

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
455 MARKET STREET, SUITE 300
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W13

Prepared March 2, 2023 (for March 8, 2023 Hearing)

To: Coastal Commissioners and Interested Persons

From: Dan Carl, North Central Coast District Director

Subject: North Central Coast District Director's Report for March 2023

The following coastal development permit (CDP) waivers, immaterial CDP amendments, immaterial CDP extensions, emergency CDPs, and LCP certification reviews for the North Central Coast District Office are being reported to the Commission on March 8, 2023. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review from the Commission's North Central Coast District Office in San Francisco. Staff is only reporting any emergency CDPs and LCP certification reviews, is asking for the Commission's concurrence on the other items in the Report, and will report any objections received and any other relevant information on these items to the Commission when it considers the Report on March 8th during the hybrid virtual/in-person hearing.

With respect to the March 8th hearing, interested persons may sign up to address the Commission on items contained in this Report prior to the Commission's consideration of the Report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on March 8, 2023 (see attached)**Emergency CDPs**

- G-2-23-0016-W, Oceanaire Erosion Control (Pacifica)

CDP Waivers, CDP Amendments, CDP Extensions, LCP Certification Reviews

- None

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**EMERGENCY COASTAL DEVELOPMENT PERMIT**

Emergency CDP G-2-23-0016 (Oceanaire Bluff Failure)

Issue Date: February 9, 2023

Permittee: FPA/WC Lands End, LLC**Emergency Location:** Northern Bluff Area at the Oceanaire Apartments, 100 Esplanade Avenue, Pacifica in San Mateo County**Emergency Description:** January storms caused wave cutting on the bluff between the northern end of the Oceanaire seawall and the southern end of the Pacific View Villas revetment, which caused a bluff failure at the top of the bluff. This failure is threatening a public access trail and exposed a limited section of the pile and grade beam system under the trail.**Emergency Development:** After-the-fact authorization of placement of a thick tarp measuring 30 feet by 60 feet over the bluff just north of the Oceanaire blufftop trail that is suitable to remain stable in high winds to stabilize and protect the bluff; and authorization for the tarp to remain in place until the rainy season ends and further planning regarding repairs can occur.**Executive Director's Determination**

The Executive Director of the California Coastal Commission hereby finds that: (a) a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services exists (i.e., an "emergency" (see Title 14 California Code of Regulations Section 13009 and California Coastal Act (Public Resources Code) Section 30624); (b) the emergency requires action more quickly than allowed by the procedures for regular CDPs; (c) the emergency development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; (d) the emergency development carried out under this ECDP is considered temporary work done in an emergency situation to abate an emergency and is undertaken at Permittee risk; (e) a regular CDP must be obtained for the emergency development to become more than temporary emergency abatement and/or if the Permittee wishes to expand the scope of work beyond that authorized by this ECDP; (f) absent obtaining a regular CDP, the emergency development shall be removed and the affected area restored; and (g) Commission staff will review public comment on the proposed emergency development as time allows.

The emergency development is hereby approved, subject to the conditions listed below.

DocuSigned by:
Handwritten signature of Stephanie Rexing in blue ink.

035006250A8E40E...
Stephanie Rexing, North Central Coast District Manager, for Kate Huckelbridge, Executive Director

Enclosure: ECDP Acceptance Form

cc: (via email): Christian Murdock (Pacifica Planning Director); Lisa Petersen (Pacifica Public Works)

Conditions of Approval

1. The enclosed ECDP acceptance form must be signed by the Permittee and returned to the California Coastal Commission's North Central Coast District Office within 15 days of the date of this ECDP (i.e., by February 24, 2023). This ECDP is not valid unless and until the acceptance form has been received in the North Central Coast District Office.
2. All emergency development shall be limited in scale and scope to that specifically identified in the Emergency Permit Application Form dated received in the Commission's North Central Coast District Office on January 25, 2023. Only that emergency development specifically described in this ECDP and for the specific location listed above is authorized. Any other development requires separate authorization from the Executive Director or the Commission, as applicable.
3. The emergency development authorized on a temporary basis by this ECDP must be completed within 30 days of ECDP issuance (i.e., by March 11, 2023).
4. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., City of Pacifica, California State Lands Commission, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, etc.). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
5. By exercising this ECDP, Permittee acknowledges and agrees that: (a) the emergency development is temporary, is designed to temporarily abate the emergency, and shall be removed unless and until a regular CDP authorizing the work is approved, and provided the Permittee adheres to such regular CDP's terms and conditions; and (b) a regular CDP is subject to all of the provisions of the California Coastal Act (as codified in Sections 30000 to 30900 of the Public Resources Code) and any applicable Local Coastal Program (LCP) policies and may be conditioned accordingly to avoid and/or to offset coastal resource impacts consistent with the Coastal Act (and LCP as applicable) (including but not limited to requirements for public access provisions (such as offers to dedicate, easements, in-lieu fees, etc.), assumption/disclosure of risks (including deed restrictions), triggers for relocation/removal, offsetting mitigations, etc.). The Permittee acknowledges that review of the CDP application to determine consistency with the Coastal Act (and LCP as applicable) will be based on the conditions the property was legally in prior to initiation of the temporary emergency development that is the subject of this ECDP.
6. By exercising this ECDP, the Permittee acknowledges and agrees in relation to this ECDP and the emergency development that it authorizes: (a) to assume all risks (including all coastal hazard risks, that include but are not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunami, coastal flooding, landslide, earth movement, and the interaction of all of these, many of which will worsen with future sea level rise); (b) to unconditionally waive any claim of damage and/or liability against the Commission

and/or its officers, employees, agents, successors and/or assigns; (c) to indemnify and hold harmless the Commission and its officers, employees, agents, successors and/or assigns against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement, including as it relates to any damages to public and/or private properties and/or personal injury; (d) that any adverse effects to property or people caused by the emergency development shall be fully the responsibility of the Permittee.

7. The Permittee shall reimburse the Commission in full for all Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (a) charged by the Office of the Attorney General; and/or (b) required by a court) that the Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this ECDP, the interpretation and/or enforcement of ECDP terms and conditions, or any other matter related to this ECDP. The Permittee shall reimburse the Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.
8. Within 90 days of ECDP issuance (i.e., by May 10, 2023), the Permittee shall either: (a) remove all of the materials placed or installed in connection with the emergency development, and restore all affected areas to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP); or (b) submit a complete application (i.e., satisfying the requirements of Title 14 California Code of Regulations Section 13056) for a regular CDP to authorize the emergency development (or for a different project designed to address the emergency development), including submitting all information and materials requested, and as directed, by the Executive Director if/when the Executive Director determines that such application is incomplete. If such regular follow-up CDP application is withdrawn by the Permittee, or is denied by the Commission, or if it remains incomplete for a period of 120 days after the Executive Director informs the Permittee that the application is incomplete, then all of the materials placed and/or installed in connection with the emergency development shall be removed, and all affected areas shall be restored to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP).
9. Failure to meet any of the applicable requirements of Condition 8 above shall constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Executive Director and/or the Commission. Such formal action may include: recordation of a Notice of Violation on the Permittee's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties of up to \$11,250 per day per violation; a civil lawsuit (that may result in the imposition of monetary penalties, including daily

penalties of up to \$15,000 per violation per day); and/or other applicable penalties and relief pursuant to Coastal Act Chapter 9. In addition, failure to follow and meet all terms and conditions of this ECDP shall also constitute a knowing and intentional Coastal Act violation to which the same actions above may be applied.

10. All emergency development shall be limited to the least amount necessary to temporarily abate the emergency, and shall be undertaken in a time and manner that avoids any and all coastal resource impacts as much as possible, including avoiding impacts to public access. The Permittee shall keep the Executive Director informed regarding emergency development progress, including in terms of any issues encountered that may require adjustment.
11. A licensed civil engineer with experience in coastal structures and processes shall oversee all construction activities and shall ensure that all emergency development is limited to the least amount necessary to temporarily abate the emergency consistent with the terms and conditions of this ECDP.
12. All emergency construction activities shall limit impacts to coastal resources (including public recreational access and the Pacific Ocean) to the maximum extent feasible including by, at a minimum, adhering to the following construction requirements:
13. Construction activities shall be limited to no more than a total of 7 days, and shall take place on non-holiday weekdays to the maximum extent feasible.
14. All construction activities shall take place during daylight hours (i.e., from one-hour before sunrise to one-hour after sunset). Lighting of the beach and/or intertidal area is prohibited.
15. Construction work and equipment operations: shall avoid areas seaward of the tidal extent as much as possible; shall be prohibited in ocean waters and/or wetted sand (i.e., areas either wet and/or with a noticeable sheen from tidal and/or wave action); and shall avoid beachgoers and beach recreational areas as much as possible.
16. All construction areas shall be minimized and demarked by temporary fencing designed to allow through public access and protect public safety to the maximum extent feasible, where such areas shall be limited in their spatial extent as much as possible. 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.
17. The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep equipment covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).
18. All construction activities that result in discharge of materials, polluted runoff, or

wastes to the beach or the adjacent marine environment shall be prohibited. Equipment washing, refueling, and/or servicing shall not take place on the beach. Any erosion and sediment controls used shall be in place prior to the commencement of construction as well as at the end of each workday.

19. All areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand that is impacted by construction shall be filtered as necessary to remove any construction debris.
20. All contractors shall ensure that work crews are carefully briefed on the importance of observing the construction precautions given the sensitive work environment. Construction contracts shall contain appropriate penalty provisions sufficient to offset the cost of retrieval/cleanup of foreign materials not properly contained and/or remediation to ensure compliance with this ECDP otherwise.
21. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office immediately upon completion of construction. If planning staff should identify reasonable restoration measures, such measures shall be implemented immediately.
22. Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements applicable to it, prior to commencement of construction.
23. Within 30 days of completion of construction authorized by this ECDP, the Permittee shall submit site plans and cross sections to the Executive Director clearly identifying all development completed under this emergency authorization (comparing the legal pre-emergency development condition to both the emergency condition and to the post-emergency development condition), and a narrative description of all emergency development activities undertaken pursuant to this ECDP. Photos showing the project site before the emergency (if available), during emergency development construction activities, and after the work authorized by this ECDP is complete shall be provided with the site plans and cross sections.
24. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the construction coordinator's contact information (i.e., address, email, phone numbers, etc.) including, at a minimum, an email address and a telephone number (with voice mail capabilities) that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take

remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. The Permittee shall submit the record of complaints/inquiries and actions taken in response to the Executive Director on a weekly basis, and upon completion of construction activities.

25. Minor adjustments to the requirements above, including deadline adjustments, may be allowed by the Executive Director if the Executive Director determines that such adjustments: (a) are deemed reasonable and necessary to help to temporarily abate the identified emergency, including as emergency conditions may change; (b) are designed to avoid coastal resource impacts (and limit those that are unavoidable) as much as possible; and (c) in the case of deadline extension adjustments, are appropriate in light of circumstances, including that the Permittee has shown diligence in pursuing the emergency development and meeting all ECDP terms and conditions.
26. By exercising this ECDP, Permittee acknowledges and agrees that this ECDP shall not constitute evidence against and/or a waiver of any public rights which may exist on the property.
27. The Permittee shall disclose this ECDP, including all of its terms and conditions, to any prospective buyer of the affected property during the period of time that any development that is the subject of this ECDP remains on such property.
28. Failure to comply with the terms and conditions of this ECDP may result in enforcement action under the provisions of Coastal Act Chapter 9. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the property without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Coastal Act Chapter 9.

If you have any questions about the provisions of this ECDP, please contact the Commission's North Central Coast District Office at 455 Market Street, Suite 300, San Francisco, CA 94105; northcentralcoast@coastal.ca.gov; and/or (415) 904-5260.

CALIFORNIA COASTAL COMMISSION

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**EMERGENCY PERMIT ACCEPTANCE FORM**

TO: CALIFORNIA COASTAL COMMISSION
North Central Coast District Office
455 Market Street, Suite 300
San Francisco, California 94105-2219

RE: Emergency Permit No. G-2-23-0016

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the North Central Coast District Office within 15 working days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that the emergency work is **TEMPORARY** and that a regular Coastal Development Permit is necessary for any permanent authorization. I agree to complete the regular Coastal Development Permit application within 90 days of the date of the emergency permit or I will remove the emergency work in its entirety within 90 days of the date of the emergency permit (i.e., by May 10, 2023). Finally, I understand that my failure either to:

- a) submit a complete follow-up Coastal Development Permit (CDP) Application that satisfies the requirements of Section 13056 of Title 14 of the California Code of Regulations by the date specified in this Emergency Permit, which date may be extended by the Executive Director for good cause, or
- b) remove the emergency development and restore all affected areas to their prior condition after consultation with Coastal Commission staff as you identified consistent with the Coastal Act, will constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Commission or the Executive Director.

In some instances, a permit may be required for removal (if required by this Emergency Permit) by the date specified in this Emergency Permit. This formal action could include a recordation of a Notice of Violation on my property; the issuance of a Cease and Desist Order and/or Restoration Order; imposition of administrative penalties for violations involving public access, and/or a civil lawsuit, which may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day, and other applicable penalties and other relief pursuant to Chapter 9 of the

Coastal Act. Further, failure to follow all the terms and conditions of this Emergency Permit will constitute a knowing and intentional Coastal Act violation.



Signature of Property Owner or
Authorized Representative

Address: 2082 MICHELSON DR
IRVINE, CA 92612

TODD STARIK

Print Name

2/9/2023

Date of Signing