San Diego District office of the Coastal Commission shall be contacted immediately and before any changes are made to the project in the field. No changes to the project shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- 8. Final Construction Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final construction plans for the approved development. Said plans shall be in substantial conformance with the plans submitted by the applicant dated June 11, 2020, and shall incorporate but not be limited to the following construction methods and responsibilities:

  - a. All equipment shall be removed from the beach areas overnight and during any tidal condition that may inundate work areas. 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 perform the approved maintenance. Construction equipment may not be washed on the beach or public parking lots or access roads.
  - b. Construction staging and access corridors shall not impede public access to or along the shoreline, to the maximum extent feasible, and the staging site and access corridors shall be removed and restored immediately upon completion of construction. No public parking spaces shall be used for staging or storage of equipment.

- c. Spill prevention measures for construction equipment shall be identified and implemented as necessary. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall not take place on the beach, and shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
- d. No work shall occur from Memorial Day to Labor Day of any year.

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.

- 9. Encroachment Permit.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, evidence of an encroachment permit or exemption from the City of Oceanside. The encroachment permit or exemption shall evidence the ability of the applicant to access the site across City Park property.
- 10. 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.



## IV. FINDINGS AND DECLARATIONS

### A. Project Description and Background

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. 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.

The proposed project consists of retrieval of revetment stones that have become dislodged and migrated seaward and re-stacking this strewn rock within the existing revetment footprint. ([Exhibit 3](#)) The applicant also proposes to import up to 144 tons of additional new rock. This represents slightly less than 10% of the existing revetment volume, which is approximately 1,500 tons. The proposed development does not include any foundational work (i.e., no changes to the filter fabric), will not increase the footprint of the revetment, and will not increase the height of the revetment beyond the heights established in prior Commission action.

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. ([Exhibit 4](#))

In April 2007 the Commission approved A-6-OCN-06-134/Stroud at 1507 S. Pacific for demolition of the existing home and construction of a new home. No changes to the revetment were proposed at that time; however, the Commission's approval included special conditions related to the existing revetment, including a requirement to survey the revetment and establish a height of 14.4MSL and the seaward extent (Special Condition #6), a requirement to conduct long-term monitoring (Special Condition #7), requirement to maintain the revetment in the future (Special Condition #11), and a prohibition on any future seaward extension of the revetment (Special Condition #12). Similarly, in 2014 the Commission approved A-6-OCN-13-008/Burgess at 1513 S. Pacific for demolition of two existing residential structures and construction of a new duplex. This action also included after-the-fact approval for previous work completed to

the then-existing rock revetment, including removal of concrete grouting and apron, removal of a concrete private stairway on top of the revetment, and the addition of approximately fifty, new 25-100 lbs. revetment stones. The Commission's approval also required a survey of the revetment and established a height of 13.5MSL and the seaward extent (Special Condition #2), a requirement to conduct long-term monitoring (Special Condition #3), requirement to maintain the revetment in the future (Special Condition #4), and a prohibition on any future seaward extension of the revetment (Special Condition #5). The subject project is consistent with the requirements of these permits regarding no expansion of the revetment.

## **Background**

Much of Oceanside's shoreline is protected by rock revetment. In 2017, it came to the attention of Commission staff that the City of Oceanside's Building Department had been issuing administrative exemptions to allow various types of work related to shoreline protective devices located throughout the City's shorefront. This process did not include review through the City's Planning Department, and the City did not require the work be approved through a CDP. City staff indicated that the work approved ranged from minimal repairs not requiring mechanized equipment, to development that included substantial alteration to the foundation of revetments and importation of new rock. The legal status of the revetments was not reviewed through this process and coastal permit jurisdiction was not established. Thus, it appears that the City may have authorized maintenance work on unpermitted shoreline protective devices located, partially or wholly, within the Commission's jurisdiction.

City staff have previously indicated that they believe the policies of the certified LCP exempt maintenance activities that include importation of new rock as long as the total amount imported is not greater than 20% of the existing revetment. In March 2020, Commission staff advised the City that this approach and interpretation of the LCP would not address potential impacts to coastal resources associated with the construction of shoreline protection and recommended that permit history and jurisdiction be established prior to approval of any development on the shoreline. While discussions continue between City and Coastal staffs, both have agreed that any proposed work to shoreline protection in the City should be evaluated by both City and Coastal staffs prior to any work occurring in order to determine jurisdiction and permitting requirements.

As a result of these ongoing discussions, the subject project was reviewed by the City and Commission staff and it was determined that subject development is located within the Commission's permit jurisdiction and the existing revetment was originally authorized through a Commission-issued CDP. In this case, the existing revetment is permitted and future maintenance activities were identified as a condition of the CDP.

The site is within an area of original jurisdiction where the Chapter 3 policies of the Coastal Act are the standard of review with the City's certified LCP used as guidance.

## **B. Permit Authority, Extraordinary Methods of Repair and Maintenance, Shoreline Protection Structures**

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

Section 30610 of the Coastal Act provides, in relevant part:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

[...]

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter. [Emphasis added.]

Section 13252 of the Commission regulations provides, in relevant part:

(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:

(1) Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:

(A) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;

(B) The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;

[...]

(D) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams.

[...]

The proposed project consists of re-stacking dislodged rock and the addition of new rock, up to 10% the existing revetment's volume. No changes to the foundation are proposed, nor will there be any increase in the height of the revetment. Therefore, the scope and scale of the project is appropriately considered repair and maintenance under Section 13252(b) of the Commission's regulations.

Section 13252 of the Commission's regulations requires that certain extraordinary methods of repair and maintenance require approval via a coastal development permit. The proposed development involves repair to an existing revetment, placement of additional riprap on the beach, and the presence of mechanized construction equipment on the sand. Thus, the proposed repair and maintenance requires a coastal development permit under Section 13252(a)(1)(B) and (D) of the Commission's regulations. **Special Condition #7** memorializes that only work specifically described in this permit is authorized and any changes, including importation of new rock beyond that identified in this permit or modifications to the revetment's foundation, will require separate authorization from the Commission.

In considering a permit application for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed method of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the underlying existing development.

## **C. Coastal Hazards/Shoreline Protection**

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.

[ . . . ]

Policy 5 of Section III Water and Marine Resources; Diking, Dredging, Filling and Shoreline Structures, and Hazard Areas of the City of Oceanside LUP 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 impacts on local shoreline sand supply. Such structures shall be designed and constructed to minimize erosive impacts on adjacent unprotected property and minimize encroachment on to the beach. The structures shall not interfere with access along the beach. The property owner shall dedicate all area seaward of the shoreline structure for lateral access for the public.

The need for shoreline protection has been well established along the shoreline in Oceanside, and rock revetment has been the established form of protection for existing structures in portions of Oceanside for many years. As stated above, the subject revetment was authorized by the Commission in May 1973 (F0366). Additional rock (approximately fifty, new 25-100 lbs. revetment stones) was authorized to be placed at 1513 S. Pacific in 2014 (A-6-OCN-13-008/Burgess). Maintenance of the rock revetment was a condition of approval for several past CDPs (F0366, A-6-OCN-06-134, A-6-OCN-13-008). Each of these approvals require the property owners to maintain the revetment in its approved state, subject to a CDP when required.

As documented by the applicant's geotechnical engineer, the height of the revetment currently varies from about +12.8 feet NGVD29 on the north to +11.5 NGVD29 in the center of the site. Prior Commission approvals on two of the subject sites required detailed surveys of the revetment, including the height and the seaward extent. The applicant provided an updated survey of the revetment and compared the results to the measurements previously taken in 2005 and 2014. A comparison of the surveys indicates that the revetment has settled down. According to the applicant, the revetment at 1507 S. Pacific has lowered about 2 feet from the top of rock surveyed in the 2005 plans and the revetment at 1513 S. Pacific has also lowered about 2 feet. At both sites, the revetment toe is at or close ( $\pm 1$  foot) to the approved toe. However, several rocks have rolled off the structure and onto the public beach. These rocks are up to 15 feet seaward of the approved toe.

In the past, under extreme winter storm conditions, the beach fronting the site is comprised of cobbles, which lie below the sand and become exposed. The applicants have provided evidence that the revetment has been overtopped in recent years, resulting in wave and water damage to the principal structures and rear yard improvements.

Section 30253 requires that new development minimize risks to life and property and assure stability and structural integrity, and neither create nor contribute to erosion or geologic stability. The purpose of the proposed project is to maintain and repair an existing revetment that was approved by the Commission to protect four principal structures. The project is designed to improve the stability and structural integrity of the existing structures it was designed to protect. By re-stacking revetment stones that have migrated from the revetment structure, the proposed repair and maintenance will return the revetment to its previously approved state, which is specifically required by past Commission approvals.

Past Commission approvals on two of the subject sites also established heights for the revetment. At 1507 S. Pacific, the established height is 14.4MSL (CDP# A-6-OCN-06-134). At 1513 S. Pacific, the established height is 13.5MSL (CDP# A-6-OCN-13-008). The applicant proposes to import 144 tons of new rock, which amounts to just less than 10% of the existing revetment volume, which is approximately 1,500 tons. By collecting strewn rocks and re-stacking them onto the revetment structure, and importing new rock, the revetment will be restored to its previously-approved state and will continue to provide adequate protection for the residences it was approved to protect.

**Special Condition #1** requires the applicants to submit final approved project plans that are in substantial conformance with the plans submitted with the CDP application, but with two revisions. First, to ensure that public access is immediately restored in the area, the plans must be revised to require that the site and beach sand will be restored to pre-work conditions. Second, the final plans must be revised to indicate that the revetment height after construction will be consistent with the requirements of previous CDPs. This will result in a revetment height of 14.4MSL at 1507 S. Pacific and a height of 13.5 MSL at 1513 S. Pacific. Since submission of the original plans with the project application, the applicants worked with Commission staff to revise the project to meet the heights established in the prior CDPs; however, final plans reflecting this change have not yet been submitted. To ensure the proposed shoreline armoring repair work has been constructed properly and consistent with the approved plans, **Special Condition #5** requires that, within 60 days of completion of the project, as-built plans certified by a registered civil engineer be submitted verifying that the protection has been constructed in accordance with the approved plans. Due to the inherent risk of shoreline development, **Special Condition #6** requires the applicants to acknowledge the hazards present on-site, assume the risk of such hazards, and accept full liability for developing in a hazardous location.

Additional conditions of approval ensure that the permittees communicate and the Commission knows of any necessary repairs or maintenance by requiring the applicants to monitor the condition of the shoreline protection at five-year intervals. The

Commission's prior approval of protection on two of the subject sites required similar monitoring requirements; following construction of this subject project, satisfaction of prior monitoring requirements can be met by satisfying the requirements of **Special Condition #2** of this CDP.

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.

## D. 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 5 of Section III Water and Marine Resources; Diking, Dredging, Filling and Shoreline Structures, and Hazard Areas of the City of Oceanside LUP states:

Policy No. 5 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 impacts on local shoreline sand supply. Such structures shall be designed and constructed to minimize erosive impacts on adjacent unprotected property and minimize encroachment on to the beach. The structures shall not interfere with access along the beach. The property owner shall dedicate all area seaward of the shoreline structure for lateral access for the public.

The subject site is located on the seaward side of South Pacific Street. The existing revetment is located adjacent to a public beach utilized by local residents and visitors for a variety of recreational activities. Lateral access is also potentially available to the public along the beach seaward of the existing revetment. Vertical access to the public beach is also provided directly adjacent to the subject site to the north at Buccaneer Beach.

The project has been designed and will be conditioned to minimize impacts on public access to the extent feasible. The proposed development consists of repair and



maintenance of an existing and permitted rock revetment. Consistent with prior Commission approvals for these subject sites, the project as proposed will not result in any seaward encroachment of the existing revetment and this is further required by **Special Condition #4**. As proposed, the rocks that have become dislodged from the revetment and are currently occupying beach area will be relocated back within the existing revetment footprint. Because the project includes collecting rocks that have migrated seaward, in some cases up to 15 feet seaward, the post-development conditions will result in a beach area that is free of dislodged revetment stones and will provide enhanced space for public access and recreation. Thus, it is likely that the development will increase beach area in front of the revetment and will improve public access along the subject sites.

Construction on and adjacent to the sandy beach could impact public access and recreation. 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 during the winter 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. ([Exhibit 4](#))

**Special Condition #8** requires that construction access and staging not affect public access and prohibits construction on the sandy beach during the summer months from Memorial Day to Labor Day of any year. Therefore, impacts to the public will be minimized to the greatest extent feasible. **Special Condition #1** also requires revised final plans that indicate that beach sand at the site will be restored to pre-construction conditions. While the work will be timed so as to minimize the amount of grading or sand movement required to locate the strewn rock, some grading will be required. Therefore, the project is required to restore the area so that the public can immediately utilize the area as soon as work has been completed. Access to the site will occur just north of 1507 S. Pacific, the northernmost property, and construction access will pass through Buccaneer Beach. Therefore, **Special Condition #9** requires submittal of a final encroachment agreement indicating that the City has agreed to allow construction access.

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.

If rocks become dislodged from the revetment in the future, they could obstruct public access along the beach inconsistent with Coastal Act and the City's LCP. Therefore, **Special Condition #2** requires the applicant to survey the rock revetment and report the conditions to the Executive Director every five years, including a description of any migration or movement of rock that has occurred on the site and recommendations for repair and maintenance to the revetment, thereby preventing future debris from impeding public access on the beach. In addition, **Special Condition #3** requires the applicant to maintain the revetment in its approved state, and subject to a CDP or CDP amendment when required. **Special Condition #10** also requires a deed restriction to be recorded against the properties that expresses all conditions of this approval, so that buyers receive notice of and comply with all conditions. Together, these conditions ensure that the beach fronting the revetment will remain free from any rock dislodged from the revetment, and that lateral access along the beach will not be impeded, consistent with Coastal Act requirements.

Therefore, as conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

## **E. Marine 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.

Section III Water and Marine Resources; Diking, Dredging, Filling, and Shoreline Structures; and Hazards Areas of the City of Oceanside LUP states:

A. Coastal Act Policies:

The Coastal Act requires maintenance, protection and restoration of marine resources and coastal water quality, as well as control of discharges and run-off into the ocean and coastal wetlands.

B. Objectives

The City shall work with the Regional Water Quality Control Board and other appropriate agencies to prevent degradation of Oceanside's Coastal waters.

The proposed project will occur on sandy beach area immediately adjacent to coastal waters. Construction will include the use of mechanized equipment on the beach and storage of such equipment immediately inland of the revetment and beach area, which could adversely impact marine resources and coastal waters, inconsistent with Coastal Act policies. Thus, **Special Condition #8** requires submittal of final construction plans and requires that all equipment be removed from the beach areas overnight and during any tidal condition that may inundate work areas. To further protect water quality, this condition prohibits the storage of any construction materials or waste where it could potentially be subject to wave erosion and dispersion. In addition, only the minimum equipment necessary may be placed, stored or otherwise located in the intertidal zone at any time. Finally, this condition requires spill prevention measures for equipment to be identified and prohibits washing equipment on the beach or public parking lots or access roads. Therefore, as conditioned, the proposed development will not have an adverse impact on marine resources and will not result in adverse impacts to water quality and is consistent with Chapter 3 of the Coastal Act.

## 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 subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and the certified LCP. Approval of the project, as conditioned, will not prejudice the ability of the City of Oceanside to continue to implement its certified LCP.

## **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 Oceanside determined that the proposed development qualifies as repair to an existing facility and is categorically exempt under Class I Existing Facilities (Cal. Code of Regs., tit. 14, sec. 15301).

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 construction phase BMPs, staging and storage requirements, limits any future seaward encroachment of the revetment and requires development of a long-term monitoring plan which 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 – SUBSTANTIVE FILE DOCUMENTS**

- City of Oceanside certified LCP
- CDP# A-6-OCN-06-134/Stroud
- CDP# A-6-OCN-13-008/Burgess
- F0366
- Wave run up, coastal hazard, and shore protection study by GeoSoils, Inc dated November 18, 2021
- Response to CCC February 17, 2022 Letter from GeoSoils, Inc dated March 17, 2022
- March 2020 Letter from Commission staff to City staff re: revetment maintenance activities