

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO DISTRICT OFFICE  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
VOICE (619) 767-2370  
FAX (619) 767-2384



# Th6c

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## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 6-22-0917

**Applicant:** Travis and Maribel Bradberry

**Agent:** Chris Miller

**Location:** 141 Pacific Ave., Solana Beach, San Diego County.  
(APN: 263-323-06)

**Project Description:** Replacement of all windows, doors, siding, and roofing materials on a 2,086 sq. ft. 2-story single-family residence with an attached 480 sq. ft. garage on a 5,700 sq. ft. lot.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The proposed project includes the replacement of all windows, doors, siding, and roofing materials to a 2,086 sq. ft. 2-story single-family residence located within 50 ft. of the bluff edge. No changes to the major structural components (exterior walls, floor, roof, foundation) are proposed. The windows and doors will be replaced in-kind with no changes to the size. The proposed replacement of the siding and roofing materials will not involve structural changes. There will be no change in the building footprint.

The existing residence was built prior to the Coastal Act and is nonconforming with regards to required bluff setbacks. The proposed project will not increase the size of the existing residence or the degree of the nonconformity. Nevertheless, remodel of a

nonconforming blufftop structure raises potential concerns about redevelopment. The City of Solana Beach LUP includes a definition for Blufftop Redevelopment that allows a reasonable amount of changes to an existing structure, including up to a 50% alteration of major structural components and up to a 50% increase in the size of the structure, while barring mischaracterizations of “repair and maintenance” or “improvements” for major work that would perpetuate the non-conforming structure. Redevelopment of a non-conforming structure, such as demolition and replacement of more than 50% of the structure’s exterior walls, could require that the structure be brought into conformance with current blufftop setback requirements. Thus, it important to track changes to blufftop structures, including cumulative changes over time. The proposed project does not include any changes to the major structural components of the residence and required special conditions ensure that the Commission will be aware should any demolition occur. **Special Condition No. 1** requires submittal of final plans that demonstrate that no changes to the structural components are proposed and that all windows and doors will be replaced in-kind. **Special Condition No. 2** requires the applicant to provide a certified copy of the City Building Department job card, or other form of verification required and approved by the Executive Director, demonstrating that construction has been performed pursuant to the development plans approved under this coastal development permit and no changes to the major structural components has occurred. **Special Condition No. 3** requires the applicant to submit one full-size set of “as-built” plans within sixty days of the completion of construction. Also, due to the site’s proximity to the bluff edge, **Special Condition No. 5** 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.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-22-0917, as conditioned. The motion is on page 4. The standard of review is Chapter 3 of the Coastal Act.

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### EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Site Plan](#)

[Exhibit 3 – Proposed Project](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of Commissioners present.

### Resolution:

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

## II. STANDARD CONDITIONS

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

### III. SPECIAL CONDITIONS

1. **Final Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director, final plans stamped and approved by the City of Solana Beach and in substantial conformance with the submitted plans dated April 5, 2022, by Alec Petros Studio that reflect the following:

- a. The existing windows and doors shall be replaced in-kind with windows and doors of the same size.
- b. No changes to the major structural components of the house, including exterior walls, floor, roof, or foundation, shall occur.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Confirmation of the Extent of Demolition.** After development has been completed, the applicants shall provide the Executive Director, for review and approval, a certified copy of the City Building Department job card, or other form of verification required and approved by the Executive Director, demonstrating that all demolition has been performed pursuant to the development plans approved under this coastal development permit.

If the above-required information submitted to the Executive Director indicates additional development must occur due to the deteriorated state of any portion of a major structural component that was proposed by the applicants to remain, the applicants shall halt construction and report the proposed changes to the Executive Director and submit a complete application for a coastal development permit amendment or new permit, unless the Executive Director determines in writing that no amendment is legally required. The application shall address the issue of revisions to the project due to the need for additional demolition.

No further development may occur until either:

- a) The Executive Director determines, in writing, based on the information provided by the applicant and reviewed and approved by the Executive Director, that all major structural components identified to remain are intact and structurally sound; or
- b) The applicants submit a coastal development permit amendment or new permit application if so directed by the Executive Director, and the coastal development permit amendment or new permit is subsequently approved by the Coastal Commission and issued by the Executive Director.

- 3. As-Built Plans.** Within sixty (60) days of the date of completion of construction, unless the Executive Director grants an extension for good cause, the applicant shall submit one full-size set of “as-built” plans, approved by the City of Solana Beach, showing all development completed pursuant to this coastal development permit with all relevant property lines depicted. The As-Built Plans shall be consistent with the approved final project plans required per Special Condition #1. If the as-built plans identify that the project has been constructed inconsistent with the approved final plans, the applicant shall submit an application for an amendment to this coastal development permit, or a new coastal development permit, if legally required, within 30 days of receiving the Executive Director’s notice that the as-built plans are inconsistent with the final approved plans.
- 4. Future Development.** This permit is only for the development described in Coastal Development Permit No. 6-22-0917. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply. Accordingly, any future improvements to the residence, including, but not limited to, repair and maintenance identified as not requiring a permit in Public Resources Code section 30610(d) and Title 14 California Code of Regulations section 13252(a)-(b), shall require an amendment to permit No. 6-22-0917 from the California Coastal Commission, unless the Executive Director determines that a future amendment is not legally required.
- 5. Assumption of Risk, Waiver of Liability, and Indemnity Agreement.** By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from erosion and coastal bluff collapse; (ii) to assume the risks to the applicants 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.
- 6. Best Management Practices and Construction Responsibilities.** The permittee(s) shall comply with the following construction-related requirements:

  - a) All debris resulting from demolition and construction activities shall be removed and disposed of at an authorized disposal site.
  - b) Temporary sediment control Best Management Practices (BMPs) such as straw bales, fiber rolls, or silt fencing shall be installed prior to, and maintained throughout, the construction period to intercept and slow or detain runoff from the construction, staging, and storage/stockpile areas; allow entrained sediment and other pollutants to settle and be removed; and prevent discharge of sediment and pollutants toward the bluff edge. When no longer required, the temporary

sediment control BMPs shall be removed. Fiber rolls shall be 100% biodegradable, and shall be bound with non-plastic biodegradable netting such as jute, sisal, or coir fiber; photodegradable plastic netting is not an acceptable alternative. Rope used to secure fiber rolls shall also be biodegradable, such as sisal or manila rope.

## **IV. FINDINGS AND DECLARATIONS**

### **A. Project Description and Background**

#### **Project Description**

The proposed project involves a remodel to an existing 2,086 sq. ft. single-family residence with an attached 480 sq. ft. garage on a 5,700 sq. ft. bluff top lot in the City of Solana Beach ([Exhibit 2](#)). The subject site sits above an approximately 88-foot high, publicly-owned coastal bluff. The existing structure is a legal non-conforming structure because the home is sited as close as approximately 25 feet from the bluff edge when the minimum allowed bluff setback in the City of Solana Beach's Land Use Plan (LUP) is 40 feet. The property is approximately 250 feet north of Fletcher Cove Beach Park ([Exhibit 1](#)).

The proposed project includes in-kind replacement of all windows, doors, siding, and roofing materials ([Exhibit 3](#)). The existing windows and doors will be replaced with windows and doors of the same size. As proposed, the project does not include structural changes to the existing residence and no changes are proposed to the major structural components of the house, including exterior walls, floor, roof, or foundation.

#### **Background**

The construction of the existing residence occurred in 1959 prior to the Coastal Act and the City of Solana Beach's incorporation. In 2002, the Commission approved the filling of a sea cave approximately 40 feet deep, 50 feet wide, and 17 feet high and partially fronting the subject site (CDP#6-00-66/Monroe and Pierce). The subject sea cave had become susceptible to abrasion and formed the largest sea cave along the Solana Beach shoreline. Additionally, the roof rock load-carrying capacity of the sea cave had significantly diminished in the years prior. Thus, the site is located in an area of known hazards where the need for shoreline protection has already been experienced and remodel of a blufftop structure, even when minor in nature, raises potential concerns about redevelopment.

Coastal Act Section 30253 requires new development to minimize risks and assure structural stability. The City's LUP, which is used here as guidance, includes a definition for "Bluff Top Redevelopment":

Bluff Top Redevelopment shall apply to proposed development located between the sea and the first public road paralleling the sea (or lagoon) that consists of alterations including (1) additions to an existing structure, (2) exterior and/or

interior renovations, (3) and/or demolition of an existing bluff home or other principal structure, or portions thereof, which results in:

(a) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.

(b) Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LUP; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area taking into consideration previous additions approved on or after the date of certification of the LUP.

This definition is intended to identify and prohibit redevelopment projects that essentially consist of rebuilding non-conforming, existing structures in hazardous locations, unless the entire structure is brought into conformance. The definition allows a reasonable amount of changes to an existing structure, including up to a 50% alteration of major structural components and up to a 50% increase in the size of the structure, while barring mischaracterizations of “repair and maintenance” or “improvements” for major work such as stripping a house to the studs, or gutting the entire interior, or demolishing everything but one wall, that would perpetuate the non-conforming structure.

Major structural components are defined in the LUP as exterior walls, the structural components of the floor and roof, and the foundation of an existing home. The LUP definition provides that alterations to major structural components are not additive between individual major structural components, while alterations to individual major structural components are cumulative over time from the date of certification of the LUP (June 12, 2013). That is, alterations to 25% of the exterior walls and 30% of the foundation would not mean 55% of the home has been altered and thus should be considered a new structure. However, a 25% alteration to the exterior walls (or floors, etc.) approved today, would mean any future alteration of the exterior walls more than 24% would be considered redevelopment resulting in a new structure. Similarly, additions are also cumulative over time from the date of certification of the LUP.

Redevelopment of a non-conforming structure, such as demolition and replacement of more than 50% of the structure’s exterior walls, could require that the structure be brought into conformance with today’s blufftop setback requirements. Thus, it important to track changes to blufftop structures, including cumulative changes over time. The proposed project does not include any changes to the major structural components of the residence and required special conditions ensure that the Commission will be aware should any demolition occur. **Special Condition No. 1** requires the development to be



undertaken consistent with the approved project plans. To ensure that demolition does not occur, which would count towards the residence's cumulative redevelopment, **Special Condition No. 2** requires the applicant to submit a copy of the City Building Department job card, or other form of verification required and approved by the Executive Director. **Special Condition No. 3** requires submittal of as-built plans that demonstrate that the project was completed as approved by the Commission and no project modifications occurred. **Special Condition No. 4** requires the applicant to agree that any future improvements to the residence, including, but not limited to, repair and maintenance identified as not requiring a permit in Public Resources Code section 30610(d) and Title 14 California Code of Regulations section 13252(a)-(b), shall require an amendment to permit No. 6-22-0917 from the California Coastal Commission, unless the Executive Director determines that a future amendment is not legally required. **Special Condition No. 5** requires the applicant to acknowledge the risk of building in a hazardous location and ensures that the risks of property damage arising from erosion and coastal bluff collapse are borne by the applicant.

The Commission certified the City's LUP in March 2012; however, the City does not yet have a fully certified Local Coastal Program (LCP). Therefore, the Chapter 3 policies of the Coastal Act are the standard of review, with the certified LUP used as guidance.

## **B. Coastal Hazards**

The proposed project is located within 50 feet of an approximately 88-foot high coastal bluff. The residence was built in 1959 prior to the Coastal Act and is a legal nonconforming structure with regards to the bluff setback. The proposed project will not increase the size of the existing residence or the degree of the nonconformity. No changes to the major structural components of the residence are proposed and the project is not considered redevelopment. Special conditions require the development to be undertaken consistent with the approved plans, and require confirmation and verification that no demolition occurs.

As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

## **C. Biological Resources**

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protects sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized.

The proposed development will not have an adverse impact on any sensitive habitat, and, as conditioned, will not result in erosion or adverse impacts to water quality, as adequate temporary erosion controls (construction BMPs) will be provided. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

#### **D. Community Character/Visual Quality**

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area and will not impact public views. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

#### **E. Public Access**

As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. 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.

#### **F. Local Coastal Planning**

The City of Solana Beach has a certified LUP, but does not have a certified IP at this time. Thus, the Coastal Commission retains permit jurisdiction 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. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

#### **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. This project is exempt from CEQA pursuant to Section 15301 (Class 1 Exemption) of the 2022 State CEQA Guidelines which is an exemption for minor alteration of existing public or private structures or facilities including additions to existing structures provided that the addition will not result in an increase of more than 50% of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.

6-22-0917  
Bradberry

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

- City of Solana Beach Staff Report for Item B.3, June 14, 2023
- CDP #6-00-066
- ECDP #6-00-156-G