CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT 725 FRONT STREET, SUITE 300 SANTA CRUZ, CA 95060 PHONE: (831) 427-4863 FAX: (831) 427-4877 WEB: WWW.COASTAL.CA.GOV



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A-3-SCO-23-0042 (TZOUANAKIS AND AJAO ARMORING) NOVEMBER 15, 2023 HEARING EXHIBITS

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4790 Opal Cliff Drive

Void at upcoast end Existing seawall

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View of the void, looking downcoast.

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Start of the void at the upcoast end of the seawall

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> Void extends approximately 5 to 10 feet along the seawall and 9.5 feet into the bluff

NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT

County of Santa Cruz

Date of Notice: 10/2/23

Notice Sent (via certified mail) to: California Coastal Commission Central Coast Area Office

725 Front Street, Ste, 300 Santa Cruz, CA 95060

OCT -4 2023

RECEIVED

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA



Please note the following Final Santa Cruz County Action on a coastal permit, coastal permit amendment or coastal permit extension application (all local appeals have been exhausted for this matter):

Project Information

Application No.: 231230

Project Applicant: Tzouanakis & Ajao Address: 4790 Opal Cliff Drive, Santa Cruz, CA 95062 Phone/E-mail: N/A Applicant's Representative: RI Engineering INC Address: 303 Potrero Street, Suite 42-202, Santa Cruz, CA 95060

Project Planner: Nathan MacBeth Phone/E-mail: nathan.macbeth@santacruzcountyca.gov

Phone/E-mail: richard@riengineering.com

Project Location: Property is located on the south side of Opal Cliff Drive approximately 200 feet west of the intersection with Portola Drive (4790 Opal Cliff Drive).

Project Description: Proposal to repair an existing seawall by constructing a concrete backfill of an existing void behind the seawall, and constructing a companion footing in front of the seawall where the existing footing is undermined.

Final Action Information

Final Local Action: Approved with Conditions

Final Action Body:

 \boxtimes

Administrative Approval

Zoning Administrator

Required Materials Supporting the Final Action	Enclosed	Previously sent (date)
Staff Report	×	
Adopted Findings	X	
Adopted Conditions	X	
Site Plans	X	
Elevations	Х	

Coastal Commission Appeal Information

- This Final Action is Not Appealable to the California Coastal Commission, the Final County of Santa Cruz Action is now effective.
- This Final Action is appealable to the California Coastal Commission. The Coastal Commission's 10-working day appeal period begins the first working day after the Coastal Commission receives adequate notice of this Final Action. The Final Action is not effective until after the Coastal Commission's appeal period has expired and no appeal has been filed. Any such appeal must be made directly to the California Coastal Commission Central Coast Area Office in Santa Cruz; there is no fee for such an appeal. Should you have any questions regarding the Coastal Commission appeal period or process, please contact the Central Coast Area Office at the address listed above, or by phone at (831) 427-4863.

Copies of this notice have also been sent via first-class mail to:

- Applicant
- Interested parties who requested mailing of notice



Planning Commission Board of Supervisors

Additional Materials Supporting the Final Action	Enclosed	Previously sent (date)
CEQA Document	X	
Geotechnical Reports		
Biotic Reports		
Other:		
Other:		

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COUNTY OF SANTA CRUZ Planning Division

COASTAL DEVELOPMENT PERMIT

Owner: <u>Emily Tzounakis & Adeyemi Ajao</u> Address: <u>4790 Opal Cliff Drive</u> Santa Cruz, CA 95062

Permit Number: <u>231230</u> Parcel Number(s): <u>033-132-12</u>

PROJECT DESCRIPTION AND LOCATION

Proposal to repair an existing seawall by constructing a new footing and backfill of void behind wall. Project requires a Coastal Development Permit.

Property located on the south side of Opal Cliff Drive approximately 200 feet west of the intersection with Portola Drive (4790 Opal Cliff Drive).

SUBJECT TO ATTACHED CONDITIONS

Approval Date: September 15, 2023

Exp. Date (If not exercised): see conditions

Effective Date: <u>September 29, 2023</u> Coastal Appeal Exp. Date: <u>Contact Coastal</u>

Denied by: _____ Denial Date:

This permit cannot be exercised until after the Coastal Commission appeal period. That appeal period ends on the above indicated date. Permittee is to contact Coastal staff at the end of the above appeal period prior to commencing any work.

A Building Permit must be obtained (if required) and construction must be initiated prior to the expiration date in order to exercise this permit. THIS PERMIT IS NOT A BUILDING PERMIT.

By signing this permit below, the owner agrees to accept the terms and conditions of this permit and to accept responsibility for payment of the County's costs for inspections and all other actions related to noncompliance with the permit conditions. This permit shall be null and void in the absence of the owner's signature below.

Signature of Owner/Agent

Nathan MacBeth - Staff Planner

9-15-23 Date

Distribution: Applicant, File, Clerical, California Coastal Commission

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Staff Report to the Zoning Administrator

Applicant: RI Engineering Inc	Agenda Date: September 15, 2023
Owner: Tzouanakis & Ajao	Agenda Item #: 3
APN: 033-132-12	Time: After 9:00 a.m.
Site Address: 4790 Opal Cliff Drive, Santa Cruz	

Project Description: Proposal to repair an existing seawall by constructing a concrete backfill of an existing void behind the seawall, and constructing a companion footing in front of the seawall where the existing footing is undermined.

Location: Property is located on the south side of Opal Cliff Drive approximately 200 feet west of the intersection with Portola Drive (4790 Opal Cliff Drive).

Permits Required: Coastal Development Permit

Supervisorial District: First District (District Supervisor: Koenig)

Staff Recommendation:

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 231230, based on the attached findings and conditions.

Project Setting

The subject property is located on the south side of Opal Cliff Drive approximately 240 feet west of the intersection with Portola Drive. The main portion of the property, an area of around 6,900 square feet which is occupied by the dwelling and yard area, is relatively flat in topography. However, the southeastern end of the parcel, an area of around 1,900 square feet, drops away almost vertically to the beach 45 to 50 feet below. The coastal bluff, an elevated marine terrace, has been protected by a concrete seawall at its base originally constructed in 1994. The nearest access to the beach is located approximately 1,200 feet southwest of the subject parcel.

Project Background

The existing seawall that covers the base of the bluff at the rear of this property was constructed in 1994 and embedded four feet into the sandstone bedrock. Monitoring of the seawall occurred in November of 2021 and again in January of 2023. During the monitoring site visits, the wall was in relatively good condition. However, the upcoast end of the existing seawall was outflanked and a void behind the wall had developed. The void extends approximately 5 to 10

County of Santa Cruz - Community Development & Infrastructure - Planning Division 701 Ocean Street, 4th Floor, Santa Cruz CA 95060

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feet along the length of the wall and approximately 9.5 feet into the bluff. As outlined in their reports, the project Geotechnical Engineer and Engineering Geologist recommend implementation of the repair plan as soon as possible.

Coastal Development Permit

A coastal development permit is required for the repair of the existing seawall by filling the void behind the wall with a mixture of concrete and rebar. The proposed work is consistent with the type of maintenance and repair necessary to ensure the seawall remains functional to the extent that it protects the coastal bluff from further erosion including protection of existing single family dwelling and occupants located at the top of the bluff. As indicated in the reports prepared by the project Geotechnical Engineer and Engineering Geologist, verification of the depth of the existing footing is necessary to determine whether the footing of the existing seawall is undermined. A companion footing shall be constructed in areas where the existing footing is compromised.

Zoning & General Plan Consistency

The subject properties are approximately 8,800 square feet, located in the R-1-5 (Single Family Residential - 5,000 square foot minimum) zone district, a designation which allows residential uses and is consistent with the R-UM (Urban Medium Density Residential) General Plan designation.

The proposed seawall repair is consistent with General Plan Policy 6.2.16 (Structural Shoreline Protection Measures) in that it is necessary to ensure the safety of the home(s) located on top of the bluff, as well as to protect the life and safety of beachgoers. The project does not reduce or restrict existing beach access, adversely affect shoreline processes, increase erosion on adjacent properties or cause harmful impacts to wildlife and fish habitats, or archaeological or paleontological resources. Detailed technical studies have been reviewed and accepted which demonstrate the need for the proposed shoreline protection structure and there are no alternatives to the proposed maintenance project.

Local Coastal Program Consistency

The proposed seawall repair is in conformance with the County's certified Local Coastal Program, in that the structure is sited and designed to be visually compatible and integrated with the surrounding coastal bluff in order to minimize impacts to coastal views. The project would be conditioned to ensure the aesthetic character and structural performance of the seawall repair.

Geotechnical and Geologic Reports including Monitoring Report have been prepared and submitted to the County for review. In a letter dated August 22, 2023, County of Santa Cruz accepted the reports (Exhibit F). The project has been conditioned to ensure all work to the seawall is done in accordance with the recommendations of the project Geotechnical Engineer and Geologist.

The project site is located between the shoreline and the first public road and is not identified as a priority acquisition site in the County's Local Coastal Program. The project will not interfere with public access to the beach or ocean, in that there is currently no public access to the beach

Page 2

Exhibit 3 A-3-SCO-23-0042 Page 4 of 56 on the subject parcel or in the immediate vicinity. The nearest existing coastal access is located approximately 1,200 feet to the southwest (Private's Beach).

Conclusion

As proposed and conditioned, the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

Staff Recommendation

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number **231230**, based on the attached findings and conditions.

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Division, and are hereby made a part of the administrative record for the proposed project.

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.sccoplanning.com

Report Prepared By:	Nathan MacBeth
	Santa Cruz County Planning
	701 Ocean Street, 4th Floor
	Santa Cruz CA 95060
	Phone Number: (831) 454-3118
	E-mail: <u>nathan.macbeth@santacruzcounty.us</u>

Exhibits

- A. Categorical Exemption (CEQA determination)
- B. Findings
- C. Conditions
- D. Project plans & Site photos
- E. Assessor's, Location, Zoning and General Plan Maps
- F. Parcel information
- G. Report review letters
- H. Comments & Correspondence

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CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

The Santa Cruz County Planning Division has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 231230 Assessor Parcel Number: 033-132-12 Project Location: 4790 Opal Cliff Drive, Santa Cruz

Project Description: Repair existing seawall wall

Person or Agency Proposing Project: RI Engineering INC Attn Richard Irish

Contact Phone Number: (831) 425-3901

- **A.** _____ The proposed activity is not a project under CEQA Guidelines Section 15378.
- **B.** _____ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- C. _____ Ministerial Project involving only the use of fixed standards or objective measurements without personal judgment.
- **D.** _____ Statutory Exemption other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

E. X Categorical Exemption

Specify type: Class 2 - Replacement or Reconstruction (Section 15302); Class 3 - New Construction or Conversion of Small Structures (Section 15303)

F. Reasons why the project is exempt:

Repair of existing seawall.

In addition, none of the conditions described in Section 15300.2 apply to this project.

Nathan MacBeth

Date:_____ 09/15/23

Nathan MacBeth, Project Planner



Coastal Development Permit Findings

1. That the project is a use allowed in one of the basic zone districts that are listed in LCP Section 13.10.170(D) as consistent with the LCP Land Use Plan designation of the site.

This finding can be made, in that the properties are zoned R-1-5 (Single Family Residential - 5,000 square foot minimum), a designation which allows residential uses and ancillary structures. The existing seawall is an allowed use within the zone district and the proposed repair work is necessary to protect the existing homes on site and ensure the safety of beachgoers below the subject properties. Detailed technical studies have been reviewed and accepted which demonstrate the need for the proposed shoreline protection structure and there are no alternatives to the proposed maintenance project. The zoning is consistent with the site's R-UM (Urban Medium Density Residential) General Plan designation. The project would not reduce or restrict existing beach access.

2. That the project does not conflict with any existing easement or development restrictions such as public access, utility, or open space easements.

This finding can be made, in that no such easements or restrictions are known to encumber the project site.

3. That the project is consistent with the design criteria and special use standards and conditions of this chapter pursuant to SCCC 13.20.130 and 13.20.140 et seq.

This finding can be made, in that the project is consistent with other bluff stabilization projects in terms of design. The finish color of the wall repair is consistent with the surrounding natural land formations. The project design minimizes potential visual impacts to the greatest extent feasible in that the backfilling of the cavity will be primarily behind the existing wall and obscured from public view. The project has been conditioned to require the structure be maintained in perpetuity to ensure the structure remains consistent with coastal design criteria.

4. That the project conforms with the public access, recreation, and visitor-serving policies, standards and maps of the LCP Land Use Plan, including Chapter 2: Section 2.5 and Chapter 7.

This finding can be made, in that the project site is located between the shoreline and the first public road however, the project will not interfere with public access to the beach, ocean, or any nearby body of water. Existing beach access (Private's Beach) exists approximately 1,200 feet west of the subject property. The project site is not identified as a priority acquisition site in the County Local Coastal Program.

5. That the project conforms to all other applicable standards of the certified LCP.

This finding can be made, in that the structure has been designed in accordance with General Plan Policy 6.2.16 (Structural Shoreline Protection Measures). Stabilization of the bluff is necessary to mitigate a geologic hazard resulting in unsafe beach conditions and threatening the existing residential uses on the subject properties which are allowed uses in the R-1-5 (Single Family Residential - 5,000 square foot minimum) zone district, as well as the General Plan and



Local Coastal Program land use designation.

The proposed coastal bluff repair is consistent with General Plan Policy 6.2.16 in that it is necessary to ensure the safety of the homes located on top of the bluff and life and safety of beachgoers. Detailed technical studies have been reviewed and accepted which demonstrate the need for the proposed shoreline protection structure and there are no alternatives to the proposed maintenance project. The project will not reduce or restrict existing beach access.

6. If the project is located between the nearest through public road and the sea or the shoreline of any body of water located within the Coastal Zone, that the project conforms to the public access and public recreation policies of Chapter 3 of the Coastal Act.

This finding can be made, in that the project site is located between the shoreline and the first public road however, the proposed repair of the existing seawall will not interfere with public access to the beach, ocean, or any nearby body of water. The proposed repair will be located behind the existing seawall and not take up additional beach space. Additionally, existing beach access is available approximately 1,200 feet west of the project site (Private's Beach). Further, the project site is not identified as a priority acquisition site in the County Local Coastal Program.

Development Permit Findings

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

This finding can be made, in that the project is located in an area designated for residential uses. The seawall repair will be constructed in conformance with the recommendations of the project geotechnical engineer and geologist and complies with prevailing building technology, the California Building Code, and the County Building ordinance to ensure the optimum in safety and the conservation of energy and resources. The structure will not be materially injurious to properties or improvements in the vicinity in that it has been designed to blend into the natural coastal bluff and will protect the site and adjacent parcels from future erosion processes, and will protect beachgoers from bluff collapse hazards.

2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.

This finding can be made, in that the location of the seawall repair and the conditions under which it would be operated and maintained will be consistent with all pertinent County ordinances and the purpose of the R-1-5 (Single-Family Residential) zone district. The primary use of the property will continue to be residential uses which necessitate installation of the seawall repair to ensure safety of the existing residential structures on the subject property and beachgoers in the vicinity.

3. That the proposed use is consistent with all elements of the County General Plan and with any specific plan which has been adopted for the area.

This finding can be made in that the project has been designed in accordance with General Plan Policy 6.2.16 (Structural Shoreline Protection Measures). The shoreline protection structure is intended to address the immediate hazard due to the unsafe site conditions, and is not limited to protection of existing structures. Detailed technical studies have been reviewed and accepted which demonstrate the need for the proposed shoreline protection structure and there are no alternatives to the proposed maintenance project. Construction equipment will be staged at the top of the bluff, in the rear yard of the subject property. Construction of the retaining wall repair will be completed via a concrete pump boom located at the top of the bluff to ensure impacts to the beach would be minimized.

A specific plan has not been adopted for this portion of the County.

4. That the proposed use will not overload utilities, and will not generate more than the acceptable level of traffic on the streets in the vicinity.

This finding can be made, in that the seawall repair is to be constructed on an existing developed lot and intended to protect the bluff from further erosion and potential hazard to the existing



dwellings. Beyond the construction phase, the seawall repair will not require the use of utilities and will not generate additional traffic on the streets in the vicinity.

5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

This finding can be made, in that the project is located along a coastal bluff which is subject to coastal erosion. The subject parcel is developed with existing single family dwelling. In terms of design, the project is consistent with seawalls and repairs in the vicinity. Whereas the majority of the seawall repair will be located behind the existing seawall, potential impacts to visual resources will be minimized to the greatest extent possible. Construction of seawall repair, to protect the existing home and existing wall from failure, does not result in any change to the existing land use intensity and density of the neighborhood.

6. The proposed development project is consistent with the Design Standards and Guidelines (sections 13.11.070 through 13.11.076), and any other applicable requirements of this chapter.

This finding can be made, in that the repair will be situated behind and below the existing concrete seawall and visual impacts will be minimal. Consequently, the project does not result in adverse impacts to coastal views.

Conditions of Approval

Exhibit D: Project plans, prepared by RI Engineering Inc, dated February 2023.

- I. This permit authorizes the repair and maintenance of an existing seawall as indicated on the approved Exhibit "D" for this permit. This approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property that are not specifically authorized by this permit. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
 - A. Sign, date, and return to Santa Cruz County Planning one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Building Permit from the Santa Cruz County Building Official.
 - 1. Any outstanding balance due to Santa Cruz County Planning must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
 - C. Obtain a Grading Permit from the Santa Cruz County Building Official.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit final architectural plans for review and approval by Santa Cruz County Planning. The final plans shall be in substantial compliance with the plans marked Exhibit "D" on file with Santa Cruz County Planning. Any changes from the approved Exhibit "D" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 - 1. A copy of the text of these conditions of approval incorporated into the full size sheets of the architectural plan set.
 - 2. One elevation shall indicate materials and colors as they were approved by this Discretionary Application. If specific materials and colors have not been approved with this Discretionary Application, in addition to showing the materials and colors on the elevation, the applicant shall supply a color and material sheet in 8 1/2" x 11" format for Santa Cruz County Planning review and approval. Any exposed concrete at the upcoast end of the wall, directly adjacent to the natural bluff, shall be colored and contoured to blend with the natural rock formation adjacent to it to the greatest extent possible. Added by ZA 9/15/23
 - 3. Grading, drainage, and erosion control plans.

- B. Meet all requirements of the County Department of Public Works, Stormwater Management. Drainage fees will be assessed on the net increase in impervious area.
- C. Meet all requirements of the Environmental Planning section of Santa Cruz County Planning.
 - 1. A paleontological report outlining the monitoring and mitigation of paleontological resources shall be submitted with the building permit application.
- D. Submit 3 copies of plan review letters prepared and stamped by the project Geotechnical Engineer and project Geologist.
- E. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
 - A. All site improvements shown on the final approved Building Permit plans shall be installed.
 - B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
 - C. A maintenance and monitoring agreement shall be recorded prior to final inspection.
 - D. The project must comply with all recommendations of the approved soils and geologic reports.
 - E. Submit inspection reports by the project Geotechnical Engineer and Geologist verifying the embedment depth of the footing under the seawall. Provide supplemental recommendations to extend the footing depth if warranted.

F. <u>All work shall be accessed and performed from the bluff top.</u> Added by ZA 9/15/23

G. Pursuant to Sections 16.40.040 and 16.42.080 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning



Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.080, shall be observed.

IV. Operational Conditions

- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
- V. Indemnification

The applicant/owner shall indemnify, defend with counsel approved by the COUNTY, and hold harmless the COUNTY, its officers, employees, and agents from and against any claim (including reasonable attorney's fees, expert fees, and all other costs and fees of litigation), against the COUNTY, its officers, employees, and agents arising out of or in connection to this development approval or any subsequent amendment of this development approval which is requested by the applicant/owner, regardless of the COUNTY's passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of the COUNTY. Should the COUNTY in its sole discretion find the applicant's/owner's legal counsel unacceptable, then the applicant/owner shall reimburse the COUNTY its costs of defense, including without limitation reasonable attorney's fees, expert fees, and all other costs and fees of litigation. The applicant/owner shall promptly pay any final judgment rendered against the COUNTY (and its officers, employees, and agents) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this development approval.

- A. The COUNTY shall promptly notify the applicant/owner of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. The COUNTY shall cooperate fully in such defense.
- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
 - 1. COUNTY bears its own attorney's fees and costs; and
 - 2. COUNTY defends the action in good faith.
- C. <u>Settlement</u>. The applicant/owner shall not be required to pay or perform any settlement unless such applicant/owner has approved the settlement. When representing the COUNTY, the applicant/owner shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior

Exhibit 3 FA-31560-23-0042 Page 13 of 56 written consent of the COUNTY.

D. <u>Successors Bound</u>. The "applicant/owner" shall include the applicant and/or the owner and the successor'(s) in interest, transferee(s), and assign(s) of the applicant and/or the owner.

Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires three years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.

Approval Date:	09/15/23	_
Effective Date:	09/29/23	_
Expiration Date:	09/29/26	
	Lezanne Jeffe	

Deputy Zoning Administrator

Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

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SITE PHOTOS – Beach View of 4790 Opal Cliff Drive



EXHIBIT D

Exhibit 3 A-3-SCO-23-0042 Page 19 of 56 Seawall below 4790 Opal Cliff Drive



EXHIBIT D

Exhibit 3 A-3-SCO-23-0042 Page 20 of 56 Westside of seawall at 4790 Opal Cliff Drive



EXHIBIT D

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Application #: 231230 APN: 033-132-12 Owner: Tzouanakis

Parcel Information

Services Information

Urban/Rural Services Line:	X Inside Outside
Water Supply:	City of Santa Cruz Water District
Sewage Disposal:	County Sanitation District
Fire District:	Central Fire Protection District
Drainage District:	Flood Control District 5

Parcel Information

Parcel Size:	Approximately 8,800 square feet (gross)
Existing Land Use - Parcel:	Residential
Existing Land Use - Surrounding:	Residential/Parks Recreation and Open Space
Project Access:	Opal Cliff Drive
Planning Area:	Live Oak
Land Use Designation:	R-UM (Urban Medium Residential Desnity)
Zone District:	R-1-5 (Single Family Residential (5,000 square foot
	minimum parcel))
Coastal Zone:	X Inside Outside
Appealable to Calif. Coastal	X Yes No
Comm.	

Technical Reviews: Combined Geotechnical and Geologic Report (REV231082)

Environmental Information

Geologic Hazards:	Coastal bluff erosion/flood plain
Fire Hazard:	Not a mapped constraint
Slopes:	Coastal bluff
Env. Sen. Habitat:	No physical evidence on site
Grading:	Site preparation/backfill behind seawall.
Tree Removal:	No trees proposed to be removed
Scenic:	Not a mapped resource
Archeology:	Not mapped

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County of Santa Cruz

Department of Community Development and Infrastructure 701 Ocean Street, Fourth Floor, Santa Cruz, CA 95060 Planning (831) 454-2580 Public Works (831) 454-2160 sccoplanning.com dpw.co.santa-cruz.ca.us

22 August 2023

Emily Tzouanakis and Adeyemi Ajao <emily.tzouanakis@gmail.com> 4790 Opal Cliff Drive Santa Cruz, CA 95062

Subject: Review of <u>Geologic Letter Supporting Repair of Void Behind Seawall Plan by R.I.</u> <u>Engineering, 4790 Opal Cliff Drive, Santa Cruz, CA 95062, County of Santa Cruz</u> <u>APN 033-132-12</u> dated 7 March 2023 by Pacific Crest Engineering Inc. Project No. 2279; and

> Review of <u>Seawall Monitoring Report, 4790 Opal Cliff Drive Santa Cruz, California</u> <u>95062 APN: 033-132-12</u> dated 28 February 2023 by Rock Solid Engineering, Inc. Project No. 22062.

Project Site: 4790 Opal Cliff Drive APN: 033-132-12 Application No: REV231082

Dear Applicants:

The purpose of this letter is to inform you that the Planning Division has accepted the subject reports and the following items shall be required:

- 1. All project design and construction shall comply with the recommendations of the reports.
- 2. Final plans shall reference the reports by titles, authors, and dates. Final Plans should also include a statement that the project shall conform to the reports' recommendations.
- 3. After plans are prepared that are acceptable to all reviewing agencies, please submit a completed <u>Soils (Geotechnical) Engineer Plan Review Form</u> and a completed <u>Geologist Plan Review Form</u> to Environmental Planning. The authors of the soils and geology reports shall sign and stamp their respective completed forms. Please note that the plan review forms must reference the final plan set by last revision date.

Any updates to report recommendations necessary to address conflicts between the reports and plans must be provided via a separate addendum to the soils report and/or geology report.

Electronic copies of all forms required to be completed by the Geotechnical Engineer may be found on our website: <u>www.sccoplanning.com</u>, under "Environmental", "Geology & Soils", and "Assistance & Forms".

After building permit issuance the soils engineer and engineering geologist *must remain involved with the project* during construction. Please review the <u>Notice to Permits Holders</u> (attached).

Exhibit 3 AE3-SCOF23-0042 Page 27 of 56 REV231082 APN 033-132-12 22 August 2023 Page 2

Our acceptance of the reports is limited to its technical content. Other project issues such as zoning, fire safety, septic or sewer approval, etc. may require resolution by other agencies.

Please note that this determination may be appealed within 14 calendar days of the date of service. Additional information regarding the appeals process may be found online at: https://www.sccoplanning.com/PlanningHome/ZoningDevelopment/Appeals/PlanningAppealsfor DiscretionaryPermits.aspx

Please contact Rick Parks at (831) 454-3168/email: <u>Rick.Parks@santacruzcounty.us</u> or Jeff Nolan at (831) 454-3175/<u>Jeffrey.Nolan@santacruzcounty.us</u> if we can be of any further assistance.

Sincerely,



Rick Parks, GE 2603 Civil Engineer – Environmental Planning County of Santa Cruz



Jeffrey Nolan, CEG 2247 County Geologist – Environmental Planning County of Santa Cruz

Cc: Jessica deGrassi Pacific Crest Engineering, Attn: Erik Zinn, CEG Rock Solid Engineering, Attn: Yvette Wilson, PE Applicant: Richard Irish, PE

Attachments: Notice to Permit Holders

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NOTICE TO PERMIT HOLDERS WHEN SOILS AND GEOLOGY REPORTS HAVE BEEN PREPARED, REVIEWED AND ACCEPTED FOR THE PROJECT

The County requires your soils engineer and engineering geologist to be involved during construction.

1. At the completion of construction, a Soils (Geotechnical) Engineer Final Inspection Form and a Geologist Final Inspection Form are required to be submitted to Environmental Planning that includes copies of all observations made during construction and is stamped and signed, certifying that the project was constructed in conformance with the recommendations of the soils and geology reports.

If the *Final Inspection Form* identifies any portions of the project that were not observed by the soils engineer and/or geologist, you may be required to perform destructive testing in order for your permit to obtain a final inspection. The soils engineer and/or geologist then must complete and initial an *Exceptions Addendum Form* that certifies that the features not observed will not pose a life safety risk to occupants.

Nathan MacBeth

From: Sent:	Clark, Nolan@Coastal <nolan.clark@coastal.ca.gov> Wednesday, July 12, 2023 4:16 PM</nolan.clark@coastal.ca.gov>
То:	Nathan MacBeth
Cc:	Graeven, Rainey@Coastal; Jessica deGrassi; Richard Irish; emily.tzouanakis@gmail.com
Subject:	CDP Application 231230 - First Routing
Attachments:	Beach Sand Loss worksheet pdf

Hi Nate,

Thank you for the opportunity to comment on the above-referenced Coastal Permit application. Please include these comments as part of the administrative record for this project, and distribute to the applicant and appropriate staff.

Project Description:

The project proposes to fill a void behind the upcoast end of an outflanked vertical seawall, approximately 10 feet long and 9 feet deep, with concrete slurry, and to construct an additional keyed-in 2-foot wide concrete footing into the bedrock (at a minimum of 3 feet deep into bedrock) seaward of the base of the existing seawall foundation located at the base of the coastal bluff fronting 4790 Opal Cliff Drive in the Live Oak Area (APN 033-132-12).

Comments:

- 1. **Construction Access, Staging, and Storage.** IP Section 16.10.070(H)(3)(h) requires that applications for shoreline protection structures include a construction and staging plan that minimizes disturbance to the beach and specifies the access and staging areas. The project plans do not clearly denote construction site access, staging, and storage. Please update the project plans and narrative to clearly describe access routes, equipment staging, and storage including in relation to the MHTL. Additionally, the MHTL as shown on the project plan differs across the plan set. Accordingly, please update the plans to consistently display the MHTL in relation to all activities.
- 2. Jurisdiction. Elements of the proposed project appear to bisect Coastal Commission original jurisdiction. This includes the proposed keyway into bedrock (the depth of which is to be field verified, according to the project plans), which appears to drop below the Mean High Tide elevation (4.84 feet NAVD 88), as well as construction access routes. Any proposed development within Coastal Commission retained jurisdiction will require a Coastal Development Permit (CDP) directly from the Coastal Commission in addition to a County CDP. Alternatively, a single consolidated CDP can be processed by the Coastal Commission pursuant to Coastal Act Section 30601.3. The Applicant should apply for a formal boundary determination from the Coastal Commission to determine the jurisdictions implicated by the project.
- 3. Eligibility for Armoring. LUP Policy 6.2.16 (Structural Shoreline Protection Measures) limits the use of structural shoreline protection measures to protect existing structures from a significant threat. IP Section 16.10.070(H)(3) furthers this limitation by only allowing shoreline protection structures, and specifically seawalls, when there is a significant threat to an existing structure. Thus, the LCP requires that 1) the residence constitute an "existing" structure in order to be eligible for shoreline armoring, and 2) that there is a demonstration of a significant threat to the structure in question. An existing structure is a structure which has not been substantially redeveloped (i.e., replacement or modification of more than 50% of any major structural component, such as the structural elements of the roof, foundation, or exterior load-bearing walls) since the implementation of the Coastal Act on January 1, 1977. First, the development history of the subject residence is not clearly described in the application materials, and it is unclear whether the residence can be considered existing pursuant to the Coastal Act and LCP. Second, the project application materials do not clearly demonstrate that the subject residence is susceptible to a significant threat (i.e., in danger of erosion within the next 2-3 storm cycles). Please

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update the project materials to clarify whether the residence constitutes and existing structure, and if so, whether it is in danger of erosion within the next 2-3 storm cycles as set forth in LUP Policy 6.2.16 and IP Section 16.10.070(H)(3).

- 4. Alternatives Analysis. If the site is eligible for shoreline protection because there is an existing structure and it is in danger of erosion within the next 2-3 storm cycles, then LUP Policy 6.2.16 and IP Section 16.10.070(H)(3)(c) set forth requirements for a robust analysis of alternatives. Specifically, IP Section 16.10.070(H)(3)(C) requires any shoreline armoring proposal, including modifications that expand the armoring footprint such as is the case here, to "include a "thorough analysis of all reasonable alternatives to such structures, including but not limited to relocation or partial removal of the threatened structure, protection of only the upper bluff area or the area immediately adjacent to the threatened structure, beach nourishment, and vertical walls. Structural protection measures on the bluff and beach shall only be permitted where nonstructural measures, such as relocating the structure or changing the design, are infeasible from an engineering standpoint or are not economically viable". Please submit an alternatives including but not limited to relocation/removal of the threatened structure but not limited to relocation/removal of the threatened portion of the structure, beach nourishment of the void/outflanked area, slimmer tieback wall that occupies a significantly smaller footprint, and a cavity fill that makes use of erodible concrete and/or low-density fill or more natural earthen fill with a concrete face, etc.
- 5. Public Recreational Access/Shoreline Processes/Visual Resource Impacts and Mitigation. IP Section 16.10.070(H)(3)(e) states that shoreline protection structures "shall not reduce or restrict public beach access, adversely affect shoreline processes and sand supply, adversely impact recreational resources, increase erosion on adjacent property, create a significant visual intrusion, or cause harmful impacts to wildlife or fish habitat, archaeologic or palaeontologic resources" and "shall minimize visual impacts by employing materials that blend with the color of natural materials in the area". The current seawall at the site appears to contribute to accelerated erosion at its upcoast end as evidenced by this application, and there are currently no mitigation measures in place to offset these impacts. Also, the current seawall occupies public recreational space, and the proposal will extend the seawall footprint seaward in this public area, further impacting recreational resources. Finally, the current seawall does not incorporate materials or design elements which blend the color and texture of the wall to simulate natural bluff/bedrock in the area. The project application materials do not propose any mitigation measures with respect to adverse effects to shoreline processes and sand supply, adverse impacts to recreational access, increased erosion on adjacent properties, and significant visual resource impacts. Accordingly, the project application materials should be updated to include mitigation strategies, such as: 1) direct sand nourishment for accelerated erosion of the adjacent property and loss of sand supply; 2) assessment of in-lieu fees for the impacts to recreational resources and sand supply from the entire wall (should the cutoff wall component of the project continue to be proposed); and 3) design elements and materials to minimize impacts to visual resources that blend the wall with the surrounding natural bluff materials. Attached is the Coastal Commission's sand supply and public recreation in-lieu fee assessment worksheet as an example. Also, please see County CDPs 151321 and 171261, which both assessed in-lieu fees for impacts to public recreational access and sand supply and included design elements to minimize impacts to visual resources. Finally, see CDP findings in CDP 3-16-0446 that explain how cutoff walls extend the life of seawalls and render seawalls redeveloped, thus triggering re-evaluation of mitigation requirements for the entire seawall.

Please feel free to contact me with any questions you may have regarding these comments.

Thank you,

Nolan Clark Coastal Planner, Central Coast District California Coastal Commission

Beach Sand Loss In-lieu Fee Worksheet Address CDP

 $V_c =$ Volume of sand to rebuild the area of beach lost due to encroachment by the seawall; based on the seawall design and beach and nearshore profiles (cubic yards)

 $\mathbf{V}_{\mathbf{e}} = \mathbf{A}_{\mathbf{e}} \mathbf{x} \mathbf{v}$

 A_e = The encroachment area which is equal to the width of the properties which are being protected (W) times the seaward e encroachment of the protection (E)

$A_e = W \times E$

W = Width of property to be armored (ft.)

- E = Encroachment by seawall, measured from the toe of the bluff or back beach to the seaward limit of the protection (ft.)
- Volume of material required, per unit width of beach, to replace or v =reestablish one foot of beach seaward of the seawall; based on the vertical distance from the top of the beach berm to the seaward limit of reversible sediment movement (cubic yards/ft. of width and ft. of retreat). The value of v is often taken to be 1 cubic yard per square ft. of beach. If a vertical distance of 40 feet is used for the range of reversible sediment movement, v would have a value of 1.5 cubic yards/square ft. (40 feet x 1 foot x 1 foot/27 cubic feet per cubic yard). If the vertical distance for a reversible sand movement is less than 40 feet, the value of v would be less than 1.5 cubic yards per square foot. The value of v would be less that 1.5 cubic yards per square foot. The value of v will vary from one coastal region to an another. A value of 0.9 cubic yards per square foot has been suggested for the Oceanside Littoral Cell (Oceanside Littoral Cell Preliminary Sediment Budget Report, December 1997, prepared as part of the Coast of California Storm and Tide Wave Study)
- $V_w =$ Volume of sand to rebuild the area of beach lost due to long-term erosion (V_w) of the beach and near-shore, resulting from stabilization of the bluff face and prevention of landward migration of the beach profile; based on the long-term regional bluff retreat rate, and beach and nearshore profiles (cubic yards)

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$\mathbf{V}_{\mathbf{w}} = \mathbf{A}_{\mathbf{w}} \mathbf{x} \mathbf{v}$

 A_w = The area of beach lost due to long-term erosion is equal to the long-term average annual erosion rate (R) times the number of years that the back beach or bluff will be fixed (L) times the width of the property that will be protected (W) (ft./yr.)

$\mathbf{A}_{\mathbf{w}} = \mathbf{R} \mathbf{x} \mathbf{L} \mathbf{x} \mathbf{W}$

- R = The retreat rate which must be based on historic erosion, erosion trends, aerial photographs, land surveys, or other acceptable techniques and documented by the applicant. The retreat rate should be the same as the predicted retreat rate used to estimate the need for shoreline armoring
- L = The length of time the back beach or bluff will be fixed or the design life of the armoring without maintenance (yr.). For repair and maintenance projects, the design life should be an estimate of the additional length of time the proposed maintenance will allow the scawall to remain without further repair or replacement
- V_b = Amount of beach material that would have been supplied to the beach if natural erosion continued, or the long-term reduction in the supply of bluff material to the beach, over the life of the structure; based on the long-term average retreat rate, design life of the structure, percent of beach quality material in the bluff, and bluff geometry (cubic yards)

 $V_b = (S \times W \times L) \times [(R \times h_s) + (1/2h_u \times (R + (R_{cu} - R_{cs})))]/27$

- S = Fraction of beach quality material in the bluff material, based on analysis of bluff material to be provided by the applicant
- h_s = Height of the seawall from the base of the bluff to the top (ft.)
- h_u = Height of the unprotected upper bluff, from the top of the seawall to the crest of the bluff (ft.)
- R_{cu} = Predicted rate of retreat of the crest of the bluff, during the period that the seawall would be in place, assuming no seawall were installed (ft./yr.). This value can be assumed to be the same as R unless the applicant provides site specific geotechnical information supporting a different value

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- R_{cs} = Predicted rate of retreat of the crest of the bluff, during the period that the seawall would be in place, assuming the seawall has been installed (ft./yr.). This value will be assumed to be zero unless the applicant provides site specific geotechnical information supporting a different value
- $V_t =$ Total volume of sand required to replace losses due to the structure, through reduction in material from the bluff, reduction in nearshore area and loss of available beach area (cubic yards). Derived from calculations provided above

 $\mathbf{V}_{t} = \mathbf{V}_{b} + \mathbf{V}_{w} + \mathbf{V}_{c}$

 $\mathbf{M} = \mathbf{V}_{t} \mathbf{x} \mathbf{C}$

C = Cost, per cubic yard of sand, of purchasing and transporting beach quality material to the project vicinity (\$ per cubic yard). Derived from the average of three written estimates from sand supply companies within the project vicinity that would be capable of transporting beach quality material to the subject beach, and placing it on the beach or in the near shore area

In-lieu Worksheet Page 4

W = E = v = R = L = S = hs hu = Rcu = Rcs =С =

 $\mathbf{V}_{\mathbf{e}} = \mathbf{A}_{\mathbf{e}} \mathbf{x} \mathbf{v}$

 $V_e = \underline{XXX} \times \underline{XX} = \underline{XX}$ cubic yards

 $\mathbf{V}_{\mathbf{w}} = \mathbf{A}_{\mathbf{w}} \mathbf{x} \mathbf{v}$

 $\mathbf{V}_{\mathbf{w}} = \underline{\mathbf{X}} \mathbf{X} \mathbf{X} \underline{\mathbf{X}} = \underline{\mathbf{X}} \mathbf{X} \text{ cubic yards}$

 $V_b = (S \times W \times L) \times [(R \times h_s) + (1/2h_u \times (R + (R_{cu} - R_{cs})))]/27$

 $\mathbf{V_b} = (\underline{XX} \times \underline{XX} \times \underline{XX}) \times [(\underline{XX} \times \underline{XX}) + (\underline{XX}/2 \times (\underline{XX} + (\underline{XX} - \underline{XX})))]/27 = \underline{XX \text{ cubic}}$ yards

 $\mathbf{V}_{t} = \mathbf{V}_{b} + \mathbf{V}_{w} + \mathbf{V}_{e}$

 $V_t = \underline{XXX} + \underline{XXX} + \underline{XXX} = \underline{XXX}$ cubic yards

 $\mathbf{M} = \mathbf{V}_t \mathbf{X} \mathbf{C}$

 $\mathbf{M} = \underline{\mathbf{XXX}} \mathbf{x} \underline{\mathbf{\$XXX}} = \underline{\mathbf{\$XXX}} \underline{\mathbf{XX}}$

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Late Comments & Correspondence

Application Number 231230

EXHIBIT H

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ATTORNEYS AT LAW

18101 Von Karman Avenue Suite 1800 Irvine, CA 92612 T 949.833.7800 F 949.833.7878

John J. Flynn III D 949.477.7634 jflynn@nossaman.com

Refer To File # 504681 0001

VIA EMAIL

September 13, 2023

Jocelyn Drake, Assistant Director CDI – Planning Division – Permit Center 701 Ocean Street, Fourth Floor Santa Cruz, CA 95060-4070 jocelyn.drake@santacruzcounty.us

Re: Application #: 231230; Assessor's Parcel #: 033-132-12 Address: 4790 Opal Cliff Drive, Santa Cruz

Dear Ms. Drake,

This law firm represents Adeyemi Ajao and Emily Tzouanakis, owners of the property referred to above, the subject of the application also referenced above.

My purpose in submitting this letter to you is to respond to some of the assertions and arguments presented by Mr. Nolan Clark, a member of the Coastal Commission staff, in his email of July 12, 2023 to Nathan MacBeth of the County. I will respond to Mr. Clark's comments in the order in which they appear in his July 12 email.

(1) **Construction Access, Staging, and Storage**. Please refer to the submitted civil engineering documents, which address and resolve this issue.

To elaborate, staging for this project will most likely be from the top of the bluff on the Tzouanakis property. Equipment and personnel can be lowered from the top of the bluff onto the beach at the base of the bluff. Additional personnel access can be provided from the beach adjacent to the Capitola wharf or the stairs at Privates Beach. An alternate access to the site may be from the beach adjacent to the Capitola wharf. The Contractor doing the work will make the decision as to how to access the site. In all cases equipment will be removed from the beach at the end of all work sessions.

(2) **Jurisdiction**. The location of the mean high tide line, as you know, comes up just about any time anybody proposes development related to seawall repair. In this case, we have provided to the County a survey establishing the location of the mean high tide line, which negates very conclusively the assertions that appear in Mr. Clark's email about the location of the MHTL. With due respect to Mr. Clark, he is mistaken about the MHTL, and has not, in response to the survey that we have provided to you, provided any survey results establishing that the MHTL is located anywhere else.

(3) **Eligibility for Armoring**. Mr. Clark's argument in this regard is simply irrelevant, since we are talking in this case about a seawall repair to an obviously already existing seawall.

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Ms. Jocelyn Drake September 13, 2023 Page 2

Mr. Clark's invocations of LUP policy 6.2.16 and IP section 16.10.07(H)(3) are simply irrelevant to the seawall repair project now before you.

Further, Mr. Clark's definition of an "existing" structure, which limits existing structures to those that have not been substantially redeveloped since January 1, 1977, cannot be reconciled with the plain language of the Coastal Act, as set forth in Public Resources Code section 30235. Mr. Clark's argument is the same argument unsuccessfully made by the Coastal Commission in the case of *Casa Mira v. California Coastal Commission*, now on appeal by the Coastal Commission. "Existing structures" are those that exist at the time of the application, *not* as of December 31, 1976.

Likewise, Mr. Clark's argument that we must demonstrate a danger of erosion within the next 2-3 storm cycles has no relevance in this case because the project before you concerns an *existing* seawall, the need for which was established decades ago.

(4) Alternatives Analysis. Mr. Clark also demands a "robust analysis of alternatives," erroneously invoking IP section 16.10.070(H)(3)(C). The idea that the proposed project requires consideration of relocating all or a portion of the residence is self-evidently misplaced, and badly so. The only project presented to you is one to repair a seawall by filling the void behind the wall with a mixture of concrete and rebar. It cannot seriously be contended that such a repair, again with due respect to Mr. Clark, requires consideration of relocating all or a portion of the home.

(5) **Public Recreational Access/Shoreline Processes/Visual Resource Impacts and Mitigation**. This is the longest section of Mr. Clark's email memorandum, but the length of this section is devoted entirely to a number of unsupported conclusions, without any evidence presented by Mr. Clark to support the conclusions. How is it possible for repair of an **existing** seawall, by filling the void behind the wall, to have the kind of impacts alleged in section 5 of Mr. Clark's memorandum? Nowhere in that section will one find any evidence or reasoning to support the litany of bare conclusions.

Mr. Clark also contends in section 5 that the seawall currently occupies public recreational space, yet there is no evidence offered to support that conclusion, which is contrary to fact in any event. In no County maps will one find any references to location of the seawall as "public recreational space". As for impacts, none of the impacts alleged will result from the construction of this seawall repair project. There is therefore no need for the mitigation or in-lieu fees referenced in section 5 of Mr. Clark's memorandum.

Finally, it bears noting, with a high degree of emphasis, that the right of a landowner to protect his or her property is a right embedded in both the California and the United States Constitutions. It is a right that does not hinge on any statute, or on anyone's interpretation of any statute. To own property, always purchased at great cost, and to be stripped of the right to protect it from natural forces is to negate the right altogether

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Thank you very much for your consideration of our letter. We have worked with Mr. Clark in the past and we respect him, but, in this case, the opinions stated in his email of July 12, 2023 are not supported by the law or any evidence.

Very truly yours,

John J. Flynn III Nossaman LLP

JJF:art

cc: Adeyemi Ajao and Emily Tzouanakis (emily.tzouanakis@gmail.com) Manu Koenig (manu.koenig@santacruzcounty.us) Matt Machado (matt.machado@santacruzcounty.us) Justin Graham, Assistant County Counsel (Justin.graham@santacruzcounty.us) Nolan Clark (Nolan.Clark@coastal.ca.gov) Dan Carl (Dan.Carl@coastal.ca.gov) Rainey Graeven (Rainey.Graeven@coastal.ca.gov) Cove Britton (cove@matsonbritton.com) Richard Irish, P.E. (richard@riengineering.com)

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Nathan MacBeth

From:	Richard Irish <richard@riengineering.com></richard@riengineering.com>			
Sent:	Wednesday, September 13, 2023 4:32 PM			
То:	Nathan MacBeth			
Cc:	Cove Britton; John J. Flynn			
Subject:	Tjouankis Seawall			
Attachments:	27572TPO-TP-1.pdf			

****CAUTION: This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Nathan,

When we submitted for the above noted project we did not include the survey that was prepared for the project. As this may be discussed at the hearing, I have attached it now for your use. The plans we prepared are based on the survey.

Thanks and let me know if you have any questions.

Richard Irish, PE Civil Engineer

303 Potrero Street, Suite 42-202 Santa Cruz, CA 95060 831.425.3901

R1 Engineering, Inc. www.riengineering.com

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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT 725 FRONT STREFT, SUITE 3C0 SANTA CRUZ, CA 95060 PHONE (831) 427-4863 FAX (831) 427-4863 WEB WWW COASTAL CA GOV



September 14, 2023

Lezanne Jeffs, Zoning Administrator Santa Cruz County Community Development and Infrastructure Department 701 Ocean Street, 4th Floor Santa Cruz, CA 95060

Subject: September 15, 2023 Zoning Administrator Hearing on CDP Application Number 231230 (4790 Opal Cliff Drive Seawall)

Dear Ms. Jeffs:

Please accept the following comments on the above-referenced Zoning Administrator item, coastal development permit (CDP) application 231230, scheduled for hearing on September 15, 2023. As we understand it, the proposed project includes the filling of a void, approximately 10 feet long and 9 feet deep behind the upcoast end of an outflanked vertical seawall¹ with concrete slurry, and construction of an additional 2-foot wide concrete footing for the seawall that would extend seaward of it and be keyed into the bedrock at least 3 feet, all located at the base of the coastal bluff and on the beach fronting 4790 Opal Cliff Drive in the Live Oak area (APN 033-132-12). We previously commented on this CDP application and indicated that at least some, if not all, of the proposed project appears to fall within the Commission's original CDP jurisdiction (and thus those portions require CDP authorization directly from the Commission either in conjunction with the County's CDP process, or via a consolidated CDP for the entire project pursuant to Coastal Act Section 30601.3), and that the project in any case raises questions of consistency with Santa Cruz County Local Coastal Program (LCP) and Coastal Act provisions related to coastal hazards, shoreline armoring, and coastal resource impact avoidance and mitigation (see attached comments dated July 12, 2023). Here, we reiterate those original comments and provide additional substantive discussion, including in response to comments from the Applicant received yesterday (via John Flynn, the Applicant's representative) in a letter to the County. As described in more detail below, we recommend that the County either postpone action to allow for unresolved questions and missing analyses to be answered and provided, respectively, or if the County proceeds despite such issues, that the County deny this CDP application.

First, and contrary to the assertions made by Mr. Flynn, the proposed project will expand the footprint and configuration of the existing armoring present at this site, and as such, does not constitute repair and maintenance to an existing seawall. Rather, repair and maintenance are activities that put something back to a permitted and/or required state, and such activities do not extend to the expansion of the physical

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¹ The seawall was originally constructed in 1994 under Santa Cruz County CDP 93-0245.

dimensions of a structure, as is the case with the augmentation proposed here, where the proposed project would actually <u>expand</u> the armoring at the site, extending both farther into the bluff and farther seaward than the existing seawall.² For this fundamental reason, the project must be evaluated as a proposed augmented and replacement seawall structure in total, and not just evaluated in terms of the components that would be added to it. Put another way, the proposed armoring must be understood as a new replacement armoring structure, and it must meet all applicable Coastal Act and LCP tests.³

With respect to LCP consistency, LCP Land Use Policy (LUP) 6.2.16 and Implementation Plan (IP) Section 16.10.070(H)(3) set forth the basic criteria under which shoreline armoring projects are to be evaluated. As a primary matter pursuant to these LCP provisions, shoreline armoring is limited to cases where existing structures are significantly threatened due to erosion. In this context, an 'existing structure' is a structure that was developed prior to implementation of the Coastal Act (on January 1, 1977) that has not been substantially redeveloped (i.e., replacement or modification of more than 50% of any major structural component, such as the structural elements of the roof, foundation, or walls).⁴ Thus, for this armoring project to be considered in the first place, it needs to be first demonstrated that the residence at 4790 Opal Cliff Drive meets these tests to qualify as an existing structure. If it does, then it needs to be demonstrated that it is in danger from a significant threat (which has generally been interpreted to mean it would be unsafe to occupy within the next 2-3 storm seasons). Neither the application materials for this CDP nor the County staff report prepared for the hearing on this item evaluate these basic tests, and it is premature to consider the project without such an assessment. And, in fact, based on available information, it appears that although a residence was present as of January 1, 1977 at the subject site, there have been significant alterations to it since.⁵ and it is not clear that the project can meet these basic tests for allowing consideration of armoring in the first place.

⁴ Mr. Flynn's comments suggest that the *Casa Mira v. California Coastal Commission* decision is evidence of the courts siding against this interpretation. However, that decision was a San Mateo County Superior Court decision that the Commission has appealed. Thus, the decision is not final until the appellate process concludes. And in any case, it is not binding on the Commission, nor Santa Cruz County, in any way as it relates to County CDP Application 231230.

⁵ Including what appear to be substantial remodels for which County permits were issued in 1998 and 2005 that, in the very least, appear to have entailed work to the structural elements of the roof, interior walls, and foundation. Based on available information, it is unclear whether these episodes of residential improvement received CDP authorization where it is likely such authorization was necessary. Any work undertaken without CDP authorization which required the same constitutes unpermitted development, and thus a violation of the Coastal Act and County LCP (if done after certification of the LCP in 1983).

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² Which, despite Mr. Flynn's characterization of our position, we do not dispute that a seawall exists at the site. Rather, the question in this respect is the appropriate regulatory framework to be applied to the proposed project.

³ As indicated, there is a question as to jurisdiction, and thus which standards apply to this case. For projects in the Commission's retained CDP jurisdiction (and for consolidated CDP applications), the standard of review is the Coastal Act. For projects in the County's CDP jurisdiction, the standard of review is the LCP and the Coastal Act's access and recreation provisions. Thus, although these comments are framed in terms of LCP issues in light of your hearing on a County CDP application, the same issues extend in similar ways to the Coastal Act as well.

Furthermore, when armoring can be considered because these basic tests are met, LUP Policy 6.2.16 and IP Section 16.10.070(H)(3) include additional criteria for evaluating such armoring. First, these LCP policies require that seawalls shall <u>only</u> be considered when adjacent parcels are similarly armored. Because the upcoast property (APN 033-132-11) is unarmored, the LCP does not allow for armoring of the subject site. This provision alone requires denial of the CDP application under the LCP, even if the above-referenced tests were met.

Second, and only when the above criteria are met, proposed armoring must be shown to be the least environmentally damaging feasible alternative to protect the existing endangered structure. Such a determination must be based on an analysis of alternatives (e.g., relocation or partial removal of the threatened structure, drainage and landscaping improvements, beach nourishment, lesser forms of hard armoring such as limited upper bluff armoring, etc.) and the LCP only allows approval of armoring if non-structural measures are infeasible from an engineering standpoint or are not economically viable. In his comments, Mr. Flynn asserts that the requirement for an alternatives analysis is somehow "self-evidently misplaced." This assertion is simply incorrect. IP Section 16.10.070(H)(3)(c) clearly states:

Application for shoreline protective structures shall include thorough analysis of all reasonable alternatives to such structures, including but not limited to relocation or partial removal of the threatened structure, protection of only the upper bluff area or the area immediately adjacent to the threatened structure, beach nourishment, and vertical walls. Structural protection measures on the bluff and beach shall only be permitted where nonstructural measures, such as relocating the structure or changing the design, are infeasible from an engineering standpoint or are not economically viable.

This requirement is not new, and should not come as a surprise to Mr. Flynn, who has represented other applicants for similar projects in the immediate vicinity which had similar requirements. No such alternatives analysis was prepared in conjunction with this CDP application (including as confirmed by the County staff report for this item which states that "there are no alternatives to the proposed...project"), and this provision too points to denial under the LCP.

Third, the LCP also requires that armoring not reduce or restrict public recreational access, adversely affect natural shoreline processes and sand supply, increase erosion on adjacent property, create a significant visual intrusion or impact visual resources, or cause harmful impacts to wildlife or fish habitat or archaeologic or palaeontologic resources. As is, it appears clear that the existing seawall at the site fails all such tests, including as it is contributing to accelerated erosion at its upcoast end (as evidenced by this application), it occupies public recreational beach and shoreline space,⁶ and it has caused, and will continue to cause into the future, other adverse coastal resource

⁶ Mr. Flynn alleges, without evidence, that the existing seawall does not occupy public recreational space. However, the physical fact is that the seawall, like all seawalls of this nature, requires a base on which it is founded, and in this case that base clearly occupies a portion of the beach at this location, locally known as "Trees Beach". In addition, the seawall would be extended an additional 2 feet seaward under the proposed project, covering even <u>more</u> of the beach in question.

impacts (e.g., in terms of natural landform alteration and public views, coastal squeeze, reducing beach and shoreline recreational area, blocking sand from the shoreline system, etc.). On these potential impacts, Mr. Flynn claims that we provided no evidence to support such conclusions. Two points are made in response. First, the main point is that the project includes no such analysis of potential impacts, and none is provided in the staff report for this item, and thus it is not possible to measure the project against the applicable LCP and Coastal Act coastal resource protection requirements, including those that explicitly require mitigation of impacts by armoring projects like this. Second, the Commission has found that, as a general rule, shoreline armoring can have a variety of negative impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beaches and shorelines,^{7,8} and no evidence has been brought to bear on this case by Mr. Flynn or otherwise to suggest that this proposed armoring project should be understood differently.

And the LCP requires first, impact avoidance, and second, mitigation for unavoidable impacts when armoring approvable (again, as discussed previously). Lacking evaluation, it is fair to presume from past armoring cases that the proposed project will not only continue a number of adverse coastal resource impacts, but it would further exacerbate many of them, including by extending the seawall footprint even farther seaward and maintaining the un-camouflaged appearance of the armoring. However, not only is there no mention of any measures to be taken to avoid such impacts, but there is also no proposed mitigation of unavoidable impacts. The LCP directs denial of the project for these reasons as well.

Finally, the project's proposed new replacement armoring structure appears to be sited, at least partially, in the Commission's jurisdiction,⁹ and, including as referenced by Mr.

⁹ On this point we further note that Sheets C-1 and C-2 of the plans show the mean high tide elevation at +4.84 feet NAVD88, but Sheet C-3 of the plans shows that elevation at +4.77 feet NAVD88, with the actual elevation of the new footing to be field verified, according to the plans. It is not clear why the plans include such an internal inconsistency, and it is likewise inappropriate for such key information to be developed at some future date based upon future evaluation. Rather, the Applicant must identify what is proposed to be done with enough accuracy as to allow regulatory agencies to understand the project, including which jurisdictions are implicated. Despite Mr. Flynn's comments on this matter, the location of the mean high tide line (MHTL) on the survey prepared by the Applicants' consultants on one particular

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⁷ See, for example, Commission findings in LCP amendments LCP-3-SCO-20-0066-2 (Santa Cruz County Hazards Update) and LCP-3-MRB-21-0047-1 (Morro Bay Land Use Plan Update), and in CDPs A-3-SCO-07-095/3-07-019 3-07-019 (Pleasure Point Seawall), 3-09-025 (Pebble Beach Company Beach Club Seawall), 3-09-042 (O'Neill Seawall), 2-10-039 (Lands End Seawall), 3-14-0488 (Iceplant LLC Seawall), 3-16-0345 (Honjo Armoring), 3-16-0446 (Rockview Seawall), 2-17-0702 (Sharp Park Golf Course), and 3-18-0720/3-20-0166/3-22-0440 (Pleasure Point Armoring/Access).

⁸ For further information on the impacts of seawalls, see for example: California Coastal Commission 2018 Sea Level Rise Policy Guidance; Kraus, Nicholas (1988) "Effects of Seawalls on the Beach: An Extended Literature Review", Journal of Coastal Research, Special Issue No. 4: 1-28; Kraus, Nicholas (1996) "Effects of Seawalls on the Beach: Part I An Updated Literature Review", Journal of Coastal Research, Vol. 12: 691-701, pages 1-28; Tait and Griggs (1990) "Beach Response to the Presence of a Seawall", Shore and Beach, 58, 11-28; Dugan and Hubbard (2010) "Ecological effects of coastal armoring: A summary of recent results for exposed sandy beaches in southern California", U.S. Geological Survey Scientific Investigations Report 2010-5254, p. 187-194.

Flynn in his comments, there will need to be construction equipment and work in the area seaward of the armoring structure, located in the Commission's jurisdiction.¹⁰ Any proposed development, including construction access/staging/storage within the Commission's CDP jurisdiction, requires a CDP directly from the Coastal Commission. If there is split jurisdiction, then a County CDP is <u>also</u> required, where those two CDP requirements may be consolidated through a single CDP application to the Commission (pursuant to Coastal Act Section 30601.3). However, nothing in the law allows an applicant to pursue development of this nature in the coastal zone without a CDP from the Commission when located in the Commission's jurisdiction, as appears to be the case here as described by the evidence above. Moreover, the Applicant should please be advised that any development undertaken within Commission CDP jurisdiction without CDP authorization from the Commission will constitute a willing and knowing violation of the Coastal Act, which may be subject to enforcement action and penalties. It is clear that these jurisdictional considerations have similarly been inadequately detailed and explored, which is yet another reason to deny the project.

In short, not only have the jurisdictional issues been left unresolved, but the proposed project appears to be inconsistent with the County's LCP (and the Coastal Act, in similar ways) as described above. It would appear to be in all parties' best interests to **postpone** action on September 15 to resolve jurisdictional issues and to further develop the necessary information and analysis required under the LCP and the Coastal Act, and if such action is not postponed, and the County decides to act on a CDP under the LCP notwithstanding the issues described in this letter, then the only appropriate County action based on our current understanding of the project is **denia**l.

Thank you for your consideration. If you have any questions or would like to discuss these issues directly, please contact me at (831) 427-4863.

Sincerely,

Nolan Clark

Nolan Clark

Coastal Planner, California Coastal Commission

day in 2019 is not under dispute; rather three things are noted. First, the MHTL is ambulatory on a sandy shoreline such as this, meaning it moves seaward and landward depending on changing shoreline dynamics and conditions. For example, the point where the mean high tide intersects the beach during a scoured winter condition can be significantly different than in a summer condition, moving the MHTL accordingly. Second, based the Applicant's MHTL, it is clear that a portion of the proposed base of the replacement seawall is located seaward of the Applicant's MHTL. This alone suggests the Commission has CDP jurisdiction over at least a portion of the project. And third, the Applicant is not the arbiter of where that line is located, the California State Lands Commission is. We have seen nothing from the State Lands Commission to suggest that these MHTL issues have been resolved on a granular level at this site in a way that would suggest that the project is all located inland of the MHTL.

¹⁰ We previously informed the County about such jurisdictional issues as far back as April 25, 2023, and County staff indicated that it then informed the Applicant as well. Subsequently, it would appear that the Applicant has not further engaged nor explained these jurisdictional issues, including that the Applicant has not pursued a boundary determination with the Commission, and it would appear has not contacted the State Lands Commission for verification.

Attachments: July 12, 2023 comments on CDP application 231230

cc: Emily Tzouanakis and Adeyemi Ajao, Applicants John Flynn, Applicants' Representative Richard Irish, Applicants' Representative Nathan MacBeth, Project Planner, Community Development and Infrastructure Department

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From:	<u>Clark, Noian@Coastal</u>
To:	<u>Nathan MacBeth</u>
Cc:	Graeven, Rainey@Coastal; Jessica deGrassi; Richard Irish; emily.tzouanakis@omail.com
Subject:	CDP Application 231230 - First Routing
Date:	Wednesday, July 12, 2023 4:15:00 PM
Attachments:	Beach Sand Loss worksheet.pdf

Hi Nate,

Thank you for the opportunity to comment on the above referenced Coastal Permit application. Please include these comments as part of the administrative record for this project, and distribute to the applicant and appropriate staff.

Project Description:

The project proposes to fill a void behind the upcoast end of an outflanked vertical seawall, approximately 10 feet long and 9 feet deep, with concrete slurry, and to construct an additional keyed-in 2-foot wide concrete footing into the bedrock (at a minimum of 3 feet deep into bedrock) seaward of the base of the existing seawall foundation located at the base of the coastal bluff fronting 4790 Opal Cliff Drive in the Live Oak Area (APN 033-132-12).

Comments:

- Construction Access, Staging, and Storage. IP Section 16.10.070(H)(3)(h) requires that applications for shoreline protection structures include a construction and staging plan that minimizes disturbance to the beach and specifies the access and staging areas. The project plans do not clearly denote construction site access, staging, and storage. Please update the project plans and narrative to clearly describe access routes, equipment staging, and storage including in relation to the MHTL. Additionally, the MHTL as shown on the project plan differs across the plan set. Accordingly, please update the plans to consistently display the MHTL in relation to all activities.
- 2. Jurisdiction. Elements of the proposed project appear to bisect Coastal Commission original jurisdiction. This includes the proposed keyway into bedrock (the depth of which is to be field verified, according to the project plans), which appears to drop below the Mean High Tide elevation (4.84 feet NAVD 88), as well as construction access routes. Any proposed development within Coastal Commission retained jurisdiction will require a Coastal Development Permit (CDP) directly from the Coastal Commission in acdition to a County CDP. Alternatively, a single consolidated CDP can be processed by the Coastal Commission pursuant to Coastal Act Section 30601.3. The Applicant should apply for a formal boundary determination from the Coastal Commission to determine the jurisdictions implicated by the project.
- 3. Eligibility for Armoring. LUP Policy 6.2.16 (Structural Shoreline Protection Measures) limits the use of structural shoreline protection measures to protect existing structures from a significant threat. IP Section 16.10.070(H)(3) furthers this limitation by only allowing shoreline protection structures, and specifically seawalls, when there is a significant threat to an existing structure. Thus, the LCP requires that 1) the residence constitute an "existing"

Exhibit 3 A-3-SCO-23-0042 Page 48 of 56 structure in order to be eligible for shoreline armoring, and 2) that there is a demonstration of a significant threat to the structure in question. An existing structure is a structure which has not been substantially redeveloped (i.e., replacement or modification of more than 50% of any major structural component, such as the structural elements of the roof, foundation, or exterior load-bearing walls) since the implementation of the Coastal Act on January 1, 1977. First, the development history of the subject residence is not clearly described in the application materials, and it is unclear whether the residence can be considered existing pursuant to the Coastal Act and LCP. Second, the project application materials do not clearly demonstrate that the subject residence is susceptible to a significant threat (i.e., in danger of erosion within the next 2-3 storm cycles). Please update the project materials to clarify whether the residence constitutes and existing structure, and if so, whether it is in danger of erosion within the next 2-3 storm cycles as set forth in LUP Policy 6.2.16 and IP Section 16.10.070(H)(3).

- 4. Alternatives Analysis. If the site is eligible for shoreline protection because there is an existing structure and it is in danger of erosion within the next 2-3 storm cycles, then LUP Policy 6.2.16 and IP Section 16.10.070(H)(3)(c) set forth requirements for a robust analysis of alternatives. Specifically, IP Section 16.10.070(H)(3)(C) requires any shoreline armoring proposal, including modifications that expand the armoring footprint such as is the case here, to "include a "thorough analysis of all reasonable alternatives to such structures, including but not limited to relocation or partial removal of the threatened structure, protection of only the upper bluff area or the area immediately adjacent to the threatened structure, beach nourishment, and vertical walls. Structural protection measures on the bluff and beach shall only be permitted where nonstructural measures, such as relocating the structure or changing the design, are infeasible from an engineering standpoint or are not economically viable". Please submit an alternatives analysis for the project, which includes consideration of both nonstructural measures and other structural alternatives including but not limited to relocation/removal of the threatened portion of the structure, beach nourishment of the void/outflanked area, slimmer tieback wall that occupies a significantly smaller footprint, and a cavity fill that makes use of erodible concrete and/or low-density fill or more natural earthen fill with a concrete face, etc.
- 5. Public Recreational Access/Shoreline Processes/Visual Resource Impacts and Mitigation. IP Section 16.10.070(H)(3)(e) states that shoreline protection structures "shall not reduce or restrict public beach access, adversely affect shoreline processes and sand supply, adversely impact recreational resources, increase erosion on adjacent property, create a significant visual intrusion, or cause harmful impacts to wildlife or fish habitat, archaeologic or palaeontologic resources" and "shall minimize visual impacts by employing materials that blend with the color of natural materials in the area". The current seawall at the site appears to contribute to accelerated erosion at its upcoast end as evidenced by this application, and there are currently no mitigation measures in place to offset these impacts. Also, the current seawall occupies public recreational space, and the proposal will extend the seawall footprint seaward in this public area, further impacting recreational resources. Finally, the current seawall does not incorporate materials or design elements which blend the color and texture of the wall to simulate natural bluff/bedrock in the area. The project application materials do

Exhibit 3 A-3-SCO-23-0042 Page 49 of 56 not propose any mitigation measures with respect to adverse effects to shoreline processes and sand supply, adverse impacts to recreational access, increased erosion on adjacent properties, and significant visual resource impacts. Accordingly, the project application materials should be updated to include mitigation strategies, such as: 1) direct sand nourishment for accelerated erosion of the adjacent property and loss of sand supply; 2) assessment of in-lieu fees for the impacts to recreational resources and sand supply from the entire wall (should the cutoff wall component of the project continue to be proposed); and 3) design elements and materials to minimize impacts to visual resources that blend the wall with the surrounding natural bluff materials. Attached is the Coastal Commission's sand supply and public recreation in-lieu fee assessment worksheet as an example. Also, please see County CDPs 151321 and 171261, which both assessed in-lieu fees for impacts to public recreational access and sand supply and included design elements to minimize impacts to visual resources. Finally, see CDP findings in CDP 3-16-0446 that explain how cutoff walls extend the life of seawalls and render seawalls redeveloped, thus triggering re-evaluation of mitigation requirements for the entire seawall.

Please feel free to contact me with any questions you may have regarding these comments.

Thank you,

Nolan Clark

Coastal Planner, Central Coast District California Coastal Commission

> Exhibit 3 A-3-SCO-23-0042 Page 50 of 56

Nathan MacBeth

From:	Cove Britton <cove@matsonbritton.com></cove@matsonbritton.com>
Sent:	Thursday, September 14, 2023 5:01 PM
То:	Nathan MacBeth
Cc:	Lezanne Jeffs; Manu Koenig; Jamie Sehorn; Justin Graham; Flynn, John J.; Emily
	Tzouanakis
Subject:	033-132-12
Attachments:	27572TPO-TP-1 (1).pdf; PLN- Seawall Repair Plan.pdf

****CAUTION: This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Dear Mr. MacBeth:

We are in receipt of Mr. Clark's letter regarding this application (4790 Opal Cliff Drive, ZA hearing September 15, 2023).

Please see attached survey for said project.

The survey makes it clear that Mr. Clark's contention that this project is located on any public lands is erroneous and the Coastal Commission staff have had ample opportunity to provide evidence from the appropriately licensed professionals to the contrary.

The civil engineering documents (attached) also indicate that the face of the seawall does not move oceanward from its current location. In no way does the proposed work impinge on public lands, nor in any manner reduce the usable area oceanward of the seawall.

The above substantiated facts make all of Mr. Clark's points irrelevant as noted prior in Mr. Flynn's letter. The mere reiteration of Mr. Clark's unsubstantiated opinion is not a basis for denial or a continuance.

In regard to access to the base of the bluff, we are agreeable to have all work and access conducted from above and to be solely on the property of the applicant as a condition of approval.

Thank you for your consideration.

Sincerely-

Cove Britton Architect C23616

Cove Britton Matson Britton Architects

O. (831) 425-0544

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Page 55 of 56

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303 Potrero SL, Suite 42-202, Sente Cruz, GA 95060 831-425-3901 www.rtengineering.com

Exhibit 3 A-3-SCO-23-0042 Page 56 of 56

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project no. 25.006-1 PEDMUARY 2023 AB (PHOMA) AB (PHOMA) AN (PHOMA) AN (PHOMA)

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BEAWALL REPART PLAN FOR ADEVIDIN AJAO & EMEVT 4700 OFAL CLIFF DRIVE BARTA OFIZ, CA 90082 038-132-12 NOTES



SEAWALL REPAIR PLAN 4790 OPAL CLIFF DRIVE SANTA CRUZ, CA 95062 A.P.N. 033–132–12

VICINITY MAP NTS

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SHEET	C-3	SEC
SHEET	C-4	NOT

PROPERTY OWNER	
ADEYEMI AJAO & EMILY TZOUANAKIS 4790 OPAL CLIFF DRIVE SANTA CRUZ COUNTY, CA 95062	-
PLAN PREPARER	
RICHARD IRISH, PE RI ENGINEERING 303 POTRERO STREET #42–202 SANTA CRUZ, CA 95060 (831) 425–3901	F
PROJECT SURVEYOR	(
BOWMAN & WILLIAMS CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS 3949 RESEARCH PARK COURT, SUITE 100 SOQUEL, CA 95073 (831)426-3560	

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PROJECT GEOLOGIST

ERIK ZINN PACIFIC CREST ENGINEERING, INC. 444 AIRPORT BLVD WATSONVILLE, CA 95076 (831)722–9446

PROJECT GEOTECHNICAL ENGINEER

YVETTE M. WILSON, PE ROCK SOLID ENGINEERING, INC. 1100 MAIN STREET, SUITE A WATSONVILLE, CA 95076 (831)724-5868

PROFESSIO Richard J. H No. 4584 Exp. 12-31 Style OF C	
RI Engineering, Inc.	303 Potrero St., Suite 42-202, Santa Cruz, CA 95060 831-425-3901 www.riengineering.com
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0° 20°

1 INCH = 20 FEET

LEGEND

	(E) AB
	(E) AC
	(E) CONCRETE
	PROPOSED AC
- ·>	(E) FLOWLINE
	(E) RETAINING WALL
	PROPERTY LINE
	(E) SEAWALL

ABBREVIATIONS

BW CB CONST DIA, Ø DS DTL DWY (E)

EL EOP FF FG FS HPV LF LP

MAX N.T.S. RW RIM S SCCO SDCO TYP TW WS BOTTOM OF WALL CATCH BASIN CONSTRUCT DIAMETER DOWNSPOUT DETAIL DRIVEWAY EXISTING ELEVATION EDGE OF PAVEMENT FINISH FLOOR FINISH GRADE FIRE SERVICE HIGH POINT INVERT LINEAR FEET LOW POINT MAXIMUM NOT TO SCALE RETAINING WALL RIM ELEVATION SLOPE COUNTY OF SANTA CRUZ SANITARY SEWER CLEANOUT STORM DRAIN CLEANOUT TYPICAL TOP OF WALL WATER SERVICE

PERMIT SUBMITTAL

SECTION B-B SCALE: 1"=10' HORIZONTAL, VERTICAL

NOTE: BOTTOM OF KEYWAY TO BE SURVEYED AFTER EXCAVATION.

	PROFESSIONAL PROFESSIONAL PCHARD J. IPIOSE No. 5820 * Exp. 11-31-24/1 VVIL VVIL VVIL VVIL 2/24/2023
	RI Engineering, Inc. Ry 303 Potrero St., Suite 42-202, Santa Cruz, CA 95060 831-425-3901 www.riengineering.com
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Exhibit 4 A-3-SCO-23-0042 Page 4 of 6

SYSTEM AND OVERVIEW

THE PURPOSE OF THIS PROJECT IS TO REPAIR AN EXISTING SEAWALL SYSTEM AT 4790 OPAL CLIFF DRIVE. SANTA CRUZ COUNTY.

WHILE THE ENGINEER DOES NOT DIRECT MEANS OR METHODS OF CONSTRUCTIONS, NO MECHANIZED CONSTRUCTION EQUIPMENT, WHETHER TEMPORARY OR PERMANENT, OR CONSTRUCTION MATERIALS SHALL BE STORED ON ANY SAND AREA, BLUFF, OR ENVIRONMENTALLY SENSITIVE HABITAT AREA, OR WITHIN 20 FEET OF COASTAL WATERS.

CONSTRUCTION MANAGEMENT PLAN PROVISIONS

PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL SUBMIT A CONSTRUCTION PLAN TO INCLUDE AN ACCESS PLAN SHOWING PROPOSED ROUTES OF TRAVEL, STORAGE AREAS, AND TRAFFIC CONTROL TO BE IMPLIMENTED FOR CONSTRUCTION OF THESE IMPROVEMENTS. THIS PLAN MUST BE APPROVED BY THE OWNER AND THE SANTA CRUZ PLANNING DIRECTOR PRIOR TO COMMENCEMENT OF CONSTRUCTION.

THE CONSTRUCTION PLAN APPLIES TO THE CONSTRUCTION OF REPAIR OF THE EXISTING SEAWALL. THE CONSTRUCTION PLAN SHALL INCLUDE THE FOLLOWING NOTES:

1. GRADING OF INTERTIDAL AREAS IS PROHIBITED.

2. CONSTRUCTION ACCESS SHALL BE AS DIRECTED BY OWNER. IMPACTS TO THE ACCESS ROUTE MUST BE MINIMIZED AND DISTURBANCE ALONG THE ACCESS ROUTE MUST BE RESTORED TO PRE-CONSTRUCTION CONDITIONS UPON PROJECT COMPLETION. THE FOLLOWING PROVISIONS SHALL APPLY TO THE WORK.

3. ANY DEBRIS GENERATED DURING CONSTRUCTION SHALL BE REMOVED FROM THE BEACH AND EITHER USED AS FILL LANDWARD OF THE PROPOSED SEAWALL OR HAULED OFFSITE TO AN APPROVED DUMPSITE.

4. ALL WORK SHALL TAKE PLACE DURING DAYLIGHT HOURS AND LIGHTING OF THE BEACH AREA IS PROHIBITED UNLESS THE SANTA CRUZ COUNTY PLANNING DIRECTOR OR THE EXECUTIVE DIRECTOR OF THE CALIFORNIA COASTAL COMMISSION AUTHORIZES NON-DAYLIGHT WORK AND/OR BEACH AREA LIGHTING.

5. CONSTRUCTION WORK AND EQUIPMENT OPERATIONS SHALL NOT BE CONDUCTED SEAWARD OF THE MEAN HIGH WATER LINE UNLESS TIDAL WATERS HAVE RECEDED FROM THE AUTHORIZED WORK AREA.

6. ALL CONSTRUCTION EQUIPMENT SHALL REMAIN AS FAR LANDWARD AS POSSIBLE, AND AVOID CONTACT WITH OCEAN WATERS AND INTERTIDAL AREAS.

7. ALL EROSION AND SEDIMENT CONTROLS SHALL BE IN PLACE PRIOR TO THE COMMENCEMENT OF CONSTRUCTION AS WELL AS AT THE END OF EACH WORK DAY. SILT FENCES, OR EQUIVALENT APPARATUS, MAY BE INSTALLED AT THE PERIMETER OF THE CONSTRUCTION SITE TO PREVENT CONSTRUCTION RELATED RUNOFF AND/OR SEDIMENT FROM ENTERING INTO THE PACIFIC OCEAN. FENCING MAY BE USED ON THE BEACH FOR EROSION AND SEDIMENT CONTROLS AS NECESSARY TO CONTAIN ROCK AND/OR SEDIMENTS AT THE PROJECT SITE.

8. ALL CONSTRUCTION MATERIALS AND EQUIPMENT PLACED ON THE BEACH SHALL BE STORED BEYOND THE REACH OF WAVES AND EXTREME TIDES, AND SHALL BE REMOVED FROM THE BEACH IF NECESSARY TO AVOID INUNDATION. MATERIALS THAT REMAIN ON THE BEACH OVERNIGHT MUST BE LOCATED ON THE DRY SAND BACK BEACH AREA. AS CLOSE TO THE TOE OF THE BLUFF AS POSSIBLE. THE EXTENT OF OVERNIGHT STORAGE AREAS SHALL BE KEPT TO THE MINIMUM NECESSARY, NO FUELING, OR FUEL STORAGE SHALL BE ALLOWED ON THE BEACH AT ANY TIME.

9. THE CONTRACTOR (AND PERMITEE) SHALL MONITOR WEATHER FORECASTS AND MOVE ALL CONSTRUCTION EQUIPMENT AND MATÉRIALS OFF OF THE BEACH IN ADVANCE OF STORM OR EXTREME TIDAL EVENTS.

10. CONSTRUCTION (INCLUDING BUT NOT LIMITED TO CONSTRUCTION ACTIVITIES. AND MATERIALS AND/OR EQUIPMENT STORAGE) IS PROHIBITED OUTSIDE OF THE DEFINED CONSTRUCTION, STAGING. AND STORAGE AREAS SHOWN HEREON.

11. NO WORK SHALL OCCUR ON THE BEACH DURING WEEKDAYS OR HOLIDAYS UNLESS, DUE TO EXTENUATING CIRCUMSTANCES (SUCH AS TIDAL ISSUES OR OTHER ENVIRONMENTAL CONCERNS), AND THE SANTA CRUZ COUNTY PLANNING DIRECTOR OR THE EXECUTIVE DIRECTOR OF THE CALIFORNIA COASTAL COMMISSION AUTHORIZES SUCH WORK.

12. ALL HEAVY EQUIPMENT USED FOR CONCRETE POURING SHALL BE SET AT LEAST 25 FEET LANDWARD OF THE BLUFFTOP AND SHALL USE FLEXIBLE HOSES OR ARTICULATED BOOMS TO DELIVER CONCRETE TO THE PROJECT SITE, OTHER HEAVY EQUIPMENT MAY BE USED PERIODICALLY ATOP THE COASTAL BLUFF, BUT SHALL BE REMOVED FROM THE BLUFF EDGE WHEN NOT IN USE. ALL HEAVY EQUIPMENT AND PROJECT CONSTRUCTION MATERIALS SHALL BE STORED ON DRY LAND ALONG THE ROAD OR DRIVEWAY AREAS ADJACENT TO THE PROJECT

13. EQUIPMENT WASHING SHALL NOT TAKE PLACE ON THE BEACH. REFUELING AND/OR SERVICING OF EQUIPMENT SHALL BE ALLOWED ONLY AT A DESIGNATED LOCATION AS NOTED ON THE PLAN. APPROPRIATE BEST MANAGEMENT PRACTICES SHALL BE USED TO ENSURE THAT NO SPILLS OF PETROLEUM PRODUCTS OR OTHER CHEMICALS TAKE PLACE DURING ACTIVITIES.

14. PETROLEUM PRODUCTS AND OTHER HAZARDOUS MATERIALS WILL BE KEPT ON PUBLIC ROADS OR A DISTANCE OF AT LEAST 100 FEET FROM THE SHORELINE AND SHALL BE STORED OFFSITE

15. THE CONSTRUCTION SITE SHALL MAINTAIN GOOD CONSTRUCTION SITE HOUSEKEEPING CONTROLS AND PROCEDURES (E.G., CLEAN UP ALL LEAKS, DRIPS, AND OTHER SPILLS IMMEDIATELY, KEEP MATERIALS COVERED AND OUT OF THE RAIN (INCLUDING COVERING EXPOSED PILES OF SOIL AND WASTES) DISPOSE OF ALL WASTES PROPERLY, PLACE TRASH RECEPTACLES ON SITE FOR THAT PURPOSE, COVER OPEN TRASH RECEPTACLES DURING WET WEATHER, AND REMOVE ANY CONSTRUCTION DEBRIS FROM THE BEACH).

16. ALL AREAS OF BEACH DISTURBED BY CONSTRUCTION ACTIVITIES SHALL BE RESTORED TO THEIR ORIGINAL PRE-CONSTRUCTION CONDITION. UPON COMPLETION OF CONSTRUCTION OF THE SEAWALL, THE ACCESS ROUTE AND STAGING AREA SHALL BE RESTORED TO THEIR ORIGINAL CONDITION.

17. AT ALL TIMES DURING PROJECT CONSTRUCTION ACTIVITIES, COPIES OF EACH OF THE FOLLOWING SHALL BE MAINTAINED IN A CONSPICUOUS LOCATION AT THE CONSTRUCTION JOB SITE AND ALL PERSONS INVOLVED WITH THE CONSTRUCTION SHALL BE BRIEFED ON THE CONTENT AND MEANING OF EACH PRIOR TO COMMENCEMENT OF CONSTRUCTION: THE APPROVED FINAL PLANS, AND THE APPROVED CONSTRUCTION PLAN.

18. THE PERMITTEES SHALL NOTIFY SANTA CRUZ ENVIRONMENTAL PLANNING DEPARTMENT AND BUILDING DEPARTMENT AT LEAST THREE WORKING DAYS IN ADVANCE OF COMMENCEMENTS OF CONSTRUCTION OR MAINTENANCE ACTIVITIES, AND IMMEDIATELY UPON COMPLETION OF CONSTRUCTION OR MAINTENANCE ACTIVITIES.

19. THE EMBEDMENT OF THE EXISTING FOOTING IS TO BE FIELD VERIFIED. KEYWAY TO BE ADDED AS NEEDED.

ALL REQUIREMENTS ABOVE AND ALL REQUIREMENTS OF THE APPROVED CONSTRUCTION PLAN SHALL BE ENFORCEABLE COMPONENTS OF THIS EMERGENCY DEVELOPMENT PERMIT. THE PERMITTEES SHALL UNDERTAKE DEVELOPMENT IN ACCORDANCE WITH THE APPROVED CONSTRUCTION PLAN. ANY PROPOSED SIGNIFICANT CHANGES TO THE CONSTRUCTION PLAN SHALL BE REPORTED TO THE COUNTY'S REPRESENTATIVE. NO CHANGES TO THE APPROVED CONSTRUCTION PLAN SHALL OCCUR WITHOUT A CHANGE ORDER APPROVED BY THE SANTA CRUZ COUNTY PLANNING DIRECTOR, UNLESS THEY DETERMINE THAT NO AMENDMENT IS LEGALLY NECESSARY.

MINOR ADJUSTMENTS TO THE FOLLOWING CONSTRUCTION REQUIREMENTS MAY BE APPROVED IF SUCH ADJUSTMENTS; (1) ARE DEEMED REASONABLE AND NECESSARY; AND (2) DO NOT ADVERSELY IMPACT COASTAL RESOURCES.

EXAMINATION OF JOBSITE PLANS AND SPECIFICATIONS

A. THE CONTRACTOR SHALL EXAMINE CAREFULLY THE SITE OF WORK AND THE PLANS AND SPECIFICATIONS. THE SUBMISSION OF A BID SHALL BE CONCLUSIVE EVIDENCE THAT THE CONTRACTOR HAS INVESTIGATED AND IS SATISFIED AS TO THE CONDITIONS TO BE ENCOUNTERED, AS TO THE CHARACTER, QUALITY, AND SCOPE OF WORK TO BE PERFORMED, THE QUANTITIES OF MATERIALS TO BE FURNISHED AND AS TO THE REQUIREMENTS OF THE GEOTECHNICAL AND COASTAL ENGINEERING INVESTIGATION AND PLANS AND THESE SPECIFICATIONS. THE PLANS CONSIST OF 4 SHEETS.

B. ADEYEMI AJAO & EMILY TZOUANAKIS ARE THE OWNERS OF 4790 OPAL CLIFF DRIVE. RI ENGINEERING INC. IS THE ENGINEERING FIRM FOR THE PROJECT AND WILL REPRESENT THE OWNER DURING DESIGN AND CONSTRUCTION OF THE PROJECT. ROCK SOLID ENGINEERING IS THE GEOTECHNICAL ENGINEER FOR THE PROJECT. ZINN GEOLOGY IS THE PROJECT GEOLOGIST.

C. THE CONTRACTOR SHALL RECOGNIZE THAT THE PLANS USED FOR THE DRAWINGS OF THE SEAWALL STRUCTURES MAY DIFFER FROM THE ACTUAL PHYSICAL SITE. DIMENSIONS ARE APPROXIMATE. BEFORE PROCEEDING WITH THE WORK, IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO CHECK THE SITE IN RELATION TO THE DRAWINGS AND SPECIFICATIONS. REPORT ANY DISCREPANCIES TO THE OWNER AND THE FNGINFFR.

D. THE CONTRACTOR MUST ATTEND A PRE-BID MEETING WITH THE ENGINEER PRIOR TO SUBMITTING A PROPOSAL TO COMPLETE THE PROPOSED WORK. THE CONTRACTOR MAY BE REQUIRED TO ATTEND A PRE-CONSTRUCTION MEETING WITH THE ENGINEER PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. THE PURPOSE OF THESE MEETINGS IS SO THE CONTRACTOR MAY ASK QUESTIONS CONCERNING THE WORK AND TO MAKE SURE THE CONTRACTOR UNDERSTANDS THE PERMIT CONDITIONS AND ENVIRONMENTAL CONSTRAINTS.

COMPLIANCE WITH CODES

A. ALL CONSTRUCTION AND MATERIALS SHALL BE AS SPECIFIED AND AS REQUIRED BY THE 2022 CALIFORNIA BUILDING CODE, THE BUILDING CODE STANDARDS, LOCALLY ENFORCED CODES AND AUTHORITIES. ALL ARTICLES, MATERIALS AND EQUIPMENT SHALL BE INSTALLED, APPLIED AND CONNECTED AS DIRECTED BY THE MANUFACTURER'S LATEST WRITTEN SPECIFICATIONS EXCEPT WHERE OTHERWISE NOTED.

B. THE CONTRACTOR SHALL KEEP HIMSELF FULLY INFORMED OF ALL APPLICABLE CODES, LAWS, ORDINANCES AND REGULATIONS OF ANY JURISDICTION OR AUTHORITY, AND SHALL ADHERE STRICTLY THERETO. COMPLIANCE WITH ALL LAWS, ORDINANCES AND REGULATIONS OF FEDERAL, STATE, COUNTY AND LOCAL AGENCIES SHALL TAKE PRECEDENCE OVER ALL OTHER CONTRACT DOCUMENTS.

TIMETABLE

THESE PLANS SHOW THE PROPOSED WORK, TO BE IMPLEMENTED AS SOON AS POSSIBLE.

INSPECTION AND MAINTENANCE

THE OWNER SHALL HAVE THE RIGHT TO INSPECT ANY MATERIAL BROUGHT TO THE JOB SITE AND SHALL HAVE THE RIGHT TO REJECT ANY MATERIALS DEEMED DEFECTIVE OR NOT CONFORMING TO THE SPECIFICATIONS. THE REGISTERED GEOTECHNICAL ENGINEER AND/OR THEIR REPRESENTATIVE SHALL BE CALLED TO PERFORM CONSTRUCTION OBSERVATION AND TO MAKE A FINAL INSPECTION OF THE DRAINAGE AND EROSION CONTROL FACILITIES TO ASSURE THAT THE WORK IS COMPLETED ACCORDING TO PLAN. WINTER STORM INSPECTIONS SHALL BE CONDUCTED TO IDENTIFY PROBLEM AREAS AND ASSESS THEN IMPLEMENT CORRECTIVE ACTIONS. WRITTEN DOCUMENTATION SHOULD BE MAINTAINED THAT NOTES INSPECTION DATES, CORRECTIVE ACTIONS NEEDED AND CORRECTIVE ACTIONS TAKEN.

NOTIFICATION OF ENGINEER

THE OWNER SHOULD BE NOTIFIED AT LEAST FOUR (4) WORKING DAYS PRIOR TO ANY SITE CLEARING OR GRADING SO THAT THE WORK IN THE FIELD CAN BE COORDINATED WITH THE GRADING CONTRACTOR, AND ARRANGEMENTS FOR SURVEYING, TESTING AND OBSERVATION CAN BE MADE.

ACCESS

THE CONTRACTOR SHALL USE ACCESS ROUTES AND STAGING AREAS AS DIRECTED BY THE OWNER AND SHALL REPAIR ACCESS ROUTES AND STAGING AREAS TO PRE-PROJECT CONDITION OR BETTER AS DIRECTED BY THE OWNER, AND VERIFIED BY THE PROJECT ENGINEER. THE CONTRACTOR SHALL NOT CLOSE OR OBSTRUCT STREETS. WALKS, DRIVES OR OTHER OCCUPIED OR USED SPACES OR FACILITIES WITHOUT THE WRITTEN PERMISSION OF THE OWNER.

SITE DISTURBANCE

DISTURBANCE OF THE PROPERTY BEYOND THE LIMITS OF THE NECESSARY WORK AREA SHALL BE AVOIDED. SENSITIVE HABITAT EXISTS IMMEDIATELY ADJACENT TO THE WORK AREA. THE CONTRACTOR SHOULD EXPECT REGULATORY AGENCIES TO BE PARTICULARLY CONCERNED ABOUT ANY IMPACTS OUTSIDE THE WORK AREA.

STAKING AND LOCATION

1. REFERENCE POINTS WILL BE ESTABLISHED BY THE ENGINEER OR BY THE SURVEYOR. THESE REFERENCE POINTS WILL BE USED TO CONTROL PLACEMENT OF THE STRUCTURES RELATIVE TO CULTURAL FEATURES AND TO ELEVATION. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO FURNISH AND SET SUCH ADDITIONAL MARKS AND STAKES AS IS DETERMINED NECESSARY TO ESTABLISH LINES AND GRADES REQUIRED FOR THE COMPLETION OF THE WORK SPECIFIED, AS SHOWN ON THE PLANS. ALL ELEVATIONS FOR THE IN-PLACE IMPROVEMENTS SHALL BE VERIFIED BY THE PROJECT SURVEYOR.

2. LOCATIONS OF EXISTING DRAIN FACILITIES ARE APPROXIMATE. THE CONTRACTOR SHALL VERIFY LOCATIONS AND PROTECT IN PLACE, IF WITHIN THE LIMITS OF WORK. THE CONTRACTOR SHALL PLUG, CAP, OR RECONNECT/REINSTALL EXISTING DRAINAGE FACILITIES DAMAGED DURING CONSTRUCTION, AS DIRECTED BY ENGINEER

3. LOCAL SURVEY CONTROL: SPIKES WILL BE SET FOR USE AS ELEVATION CONTROL POINTS. DO NOT DISTURB SPIKES. THE VERTICAL ELEVATION DATUM IS NAVD1988

4. FINAL CONFIGURATION OF THE IMPROVEMENTS SHALL BE SURVEYED BY A CALIFORNIA LICENSED SURVEY AND AN "AS-BUILT" MAP OF THE IMPROVEMENTS SHALL BE PREPARED AT THE CLOSE OF CONSTRUCTION.

BASIS OF ELEVATION

ALL ELEVATIONS SHOWN HEREIN ARE BASED ON THE NAVD 88 DATUM AND TOPOGRAPHIC MAP BY BOWMAN & WILLIAMS CIVIL ENGINEERS & LAND SURVEYORS. POINTS FROM THIS SURVEY WERE USED AS GROUND CONTROL TO ESTABLISH VERTICAL

AERIAL PHOTOGRAMMETRY SURVEY

THE ELEVATIONS SHOWN AND CROSS SECTION DATA WAS OBTAINED BY RI ENGINEERING THROUGH A AERIAL PHOTOGRAMETRY SURVEY USING GROUND CONTROL POINTS BASED ON THE TOPOGRAPHIC SURVEY PROVIDED BY BOWMAN & WILLIAMS CIVIL ENGINEERS & LAND SURVEYORS. THE AERIAL SURVEY WAS COMPLETED ON FEBRUARY 2, 2022.

RI ENGINEERING INC. MAKES NO GUARANTEE AS TO THE ACCURACY OF TOPOGRAPHIC INFORMATION SHOWN. RI ENGINEERING IS NOT A LICENSED SURVEYOR OF RECORD, THE AERIAL DATA IS USED FOR PLANNING PURPOSES AND EVALUATION OF THE EXISTING SEAWALL. ANY CONTRACTOR SHALL VERIFY THE BOUNDARY LOCATION AND

TOPOGRAPHIC INFORMATION PRIOR TO COMMENCING WORK.

DRAIN PIPES AND UNDERGROUND UTILITIES

EXISTING DRAINPIPES AND UNDERGROUND UTILITIES WITHIN THE WORK AREA SHALL BE LOCATED BY THE CONTRACTOR AND AVOIDED AND /OR PROTECTED DURING CONSTRUCTION.

A. THE CONTRACTOR SHALL LOCATE, IDENTIFY, AND PROTECT UTILITIES FROM DAMAGE. LOCATION OF EXISTING UTILITIES SHOWN ON PLANS IS APPROXIMATE. THE EXISTING UNDERGROUND UTILITY LOCATIONS ARE NOT SHOWN ON THE PLANS. THE CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL EXISTING UTILITIES PRIOR TO STARTING WORK AND PROTECTING UTILITIES THROUGHOUT COURSE OF WORK.

B. THE CONTRACTOR SHALL NOT INTERRUPT UTILITIES SERVING OCCUPIED OR USED FACILITIES WITHOUT THE WRITTEN PERMISSION OF THE OWNER AND AUTHORITIES HAVING JURISDICTION. IF NECESSARY, PROVIDE TEMPORARY UTILITIES

C. THE CONTRACTOR SHALL NOTIFY THE OWNER AT LEAST 24 HOURS PRIOR TO SHUT-OFF OF EXISTING UTILITIES.

MARINE PROTECTION

TO PREVENT ANY IMPACTS UPON THE MARINE HABITAT, NO OVERBURDEN OR WET CEMENT MAY BE ALLOWED TO ADVERSELY IMPACT THE BEACH OR ENTER THE TIDAL ZONE. UNDER NO CIRCUMSTANCES SHALL USE OF EQUIPMENT BE ALLOWED SEAWARD OF THE MEAN HIGH TIDE LINE WHEN SEAWATER IS PRESENT. ANY AREAS OF LOOSE OR UNSTABLE SOIL MUST BE STABILIZED IMMEDIATELY AFTER OTHER PORTIONS OF THE PROJECT ARE FINISHED. ANY HEAVY EQUIPMENT OPERATION MUST BE CONDUCTED WITH CARE NEAR THE EDGE OF THE BLUFF TO PREVENT THE DESTABILIZATION OF THE SUBSTRATE AND ADDITIONAL EROSION. CARE MUST BE TAKEN SO THE COASTAL BLUFFS OUTSIDE THE WORK AREA ARE NOT DAMAGED DURING CONSTRUCTION.

MAINTENANCE

THE COASTAL BLUFF PROTECTION SYSTEM DEPICTED HEREIN MUST BE CONSISTENTLY INSPECTED ON A ROUTINE BASIS AND MAINTAINED AS NECESSARY. THE OWNER(S) SHOULD RETAIN A LICENSED CIVIL ENGINEER, EXPERIENCED IN COASTAL PROTECTION STRUCTURES, TO INSPECT THE SYSTEM AT LEAST ONCE EVERY FIVE YEARS FOR THE LIFE OF THE STRUCTURE. THIS INSPECTION MUST CONFIRM THAT THE COASTAL BLUFF PROTECTION SYSTEM IS PERFORMING ADEQUATELY OR ANY NOTED DEFICIENCY MUST BE CORRECTED WITHIN SIX MONTHS.

CONSTRUCTION COORDINATOR

CONTRACTOR SHALL PROVIDE A CONSTRUCTION COORDINATOR WHO CAN BE CONTACTED DURING CONSTRUCTION, SHOULD QUESTIONS ARISE DURING CONSTRUCTION. (IN CASE OF BOTH REGULAR INQUIRIES AND IN EMERGENCIES). THEIR CONTACT INFORMATION (24 HOUR PHONE NUMBERS) SHALL BE CONSPICUOUSLY POSTED AT THE JOB SITE IN A MANNER SO THAT THE CONTACT INFORMATION IS READILY VISIBLE FOR PUBLIC VIEWING. THE POSTING SHALL INDICATE THAT THE CONSTRUCTION COORDINATOR SHOULD BE CONTACTED TO ANSWER QUESTIONS THAT ARISE DURING CONSTRUCTION. (IN CASE OF BOTH REGULAR INQUIRIES AND IN EMERGENCIES). THE CONSTRUCTION COORDINATOR SHALL RECORD THE NAME. PHONE NUMBER AND NATURE OF ALL COMPLAINTS (IF ANY) RECEIVED DURING CONSTRUCTION, AND SHALL INVESTIGATE COMPLAINTS AND TAKE REMEDIAL ACTION, IF NECESSARY, WITHIN 24 HOURS OF RECEIPT OF THE COMPLAINT OR INQUIRY

RESIDENTIAL ACCESS PROTECTION

IMPACTS TO BEACH ACCESS AND RESIDENTIAL ACCESS ROUTES MUST BE MINIMIZED. APPROPRIATE SIGNAGE SHALL BE USED TO MAKE SURE THAT BEACH USERS KNOW WHAT TO DO AS THEY APPROACH THE WORK SITES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RESTORATION OF THE ACCESS ROUTE AND STAGING AREA TO ITS ORIGINAL CONDITION.

PROJECT DURATION

THE DURATION OF CONSTRUCTION WILL BE APPROXIMATELY 30 WORKING DAYS. 2. WORK AT THE BEACH CONSTRUCTION ZONE WILL TAKE PLACE ONLY DURING PERIODS OF LOW TIDE WHEN THE WORK SITE AND CONSTRUCTION ROUTE ARE ACCESSIBLE.

PROBABLE CONSTRUCTION EQUIPMENT

- **BEACH CONSTRUCTION ZONE:**
- REBAR SAW CONCRETE SAW
- CONCRETE FORMS
- JACKHAMMER/DRILL WITH COMPRESSOR MISCELLANEOUS CONCRETE HAND TOOLS
- HAND HELD DRILL WELDER
- 8. SAND BLASTER CONCRETE PUMPER
- 10. EXCAVATION WITH ROCK CLAW

SPECIFICATIONS

- 1. ALL WORK SHALL BE IN CONFORMANCE WITH THE 2022 CALIFORNIA BUILDING CODE.
- 2. VERIFY ALL DIMENSIONS PRIOR TO BEGINNING WORK.
- 3. CONCRETE USED FOR GENERAL SITE WORK SHALL HAVE A 28-DAY COMPRESSION STRENGTH OF 4000 PSI OR BETTER.
- A. SHOTCRETE SHALL MEET THE REQUIREMENTS OF SECTION "SHOTCRETE" OF THE CALTRANS STANDARD SPECIFICATIONS. COMPRESSIVE STRENGTH OF SHOTCRETE SHALL BE 4000 PSI MIN. 5. STEEL REINFORCING SHALL BE EPOXY COATED AND SHALL CONFORM TO ASTM DESIGNATION
- A614, GRADE 60. 6. LAP REINFORCEMENT BARS A MINIMUM OF 48 × BAR AREA AT ALL SPLICES, CORNERS, AND
- INTERSECTIONS (12" MIN). 7. CEMENT GROUT
- A. CEMENT SHALL BE TYPE II CONFORMING TO ASTM C-150. THE 28-DAY COMPRESSIVE STRENGTH OF THE GROUT SHALL BE 4000 PSI.
- B. ACCELERATING ADMIXTURES WHICH CAN BE SHOWN NOT TO CORRODE THE SPECIFIED STEEL AND WHICH PREVENT BLEED AND SHRINKAGE MAY BE SUBMITTED FOR APPROVAL FOR THE GROUT USED TO FILL BOND LENGTH ENCAPSULATING SHEATHS AND THE TRUMPETS.
- 8. TEXTURING AND STAINING SHALL REPRODUCE TO THE EXTENT PRACTICABLE THE TEXTURE, RELIEF, STRATIGRAPHY, INCLUSIONS, CONTOURS AND COLORING OF THE TERRACE DEPOSITS OR PURISMA FORMATION OVER WHICH THE FACING IS PLACED.

A. CONTRACTOR SHALL SUBMIT 3 18" X 18" SAMPLES OF COLORED/TEXTURED SURFACE TO THE OWNER FOR APPROVAL PRIOR TO PLACEMENT.

GRADING

EXCAVATION: SANDY MATERIALS EXCAVATED ON THE BEACH SHALL BE LEFT ON THE BEACH. IF ANY DEBRIS IS ENCOUNTERED, IT SHALL BE DISPOSED OF AT A COUNTY-APPROVED DUMPSITE. MUDSTONE SOILS FROM THE KEYWAY SHALL BE PLACED AGAINST THE BASE OF THE BLUFF, OR IN A LOCATION APPROVED BY THE ENGINEER.

PROTECTION OF IMPROVEMENTS: IMPROVEMENTS ON SITE SHALL BE PROTECTED FROM DAMAGE. WHERE IMPROVEMENTS (SUCH AS FENCES, RAILINGS, PAVING, OR SIGNAGE) NEED TO BE REMOVED TO ALLOW ACCESS OR CONSTRUCTION, THEY SHALL BE REMOVED AND REPLACED WITH IMPROVEMENTS OF EQUAL QUALITY.

FILL PLACEMENT: THE PLACEMENT AND SPREADING OF FILL MATERIALS AND THE PROCESSING AND COMPACTION OF FILL MATERIALS BY FLOODING, PONDING, OR JETTING SHALL NOT BE PERMITTED WITHOUT THE PRIOR APPROVAL OF THE GEOTECHNICAL ENGINEER. FILLS SHOULD BE KEYED AND BENCHED INTO FIRM SOIL. THE FILL SHALL BE PLACED IN 8 INCH LIFTS (COMPACTED LAYERS), MOISTURE CONDITIONED AS REQUIRED AND COMPACTED TO AT LEAST 90 PERCENT RELATIVE COMPACTION AS PER ASTM TEST PROCEDURE D1557. FIELD DENSITY TESTS SHALL BE MADE BY THE GEOTECHNICAL ENGINEER TO ENSURE PROPER COMPACTION. FIELD DENSITY TESTS WILL BE PERFORMED IN ACCORDANCE WITH ASTM D1557. THE NUMBER OF TESTS AND THEIR LOCATION SHALL BE AT THE SOLE DISCRETION OF THE GEOTECHNICAL ENGINEER.

WEATHER: NO FILL MATERIAL SHALL BE PLACED, SPREAD OR COMPACTED DURING UNFAVORABLE WEATHER CONDITIONS. WHEN WORK IS INTERRUPTED BY HEAVY RAINS, FILL OPERATIONS SHALL NOT RESUME UNTIL FIELD DENSITY TESTS TAKEN BY THE GEOTECHNICAL ENGINEER INDICATE THAT THE MOISTURE CONTENT AND DENSITY OF THE FILL MEET THE SPECIFIED REQUIREMENTS.

EARTHWORK AND GRADING

WORK SHALL CONSIST OF ALL CLEARING, GRUBBING, STRIPPING, PREPARATION OF LAND TO BE FILLED, EXCAVATION, SPREADING, COMPACTION AND CONTROL OF FILL, AND ALL SUBSIDIARY WORK NECESSARY TO COMPLETE THE GRADING TO CONFORM TO THE LINES. GRADES, AND SLOPES, AS SHOWN ON THE APPROVED PLANS.

2. REFERENCE IS MADE TO THE GEOTECHNICAL INVESTIGATIONS BY ROCK SOLID ENGINEERING INC., ENTITLED "SEAWALL MONITORING REPORT," DATED FEBRUARY 28, 2023. THE CONTRACTOR SHALL MAKE A THOROUGH REVIEW OF THIS REPORT AND SHALL FOLLOW ALL RECOMMENDATIONS THEREIN. THE CONTRACTOR SHALL CONTACT ROCK SOLID ENGINEERING INC. FOR ANY CLARIFICATIONS NECESSARY PRIOR TO PROCEEDING WITH THE WORK.

3. THE GEOTECHNICAL ENGINEER SHOULD BE NOTIFIED AT LEAST FOUR (4) DAYS PRIOR TO ANY SITE CLEARING AND GRADING OPERATIONS.

4. STRIPPED AREAS SHOULD BE SCARIFIED TO A DEPTH OF ABOUT 6", WATER-CONDITIONED TO BRING THE SOILS WATER CONTENT TO ABOUT 2% ABOVE THE OPTIMUM, AND COMPACTED TO A DENSITY EQUIVALENT TO AT LEAST 90% OF THE MAXIMUM DRY DENSITY OF THE SOIL ACCORDING TO ASTM D1557 (LATEST EDITION).

OBSERVATION BY THE GEOTECHNICAL ENGINEER & PROJECT GEOLOGIST

SHALL BE CONDUCTED AS REQUIRED BY THE GEOTECHNICAL

INVESTIGATION & GEOLOGIC INVESTIGATION

EROSION CONTROL

DURING CONSTRUCTION, EROSION CONTROL MEASURES SHALL BE IN PLACE. THESE CONSTRUCTION MEASURES SHALL BE IN THE FORM OF DUST CONTROL, STRAW MULCH, STRAW BALES AND WATTLES PLACED AT THE APPROPRIATE AREAS OF WORK AS DIRECTED BY THE ENGINEER.

SUPPLEMENTAL RECOMMENDATIONS

IF UNDESIRABLE CONDITIONS ARE ENCOUNTERED DURING CONSTRUCTION, OR IF THE PROPOSED CONSTRUCTION WILL DIFFER FROM THAT PLANNED AT THIS TIME, RI ENGINEERING SHALL BE NOTIFIED IN A TIMELY MANNER SO THAT SUPPLEMENTAL RECOMMENDATIONS CAN BE GIVEN.

INSPECTIONS AND MAINTENANCE

THE REGISTERED GEOTECHNICAL AND CIVIL ENGINEER AND/OR HIS REPRESENTATIVE SHALL BE CALLED TO PERFORM CONSTRUCTION OBSERVATION AND TO MAKE A FINAL INSPECTION OF THE SITE TO ASSURE THAT THE WORK IS COMPLETED ACCORDING TO PLAN. WINTER STORM INSPECTIONS SHALL BE CONDUCTED TO IDENTIFY PROBLEM AREAS AND ASSESS THE NEED FOR CORRECTIVE ACTIONS. WRITTEN DOCUMENTATION SHOULD BE MAINTAINED THAT NOTES INSPECTION DATES, CORRECTIVE ACTIONS NEEDED AND CORRECTIVE ACTIONS TAKEN.

WALL BACKFILL: RETAINING WALLS SHALL BE BACKFILLED WITH GRAVEL WHERE INDICATED BY THE ENGINEER. GRAVEL SHALL BE CALTRANS PERMEABLE MATERIAL CLASS I, TYPE A (CALTRANS SPECIFICATION 68-1.025) OR APPROVED EQUAL. GRAVEL BACKFILL SHALL BE COMPLETED IN LIFTS NOT EXCEEDING TWO FEET THICK. GRAVEL SHALL BE PLACED TO WITHIN TWO VERTICAL FEET OF FINISH GRADE. DRAIN PIPES TO ALLOW SEEPAGE THAT ACCUMULATES IN THE GRAVEL TO PASS THROUGH THE WALL SHALL BE INSTALLED AS DESIGNED BY THE FNGINFFR

DELETERIOUS MATERIALS: THE CONTRACTOR SHALL CAREFULLY EXCAVATE ALL MATERIALS NECESSARY, OF WHATEVER NATURE, FOR CONSTRUCTION OF THE WORK. ANY MATERIAL OF AN UNSUITABLE OR DELETERIOUS NATURE DISCOVERED BELOW THE FOOTING OF THE PROPOSED RETAINING WALLS SHALL BE BROUGHT TO THE ATTENTION OF THE GEOTECHNICAL ENGINEER BEFORE PROCEEDING WITH THE WORK.

VOIDS: ANY VOIDS EXPOSED DURING EXCAVATION WORK SHALL BE BACK FILLED AS DIRECTED BY THE ENGINEER. PROTECTION OF IMPROVEMENTS: IMPROVEMENTS ON SITE SHALL BE PROTECTED FROM DAMAGE. WHERE IMPROVEMENTS (SUCH AS FENCES, RAILINGS, PAVING, OR SIGNAGE) NEED TO BE REMOVED TO ALLOW ACCESS OR CONSTRUCTION, THEY SHALL BE REMOVED AND REPLACED WITH IMPROVEMENTS OF EQUAL QUALITY.

EXCAVATION: SANDS, SOILS AND BEDROCK MATERIALS EXCAVATED TO CONSTRUCT THE KEYWAYS SHALL BE CONTAINED ON THE SLOPE AND EITHER USED AS A CAP OVER THE GRANULAR BACKFILL, OR EXPORTED TO AN APPROVED DUMPSITE, AS DIRECTED BY THE ENGINEER

SPOILS: EXCAVATED SPOILS SHALL BE DISPOSED OF WHERE DIRECTED BY OWNER.

TEMPORARY CUT SLOPES: MAXIMUM GRADIENTS SHALL NOT EXCEED 1:1 (H:V), EXCEPT IN HARD BEDROCK. TEMPORARY CUT SLOPES MUST BE INSPECTED BY THE ENGINEER DURING EXCAVATION, TO DETERMINE THE NEED FOR TEMPORARY SHORING OR TEMPORARY UNDERPINNING OF ADJACENT RETAINING STRUCTURE AND/ OR IMPROVEMENTS. THE CONTRACTOR SHALL BE REQUIRED TO IMPLEMENT SAFEGUARDS DURING CONSTRUCTION IN CONFORMANCE WITH CBC CHAPTER 33.

DUST CONTROL:

FOR DUST CONTROL PURPOSES, WATERING OF EXPOSED SURFACES DURING CLEARING, EXCAVATION, STOCK PILING AND GRADING, AND IN THE LATE MORNING AND THE END OF EACH WORK DAY SHALL BE DONE. GRADING ACTIVITIES SHALL BE PROHIBITED DURING PERIODS OF HIGH WINDS GREATER THAN 30 MILES AN HOUR.

EROSION CONTROL:

DURING CONSTRUCTION, EROSION CONTROL MEASURES SHALL BE IN PLACE IN AREAS TO BE GRADED, AS WELL AS AROUND THE STOCKPILED SOILS. THESE CONSTRUCTION MEASURES SHALL BE IN THE FORM OF DUST CONTROL, STRAW MULCH. STRAW BALES AND WATTLES. AND/OR SILT FENCES PLACED AT THE APPROPRIATE AREAS OF WORK AS DIRECTED BY THE ENGINEER.

NOISE CONTROL:

ALL EQUIPMENT THAT WILL OPERATE FOR EXTENDED PERIODS OF TIME AT THE PROJECT SITE SHALL BE EQUIPPED WITH MUFFLERS.

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+ 2.61 + 0.61 SAND SECTION B-B В - 2+67.93 Ń + 0.67 SAND + 2.83 + MEAN HIGH TIDE LINE | ELEV = 4.84 (NAVD88) SURVEYED DECEMBER 11, 2019 SAND + 0.48 SAND + 2.94 + 0.70 BEDROCK Æ 15 2.56 SET TEMP SPK + 2.79 Α - 2+62.87 SECTION A-A SEE SHEET TP-2 FOR SECTIONS + 2.82 + 0.72 BEDROCK + 3.00

METER MULTIPLE

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۲	FOUND MONUMENT AS NOTED	+ 46.21	SPOT ELEVATION
\sim	JOIN LOT	•	TREE AS NOTED
С	JOINT POLE	\otimes	VALVE AS NOTED
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NT OCC OH

PA

PDSTL PVMT QUAD RIM S/O SLDG SPK SSMH TEMP THRS TRPL TW

TYP

VCP

WV

WTR

NO TAG OCCUPIED OVERHEAD

OVERHEAD PLUS OR MINUS PLANTING AREA PEDESTAL PAVEMENT QUADRUPLE RIM ELEVATION SHUT-OFF SLIDING SDIVE

WATER METER WATER VALVE WATER

SLIDING SPIKE SANITARY SEWER MANHOLE TEMPORARY THRESHOLD TRIPLE TOP OF WALL TYPICAL VITRIFIED CLAY PIPE WATED METED

CONTOUR INTERVAL = 1 FOOT

DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF

ABBREVIATIONS ASPHALT CONCRETE ASSESSORS PARCEL NUMBER BUILDING

CABLE CENTERLINE COLUMN CONCRETE

DOUBLE DRIVEWAY ELECTRIC FOUND FLOWLINE

FLOWLINE FIRE SERVICE FINISH SLAB FACE OF WALL GAS VALVE IRON PIPE JOINT POLE

MAGNETIC MAILBOX MEAN HIGH TIDE LINE

From:	Nathan MacBeth	
То:	Clark, Nolan@Coastal	
Cc:	Jessica deGrassi; Graeven, Rainey@Coastal; Jocelyn Drake	
Subject:	RE: 4790 Opal Cliff Drive - Seawall repair	
Date:	Tuesday, April 25, 2023 9:40:15 AM	
Attachments:	image001.png	
	image002.png	
	image003.png	
	image004.png	
	image005.png	
	image006.png	

Nolan,

Thank you for getting back to me on this one.

Based on your input, it seems appropriate for the County to reject the application at this time.

I'll let you know if we need to discuss this further.

Thank you,

	Nathan MacBeth
	Development Review Planner Community Development & Infrastructure
?	Phone : 831-454-3118 701 Ocean Street, Room 400

From: Clark, Nolan@Coastal <nolan.clark@coastal.ca.gov>

Sent: Tuesday, April 25, 2023 9:24 AM

To: Nathan MacBeth <Nathan.MacBeth@santacruzcounty.us>

Cc: Jessica deGrassi < Jessica.deGrassi@santacruzcounty.us>; Graeven, Rainey@Coastal

<Rainey.Graeven@coastal.ca.gov>

Subject: RE: 4790 Opal Cliff Drive - Seawall repair

****CAUTION: This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hi Nate,

I'm following up on your question regarding whether the proposed seawall repair project at 4790 Opal Cliff Drive lies within the Coastal Commission's original jurisdiction. Our mapping unit has reviewed the project proposal materials you shared, and has determined that the project is bisected by both the Coastal Commission's and the County's coastal development permitting (CDP) jurisdictions. As you are aware, the Commission has the ability to process consolidated CDPs whereby the Commission processes the CDP for the entire project in lieu of separate CDPs to each

> Exhibit 5 A-3-SCO-23-0042 Page 1 of 16

agency for the portions of the project that fall within their respective CDP permitting authorities. Accordingly, we can process a consolidated CDP application for the proposed project should the Applicant and County consent to such an approach. We are happy to discuss this further via phone should you have any questions.

Thanks,

Nolan Clark

Coastal Planner, Central Coast District California Coastal Commission

From: Nathan MacBeth <<u>Nathan.MacBeth@santacruzcounty.us</u>>
Sent: Wednesday, April 19, 2023 9:41 AM
To: Clark, Nolan@Coastal <<u>nolan.clark@coastal.ca.gov</u>>
Cc: Jessica deGrassi <<u>Jessica.deGrassi@santacruzcounty.us</u>>
Subject: RE: 4790 Opal Cliff Drive - Seawall repair

Thanks Nolan, keep me posted. Good luck with your report.

?	

Nathan MacBeth
Development Review Planner Community Development & Infrastructure
Phone: 831-454-3118 701 Ocean Street, Room 400

From: Clark, Nolan@Coastal <<u>nolan.clark@coastal.ca.gov</u>>
Sent: Wednesday, April 19, 2023 9:32 AM
To: Nathan MacBeth <<u>Nathan.MacBeth@santacruzcounty.us</u>>
Cc: Jessica deGrassi <<u>Jessica.deGrassi@santacruzcounty.us</u>>
Subject: RE: 4790 Opal Cliff Drive - Seawall repair

****CAUTION: This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hi Nate,

Apologies for the delay—our staff report deadline this week for the May Coastal Commission hearing is giving me a beating. I sent this to our mapping unit last week to review so hopefully they

Exhibit 5 A-3-SCO-23-0042 Page 2 of 16 will share their insights soon. I will let you know when they get back to me.

Thanks,

Nolan Clark

Coastal Planner, Central Coast District California Coastal Commission

From: Nathan MacBeth <<u>Nathan.MacBeth@santacruzcounty.us</u>>
Sent: Wednesday, April 19, 2023 9:09 AM
To: Clark, Nolan@Coastal <<u>nolan.clark@coastal.ca.gov</u>>
Cc: Jessica deGrassi <<u>Jessica.deGrassi@santacruzcounty.us</u>>
Subject: FW: 4790 Opal Cliff Drive - Seawall repair

Nolan,

I'm following up to see if you had a chance to look at the proposed seawall repair. Please let me know if you have any questions. Thank you,

	Nathan MacBeth
	Development Review Planner Community Development & Infrastructure
?	Phone: 831-454-3118 701 Ocean Street, Room 400

From: Nathan MacBeth

Sent: Thursday, April 13, 2023 10:47 AM

To: Clark, Nolan@Coastal <<u>nolan.clark@coastal.ca.gov</u>>

Cc: Jessica deGrassi < Jessica.deGrassi@santacruzcounty.us >

Subject: 4790 Opal Cliff Drive - Seawall repair

Nolan,

Attached is a copy of the plans for a proposed seawall repair at 4790 Opal Cliff Drive. The applicant is in the process of submitting a CDP to the County for processing.

Jess and I are hoping you can provide input as to whether the project lies within Coastal jurisdiction.

See plan sheet C-3 showing a new keyway at MHT.

As a note, the original wall was permitted by the County.

Thank you,

Nathan MacBeth

Exhibit 5 A-3-SCO-23-0042 Page 3 of 16

Development Review Planner Community Development & Infrastructure

Phone: 831-454-3118 701 Ocean Street, Room 400

> Exhibit 5 A-3-SCO-23-0042 Page 4 of 16
| From: | <u>Clark, Nolan@Coastal</u> |
|----------|--|
| To: | Jocelyn Drake |
| Cc: | Nathan MacBeth; Graeven, Rainey@Coastal; Rance, Darryl@Coastal; Benoit, Greg@Coastal |
| Subject: | RE: 4790 Opal Cliff Drive Coastal Permitting |
| Date: | Wednesday, May 17, 2023 4:15:00 PM |

Hi Jocelyn,

This preliminary boundary determination was based on the materials submitted by the Applicant at 4790 Opal Cliff Drive. If the Applicant's representative disagrees with this determination, we ask that they apply for an official boundary determination through our mapping unit. I've cc'd Darryl Rance and Greg Benoit from our mapping unit, so if you would please pass their emails along to the Applicant, I would greatly appreciate it.

Nolan Clark Coastal Planner, Central Coast District California Coastal Commission

-----Original Message-----From: Jocelyn Drake <Jocelyn.Drake@santacruzcounty.us> Sent: Tuesday, May 9, 2023 10:28 AM To: Clark, Nolan@Coastal <nolan.clark@coastal.ca.gov> Cc: Nathan MacBeth <Nathan.MacBeth@santacruzcounty.us>; Graeven, Rainey@Coastal <Rainey.Graeven@coastal.ca.gov> Subject: 4790 Opal Cliff Drive Coastal Permitting

Hi Nolan -

Based on correspondence from your office, the County has indicated to the 4790 Opal Cliff Drive project applicant that we are unable to take in and process a Coastal Development Permit for the proposed seawall repair project. Our direction to the applicant was to contact Coastal for permitting requirements. Below is the applicant's legal counsel's response to our direction:

This law firm, Nossaman LLP, represents Adeyemi Ajao and Emily Tjuanakis, owners of the property at 4790 Opal Cliff Drive in Santa Cruz. We are writing in response to your recent email to Mark Grofcsik of RI Engineering, Inc., advising that the Coastal Commission mapping unit has determined that the property is "bisected" by County and Coastal Commission jurisdiction, and proposing that the Commission conduct "consolidated" processing of our clients' application for approval of a seawall repair. Our mapping of the property reveals no such "bisection," or any other physical basis for assertion of Commission jurisdiction. Therefore, we request that you provide the appropriate documentation from the Commission staff, prepared by a qualified member of the staff, on which you and Commission staff base the contention that the property is so bisected. In that connection, please remember that the mapping must comply with the requirements of the Professional Engineers Act. To date, you have provided us no such documentation.

We are opposed in the meantime to any Commission "consolidated" processing of our clients' seawall repair application.

Please let me know if you have any questions.

John Flynn

Would it be possible for you to provide a letter outlining Coastal's jurisdictional determination? I'd like to attach it to our response to John Flynn.

Thanks -

Jocelyn

Exhibit 5 A-3-SCO-23-0042 Page 5 of 16

Jocelyn Drake
<u>Flynn, John J.</u>
Nathan MacBeth; Carolyn Burke; Cove Britton; Clark, Nolan@Coastal
FW: 4790 Opal Cliff Drive Coastal Permitting
Wednesday, May 17, 2023 5:51:21 PM

Hello John -

Following up on your inquiry regarding the jurisdictional determination for 4790 Opal Cliff Drive. I just received a response from Coastal Commission staff, Nolan Clark. In his email, Nolan indicated that Coastal's preliminary boundary determination was based on the materials submitted as part of the 4790 Opal Cliff Drive application. Nolan's recommendation at this time is for you, or a member of the applicant team, to apply for an official boundary determination through Coastal's mapping unit. Darryl Rance and Greg Benoit are the mapping unit staff. Their emails are: Darryl.Rance@coastal.ca.gov> and Greg.Benoit@coastal.ca.gov.

Please follow up with Nolan or a member of the mapping unit with follow up questions.

Thanks -

Jocelyn

From:	Clark, Nolan@Coastal
To:	Nathan MacBeth
Cc:	<u>Graeven, Rainey@Coastal; Jessica deGrassi; Richard Irish; emily.tzouanakis@gmail.com</u>
Subject:	CDP Application 231230 - First Routing
Date:	Wednesday, July 12, 2023 4:15:00 PM
Attachments:	Beach Sand Loss worksheet.pdf

Hi Nate,

Thank you for the opportunity to comment on the above-referenced Coastal Permit application. Please include these comments as part of the administrative record for this project, and distribute to the applicant and appropriate staff.

Project Description:

The project proposes to fill a void behind the upcoast end of an outflanked vertical seawall, approximately 10 feet long and 9 feet deep, with concrete slurry, and to construct an additional keyed-in 2-foot wide concrete footing into the bedrock (at a minimum of 3 feet deep into bedrock) seaward of the base of the existing seawall foundation located at the base of the coastal bluff fronting 4790 Opal Cliff Drive in the Live Oak Area (APN 033-132-12).

Comments:

- 1. **Construction Access, Staging, and Storage.** IP Section 16.10.070(H)(3)(h) requires that applications for shoreline protection structures include a construction and staging plan that minimizes disturbance to the beach and specifies the access and staging areas. The project plans do not clearly denote construction site access, staging, and storage. Please update the project plans and narrative to clearly describe access routes, equipment staging, and storage including in relation to the MHTL. Additionally, the MHTL as shown on the project plan differs across the plan set. Accordingly, please update the plans to consistently display the MHTL in relation to all activities.
- 2. **Jurisdiction.** Elements of the proposed project appear to bisect Coastal Commission original jurisdiction. This includes the proposed keyway into bedrock (the depth of which is to be field verified, according to the project plans), which appears to drop below the Mean High Tide elevation (4.84 feet NAVD 88), as well as construction access routes. Any proposed development within Coastal Commission retained jurisdiction will require a Coastal Development Permit (CDP) directly from the Coastal Commission in addition to a County CDP. Alternatively, a single consolidated CDP can be processed by the Coastal Commission pursuant to Coastal Act Section 30601.3. The Applicant should apply for a formal boundary determination from the Coastal Commission to determine the jurisdictions implicated by the project.
- 3. **Eligibility for Armoring.** LUP Policy 6.2.16 (Structural Shoreline Protection Measures) limits the use of structural shoreline protection measures to protect existing structures from a significant threat. IP Section 16.10.070(H)(3) furthers this limitation by only allowing shoreline protection structures, and specifically seawalls, when there is a significant threat to an existing structure. Thus, the LCP requires that 1) the residence constitute an "existing"

Exhibit 5 A-3-SCO-23-0042 Page 7 of 16 structure in order to be eligible for shoreline armoring, and 2) that there is a demonstration of a significant threat to the structure in question. An existing structure is a structure which has not been substantially redeveloped (i.e., replacement or modification of more than 50% of any major structural component, such as the structural elements of the roof, foundation, or exterior load-bearing walls) since the implementation of the Coastal Act on January 1, 1977. First, the development history of the subject residence is not clearly described in the application materials, and it is unclear whether the residence can be considered existing pursuant to the Coastal Act and LCP. Second, the project application materials do not clearly demonstrate that the subject residence is susceptible to a significant threat (i.e., in danger of erosion within the next 2-3 storm cycles). Please update the project materials to clarify whether the residence constitutes and existing structure, and if so, whether it is in danger of erosion within the next 2-3 storm cycles as set forth in LUP Policy 6.2.16 and IP Section 16.10.070(H)(3).

- 4. Alternatives Analysis. If the site is eligible for shoreline protection because there is an existing structure and it is in danger of erosion within the next 2-3 storm cycles, then LUP Policy 6.2.16 and IP Section 16.10.070(H)(3)(c) set forth requirements for a robust analysis of alternatives. Specifically, IP Section 16.10.070(H)(3)(C) requires any shoreline armoring proposal, including modifications that expand the armoring footprint such as is the case here, to "include a "thorough analysis of all reasonable alternatives to such structures, including but not limited to relocation or partial removal of the threatened structure, protection of only the upper bluff area or the area immediately adjacent to the threatened structure, beach nourishment, and vertical walls. Structural protection measures on the bluff and beach shall only be permitted where nonstructural measures, such as relocating the structure or changing the design, are infeasible from an engineering standpoint or are not economically viable". Please submit an alternatives analysis for the project, which includes consideration of both nonstructural measures and other structural alternatives including but not limited to relocation/removal of the threatened portion of the structure, beach nourishment of the void/outflanked area, slimmer tieback wall that occupies a significantly smaller footprint, and a cavity fill that makes use of erodible concrete and/or low-density fill or more natural earthen fill with a concrete face, etc.
- 5. Public Recreational Access/Shoreline Processes/Visual Resource Impacts and Mitigation. IP Section 16.10.070(H)(3)(e) states that shoreline protection structures "shall not reduce or restrict public beach access, adversely affect shoreline processes and sand supply, adversely impact recreational resources, increase erosion on adjacent property, create a significant visual intrusion, or cause harmful impacts to wildlife or fish habitat, archaeologic or palaeontologic resources" and "shall minimize visual impacts by employing materials that blend with the color of natural materials in the area". The current seawall at the site appears to contribute to accelerated erosion at its upcoast end as evidenced by this application, and there are currently no mitigation measures in place to offset these impacts. Also, the current seawall occupies public recreational space, and the proposal will extend the seawall footprint seaward in this public area, further impacting recreational resources. Finally, the current seawall does not incorporate materials or design elements which blend the color and texture of the wall to simulate natural bluff/bedrock in the area. The project application materials do

Exhibit 5 A-3-SCO-23-0042 Page 8 of 16 not propose any mitigation measures with respect to adverse effects to shoreline processes and sand supply, adverse impacts to recreational access, increased erosion on adjacent properties, and significant visual resource impacts. Accordingly, the project application materials should be updated to include mitigation strategies, such as: 1) direct sand nourishment for accelerated erosion of the adjacent property and loss of sand supply; 2) assessment of in-lieu fees for the impacts to recreational resources and sand supply from the entire wall (should the cutoff wall component of the project continue to be proposed); and 3) design elements and materials to minimize impacts to visual resources that blend the wall with the surrounding natural bluff materials. Attached is the Coastal Commission's sand supply and public recreation in-lieu fee assessment worksheet as an example. Also, please see County CDPs 151321 and 171261, which both assessed in-lieu fees for impacts to public recreational access and sand supply and included design elements to minimize impacts to visual resources. Finally, see CDP findings in CDP 3-16-0446 that explain how cutoff walls extend the life of seawalls and render seawalls redeveloped, thus triggering re-evaluation of mitigation requirements for the entire seawall.

Please feel free to contact me with any questions you may have regarding these comments.

Thank you,

Nolan Clark

Coastal Planner, Central Coast District California Coastal Commission Lezanne Jeffs, Zoning Administrator Santa Cruz County Community Development and Infrastructure Department 701 Ocean Street, 4th Floor Santa Cruz, CA 95060

Subject: September 15, 2023 Zoning Administrator Hearing on CDP Application Number 231230 (4790 Opal Cliff Drive Seawall)

Dear Ms. Jeffs:

Please accept the following comments on the above-referenced Zoning Administrator item, coastal development permit (CDP) application 231230, scheduled for hearing on September 15, 2023. As we understand it, the proposed project includes the filling of a void, approximately 10 feet long and 9 feet deep behind the upcoast end of an outflanked vertical seawall¹ with concrete slurry, and construction of an additional 2-foot wide concrete footing for the seawall that would extend seaward of it and be keyed into the bedrock at least 3 feet, all located at the base of the coastal bluff and on the beach fronting 4790 Opal Cliff Drive in the Live Oak area (APN 033-132-12). We previously commented on this CDP application and indicated that at least some, if not all, of the proposed project appears to fall within the Commission's original CDP jurisdiction (and thus those portions require CDP authorization directly from the Commission either in conjunction with the County's CDP process, or via a consolidated CDP for the entire project pursuant to Coastal Act Section 30601.3), and that the project in any case raises questions of consistency with Santa Cruz County Local Coastal Program (LCP) and Coastal Act provisions related to coastal hazards, shoreline armoring, and coastal resource impact avoidance and mitigation (see attached comments dated July 12, 2023). Here, we reiterate those original comments and provide additional substantive discussion, including in response to comments from the Applicant received yesterday (via John Flynn, the Applicant's representative) in a letter to the County. As described in more detail below, we recommend that the County either postpone action to allow for unresolved questions and missing analyses to be answered and provided, respectively, or if the County proceeds despite such issues, that the County deny this CDP application.

First, and contrary to the assertions made by Mr. Flynn, the proposed project will expand the footprint and configuration of the existing armoring present at this site, and as such, does not constitute repair and maintenance to an existing seawall. Rather, repair and maintenance are activities that put something back to a permitted and/or required state, and such activities do not extend to the expansion of the physical

¹ The seawall was originally constructed in 1994 under Santa Cruz County CDP 93-0245.

Exhibit 5 A-3-SCO-23-0042 Page 10 of 16 dimensions of a structure, as is the case with the augmentation proposed here, where the proposed project would actually <u>expand</u> the armoring at the site, extending both farther into the bluff and farther seaward than the existing seawall.² For this fundamental reason, the project must be evaluated as a proposed augmented and replacement seawall structure in total, and not just evaluated in terms of the components that would be added to it. Put another way, the proposed armoring must be understood as a new replacement armoring structure, and it must meet all applicable Coastal Act and LCP tests.³

With respect to LCP consistency, LCP Land Use Policy (LUP) 6.2.16 and Implementation Plan (IP) Section 16.10.070(H)(3) set forth the basic criteria under which shoreline armoring projects are to be evaluated. As a primary matter pursuant to these LCP provisions, shoreline armoring is limited to cases where existing structures are significantly threatened due to erosion. In this context, an 'existing structure' is a structure that was developed prior to implementation of the Coastal Act (on January 1, 1977) that has not been substantially redeveloped (i.e., replacement or modification of more than 50% of any major structural component, such as the structural elements of the roof, foundation, or walls).⁴ Thus, for this armoring project to be considered in the first place, it needs to be first demonstrated that the residence at 4790 Opal Cliff Drive meets these tests to qualify as an existing structure. If it does, then it needs to be demonstrated that it is in danger from a significant threat (which has generally been interpreted to mean it would be unsafe to occupy within the next 2-3 storm seasons). Neither the application materials for this CDP nor the County staff report prepared for the hearing on this item evaluate these basic tests, and it is premature to consider the project without such an assessment. And, in fact, based on available information, it appears that although a residence was present as of January 1, 1977 at the subject site, there have been significant alterations to it since,⁵ and it is not clear that the project can meet these basic tests for allowing consideration of armoring in the first place.

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² Which, despite Mr. Flynn's characterization of our position, we do not dispute that a seawall exists at the site. Rather, the question in this respect is the appropriate regulatory framework to be applied to the proposed project.

³ As indicated, there is a question as to jurisdiction, and thus which standards apply to this case. For projects in the Commission's retained CDP jurisdiction (and for consolidated CDP applications), the standard of review is the Coastal Act. For projects in the County's CDP jurisdiction, the standard of review is the LCP and the Coastal Act's access and recreation provisions. Thus, although these comments are framed in terms of LCP issues in light of your hearing on a County CDP application, the same issues extend in similar ways to the Coastal Act as well.

⁴ Mr. Flynn's comments suggest that the *Casa Mira v. California Coastal Commission* decision is evidence of the courts siding against this interpretation. However, that decision was a San Mateo County Superior Court decision that the Commission has appealed. Thus, the decision is not final until the appellate process concludes. And in any case, it is not binding on the Commission, nor Santa Cruz County, in any way as it relates to County CDP Application 231230.

⁵ Including what appear to be substantial remodels for which County permits were issued in 1998 and 2005 that, in the very least, appear to have entailed work to the structural elements of the roof, interior walls, and foundation. Based on available information, it is unclear whether these episodes of residential improvement received CDP authorization where it is likely such authorization was necessary. Any work undertaken without CDP authorization which required the same constitutes unpermitted development, and thus a violation of the Coastal Act and County LCP (if done after certification of the LCP in 1983).

Furthermore, when armoring can be considered because these basic tests are met, LUP Policy 6.2.16 and IP Section 16.10.070(H)(3) include additional criteria for evaluating such armoring. First, these LCP policies require that seawalls shall <u>only</u> be considered when adjacent parcels are similarly armored. Because the upcoast property (APN 033-132-11) is unarmored, the LCP does not allow for armoring of the subject site. This provision alone requires denial of the CDP application under the LCP, even if the above-referenced tests were met.

Second, and only when the above criteria are met, proposed armoring must be shown to be the least environmentally damaging feasible alternative to protect the existing endangered structure. Such a determination must be based on an analysis of alternatives (e.g., relocation or partial removal of the threatened structure, drainage and landscaping improvements, beach nourishment, lesser forms of hard armoring such as limited upper bluff armoring, etc.) and the LCP only allows approval of armoring if non-structural measures are infeasible from an engineering standpoint or are not economically viable. In his comments, Mr. Flynn asserts that the requirement for an alternatives analysis is somehow "self-evidently misplaced." This assertion is simply incorrect. IP Section 16.10.070(H)(3)(c) clearly states:

Application for shoreline protective structures shall include thorough analysis of all reasonable alternatives to such structures, including but not limited to relocation or partial removal of the threatened structure, protection of only the upper bluff area or the area immediately adjacent to the threatened structure, beach nourishment, and vertical walls. Structural protection measures on the bluff and beach shall only be permitted where nonstructural measures, such as relocating the structure or changing the design, are infeasible from an engineering standpoint or are not economically viable.

This requirement is not new, and should not come as a surprise to Mr. Flynn, who has represented other applicants for similar projects in the immediate vicinity which had similar requirements. No such alternatives analysis was prepared in conjunction with this CDP application (including as confirmed by the County staff report for this item which states that "there are no alternatives to the proposed...project"), and this provision too points to denial under the LCP.

Third, the LCP also requires that armoring not reduce or restrict public recreational access, adversely affect natural shoreline processes and sand supply, increase erosion on adjacent property, create a significant visual intrusion or impact visual resources, or cause harmful impacts to wildlife or fish habitat or archaeologic or palaeontologic resources. As is, it appears clear that the existing seawall at the site fails all such tests, including as it is contributing to accelerated erosion at its upcoast end (as evidenced by this application), it occupies public recreational beach and shoreline space,⁶ and it has caused, and will continue to cause into the future, other adverse coastal resource

⁶ Mr. Flynn alleges, without evidence, that the existing seawall does not occupy public recreational space. However, the physical fact is that the seawall, like all seawalls of this nature, requires a base on which it is founded, and in this case that base clearly occupies a portion of the beach at this location, locally known as "Trees Beach". In addition, the seawall would be extended an additional 2 feet seaward under the proposed project, covering even <u>more</u> of the beach in question.

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impacts (e.g., in terms of natural landform alteration and public views, coastal squeeze, reducing beach and shoreline recreational area, blocking sand from the shoreline system, etc.). On these potential impacts, Mr. Flynn claims that we provided no evidence to support such conclusions. Two points are made in response. First, the main point is that the project includes no such analysis of potential impacts, and none is provided in the staff report for this item, and thus it is not possible to measure the project against the applicable LCP and Coastal Act coastal resource protection requirements, including those that explicitly require mitigation of impacts by armoring projects like this. Second, the Commission has found that, as a general rule, shoreline armoring can have a variety of negative impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beaches and shorelines,^{7,8} and no evidence has been brought to bear on this case by Mr. Flynn or otherwise to suggest that this proposed armoring project should be understood differently.

And the LCP requires first, impact avoidance, and second, mitigation for unavoidable impacts when armoring approvable (again, as discussed previously). Lacking evaluation, it is fair to presume from past armoring cases that the proposed project will not only continue a number of adverse coastal resource impacts, but it would further exacerbate many of them, including by extending the seawall footprint even farther seaward and maintaining the un-camouflaged appearance of the armoring. However, not only is there no mention of any measures to be taken to avoid such impacts, but there is also no proposed mitigation of unavoidable impacts. The LCP directs denial of the project for these reasons as well.

Finally, the project's proposed new replacement armoring structure appears to be sited, at least partially, in the Commission's jurisdiction,⁹ and, including as referenced by Mr.

⁷ See, for example, Commission findings in LCP amendments LCP-3-SCO-20-0066-2 (Santa Cruz County Hazards Update) and LCP-3-MRB-21-0047-1 (Morro Bay Land Use Plan Update), and in CDPs A-3-SCO-07-095/3-07-019 3-07-019 (Pleasure Point Seawall), 3-09-025 (Pebble Beach Company Beach Club Seawall), 3-09-042 (O'Neill Seawall), 2-10-039 (Lands End Seawall), 3-14-0488 (Iceplant LLC Seawall), 3-16-0345 (Honjo Armoring), 3-16-0446 (Rockview Seawall), 2-17-0702 (Sharp Park Golf Course), and 3-18-0720/3-20-0166/3-22-0440 (Pleasure Point Armoring/Access).

⁸ For further information on the impacts of seawalls, see for example: California Coastal Commission 2018 Sea Level Rise Policy Guidance; Kraus, Nicholas (1988) "Effects of Seawalls on the Beach: An Extended Literature Review", Journal of Coastal Research, Special Issue No. 4: 1-28; Kraus, Nicholas (1996) "Effects of Seawalls on the Beach: Part I An Updated Literature Review", Journal of Coastal Research, Vol.12: 691-701, pages 1-28; Tait and Griggs (1990) "Beach Response to the Presence of a Seawall", Shore and Beach, 58, 11-28; Dugan and Hubbard (2010) "Ecological effects of coastal armoring: A summary of recent results for exposed sandy beaches in southern California", U.S. Geological Survey Scientific Investigations Report 2010-5254, p. 187-194.

⁹ On this point we further note that Sheets C-1 and C-2 of the plans show the mean high tide elevation at +4.84 feet NAVD88, but Sheet C-3 of the plans shows that elevation at +4.77 feet NAVD88, with the actual elevation of the new footing to be field verified, according to the plans. It is not clear why the plans include such an internal inconsistency, and it is likewise inappropriate for such key information to be developed at some future date based upon future evaluation. Rather, the Applicant must identify what is proposed to be done with enough accuracy as to allow regulatory agencies to understand the project, including which jurisdictions are implicated. Despite Mr. Flynn's comments on this matter, the location of the mean high tide line (MHTL) on the survey prepared by the Applicants' consultants on one particular

Exhibit 5 A-3-SCO-23-0042 Page 13 of 16 Flynn in his comments, there will need to be construction equipment and work in the area seaward of the armoring structure, located in the Commission's jurisdiction.¹⁰ Any proposed development, including construction access/staging/storage within the Commission's CDP jurisdiction, requires a CDP directly from the Coastal Commission. If there is split jurisdiction, then a County CDP is <u>also</u> required, where those two CDP requirements may be consolidated through a single CDP application to the Commission (pursuant to Coastal Act Section 30601.3). However, nothing in the law allows an applicant to pursue development of this nature in the coastal zone without a CDP from the Commission when located in the Commission's jurisdiction, as appears to be the case here as described by the evidence above. Moreover, the Applicant should please be advised that any development undertaken within Commission CDP jurisdiction without CDP authorization from the Commission will constitute a willing and knowing violation of the Coastal Act, which may be subject to enforcement action and penalties. It is clear that these jurisdictional considerations have similarly been inadequately detailed and explored, which is yet another reason to deny the project.

In short, not only have the jurisdictional issues been left unresolved, but the proposed project appears to be inconsistent with the County's LCP (and the Coastal Act, in similar ways) as described above. It would appear to be in all parties' best interests to **postpone** action on September 15 to resolve jurisdictional issues and to further develop the necessary information and analysis required under the LCP and the Coastal Act, and if such action is not postponed, and the County decides to act on a CDP under the LCP notwithstanding the issues described in this letter, then the only appropriate County action based on our current understanding of the project is **denial**.

Thank you for your consideration. If you have any questions or would like to discuss these issues directly, please contact me at (831) 427-4863.

Sincerely,

-DocuSigned by: Nolan Clark

Nolan Clark Coastal Planner, California Coastal Commission

day in 2019 is not under dispute; rather three things are noted. First, the MHTL is ambulatory on a sandy shoreline such as this, meaning it moves seaward and landward depending on changing shoreline dynamics and conditions. For example, the point where the mean high tide intersects the beach during a scoured winter condition can be significantly different than in a summer condition, moving the MHTL accordingly. Second, based the Applicant's MHTL, it is clear that a portion of the proposed base of the replacement seawall is located seaward of the Applicant's MHTL. This alone suggests the Commission has CDP jurisdiction over at least a portion of the project. And third, the Applicant is not the arbiter of where that line is located, the California State Lands Commission is. We have seen nothing from the State Lands Commission to suggest that these MHTL issues have been resolved on a granular level at this site in a way that would suggest that the project is all located inland of the MHTL.

¹⁰ We previously informed the County about such jurisdictional issues as far back as April 25, 2023, and County staff indicated that it then informed the Applicant as well. Subsequently, it would appear that the Applicant has not further engaged nor explained these jurisdictional issues, including that the Applicant has not pursued a boundary determination with the Commission, and it would appear has not contacted the State Lands Commission for verification.

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Attachments: July 12, 2023 comments on CDP application 231230

cc: Emily Tzouanakis and Adeyemi Ajao, Applicants John Flynn, Applicants' Representative Richard Irish, Applicants' Representative Nathan MacBeth, Project Planner, Community Development and Infrastructure Department

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT 725 FRONT STREET, SUITE 300 SANTA CRUZ, CA 95060 PHONE. (831) 427-4863 FAX. (831) 427-4877 WEB: WWW COASTAL CA GOV



COASTAL COMMISSIONER APPEAL FORM

Appeal of a Local Government Coastal Development Permit Action

1. Filing information

Appeal number: A-3-SCO-23-0042

Date appeal filed: October 12, 2023

District: Central Coast District

Commissioner: Caryl Hart

Commissioner: Linda Escalante

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OCT 12 2023

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

2. Local CDP decision being appealed

Local government:	County of Santa Cruz
CDP application number:	231230
CDP decision:	Approval with Conditions
Date of CDP decision:	September 15, 2023
Project location:	4790 Opal Cliff Drive, Santa Cruz, CA 95062
Project description:	Augmentation of an existing seawall, including adding concrete slurry to fill a void space (measuring approximately 5-10 feet along the shoreline by 6 feet tall by 9 feet deep into the bluff) behind and upcoast of the seawall, and adding a new seawall foundation (measuring an unspecified length along the shoreline by 4 feet tall (keyed into bedrock to a depth of at least 3 feet with 1 foot exposed above the bedrock

grade), extending some 2 feet seaward of the existing wall).

3. Applicant information

Applicant:Emily Tzouanakis & Adeyemi AjaoApplicant address:4790 Opal Cliff Drive, Santa Cruz, CA 95062Applicant email address:emily.tzouanakis@gmail.com

4. Grounds for this appeal

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See attached statement.

Exhibit 6 A-3-SCO-23-0042 Page 2 of 6

5. Commissioner appellant certification

l attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Commissioner name:	Linda Escalante
Commissioner signature:	DocuSigned by: UF BAB2AB80584C8
Date of signature:	10/12/2023



OCT 12 2023

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

6. Commissioner appellant certification

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Commissioner name:	Caryl Hart
Commissioner signature:	Caryl Hart
Date of signature:	10/10/2023

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CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

Reasons for Appeal Santa Cruz County CDP Application 231230 (CCC File 3-SCO-23-1049)

Santa Cruz County approved a coastal development permit (CDP) to authorize augmentation of an existing seawall, including adding concrete slurry to fill a void space (measuring approximately 5-10 feet along the shoreline by 6 feet tall by 9 feet deep into the bluff) behind and upcoast of the seawall, and adding a new seawall foundation (measuring an unspecified length along the shoreline by 4 feet tall (keyed into bedrock to a depth of at least 3 feet) and 3 feet deep, extending some 2 feet seaward of the existing wall), all located at the base of the coastal bluff and on the beach fronting 4790 Opal Cliff Drive in the unincorporated Live Oak area of Santa Cruz County. In its approval, the County considered the project to be repair and maintenance of an existing seawall. However, the proposed project will expand the footprint and configuration of the existing armoring present at this site, and as such, does not constitute repair and maintenance to an existing seawall. Rather, repair and maintenance puts something back to a permitted and/or required state, and such activities do not extend to the expansion of the physical dimensions of a structure, as is the case with the augmentation proposed here, where the proposed project would expand the armoring at the site, extending farther into the bluff and the bedrock below, and farther seaward than the existing seawall. The County-approved project raises LCP (and Coastal Act, as applicable) consistency questions in terms of coastal hazards, coastal resource impacts from armoring, and permitting jurisdiction.

In terms of coastal hazards, the LCP limits shoreline armoring to cases where existing structures are significantly threatened due to erosion. In the shoreline armoring policy context, an existing structure is a structure that was developed prior to implementation of the Coastal Act that has not been redeveloped since. The County's approval does not clearly demonstrate that the subject residence qualifies as an existing structure in terms of shoreline armoring policies. Moreover, the County's approval does not clearly demonstrate that the subject residence is significantly threatened due to erosion; instead, the County's approval relies only on review of a 1992 geotechnical report for the original construction of the wall, which itself did not directly contemplate the protection of the residence on site. It is unclear whether the County-approved project meets these basic LCP requirements for even considering shoreline armoring.

Furthermore, in the event that shoreline armoring is allowed to be considered to protect the subject residence, the LCP only allows armoring when it is shown to be the least environmentally damaging feasible alternative to protect the existing endangered structure, based on an analysis of alternatives. The Applicant did not prepare nor provide such alternatives analysis, nor did the County's approval, despite being required by the LCP. Additionally, the LCP requires that armoring that is considered in such an analysis not reduce or restrict public recreational access, adversely affect natural shoreline processes or sand supply, increase erosion on adjacent properties, create a significant visual intrusion or impact visual resources, or cause harmful impacts to wildlife, fish habitat, or archaeological/paleontological resources, among other things. The County did not evaluate these potential coastal resource impacts, and did not include mitigation for all such impacts that may occur, even though the existing seawall

Reasons for Appeal Santa Cruz County CDP Application 231230 (CCC File 3-SCO-23-1049)

appears to be leading to coastal resource problems and appears to be occupying public recreational beach and shoreline space currently, and the County approved project would appear to only exacerbate and extend such impacts, including by extending the seawall's configuration even further seaward out onto the beach. In fact, despite the LCP requiring protection of the beach and shoreline area from intrusion by nonrecreational structures, and requiring that development not interfere with lateral beach access, both appear clearly to be part of the project, but the County's approval did not consider such issues.

In terms of permitting jurisdiction, the County's approval authorizes development deeper and more seaward of the existing shoreline armoring structure, and at least portions (if not all) of the County-approved project appear to be located within the Coastal Commission's CDP jurisdiction. The County cannot legally approve a CDP within the Coastal Commission's CDP jurisdiction, but the County's approval did not address such jurisdictional issues, and the County approved a CDP for the whole project.

In short, the County-approved project raises LCP (and Coastal Act, as applicable) consistency questions in terms of coastal hazards, coastal resource impacts from armoring, and permitting jurisdiction, and the County's approval warrants further Commission review and deliberations regarding these issues.

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OCT 12, 2023 LH COASTAL COMMISSION CENTRAL COAST ARE

A-3-SCO-23-0042 (Tzouanakis and Ajao Armoring) Applicable Coastal Act and LCP Provisions

Coastal Act Sections:

Coastal Act Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30212.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required

Exhibit 7 A-3-SCO-23-0042 Page 1 of 5 unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

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

Coastal Act Section 30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

Coastal Act Section 30253. New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.

(d) Minimize energy consumption and vehicle miles traveled.

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

LUP Policies:

LUP Policy 6.2.16: Structural Shoreline Protection Measures. Limit structural shoreline protection measures to structures which protect existing structures from a significant threat, vacant lots which through lack of protection threaten adjacent developed lots, public works, public beaches, or coastal dependent uses. Require any

Exhibit 7 A-3-SCO-23-0042 Page 2 of 5

application for shoreline protection measures to include a thorough analysis of all reasonable alternatives, including but not limited to, relocation or partial removal of the threatened structure, protection of the upper bluff or area immediately adjacent to the threatened structure, engineered shoreline protection such as beach nourishment, revetments, or vertical walls. Permit structural protection measures only if non-structural measures (e.g. building relocation or change in design) are infeasible from an engineering standpoint or not economically viable. The protection structure must not reduce or restrict public beach access, adversely affect shoreline processes and sand supply, increase erosion on adjacent properties, or cause harmful impacts on wildlife and fish habitats or archaeological or paleontological resources. The protection structure must be placed as close as possible to the development requiring protection and must be designed to minimize adverse impacts to recreation and to minimize visual intrusion. Shoreline protection structures shall be designed to meet approved engineering standards for the site as determined through the environmental review process. Detailed technical studies shall be required to accurately define oceanographic conditions affecting the site. All shoreline protective structures shall incorporate permanent survey monuments for future use in establishing a survey monument network along the coast for use in monitoring seaward encroachment or slumping of revetments or erosion trends. No approval shall be given for shoreline protective structures that do not include permanent monitoring and maintenance programs. Such programs shall include a report to the County every five years or less, as determined by a qualified professional, after construction of the structure, detailing the condition of the structure and listing any recommended maintenance work. Maintenance programs shall be recorded and shall allow for County removal or repair of a shoreline protective structure, at the owner's expense, if its condition creates a public nuisance or if necessary to protect the public health and safety.

LUP Policy 7.7.4: Maintaining Recreation Oriented Uses. Protect the coastal blufftop areas and beaches from intrusion by nonrecreational structures and incompatible uses to the extent legally possible without impairing the constitutional rights of the property owner, subject to policy 7.6.2.

LUP Policy 7.7.10: Protecting Existing Beach Access. Protect existing pedestrian, and, where appropriate, equestrian and bicycle access to all beaches to which the public has a right of access, whether acquired by grant or through use, as established through judicial determination of prescriptive rights, and acquisition through appropriate legal proceedings. Protect such beach access through permit conditions such as easement dedication or continued maintenance as an accessway by a private group, subject to policy 7.6.2.

LUP Policy 7.7.12: Lateral Access. Determine whether new development would interfere with or otherwise adversely affect public lateral access along beaches. If such impact will occur, the County will obtain dedication of lateral access along the beach to the first line of terrestrial vegetation to the base of the bluffs, where present, or to the base of any seawall; and the dedication of lateral access along bluff tops where pedestrian and/or bicycle trails can be provided and where environmental and use conflict issues can be mitigated. Unrestricted lateral access to North Coast beaches

Exhibit 7 A-3-SCO-23-0042 Page 3 of 5 shall be provided where environmental and public safety concerns can be mitigated. All dedications required shall comply with policy 7.6.2 and the other policies of this chapter.

IP Sections:

IP Section 13.20.050: Project requiring coastal development permit approval. Any person or other party wishing to undertake any development in the Coastal Zone shall obtain a coastal development permit from the County (or potentially the California Coastal Commission, if on appeal) in accordance with the provisions of this chapter, except if (1) a coastal development permit is also required from the California Coastal Commission and the parties have agreed to have the application processed through the consolidated coastal development permit process or (2) the development qualifies for a coastal development permit exemption ([IP Sections] 13.20.060 et seq.), or exclusion ([IP Sections] 13.20.070 et seq.). The coastal development permit shall be in addition to any other approval or permit required by law and shall be obtained prior to commencement of the development activity. Provision for challenges to the County's determination of the applicable coastal development review and permit procedures is contained in [IP Section] 13.20.080.

13.20.170 Violations of Coastal Zone regulations.

(A) It shall be unlawful for any person to undertake any development (as defined in SCCC <u>13.20.040</u>) in the Coastal Zone unless (1) a coastal development permit has been obtained and is in effect which authorizes such development within the Coastal Zone; or (2) a coastal development permit exemption or exclusion for the project has been obtained from the Planning Department pursuant to this chapter.

(B) It shall be unlawful for any person to exercise any coastal development permit which authorizes development within the Coastal Zone without complying with all of the terms and conditions of such permit.

(C) Development that is proposed for property on which there are existing unresolved coastal development permit violations shall only be approved and allowed if: (1) the approval resolves all such violations through its terms and conditions and (2) such resolution protects and enhances coastal resources, including that it results in a coastal resource condition that is as good or better than existed prior to the violations; or (3) the proposed development is necessary to ensure health and safety, in which case the approval for the development shall specify that an application to resolve the unresolved coastal development permit violation(s) shall be made within 90 days of the approval

IP Section 16.10.070(H): Permit Conditions for Shoreline Protection Structures.

(3) Shoreline protection structures shall be governed by the following:

(a) Shoreline protection structures shall only be allowed on parcels where both adjacent parcels are already similarly protected, or where necessary to protect existing structures from a significant threat, or on vacant parcels which, through lack of protection threaten adjacent developed lots, or to protect public works, public beaches, and coastal dependent uses.

Exhibit 7 A-3-SCO-23-0042 Page 4 of 5 (b) Seawalls, specifically, shall only be considered where there is a significant threat to an existing structure and both adjacent parcels are already similarly protected.

(c) Application for shoreline protective structures shall include thorough analysis of all reasonable alternatives to such structures, including but not limited to relocation or partial removal of the threatened structure, protection of only the upper bluff area or the area immediately adjacent to the threatened structure, beach nourishment, and vertical walls. Structural protection measures on the bluff and beach shall only be permitted where nonstructural measures, such as relocating the structure or changing the design, are infeasible from an engineering standpoint or are not economically viable.

(d) Shoreline protection structures shall be placed as close as possible to the development or structure requiring protection.

(e) Shoreline protection structures shall not reduce or restrict public beach access, adversely affect shoreline processes and sand supply, adversely impact recreational resources, increase erosion on adjacent property, create a significant visual intrusion, or cause harmful impacts to wildlife or fish habitat, archaeologic or paleontologic resources. Shoreline protection structures shall minimize visual impact by employing materials that blend with the color of natural materials in the area.

(f) All protection structures shall meet approved engineering standards as determined through environmental review.

(g) All shoreline protection structures shall include a permanent, County approved, monitoring and maintenance program.

(h) Applications for shoreline protection structures shall include a construction and staging plan that minimizes disturbance to the beach, specifies the access and staging areas, and includes a construction schedule that limits presence on the beach, as much as possible, to periods of low visitor demand. The plan for repair projects shall include recovery of rock and other material that has been dislodged onto the beach.

(i) All other required local, State and Federal permits shall be obtained.

Exhibit 7 A-3-SCO-23-0042 Page 5 of 5