

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 6-21-0566

Applicant: Ovard HOA

Location: 1601 South Pacific Street, Oceanside, San Diego County. (APN 153-09-140)

Project Description: Repair and augmentation of an existing permitted approximately 179 ft. long rock revetment, including restacking existing rock that has migrated onto the beach, importation of 216 tons of new rock (approximately 9.8% of the total volume of the existing revetment) and removal of two unpermitted private access stairways and approximately 40 cu.yds. of concrete grouting.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed development consists of repair and maintenance work to an existing, permitted revetment located along the shoreline seaward of two condominium structures on one lot. The subject revetment was originally authorized through a Commission-issued Coastal Development Permit (CDP) in 1973, which included a requirement that the revetment be maintained and repaired (CDP No. F0366). The project consists of relocating existing rocks that have become dislodged from the revetment and are currently located within the sandy beach area and re-stacking these stones back onto the revetment structure. The project also includes importation of 216

tons of new rock, which represents approximately 9.8% of the volume of the existing revetment. Over time, the revetment has settled; importation of new rock will return the revetment to a height of +16-feet NGVD29¹, which is necessary to provide adequate protection for the residences.

The project does not include any work to the foundation, will not increase the existing footprint of the revetment, and includes replacement/augmentation of less than 50% of the revetment. Therefore, the scope of the work is not considered redevelopment and the resulting revetment is not considered a new structure. However, the proposed work will increase the height of the existing revetment, and this is considered an improvement because it will result in an addition to and expansion of the revetment. The Commission's engineer has reviewed the proposed project and agrees with the applicant's determination that the proposed repairs and augmentation of the revetment will improve the stability and structural integrity of the existing revetment which is necessary to protect the existing structures behind it.

Additionally, on August 26, 2022, the Commission concurred with the Executive Director's issuance of Emergency Permit No. G-6-22-0029, which included retrieval of 15-20 existing rocks from the beach in front of the revetment with a tractor and placement of these rocks within a void located in the northern half of the revetment. This work was completed in September 2022. The follow-up Coastal Development Permit for this work is also proposed as a part of the subject application.

Special Condition Nos. 1 (Revised Final Plans), 6 (As-Built Plans), and 8 (Project Modifications) require the development to be undertaken consistent with the approved project plans. **Special Condition No. 5** prohibits any future encroachment of the revetment seaward of the approved location.

To limit impacts to public access and recreation associated with future damage or changes to the revetment, **Special Condition No. 3** requires long-term monitoring of the revetment. This monitoring will ensure that the applicant and the Commission are aware of any damage or changes to the revetment and can determine whether repairs or other actions are necessary to maintain the shoreline protection in its approved state. The monitoring will include measurements from permanent benchmarks established in **Special Condition No. 6**, which will ensure that no seaward encroachment has occurred. **Special Condition Nos. 3 and 4** require the applicant to perform necessary repairs and maintenance through the coastal development permit process.

Also, due to the site's proximity to the ocean and potential for future flooding, **Special Condition No. 7** requires the applicant to acknowledge the hazards present on-site, assume the risk of such hazards, and accept full liability for developing in a hazardous location.

¹ National Geodetic Datum of 1929 (NGVD29) was commonly referred to as mean sea level (MSL) or NGVD MSL prior to nationwide efforts to standardize naming of geodetic datums and make them distinct from tidal datums which change with long term changes in oceanographic conditions.

To ensure no impacts to coastal resources occur during construction, **Special Condition No. 9** requires the applicant to submit a Construction Pollution Prevention Plan identifying appropriate BMPs to minimize potential impacts from construction-related pollutants. **Special Condition No. 10** requires submittal of a final encroachment agreement indicating that the City of Oceanside has agreed to allow construction access across City property. **Special Condition No. 11** requires a deed restriction to be recorded in order to ensure buyers of the property are aware of this permit's conditions.

Finally, after coordinating with Commission staff, the applicant has revised the project description to include removal of two concrete private access stairways and concrete grouting, both of which were added to the revetment in the 1980's and were not authorized through a Coastal Development Permit. As proposed, the machinery used to replace and restack revetment stones will also be used to break apart and remove the concrete stairways and grouting. The concrete will then be disposed of at a location outside the coastal zone. **Special Condition No. 2** requires the applicant to take photographs and/or video during the concrete removal process to ensure that the work is undertaken without significant restacking of revetment stones. **Special Condition No. 1 and 6** require the applicant to revise final plans and submit as-built plans that include the removal of the stairways and concrete grouting. Lastly, **Special Condition No. 8** requires the applicant to seek an amendment to the subject CDP should significant restacking of the revetment occur in response to concrete removal activities.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-21-0566, as conditioned. The motion is on Page 5. The standard of review is Chapter 3 of the Coastal Act with provisions of the Oceanside LCP used as guidance.

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EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Aerial Location Map](#)

[Exhibit 3 – Revetment Plans](#)

[Exhibit 4 – Private Access Stairways to be Removed](#)

[Exhibit 5 – Concrete Grouting to be Removed](#)

[Exhibit 6 – Geotechnical Report describing Concrete Removal Process](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 6-21-0566 pursuant to the staff recommendation.

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

Resolution:

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

II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans for the permitted development. Said plans shall be in substantial conformance with the plans prepared by GeoSoils, Inc. dated November 16, 2021, but shall be revised to include the following:
 - a. Beach sand conditions shall be restored to pre-work conditions.
 - b. Removal of two private access stairway(s) within property boundaries.
 - c. Removal, to the maximum extent feasible, of the concrete grouting located between revetment stones.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

2. **Construction Documentation Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a construction documentation plan for the proposed revetment work. The plan shall identify how all revetment construction activities will be documented via photography or videography, including removal of concrete grouting and private access stairways to confirm concrete removal does not result in significant re-stacking of revetment stone or significant alteration of the revetment. A construction documentation report shall be submitted to the Executive Director with photo or video documentation within ten days of construction completion. If the Executive Director determines that significant alteration of the revetment has occurred that is beyond the scope of the approved project, the applicant shall submit an amendment to the subject coastal development permit within 90 days of the determination, unless the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.
3. **Long-Term Monitoring Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director a long-term monitoring plan for the existing shoreline protection. The purpose of the plan is to monitor and identify damage or changes to the revetment such that appropriate repair and maintenance is completed in a timely manner to avoid further encroachment of the revetment on the beach. The monitoring plan shall incorporate, but not be limited to the following:
 - a. An evaluation of the current condition and performance of the revetment, addressing any migration or movement of rock which may have occurred

- on the site and any significant weathering or damage to the revetment that may adversely impact its future performance;
- b. Measurements taken from the benchmarks established in the survey as required in Special Condition No. 6 of this CDP to determine settling or seaward movement of the revetment. Changes in the beach profile fronting the site shall be noted and the potential impact of these changes on the effectiveness of the revetment evaluated;
 - c. Recommendations on any necessary maintenance needs, changes, or modifications to the revetment to assure its continued function and to assure no encroachment beyond the permitted toe; and
 - d. An agreement that the permittee shall apply for a coastal development permit or amendment within 90 days of submission of the report for any necessary maintenance, repair, changes, or modifications to the project recommended by the report that require a coastal development permit and to implement the repairs, changes, etc. approved in any such permit.
 - e. If, within two years of issuance of this CDP, the monitoring report identifies that repair or maintenance is required in the form of collecting and restacking rocks without the importation of any new rock, the applicant may submit a repair and maintenance plan for the review and written approval of the Executive Director, who will determine if the scope of the work is covered by this coastal development permit or if an amendment is required.
 - f. If, the monitoring report identifies that additional concrete grouting has been exposed or become dislodged in the future, the applicant shall submit a concrete removal plan for the review and written approval of the Executive Director, who will determine if the scope of the work is covered by this coastal development permit or if an amendment is required.

The above-cited monitoring information shall be summarized in a report, prepared by a licensed engineer familiar with coastal processes, and submitted to the Executive Director for review and written approval. The report shall be submitted to the Executive Director and the City of Oceanside Engineering Department yearly after each winter storm season and prior to the 1st of May, starting with May 1, 2024, for the first five years after completion of construction. After the completion of five (5) annual reports, monitoring will be lessened to once every five (5) years, with the first report due by May 1, 2029. Monitoring once every five (5) years shall continue throughout the life of the revetment or until the revetment is removed or replaced under a separate coastal development permit.

The permittee shall undertake development in conformance with the approved monitoring program unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

4. **Future Maintenance.** The applicant shall maintain the existing revetment in its approved state. Any change in the design of the revetment or future additions or

reinforcement of the revetment to restore the structure to its original condition beyond exempt maintenance, as defined in Section 13252 of Title 14 of the California Code of Regulations, shall require a coastal development permit. However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, the permittee shall contact the Executive Director to determine whether a coastal development permit or an amendment to this permit is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance. If, within two years of issuance of this CDP, the monitoring report required by Special Condition No. 3 of this coastal development permit, or through observation by the permittee, it is determined that additional repair or maintenance is required in the form of collecting and restacking rocks without the importation of any new rock, the applicant may submit a repair and maintenance plan for the review and written approval of the Executive Director, who will determine if the scope of the repair work is covered by this coastal development permit or if an amendment is required.

5. **No Future Seaward Extension of Shoreline Protective Devices.** By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device shall be undertaken if such activity extends the footprint seaward of the existing device. By acceptance of this permit, the applicant waives, on behalf of itself and all successors and assigns, any rights to such development that may exist under Public Resources Code Section 30235.
6. **As-Built Plans.** Within 60 days of completion of the project, or within such additional time as the Executive Director may grant for good cause, the applicant shall submit as-built plans for the approved revetment, concrete removal, and associated structures and submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the revetment has been constructed in conformance with the approved plans for the project. The plans shall identify at least three permanent benchmarks from fixed reference point(s) per lot from which the elevation and seaward limit of the revetment can be referenced for measurements in the future. The plans shall also quantify as feasible the total volume in cubic yards of any concrete grouting that was not able to be removed.
7. **Assumption of Risk, Waiver of Liability, and Indemnity Agreement.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, flooding, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of

such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

8. Project Modifications. Only that work specifically described in this permit is authorized. Any additional work, including but not limited to the importation of additional rock beyond that authorized herein, modifications to the revetment's foundation, or significant restacking of revetment stones requires separate authorization from the Commission or Executive Director, as appropriate. If, during construction, site conditions warrant changes to the project, the San Diego District office of the Coastal Commission shall be contacted immediately and before any changes are made to the project in the field. No changes to the project shall occur without an amendment to this coastal development permit unless the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

9. Final Construction Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final construction plans for the approved development. Said plans shall be in substantial conformance with the plans submitted by the applicant dated November 16, 2021, and shall incorporate but not be limited to the following construction methods and responsibilities:

- a. All equipment shall be removed from the beach areas overnight and during any tidal condition that may inundate work areas. The permittee may not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery may be placed, stored, or otherwise located in the intertidal zone at any time, except for the minimum necessary to perform the approved maintenance. Construction equipment may not be washed on the beach or public parking lots or access roads.
- b. Construction staging and access corridors shall not impede public access to or along the shoreline, to the maximum extent feasible, and the staging site and access corridors shall be removed and restored immediately upon completion of construction. No public parking spaces shall be used for staging or storage of equipment.
- c. Spill prevention measures for construction equipment shall be identified and implemented as necessary. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall not take place on the beach and shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site,

provided that procedures are implemented to fully contain any potential spills.

- d. No work shall occur from Memorial Day weekend to Labor Day of any year.

The permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

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

11. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

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

12. Condition Compliance. WITHIN 180 DAYS OF COMMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit and shall have completed removal of the unpermitted private stairways. Failure to comply with this requirement may result in the institution of enforcement action under the provision of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The proposed project consists of the repair and augmentation of an existing 179-foot-long rock revetment located seaward of two condominium structures on one lot at 1601 South Pacific Street in Oceanside. The existing revetment runs the entire length of the subject site and is part of a continuous revetment system that protects properties to the north and the south (ref. [Exhibit No. 2](#)). The property line of this parcel extends to the ordinary high-water mark, which is fixed by a Boundary Line Agreement (BLA) implemented by the City of Oceanside in 1963. The original construction of the revetment was authorized by the Commission in May 1973 through Coastal Development Permit (CDP) No. F0366. Special Condition No. 5 of that approval required that, "upon disrepair to the walls' construction, any portion thereof must be recovered and replaced so as to accomplish continual maintenance." The applicant has indicated that several rocks have become dislodged from the revetment as a result of winter storms over the last few years and migrated seaward, and the revetment has also sunk into the sand.

As proposed, the work will include restacking of rocks that have become dislodged from the revetment. The proposal also includes importation of approximately 36 new stones about 6-tons in weight each for a total of 216-tons of new rock. This new rock represents approximately 9.8% of the total revetment volume, which is approximately 2,200 tons.

The visible stones in the revetment are both rounded and angular in shape, and range in size from 200 lbs. to about 6-tons. The average visible armor stone size is about 4-tons. The crest elevation of the revetment varies between 11.5-12.8 feet NGVD29. The imported rock is proposed to increase the height of the revetment to 16 feet NGVD29, consistent with the City of Oceanside's revetment design guidelines.

The project does not include any work to the foundation, will not increase the existing footprint of the revetment, will not result in any seaward expansion of the revetment, and includes replacement of less than 50% of the revetment's existing volume. Therefore, the scope of the work is not considered redevelopment and the resulting revetment is not considered a new structure. However, the proposed work will increase the height of the existing revetment, and thus is considered an improvement beyond repair and maintenance because it will result in an addition to and expansion of the revetment.

Sometime in the early 1980's concrete grouting was added to fortify the revetment and to construct two private access stairways, all without a coastal development permit. In a report provided by the applicant, the amount of concrete added to the revetment was approximately 40 cubic yards, which represents 2 to 3% of the overall revetment weight (estimated to be between 1,500 and 2,200 cubic yards). After coordinating with Commission staff, the applicant revised the project description to include removal of the unpermitted grouting and the two private access stairways. Further detail regarding

these improvements is provided below under Sections B. Coastal Hazards/Shoreline Protection and E. Unpermitted Development.

Additionally, on August 26, 2022, the Commission concurred with the Executive Director's issuance of Emergency Permit No. G-6-22-0029, which included retrieval of 15-20 existing rocks from the beach in front of the revetment with a tractor and placement of these rocks within a void located in the northern half of the revetment. Access to the site occurred via Buccaneer Beach. No new or additional rock was imported, no change to the revetment foundation occurred, and there was no increase in the existing height or footprint of the revetment. The work was completed in September 2022. The follow-up Coastal Development Permit for this work is also proposed as a part of the subject application.

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

B. Coastal Hazards/Shoreline Protection

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply [...]

Section 30253 of the Coastal Act states:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. [. . .]

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

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate impacts on local shoreline sand supply. Such structures shall be designed and constructed to minimize erosive impacts on adjacent unprotected property and minimize encroachment on to the beach. The

structures shall not interfere with access along the beach. The property owner shall dedicate all area seaward of the shoreline structure for lateral access for the public.

The need for shoreline protection has been well established along the shoreline in Oceanside, and rock revetment has been the established form of protection for existing structures in portions of Oceanside for many years. As stated above, the subject revetment was authorized by the Commission in May 1973 (F0366). Maintenance of the rock revetment was a condition of approval for that CDP, which required the property owners to maintain the revetment in its approved state, subject to an amendment or new CDP when required.

Section 30253 requires that new development minimize risks to life and property and assure stability and structural integrity, and neither create nor contribute to erosion or geologic stability. The purpose of the proposed project is to maintain and repair an existing revetment that was approved by the Commission to protect two principal condominium structures.

The geotechnical report provided by the applicant indicates that the revetment is necessary to protect the existing condominium structures, the current revetment experiences overtopping of waves during extreme high tide and storm events, the shore protection is needs to increase to a height of +16 feet NGVD29 to adequately protect the existing structures. The Commission's engineer has reviewed the proposed project and agrees with the applicant's determination that the proposed repairs and augmentation to the revetment will improve the stability and structural integrity of the existing revetment which is necessary to protect the existing structures behind it. By re-stacking revetment stones that have migrated from the revetment structure, the proposed repair and maintenance will restore the revetment to its previously approved state and will continue to provide adequate protection of the residential condominiums it was approved to protect.

The applicant's geotechnical report further indicates that additional work needs to be undertaken on the revetment at this time, including increasing the overall height of the revetment in order to provide adequate protection for the existing structures. The geotechnical report states that the existing revetment crown elevation is now between 11.5-12.8 NGVD 29 and, as a result, the revetment currently experiences overtopping with every severe storm season. Commission staff has visited the site on numerous occasions and can confirm that overtopping of the revetment occurs. Therefore, the applicant is proposing to increase the height of the revetment to a maximum of +16 feet NGVD 29. This design is consistent with the City of Oceanside's Standard Seawall Drawing (M-19), which is not a part of the City's LCP but is often used as a standard for rock revetments throughout the City's shorefront. The estimated amount of rock is approximately 36 new stones weighing on average 6-tons each, for a total of 216-tons of added rock. This represents 9.8% of the total revetment volume which is approximately 2,200 tons. The proposed work will not expand the footprint of the existing revetment, nor will it require any work to the foundation of the revetment.

Special Condition No. 1 requires the applicant to submit final project plans that are in substantial conformance with the plans submitted with the CDP application, but the plans must be revised to ensure that public access is immediately restored in the area and require that the site and beach sand will be restored to pre-work conditions. To ensure the proposed shoreline armoring repair work has been constructed properly and consistent with the approved plans, **Special Condition No. 6** requires that, within 60 days of completion of the project, as-built plans certified by a registered civil engineer be submitted verifying that the protection has been constructed in accordance with the approved plans. Due to the inherent risk of shoreline development, **Special Condition No. 7** requires the applicant to acknowledge the hazards present on-site, assume the risk of such hazards, and accept full liability for developing in a hazardous location.

Because some of the rocks that have migrated seaward are currently buried, it is possible that additional strewn rock will become exposed over time as sand levels vary. Therefore, **Special Condition No 3** allows for minor repairs to occur over the two years following issuance of this CDP, pursuant to Executive Director review and approval. Such work shall be limited repair and maintenance), shall not include importation of any new rock or any changes to the filter fabric foundation, and shall not increase the height or footprint of the revetment as approved herein.

Additional conditions of approval ensure that the permittee communicates with Commission staff regarding any necessary repairs or maintenance in the future by requiring the applicant to monitor the condition of the shoreline protection annually for the first five years and then at five-year intervals. Satisfaction of these requirements will be met through implementation of a Long-Term Monitoring Program required by **Special Condition No. 3**. This monitoring will ensure that the applicant and the Commission are aware of any damage or changes to the revetment and can determine whether repairs or other actions are necessary to maintain the shoreline protection in its approved state. The monitoring will include measurements from benchmarks established in **Special Condition No. 6**, which will ensure that no seaward encroachment has occurred, as required per **Special Condition No. 5**. The as-built plans required per **Special Condition No. 6** must identify at least three permanent benchmarks from fixed reference points per lot from which the elevation and seaward limit of the revetment can be referenced for measurements in the future. Finally, **Special Conditions No. 3 and No. 4** require the applicant to perform necessary repairs and maintenance through the coastal development permit process.

Removal of Private Access Stairs and Concrete Grouting

As described in the Permit Description and Background section of this report, sometime in the 1980's two concrete private access stairways and concrete grouting were added to the revetment without a Coastal Development Permit; however, the applicant has revised the project description to include removal of both stairways and the concrete grouting. In a geotechnical report provided by the applicant, the amount of concrete that was added is no greater than 40 cubic yards, or approximately 2% of the overall revetment volume. The report states that the majority of the concrete is located at the

top of the structure, was poured on the surface (not injected into the structure) and is only a few inches thick in most areas.

Removal of the concrete will be accomplished by using an excavator (the same equipment used to place rock) to break the concrete into pieces small enough to be carried away manually to a disposal site, which will be located outside the coastal zone. To ensure the unpermitted improvements are removed, **Special Condition No. 1** requires to applicant to submit revised plans that clearly show the removal of the private access stairs and the concrete grouting. **Special Condition No. 6** requires the applicant to submit plans, post-construction, that confirm removal of the concrete has been completed. In order to ensure this development is removed in a timely manner, **Special Condition No. 12** requires the applicant to submit all condition compliance requirements within 180 days of Commission action.

Finally, the Commission's Engineer has reviewed the methodology for concrete removal and, while he agrees that removal is feasible, has raised concerns that removal of the concrete may dislodge revetment stone and could ultimately result in significant alteration or reconstruction of the revetment. If this occurs, the development would be considered redevelopment, rather than repair and augmentation. To address this concern, **Special Condition No. 2** requires the applicant submit a construction documentation plan that would include video or photos to be taken during the concrete removal process to ensure that significant restacking of the rock or alteration of the revetment does not occur without the benefit of any necessary permits. Finally, **Special Condition No. 8** requires that should the Executive Director determines that significant alteration of the revetment has occurred that is beyond the scope of the approved project, such as significant restacking of rock as a result of concrete removal activities, the permittee must contact staff immediately and before any changes are made to the development for a determination if an amendment to this permit is required. **Special Condition No. 2** further requires the applicant to submit an amendment within 90 days of submission of the monitoring report when any significant alteration of the revetment has occurred that is beyond the scope of the approved project. Potential impacts and mitigation would be reviewed and addressed as part of the required CDP amendment.

While the proposed improvements cannot be considered as repair and maintenance as they increase the height of the revetment, they do not constitute "redevelopment" or a new structure. Evaluating whether a project is considered redevelopment is significant because it ensures that development proposed in hazardous areas have a threshold at which point the development, in its entirety, must be reevaluated for consistency with the Coastal Act and the City's LCP. This determination stems from Coastal Act Section 30610(d) (which relates to repair and maintenance) and Section 13252(b), which states that replacement of 50% or more of an existing structure does not constitute repair and maintenance, but rather constitutes a replacement structure that must be consistent with current LUP policies and be consistent with Chapter 3 of the Coastal Act.

At this time, the applicant is proposing augmentation of the revetment equal to 9.8% of the existing revetment volume; however, that percentage may increase if not all grout is able to be removed during construction. This augmentation will be included in the

cumulative calculation as a part of the overall 50% threshold for redevelopment to be reached at some point in the future. Additionally, while the applicant is proposing to remove all the concrete grouting located within the revetment, there is the potential that portions of this concrete will not be easily broken up and will not be able to be removed as part of this project. **Special Condition No. 6** requires the applicant to include the amount of concrete that remains within the revetment post-construction in As-Built plans. If any concrete remains, the amount of concrete retained will also be added towards the cumulative 50% threshold. Thus, as conditioned, both the added new rock and the retained concrete will be counted towards this 50% threshold for redevelopment. When cumulative additions result in the addition of rock equal to 50% or more of the revetment's existing volume, alternative designs that avoid or minimize public access impacts, such as construction of the revetment further inland or construction of a standalone seawall, will be considered and if impacts cannot be avoided, mitigation for impacts on public access and shoreline sand supply will be required.

Therefore, only as conditioned herein can the project be found to be consistent with Sections 30235 and 30253 of the Coastal Act.

C. Public Access and Recreation

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30212 of the Coastal Act states:

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

Section 30221 of the Coastal Act states:

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

Section 30223 of the Coastal Act states:

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

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 30240(b) of the Coastal Act states:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

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

Policy No. 5 Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate impacts on local shoreline sand supply. Such structures shall be designed and constructed to minimize erosive impacts on adjacent unprotected property and minimize encroachment on to the beach. The structures shall not interfere with access along the beach. The property owner shall dedicate all area seaward of the shoreline structure for lateral access for the public.

The subject site is located on the seaward side of South Pacific Street. The existing revetment is located adjacent to a public beach utilized by local residents and visitors for a variety of recreational activities. Lateral access is currently available to the public along the beach seaward of the existing revetment, except during high tide and storm events. Vertical access to the public beach is also provided north of the subject site at Buccaneer Beach (ref. [Exhibit No. 3](#)).

The project has been designed and will be conditioned to minimize impacts on public access to the extent feasible. The proposed development consists of repair and augmentation of an existing permitted rock revetment. Consistent with a prior Commission approval for the subject site, the project as proposed will not result in any seaward encroachment of the existing revetment, and no seaward encroachment is further required by **Special Condition No. 5**. As proposed, the rocks that have become dislodged from the revetment and are currently occupying beach area will be relocated back within the existing revetment footprint. Because the project includes collecting rocks that have migrated seaward, the post-development conditions will result in a

beach area that is free of dislodged revetment stones and will provide enhanced space for public access and recreation. Thus, it is likely that the development will increase beach area in front of the revetment and will improve public access along the subject site.

Construction on and adjacent to the sandy beach could impact public access and recreation. Construction will be conducted with an excavator over a few hours each day during low tides and low wave conditions, and will take one month or less. Equipment will access the site along the southern limit of Buccaneer Beach. Equipment will be stored on the subject site, inland of the revetment and within the backyard portion of the site (ref. [Exhibit No. 3](#)). Because construction access will pass through Buccaneer Beach, **Special Condition No. 10** requires submittal of a final encroachment agreement indicating that the City has agreed to allow construction access. **Special Condition No. 9** requires that construction access and staging not affect public access and prohibits construction on the sandy beach during the summer months from Memorial Day weekend to Labor Day of any year. Therefore, impacts to the public will be minimized to the greatest extent feasible. Special Condition No. 9 also prohibits storage of equipment on the beach. **Special Condition No. 1** also requires revised final plans that indicate that beach sand at the site will be restored to pre-construction conditions. While the work will be timed so as to minimize the amount of grading or sand movement required to locate the strewn rock, some grading will be required. Therefore, the project is required to restore the area so that the public can immediately utilize the area as soon as work has been completed.

Currently, no lateral access easement exists across the subject site. The City's LCP includes a requirement that new public beach access shall be dedicated laterally along the sandy beach in conjunction with restoration of the beach or new private development, whichever occurs first. Additionally, Section 30212 generally requires that new development provide access. While the development proposed at this time has been determined to not consist of repair and maintenance, the proposed development does not rise to the level of redevelopment such that it would be appropriate to impose new lateral access requirements at this time. Increasing the height of the revetment to mitigate flood risk, without expanding seaward, will not result in direct impacts to public access. Adding rock on top of the existing revetment is also unlikely to result in any additional impacts on sand supply as the sand located behind the revetment is already trapped by existing stones. However, in the future, should the condominium buildings be reconstructed or significant alteration to the revetment be proposed, a new lateral access easement must be required at that time.

In addition, incremental modifications to the revetment, including replacement and importation of additional rock, should be reviewed cumulatively over time to identify when the revetment has been redeveloped. At this time, the project will add new rock equal to approximately 9.8% of the existing revetment's volume. When cumulative additions result in the addition of rock equal to 50% or more of the revetment's existing volume, it may be appropriate to consider this a new structure and require mitigation for impacts on public access and shoreline sand supply. **Special Condition No. 8** memorializes and requires that this CDP authorizes a limited scope of work and any

additional work, including but not limited to the importation of additional rock beyond that authorized herein or modifications to the revetment's foundation, requires separate authorization.

If rocks become dislodged from the revetment in the future, they could obstruct public access along the beach inconsistent with Coastal Act and the City's LCP. Therefore, **Special Condition No. 3** requires the applicant to survey the rock revetment and report the conditions to the Executive Director annually for the first five years and every five years after that, including a description of any migration or movement of rock that has occurred on the site and recommendations for repair and maintenance to the revetment. Special Condition No. 3 also allows the applicant to submit a repair and maintenance plan within two years of CDP-issuance that would allow collecting and restacking of rocks but not the importation of any new rocks, as well as removal of any concrete grouting that has been exposed or become dislodged in the future, thereby preventing future debris from impeding public access on the beach. In addition, **Special Condition No. 4** requires the applicant to maintain the revetment in its approved state, and subject to a CDP or CDP amendment when required. **Special Condition No. 11** also requires a deed restriction to be recorded against the property that expresses all conditions of this approval, so that buyers receive notice of and comply with all conditions. Together, these conditions ensure that the beach fronting the revetment will remain free from any rock dislodged from the revetment, and that lateral access along the beach will not be impeded, consistent with Coastal Act requirements.

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

D. Marine Resources and Water Quality

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

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

A. Coastal Act Policies:

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

B. Objectives

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

The proposed project will occur on sandy beach area immediately adjacent to coastal waters. Construction will include the use of mechanized equipment on the beach and storage of such equipment immediately inland of the revetment and beach area, which could adversely impact marine resources and coastal waters, inconsistent with Coastal Act policies. Thus, **Special Condition No. 9** requires submittal of final construction plans and requires that all equipment be removed from the beach areas overnight and during any tidal condition that may inundate work areas. To further protect water quality, this condition prohibits the storage of any construction materials or waste where it could potentially be subject to wave erosion and dispersion. In addition, only the minimum equipment necessary may be placed, stored, or otherwise located in the intertidal zone at any time. Finally, this condition requires spill prevention measures for equipment to be identified and prohibits washing equipment on the beach or public parking lots or access roads.

The proposed development also includes the removal of approximately 40 cubic yards of unpermitted concrete grouting poured between the revetment rocks. The applicant has indicated that the majority of the concrete can be removed at this time. However, if, in the future, new portions of the concrete grouting become exposed or dislodged this may result in adverse impacts to water quality. To address this, **Special Condition No. 3** requires the applicant to remove any concrete that becomes dislodged in the future. Therefore, as conditioned, the proposed development will not have an adverse impact on marine resources and will not result in adverse impacts to water quality and is consistent with Chapter 3 of the Coastal Act.

E. Unpermitted Development

Unpermitted development has occurred on the subject site, including the construction of two concrete private access stairways located on top of the revetment and placement of approximately 40 cubic yards of concrete grouting in between the revetment stones (ref. [Exhibit Nos. 4, 5](#)). Commission staff became aware of the unpermitted development during review of the subject application. Information provided by the applicant indicates the stairways and grouting were constructed in the 1980s; however, the Commission

has no records associated with this development and the applicant has not provided any other permits or approvals.

These concrete improvements, if left in place, could have potential impacts to water quality as they break down and could result in impacts to public access through scouring of the sandy beach and if portions of the concrete improvements become dislodged and occupy beach area. After coordinating with Commission staff, the applicant has revised the project description to include removal of this development as part of the subject application. Upon issuance of the subject permit, the subsequent performance of the work authorized by the permit in compliance with all the terms and conditions of the permit will result in removal of unpermitted grout to the extent described in special conditions of this permit.

As proposed, during construction, an excavator will be used to break down and remove the private access stairways and will crack and remove all visible concrete grouting (ref. [Exhibit No. 6](#)). To ensure the removal of the unpermitted development takes place, **Special Condition No. 1** requires the applicant to revise the final plans to include removal of the grouting and stairways. Further, **Special Condition No. 6** requires the applicant to submit as-built plans that show the removal of the grouting and stairways has been completed. To ensure that the staircase and grout removal components of this application are accomplished in a timely manner, **Special Condition No. 12** requires the applicant to fulfill all required prior to issuance special conditions of this CDP and to remove the unpermitted development within 180-days of Commission action. Finally, while the applicant has indicated that nearly all the concrete present within revetment stones can be removed at this time, **Special Condition No. 3** requires the annual monitoring report identify if any new concrete has become exposed and dislodged from the revetment. If such material is found, the condition requires the material to be removed. Failure to comply with the terms and conditions of this permit may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

Although development occurred prior to submission of this coastal development permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act and the City's LCP. Commission review and action on this permit application does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of any development undertaken on the subject site without a coastal development permit, or of any other development, except as otherwise expressed herein. In fact, approval of this permit is possible only because of the conditions included herein, and the applicant's presumed subsequent compliance with said conditions, and failure to comply with these conditions in conjunction with the exercise of this permit would also constitute a violation of this permit and of the Coastal Act. Accordingly, the applicant remains subject to enforcement action just as it was prior to this permit approval for engaging in unpermitted development.

F. Local Coastal Planning

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

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

G. California Environmental Quality Act

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of Oceanside determined that the proposed development qualifies as repair to an existing facility and is categorically exempt under Class I Existing Facilities (Cal. Code of Regs., tit. 14, sec. 15301).

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing construction phase BMPs, staging and storage requirements, limits any future seaward encroachment of the revetment and requires development of a long-term monitoring plan which will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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Ovard HOA

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Oceanside Local Coastal Plan
- CDP File No. F0366
- CDP File No. G-6-22-0029
- Boundary Line Agreement 37 (February 11, 1963)