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STAFF REPORT: REGULAR CALENDAR

Application No.:	**6-24-0307**
Applicant:	**Del Mar Beach Club HOA**
Agent:	Robert Trettin
Location:	825 S. Sierra Ave., Solana Beach, San Diego County (APNs: 298-240-33, 34, 35, 36, 39 & 40)
Project Description:	Repair of southern 170 ft. of the existing 540 linear ft. seawall, including installation of shotcrete surfacing and new tiebacks, repair of upper bluff caisson, and repairs to the existing private beach access staircase, including replacing two support piers and repairing the lower concrete landing on the public beach.
Staff Recommendation:	Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed project consists of the repair of the southern 170 feet of an existing 540 linear foot seawall including installation of shotcrete surfacing and new tiebacks, repair of an upper bluff caisson, and repairs to the existing private beach access staircase, including replacing two support piers and repairing the lower concrete landing on the public beach fronting the Del Mar Beach Club condominium complex. The condos were constructed in the early 1970's prior to the enactment of the Coastal Act and are therefore considered an existing structure under Section 30235 of the Coastal Act. The subject seawall was originally approved in 1977 and constructed around 1978. Most recently, the Commission approved CDP #6-00-009 (and subsequent amendments) for installation of piers under the existing condo complex and payment of an in-lieu fee for sand supply impacts from the existing seawall with a mitigation period that extends

through 2031. There are several other mid-bluff protective devices that have received Coastal Commission approval.

As required by Section 13252 of the Commission regulations, a permit is required for repair and maintenance projects if the project proposes work involving mechanized equipment within 20 feet of coastal waters. The proposed work involves repairs to 31% of the existing seawall and would extend the face of the seawall approximately seven inches further seaward, however, the work would not encroach further seaward than the base of the existing seawall footing, which is approximately 7.5 feet wide. Approximately three inches of the proposed seven inches would be for surficial treatment of the wall to ensure the wall blends in with the natural bluff.

The proposed project is considered repair and augmentation of an existing structure. The applicant has provided sufficient evidence that the existing seawall is in need of the proposed repairs to ensure it continues to operate as originally designed to protect the pre-Coastal condo complex. In order to ensure the percent change is correctly recorded and can be applied to future projects to calculate whether future projects, in combination with previous projects, have reached the threshold for redevelopment (i.e., when cumulative projects result in alterations of 50% or more of the original structure) the applicant is required to submit as-built plans per **Special Condition No. 5**.

Given that the proposed project includes work on the beach and encroachment of the face of the seawall onto the public beach, **Special Condition No. 7** requires the applicant to obtain encroachment agreements from the County of San Diego and City of Solana Beach, or evidence that an encroachment agreement is not required. While the proposed encroachment onto the beach may have minimal impacts to public access and recreation and shoreline sand supply, the Commission is not imposing mitigation fees through this permit action given that the applicant has already paid a mitigation fee pursuant to Special Condition No. 2 of CDP #6-00-009, which extended the approval of the seawall through 2031. The permittee must return to the Commission in 2031 to analyze the existing site conditions and calculate mitigation fees for impacts to beach sand and impacts to public access and recreation from the shoreline protection device as a whole, including the proposed repairs. In addition, when cumulative alterations result in the repair of 50% or more of the seawall, or significant modifications to the seawall foundation are necessary, the seawall will be analyzed as a new structure. **Special Condition No. 10** requires an in-depth analysis for future maintenance of the seawall and the appearance of the seawall to protect scenic visual resources by blending future projects into the natural bluff as is feasible. Overall, the project does not include an expansion of the existing seawall footing, and includes repair/augmentation of less than 50% of the seawall. Therefore, the scope of the work is not considered redevelopment and the resulting seawall is not considered a new structure.

Additionally, when reviewing projects for proposed repair and augmentation, the Commission must also assess the method of the construction. Given that the proposed project will require construction on the public beach, several special conditions are required to protect public access and water quality. **Special Condition No. 3** requires

the applicant to submit a best management practices plan that ensures no shotcrete will be allowed onto the sandy beach or allowed to enter coastal waters. **Special Condition No. 2** requires the applicant to provide final plans indicating the location of access corridors to the construction site and staging areas, including requirements for no overnight storage of equipment or materials on the sandy beach and no work occurring during the summer season (Memorial Day weekend to Labor Day) or on weekends or holidays. **Special Condition No. 1** requires that final plans be submitted in conformance with the plans submitted during the review period. This condition ensures that the proposed cosmetic shotcrete treatment is implemented to lessen the visual impact of the southern portion of the existing seawall to the greatest extent feasible. **Special Condition No. 4** requires the applicant to create a monitoring plan and submit subsequent monitoring reports to track changes and any further suggested maintenance. Additionally, **Special Condition No. 6** requires the applicant to maintain a construction coordinator and construction site documents for public viewing near the construction site to ensure public complaints are reviewed and managed while construction occurs on the public beach.

Finally, to ensure that the blufftop structures do not require additional shoreline protection beyond what exists, **Special Condition No. 9** restricts future development, including additions, major structural alterations, or redevelopment of the structures on the subject blufftop properties, from relying on the permitted shoreline armoring to establish geologic stability or protection from hazards. **Special Condition No. 11** requires the applicant to assume the risk of hazards related to the development. **Special Condition No. 8** clarifies that the Commission's approval of this permit does not constitute a waiver of any public rights that may exist on the property and prohibits the applicant from using the permit as evidence of a waiver of any public rights that may exist on the property now or in the future.

Therefore, Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-24-0307, as conditioned. The motion is on page 5. The standard of review is Chapter 3 of the Coastal Act with the City of Solana Beach certified LUP used as guidance.

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I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 6-24-0307 pursuant to the staff recommendation.

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

Resolution:

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

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment**. The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration**. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation**. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment**. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land**. These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind

all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and written approval of the Executive Director, one full-size set of the following final plans that conforms with the plans submitted to the Commission, titled “Del Mar Beach Club – Updated Seawall Repair Plans” received October 30, 2025.

   The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the final 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 for any proposed minor deviations.

2. **Storage and Staging Areas/Access Corridors. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that, at a minimum:

   a. No overnight storage of equipment or materials may occur on sandy beach or at the Fletcher Cove Parking Lot, and the use of other public parking spaces shall be minimized. The permittee may not store any construction materials or waste where it will be or could 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 work on the seawall. Construction equipment may not be washed on the beach, on public parking lots, or on access roads;

   b. Construction access corridors shall be located in a manner that has the least impact on public access to and along the shoreline;

   c. No work may occur on the beach on weekends or holidays or from Memorial Day weekend to Labor Day of any year;

   d. The applicant shall submit evidence that the approved plans and plan notes have been incorporated into construction bid documents; and

   e. The permittee shall remove all construction materials and equipment from the staging site and restore the staging site to its prior-to-construction condition within 72 hours following completion of the development.

The permittee shall undertake the development in accordance with the approved final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the final 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 for any proposed minor deviations.

3. **Water Quality Best Management Practices Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval of the Executive Director a Best Management Practices Plan that ensures no shotcrete or other construction byproduct will be allowed onto the sandy beach or allowed to enter into coastal waters. The plan shall apply to both concrete pouring and pumping activities as well as to shotcrete and concrete application activities. During shotcrete or concrete application specifically, the plan shall at a minimum provide for all shotcrete and concrete to be contained through the use of tarps or similar barriers that completely enclose the construction area and that prevent shotcrete or concrete contact with beach sand and coastal waters. All shotcrete and other construction byproduct shall be properly collected and disposed of off-site.

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

4. **Monitoring Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a monitoring plan, prepared by a licensed geologist, or civil or geotechnical engineer for the review and written approval of the Executive Director. The plan shall be sufficient to assess the condition of the 540 foot seawall and shall include at a minimum:

   a. A description of the approved shoreline protection device.

   b. A discussion of the goals and objectives of the plan, which shall include observations of whether the wall remains in its approved state and is functioning to protect the existing condo complex.

   c. Provisions for taking measurements of the distance between the bluff top structures protected by the seawall and the top of the bluff, including identification of exactly where such measurements will be taken, e.g. by reference to benchmarks, survey positions, points shown on an exhibit, or similar fixed marks, to be taken at least every 5 years.

d. Provisions for inspection of the condition of the shoreline protection device by a licensed geologist or civil or geotechnical engineer, including inspections every 5 years.

e. **Monitoring Requirement**. By May 1 of every fifth year for the life of the structure, the permittee shall submit a monitoring report that has been prepared by a licensed geologist, or civil or geotechnical engineer. Each monitoring report shall contain the following:

(1) An evaluation of the condition and performance of the approved shoreline protection device, including an assessment of whether any weathering or damage has occurred that could adversely impact future performance of the device.

(2) All measurements taken in conformance with the approved monitoring plan.

(3) An analysis of erosion trends, annual retreat, and rate of retreat of the bluff based upon the measurements and in conformance with the approved monitoring plan.

(4) Recommendations for repair, maintenance, modifications or other work to the device.

(5) If a monitoring report contains recommendations for repair, maintenance or other work, including maintenance of the color of the structure to ensure a continued match with the surrounding native bluffs, the permittee shall contact the Coastal Commission District Office to determine whether such work requires a coastal development permit or an amendment to this permit.

The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the final 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 for any proposed minor deviations.

5. As-Built Plans. WITHIN 30 DAYS OF COMPLETION OF CONSTRUCTION, the permittee shall submit one copy of As-Built Plans showing all development completed pursuant to this coastal development permit; all property lines; and all other development on the site. The As-Built Plans shall be substantially consistent with the approved project plans described in **Special Condition No. 1**, including providing for all requirements specified in those plans. The As-Built Plans shall include a graphic scale and all elevation(s) shall be described in relation to North American Vertical Datum (NAVD) 88. The As-Built Plans shall include color photographs or images of sufficient resolution to clearly show all components of the

as-built project, with a site plan that notes the location of each photographic viewpoint and the date and time of each photograph. At a minimum, the photographs shall be taken from representative viewpoints of beaches located upcoast, downcoast, and seaward of the project site. The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and processes. The engineer shall verify that the shoreline armoring has been constructed in conformance with the approved final plans.

The permittees shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the final 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 for any proposed minor deviations.

6. Construction Site Documents & Construction Coordinator. DURING ALL CONSTRUCTION:

a. **Construction Site Documents**. Copies of the signed coastal development permit and the approved Construction Plan 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 the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.

b. **Construction Coordinator**. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries andvemergencies), and the coordinator's contact information (office address, office and mobile phone numbers, e-mail address) 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 an 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 name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 72 hours of receipt of the complaint or inquiry.

c. **Notification**. The permittee shall notify planning staff of the Coastal Commission's San Diego Coast District Office at least three working days in advance of commencement of construction or maintenance activities, and immediately upon completion of construction or maintenance activities.

7. **Encroachment Agreement. PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the applicant shall submit to the Executive Director for review and written approval documentation demonstrating that the applicant has obtained an Encroachment Agreement from all required local governments, recognizing that the seawall, construction equipment, and site access is located on property managed by local governments and is subject to removal by request of the local government at any time, or evidence that an Encroachment Agreement is not required.

8. **Public Rights.** BY ACCEPTANCE OF THIS PERMIT, the applicants acknowledge, on behalf of the permittee and all successors in interest, that issuance of the permit and construction of the permitted development shall not constitute a waiver of any public rights that may exist on the property.

9. **Reliance on Permitted Shoreline Armoring.** BY ACCEPTANCE OF THIS PERMIT, the applicant acknowledges and agrees that no future development, including additions, major structural alterations, or redevelopment of the structures on the subject blufftop properties, may rely on the permitted shoreline armoring to establish geologic stability or protection from hazards. Such future development and redevelopment on the sites shall be sited and designed to minimize risk from hazards without reliance on the permitted shoreline armoring.

10. **Future Response to Erosion.** If in the future the permittee seeks to further maintain the existing shoreline protective devices, the permittee agrees, by acceptance of this permit, that they shall propose in an application for a coastal development permit specific alternatives to the proposed shoreline protection that will avoid or eliminate impacts to scenic visual resources, public access and recreation, and shoreline processes. The information concerning these alternatives must be sufficiently detailed to enable the Coastal Commission or the applicable local government implementing a certified Local Coastal Plan to evaluate the feasibility of each alternative and whether each alternative is capable of protecting the relevant existing principal structures for the remainder of their economic lives. Any future redevelopment on the lots may not rely on the subject shoreline protective devices to establish geologic stability or protection from hazards.

11. **Assumption of Risk, Waiver of Liability and Indemnity.** BY ACCEPTANCE OF THIS PERMIT, the applicants acknowledge and agree (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, landslide, bluff retreat, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the properties that are 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, 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.

12. **Liability for Costs and Attorneys' Fees.** By acceptance of this permit, the permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including those charged by the Office of the Attorney General, and any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the permittee against the Coastal Commission or its officers, employees, agents, successors and assigns, challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

13. **Deed Restriction/CC&R's Modification**. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall do one of the following:

    a. Submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction in a manner that will cause said deed restriction to appear on the title to the individual condominium units, and otherwise 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 they apply to the applicant, as covenants, conditions and restrictions on the use and enjoyment of the individual condominium units. The deed restriction shall include a legal description of the entire parcel or parcels against which it is recorded. 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, or;

    b. Modify the condominium association's Declaration of Restrictions or CC&Rs, as applicable, in a form and content acceptable to the Executive Director, to reflect the obligations imposed on the homeowners' association by the conditions of this CDP. This addition to the CC&Rs shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit.

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

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The proposed project consists of the repair and augmentation of the southern 170 feet of an existing 540 linear foot seawall including installation of shotcrete surfacing, installation of new tiebacks, repair of an upper bluff caisson, and repairs to the existing private beach access staircase, including replacing two support piers and repairing the lower concrete landing on the public beach fronting the Del Mar Beach Club condominium complex at 825 South Sierra Avenue in the City of Solana Beach.

Current protection on the site includes a 540-foot-long seawall with tiebacks located on the public beach and private bluff that is approximately 17 feet tall from the bottom of the footing (buried below the sand) to the top of the seawall (Exhibit 3). The site also has several mid-bluff crib walls. The existing seawall is approximately one foot three inches wide and varies in width near the top of the wall. The applicant proposes to expand the seawall further seaward by approximately four inches plus an additional approximately three inches of shotcrete to be colored and sculpted to blend with the natural bluff. The site also has existing concrete piers located in the upper bluff to support the existing condominium complex, one of which will be repaired by installing a shotcrete infill adjacent to an existing upper bluff concrete pier. Similar work to the upper bluff concrete pier has been approved in past projects. Overall, the project does not include any work or expansion of the existing seawall footing, and includes repair and augmentation of less than 50% of the seawall. Therefore, the scope of the work is not considered redevelopment and the resulting seawall is not considered a new structure.

The proposed project would be located on an existing seawall and would encroach approximately 7 inches onto the public beach. The project location is approximately 4,200 feet south of Fletcher Cove, the City of Solana Beach's primary beach park and accessway and is approximately 1,000 feet north of the Del Mar Dog Beach in the City of Del Mar (Exhibit 1).

Permit History

The project is located along the southern boundary of the City of Solana Beach below an existing condo complex with a private concrete beach access staircase. The condos were constructed in the early 1970's prior to the enactment of the Coastal Act. The bluffs fronting the condos contain several shoreline protective devices, many of which were constructed following enactment of the Coastal Act and have received Coastal Commission approval. Prior to approval of the existing seawall, the applicant proposed to install rock revetment at the foot of the bluff below the Del Mar Beach Club. However, the Commission denied this request in 1973, stating that building a seawall was the preferred alternative (CDP #F0093). Later, hydroseeding and installation of a sprinkler system was approved (CDP #F2550). In 1977, the Commission approved the construction of an approximately 540-foot-long concrete seawall at the base of the bluff

below the condominiums (CDP #F4051). The Commission also permitted the construction of two crib walls on the bluff face, one in the area of the existing private concrete beach access stairway and along the north property line.

In August 1978, the applicant received an amendment to realign the seawall at the north and south property line due to erosion occurring between the original approval and commencement of construction, as well as the danger created by an overhanging portion of sandstone (CDP #F4051-A). In November 1979, the Commission approved an amendment to add approximately 60 feet of crib wall to the south of the previously approved crib wall (CDP #F4051-A2). This approval required recordation of a deed restriction.

On March 14, 1983, the Executive Director issued an emergency permit for the placement of rip rap on the beach at the base of an existing concrete seawall. The need for the rip rap was created by the loss of sand which resulted in the uncovering and undermining of the foundation of the existing seawall. Rather than seek a permit for the permanent placement of the rip rap, the applicant proposed to remove the rip rap placed under the emergency permit and then construct new footings which would extend deeper to avoid similar undermining in the future. The Commission approved this request along with the installation of deeper foundation footings and backfill for the seawall which had become undermined by the loss of sand (CDP #6-83-509).

In 1989, the Commission approved the construction of an approximately 40 foot-long, 15-foot-high mid-bluff retaining wall and installation of twenty-nine, approximately 52 ft. in depth, 18-inch drilled piers to underpin the southwest corner of the condominium structure (CDP #6-89-281). In March 2001, the Commission approved the installation of five, 36-inch diameter buried and drilled piers ranging from approximately 28 to 70 ft. deep perpendicular to the beach below the southwest corner of the condominium complex (CDP #6-00-009). Through this authorization, the applicant paid a mitigation fee of $47,567 through Special Condition No. 2. The mitigation period used when determining that fee was 30 years which extends through 2031 (Exhibit 5). In January 2002, the Commission approved the construction of colored and textured concrete infill material to be placed between and around the exposed portions of up to four piers that were installed pursuant to CDP #6-00-009 (CDP #6-00-009-A1). In October 2002, the Commission approved the installation of temporary concrete shoring and soils nails to provide construction worker protection during the installation of the visual treatment of the exposed piers (CDP #6-00-009-A2). In May 2007, the Commission approved the installation of colored and sculpted tied back concrete infill between and around exposed portions of below-grade drilled piers located under the condominium complex at the top of the bluff (CDP #6-00-009-A3). Finally, the condo complex has applied for, and received various exemptions for interior remodels of the existing condo units throughout the years.

Standard of Review

The Commission has certified the City of Solana Beach's Land Use Plan (LUP); however, the City does not yet have a certified Implementation Plan (IP). Therefore, the Chapter 3 policies of the Coastal Act are the standard of review, with the certified LUP used as guidance.

B. Geologic Conditions and Hazards

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. [...]Section 30240(b) of the Coastal Act states:

> (b) 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.

Section 30251 of the Coastal Act states:

> The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Page 13 of the Solana Beach certified Land Use Plan's Hazards and Shoreline/Bluff Development chapter states the following, in part:

> The following describes the types of preferred bluff retention systems to protect the lower bluff only:

> [. . .]
>
> Higher Seawall/Clean Sand Lens Encapsulation (See Appendix B Figure 2) – If the clean sand lens has been exposed, it may be necessary to build a seawall high enough [to] cover this segment of the bluff face. This method consists of a structurally engineered seawall (with tiebacks into the sandstone) approximately 35' high to protect and encapsulate the clean sand lens at the base of the terrace deposits. The wall is required to have a textured face mimicking the existing material. If treated at this stage, the bluff retention system will minimize or prevent the need for future mid or upper bluff stabilization.

Policy 4.16 of the Solana Beach certified Land Use Plan states, in part:

> The City will consider participating in studies to fill information gaps on the regional effects of bluff retention devices, on beach and bluff erosion, and methods to protect the shoreline, and counteract erosion.

Policy 4.17 of the Solana Beach certified Land Use Plan states:

> New development shall be set back a safe distance from the bluff edge, with a reasonable margin of safety, to eliminate the need for bluff retention devices to protect the new improvements. All new development, including additions to existing structures, on bluff property shall be landward of the Geologic Setback Line (GSL) as set forth in Policy 4.25. This requirement shall apply to the principal structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems, etc. Accessory structures such as decks, patios, and walkways, which are at-grade and do not require structural foundations may extend into the setback area no closer than five feet from the bluff edge. On lots with a legally established bluff retention device, the required geologic analysis shall describe the condition of the existing seawall; identify any impacts it may be having on public access and recreation, scenic views, sand supply and other coastal resources; and evaluate options to mitigate any previously unmitigated impacts of the structure or modify, replace, or remove the existing protective device in a manner that would eliminate or reduce those impacts. In addition, any significant alteration or improvement to the existing structure shall trigger such review (i.e. the analysis of the seawall) and any unavoidable impacts shall be mitigated.

Policy 4.18 of the Solana Beach certified Land Use Plan states:

> A legally permitted bluff retention device shall not be factored into setback calculations. Expansion and/or alteration of a legally permitted bluff retention device shall include a reassessment of the need for the shoreline protective device and any modifications warranted to the protective device to eliminate or reduce any adverse impacts it has on coastal resources or public access, including but not limited to, a condition for a reassessment and reauthorization of the modified device pursuant to Policy 4.52.

Policy 4.34 of the Solana Beach certified Land Use Plan states, in part, that the City shall:

> Identify, evaluate and pursue all feasible potential sources of revenue for funding the City's shoreline management policies and programs as contained in the LUP. . . Potential sources of funding may include, without limitation:
>
> - Regional Sediment Management and opportunistic sand funding sources.
> - Use of monies held by SANDAG from previous CCC sand and recreation mitigation fees collected for bluff retention devices in the City
> - City assessed Sand Mitigation Fees, which may be expended for sand replenishment and retention projects.
>
> [. . .]

Policy 4.45 of the Solana Beach certified Land Use Plan states, in part:

> The City has adopted preferred bluff retention solutions . . . to streamline and expedite the City permit process for bluff retention devices. The preferred bluff retention solutions are designed to meet the following goals and objectives:
>
> (1) Locate bluff retention devices as far landward as feasible;
>
> (2) Minimize alteration of the bluff face;
>
> (3) Minimize visual impacts from public viewing areas;
>
> (4) Minimize impacts to adjacent properties including public bluffs and beach area; and,
>
> (5) Conduct annual visual inspection and maintenance as needed.
>
> [. . .]

Policy 4.47 of the Solana Beach certified Land Use Plan states:

> All proposed development on a beach or along the shoreline, including a shoreline protection structure located within the jurisdiction of the State Lands Commission: (1) must be reviewed and evaluated in writing by the State Lands Commission and (2) may not be permitted if the State Lands Commission determines that the proposed development is located on public tidelands or would adversely impact tidelands unless State Lands Commission approval is given in writing.

Policy 4.49 of the Solana Beach certified Land Use Plan states:

Coastal structures shall be approved by the City only if all the following applicable findings can be made and the stated criteria satisfied. The permit shall be valid until the currently existing structure requiring protection is redeveloped (per definition of Bluff Top Redevelopment in the LUP), is no longer present, or no longer requires a protective device, whichever occurs first and subject to an encroachment/removal agreement approved by the City.

(a) Based upon the advice and recommendation of a licensed Geotechnical or Civil Engineer, the City makes the findings set forth below.

(1) A bluff failure is imminent that would threaten a bluff home, city facility, city infrastructure, and/or other principal structure.

(2) The coastal structure is more likely than not to preclude the need for a larger coastal structure or upper bluff retention structure. Taking into consideration any applicable conditions of previous permit approvals for development at the subject site, a determination must be made based on a detailed alternatives analysis that none of the following alternatives to the coastal structure are currently feasible, including:

- A Seacave/Notch Infill;
- A smaller coastal structure; or
- Other remedial measures capable of protecting the bluff home, city facility, non-city-owned utilities, and/or city infrastructure, which might include other non-beach and bluff face stabilizing measures, taking into account impacts on the near and long term integrity and appearance of the natural bluff face, and contiguous bluff properties;

(3) The bluff property owner did not create the necessity for the coastal structure by unreasonably failing to implement generally accepted erosion and drainage control measures, such as reasonable management of surface drainage, plantings and irrigation, or by otherwise unreasonably acting or failing to act with respect to the bluff property. In determining whether or not the bluff property owner's actions were reasonable, the City shall take into account whether or not the bluff property owner acted intentionally, with or without knowledge, and shall consider all other relevant credible scientific evidence, as well as, relevant facts and circumstances.

(4) The location, size, design and operational characteristics of the proposed coastal structure will not create a significant adverse effect on adjacent public or private property, natural resources, or public use of, or access to, the beach, beyond the environmental impact typically associated with a similar coastal structure and the coastal structure is the minimum size necessary to protect the principal structure, has been designed to minimize all environmental impacts, and provides mitigation for all coastal and environmental impacts, as provided for in this LCP.

(b) The coastal structure shall meet City Design Standards, which shall include the following criteria to ensure the coastal structure will be:

(1) Constructed to resemble as closely as possible the natural color, texture and form of the adjacent bluffs;

(2) Landscaped, contoured, maintained and repaired to blend in with the existing environment;

(3) Designed so that it will serve its primary purpose of protecting the bluff home or other principal structure, provided all other requirements under the implementing ordinances are satisfied, with minimal adverse impacts to the bluff face;

(4) Reduced in size and scope, to the extent feasible, without adversely impacting the applicants' bluff property and other properties; and

(5) Placed at the most feasible landward location considering the importance of preserving the maximum amount of natural bluff and ensuring adequate bluff stability to protect the bluff home, City facility, or City infrastructure.

(c) Mitigation for the impacts to shoreline sand supply, public access and recreation and any other relevant coastal resource impacted by the coastal structure is required and shall be assessed in 20-year increments, starting with the building permit completion certification date. Property owners shall apply for a CDP amendment prior to expiration of each 20-year mitigation period, proposing mitigation for coastal resource impacts associated with retention of the coastal structure beyond the preceding 20-year mitigation period and shall include consideration of alternative feasible measures in which the permittee can modify the coastal structure to lessen the coastal structure's impacts on coastal resources. Monitoring reports to the City and the Coastal Commission shall be required every five years from the date of CDP issuance until CDP expiration, which evaluate whether or not the coastal structure is still required to protect the existing structure it was designed to protect. The permittee is required to submit a CDP application to remove the authorized coastal structure within six months of a determination that the coastal structure is no longer required to protect the existing structure it was designed to protect.

Policy 4.53 of the Solana Beach certified Land Use Plan states:

All permits for bluff retention devices shall expire when the currently existing blufftop structure requiring protection is redeveloped (per definition of Bluff Top Redevelopment in the LUP), is no longer present, or no longer requires a protective device, whichever occurs first and a new CDP must be obtained. Prior to expiration of the permit, the bluff top property owner shall apply for a coastal development permit to remove, modify or retain the protective device. In addition, expansion

and/or alteration of a legally permitted existing bluff retention device shall require a new CDP and be subject to the requirements of this policy.

The CDP application shall include a re-assessment of need for the device, the need for any repair or maintenance of the device, and the potential for removal based on changed conditions. The CDP application shall include an evaluation of:

- The age, condition and economic life of the existing principal structure;
- Changed geologic site conditions including but not limited to, changes relative to sea level rise, implementation of a long-term, large scale sand replenishment or shoreline restoration program; and
- Any impact to coastal resources, including but not limited to public access and recreation.

The CDP shall include a condition requiring reassessment of the impacts of the device in 20-year mitigation periods pursuant to Policies 4.48 and 4.51.

No permit shall be issued for retention of a bluff retention device unless the City finds that the bluff retention device is still required to protect an existing principal structure in danger from erosion, that it will minimize further alteration of the natural landform of the bluff, and that adequate mitigation for coastal resource impacts, including but not limited to impacts to the public beach has been provided.

Policy 4.60 of the Solana Beach certified Land Use Plan states:

Existing bluff retention devices which are not considered preferred bluff retention solutions and do not conform to the provisions of the LCP, including the structural or aesthetic requirements[,] may be repaired and maintained to the extent that such repairs and/or maintenance conform to the provisions of the LCP.

In Chapter 8, the Solana Beach certified Land Use Plan defines Bluff Top Redevelopment as follows:

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.

The subject shoreline protection is located at the base of a coastal bluff in the City of Solana Beach (Exhibit 1). Bluffs in this area are subject to a variety of erosive forces and conditions (e.g., wave action, reduction in beach sand, landslides, etc.) as exacerbated by sea level rise. This site has experienced wave action and saltwater intrusion resulting in visible cracking of portions of the seawall allowing saltwater to come in contact with the wall's interior rebar causing corrosion and concrete spalling. Wave action and saltwater intrusion have also led to the exposure of the top of wall rebar and cracking of the tie-back covers. These issues will continue to occur and increase in intensity as sea levels continue to rise and may threaten the effectiveness of the seawall in the future. The applicant submitted a 2023 monitoring report of the Del Mar Beach Club seawall that further outlines these issues and outlines suggestions for proposed future maintenance of the seawall through various phases. **Special Condition No. 4** requires ongoing monitoring of the existing shoreline protective device so that impacts to the wall from continued wave action and saltwater intrusion are documented.

Coastal Act Section 30253 specifically prohibits development that could "create [or] 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." However, Section 30235 of the Coastal Act recognizes that existing development may be protected by shoreline protective devices subject to certain conditions. The Commission's adopted Sea Level Rise guidance,[1] as well as recent case law,[2] support the Commission's interpretation of "existing structure" in Section 30235 as a structure in existence as of January 1, 1977, the effective date of the Coastal Act. Before the Coastal Act was effective, development may not have been built to meet Section 30253 standards that require that new development be built safely without reliance on armoring. Put another way, the Section 30235 requirement that the Commission shall allow armoring for existing structures is interpreted to apply to only to pre-Coastal Act development. In addition, such pre-Coastal Act structures lose their "existing" status under Section 30235 if they are modified in such a way that they are no longer the same structure, but rather a

[1] Available at https://www.coastal.ca.gov/climate/slr/, See 2024 Update, pp. 228-230 [discussion of Commission's interpretation of Sections 30235 and 30253 and their relationship).

[2] *Casa Mira Homeowners Assoc. v. California Coastal Com*. (A168645, December 12, 2024) (review denied, March 12, 2025).

replacement structure (often referred to by the Commission as a “redeveloped” structure). Thus, the only types of structures that qualify as “existing structures” allowed armoring under Section 30235 are those that existed before January 1, 1977, and have not been redeveloped since. In this case, there is no evidence that the condominium structures have been redeveloped therefore they are considered existing structures built prior to enactment of the Coastal Act.

When reviewing a proposal for a new seawall, the Commission confirms that the project meets all “tests” of Section 30235, including, whether there is an existing structure, whether that structure is in danger of erosion, that the proposed armoring is required to protect the existing endangered structures, and that the proposed project is the least environmentally damaging feasible alternative. The Commission is reviewing this project as repair and augmentation of an existing structure that proposes a less than 50% change. While this project does not propose a new shoreline protective device, it is important to confirm the site still meets all requirements of Section 30235 to confirm that repairing the existing seawall and extending the life of the existing seawall is appropriate and consistent with the Coastal Act. In this case, the condo complexes are considered existing structures for the purposes of 30235 because they were constructed prior to the Coastal Act and have not been redeveloped. The applicant has provided sufficient evidence that the existing structures are still in danger of erosion and that the existing seawall is in need of repairs to ensure it continues to operate as originally designed to protect the pre-Coastal condominium complex. Additionally, the applicant conducted an alternatives analysis that confirmed the proposed project is the least environmentally damaging feasible alternative, as agreed upon by the Commission’s coastal engineer.

The project proposes several repair measures including infilling shotcrete in the upper bluff adjacent to an existing concrete pier approved through CDP #6-00-009. The work to the 540-foot seawall will occur on the southern 170-foot portion and will consist of structural and cosmetic additions. The existing wall is approximately one foot three inches thick. The project proposes a structural infill to the existing seawall that will increase the thickness by four inches (resulting in a one-foot seven-inch seawall). The proposed structural infill will be covered in cosmetic shotcrete sculpted and color-treated to match, as closely as possible, the natural characteristics of coastal bluffs. The cosmetic shotcrete will add another approximately three inches resulting in an increase in the wall thickness from one foot three inches to approximately one foot ten inches. However, while the seawall is generally the same width throughout, the top portion of the existing wall is wider than the lower portion of the wall (Exhibit 3). The proposed project will increase the top portion of the wall to approximately two feet four inches with the addition of the cosmetic shotcrete. However, the proposed repair and augmentation of the wall (resulting in an added thickness of approximately seven inches) will not encroach further seaward than the existing buried footing that extends approximately 7.5 feet (including the width of the exposed seawall).

The proposed repair and augmentation to 170 linear feet of the entire 540 liner foot seawall constitutes a 31% change to the existing structure. This work goes beyond typical repair and maintenance, but has yet to reach the redevelopment threshold of

50%, thus the Commission considers this a repair and augmentation project that should be tracked with other future projects to determine when cumulative alterations of the seawall reach 50%. The project also proposes adding a number of tiebacks to the existing seawall. In order to ensure the percent change is correctly recorded, the applicant is required to submit as-built plans per **Special Condition No. 5.**

The subject application does not exceed the 50% redevelopment threshold as defined in the Solana Beach LUP. Therefore, should the applicant propose future work on the seawall that would cumulatively exceed the 50% redevelopment threshold, the project would be considered redevelopment and reviewed as a new seawall. This would entail ensuring the proposed project passes the Section 30235 tests (as described above). If repair and augmentation are proposed in the future that do not cumulatively exceed the 50% redevelopment threshold, additional mitigation may be required based on the scope of the proposed project and best available science. To that end, **Special Condition No. 10** requires an in-depth analysis for future projects that propose redevelopment of the seawall. The project would also need to propose appropriate mitigation for impacts to public access and recreation and beach sand supply. In this case, the applicant paid an in-lieu fee for sand supply through CDP #6-00-009. The formula used to determine the mitigation fee (Exhibit 5) utilized a 30-year mitigation period based on the design life of the seawall without maintenance. This 30-year mitigation period expires in 2031. At that time, the applicant is expected to return to the Commission to reassess the mitigation requirement for the entire seawall, including the repairs proposed as part of this proposed project.

Additionally, to ensure that the blufftop structures do not require additional shoreline protection beyond what exists, **Special Condition No. 9** restricts future development, including additions, major structural alterations, or redevelopment of the structures on the subject blufftop properties, from relying on the permitted shoreline armoring to establish geologic stability or protection from hazards. **Special Condition No. 11** requires the applicant to assume the risk of hazards related to the development.

Overall, the project does not include any work or expansion of the existing seawall footing, and includes repair and augmentation of less than 50% of the seawall. The scope of the work is not considered redevelopment and the resulting seawall is not considered a new structure. Therefore, as conditioned, the Commission finds that potential impacts to beach space and sand associated with the proposed development have been reduced to the maximum extent feasible. Thus, the project is consistent with Sections 30235, 30253, 30240 and 30251 of the Coastal Act and the City of Solana Beach certified LUP.

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 2.60 of the Solana Beach certified Land Use Plan states:

> No new private beach stairways shall be constructed, and private beach stairways shall be phased out at the end of the economic life of the stairways. Existing permitted or private beach stairways constructed prior to the Coastal Act may be maintained in good condition with a CDP where required, but shall not be expanded in size or function. Routine repair and maintenance shall not include the

> replacement of the stairway or any significant portion of greater than 50% of the stairway cumulatively over time from the date of LUP certification.

Policy 2.60.5 of the Solana Beach certified Land Use Plan states:

> Upon application for a coastal development permit for the replacement of a private beach stairway or replacement of greater than 50% thereof, private beach accessways shall be converted to public accessways where feasible and where public access can reasonably be provided. The condition to convert the private stairway to a public stairway shall only be applied where all or a portion of the stairway utilizes public land, private land subject to a public access deed restriction or private land subject to a public access easement.

Policy 4.50 of the Solana Beach certified Land Use Plan states, in part:

> The bluff property owner shall pay for the cost of the coastal structure or Infill and pay a Sand Mitigation Fee and a Public Recreation Fee per LUP Policy 4.38. These mitigation fees are not intended to be duplicative with fees assessed by other agencies. It is anticipated the fees assessed as required by this LCP will be in conjunction with, and not duplicative of, the mitigation fees typically assessed by the CCC and the CSLC for impacts to coastal resources from shoreline protective devices. [...]

The effects of the subject shoreline protective devices may include changes to the recreational and beach use experience, impacts to beach and other coastal ecosystems, and impairment of the aesthetic and visual character of the coast. For instance, shoreline protective devices take up space and displace or modify prior uses of coastal land (e.g., beach recreation, habitat, etc.), including occupation of the public beach. Seawalls and revetments may have large horizontal footprints, displacing what would otherwise be sandy beaches, and resulting in a long-term loss of beach area for public access, recreation, and other uses. In addition to frequently encroaching onto the public beach by slowing or stopping natural processes of shoreline retreat, shoreline protective devices also prevent the future creation of new beach and eliminate a supply of new sand that would otherwise have resulted from bluff and shoreline erosion.

In terms of the recreational beach/shoreline value, the Commission has recognized that in addition to the more qualitative social benefits of beaches and shoreline areas (recreational, aesthetic, habitat values, etc.), beaches and shoreline recreational areas provide significant direct and indirect revenues to local economies, the state, and the nation. The ocean and the coastline of California contribute greatly to the California economy through activities such as tourism, fishing, recreation, and other commercial activities.[3] There is also value in just spending a day at the beach, including the

[3] According to the NOAA Office for Coastal Management, just over 26 million people lived in California's coastal counties as of 2015. In 2020, California's marine economy supported over 26,000 businesses employing over 470,000 people, which accounted for $23.1 billion in wages and $41.9 billion in gross domestic product (NOAA, 2023).

opportunity to view wildlife, have clean water at that beach, or walk along a stretch of beach and shoreline. This currently remains available at the subject site. There are also societal benefits of beaches and shoreline areas, including the ways in which they contribute to local community, state social fabric, and cultural identity. However, it can be difficult to put a price tag on these types of benefits, including 'existence' values, where people are asked how much it is worth to them for a beach to exist, even if they do not visit the beach or seldom visit the beach. Depending on the person, even one day at the beach can be priceless.

The subject site hosts many recreational opportunities, including, surfing, swimming, sunbathing, fishing, paddleboarding, walking, and whale-watching. The site is also directly adjacent to and north of Del Mar Dog Beach. On an eroding shoreline, beach and shoreline recreational areas will exist between the shoreline/waterline and the bluff as long as sand and space are available to form a beach/shoreline recreational area. As bluff erosion proceeds in a natural setting, the profile of the beach/shoreline recreational area also retreats, and the beach area migrates inland along with the bluff. This process essentially stops, however, when the backshore is fronted by a hard protective structure, such as a revetment or a seawall. Experts generally agree that where the shoreline is eroding and armoring is installed, the armoring will eventually define the boundary between the sea and the upland. While the shoreline on either side of the armoring continues to retreat, shoreline in front of the armoring eventually stops at the armoring. This effect is also known as passive erosion or "coastal squeeze."[4] The beach/recreational area will narrow, being squeezed between the retreating shoreline and the fixed backshore, and this represents the loss of a beach and recreational shoreline as a direct result of the armoring.

Further, by substituting hard materials (e.g., rock, concrete) in place of more erodible natural substrates (e.g., sand, soils, terrace deposits, sedimentary rocks), shoreline protective devices can also change wave reflection patterns, cause scour or winnowing of beach sediments along the shoreline and increase erosion rates at unarmored locations up and down-coast of the structure ("end effects"). In certain locations, shoreline protective devices may also interrupt or interfere with longshore and cross-shore sediment transport, resulting in deposition of sand in one location at the expense of other locations further "down drift" along the coast. These impacts caused by armoring will only be exacerbated by climate change and sea level rise. As climate change causes the seas to rise ever faster and increases the intensity and frequency of storms, beach and recreational shoreline areas will retreat inland at an increasingly rapid pace. If the inland area cannot retreat, eventually, there will be no available dry beach/shoreline area, and the shoreline will be fixed at the base of the armoring structure. In the case of an eroding shoreline, this represents the loss of a beach and

[4] See pp. 180-184, 2024 Update to the Commission's Sea Level Rise Guidance, available at https://www.coastal.ca.gov/climate/slrguidance.html.

shoreline recreational area as a direct result of the armoring. Loss of beach area could impact public recreational access, including the loss of the socio-economic value of beach/shoreline recreational access area. Ultimately, the Coastal Act discourages shoreline protective devices because they generally cause adverse impacts to coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes.

The Commission typically imposes a public access and recreation mitigation fee to account for both the area of public beach taken up by the shoreline armoring and the area of public beach that would have been formed over time as a result of bluff erosion and the shifting of the mean high tide line (MHTL). In recent years the Commission has calculated and required separate mitigation for both the direct losses of beach area and the losses of beach sand[5]. The sand mitigation fee quantifies lost sand volume and the cost of the replacement sand.

In this case, the Commission finds that the proposed project will have little impact on the public's ability to recreate in the beach area fronting the seawall. The existing presence of the seawall as a whole has more impact on public beach space and sand supply given the effects of coastal squeeze. While impacts of the repair and augmentation are anticipated, given the repairs will extend the life of the seawall as a whole, they will be mitigated for in a future review of the project in 2031, when the entire seawall will be reevaluated and mitigation updated if it is determined that the seawall is still necessary to protect existing structures pursuant to CDP #6-00-009.

CDP #6-00-009 utilizes a sand supply formula with the variable "L" that states, "If maintenance is proposed and extends the life of the seawall beyond the initial estimated design life, a revised fee shall be determined through the coastal development permit process." As mentioned previously, this project proposes maintenance and augmentation to 31% of the existing seawall and while the maintenance will extend the life of the seawall, mitigation will be assessed for the entire seawall when the 50% threshold is exceeded. If the 50% threshold is not exceeded by the time the applicant is required to reassess the mitigation required through CDP #6-00-009, then mitigation for the entire seawall shall be analyzed. A beach sand supply and public access and recreation mitigation fee will both be evaluated and will take into account the work proposed as part of this subject application.

Therefore, the Commission has determined that due to the extent of the proposed project and the mitigation fee paid pursuant to CDP #6-00-009 which extends through 2031, no additional mitigation fees will be imposed through this permit action. However, the permittee must return to the Commission in 2031 to analyze the existing site conditions and calculate mitigation fees, based on best available science, separately for impacts to beach sand and impacts to public access and recreation from the shoreline

[5] See 6-21-0067 Coastal Development Permit staff report available at, https://documents.coastal.ca.gov/reports/2021/12/F18a/F18a-12-2021-report.pdf

protection device as a whole. If future projects are proposed that would result in cumulative repairs over 50%, the Commission would then analyze the seawall as a new structure, pursuant to Chapter 3 of the Coastal Act and the Solana Beach LUP. At that time, additional mitigation measures and potential alternatives will be analyzed to determine consistency with the Coastal Act. These findings should not preclude different conclusions by future Commissions as they consider the project, conditions, and best available science at that time.

Private Beach Access Staircase

As mentioned previously, the project also proposes repairs to the existing private concrete beach access staircase. The staircase is available for use by residents of the Del Mar Beach Club condominium complex. The Solana Beach LUP prohibits construction of new private beach access stairways and requires that existing private beach stairways be phased out at the end of their economic life. Existing private beach stairways constructed prior to the Coastal Act may be maintained in good condition with a CDP where required, but shall not be expanded in size or function. Further, the LUP states that routine repair and maintenance shall not include the replacement of the stairway or any significant portion of greater than 50% of the stairway cumulatively over time from the date of LUP certification. When replacement of a private beach stairway would result in changes greater than 50% the private beach stairways shall be converted to public accessways where feasible and where public access can reasonably be provided. If the applicant proposes further changes to the private stairway in the future that results in over 50% cumulative repairs, the stairway shall either be made public or be removed.

The project proposes replacement of approximately 8% of the existing stairway for maintenance (see below table). If in the future the applicant proposes further maintenance that would replace over 50% cumulatively (including what is authorized through this subject application), then the stairway would be subject to the above-referenced Solana Beach LUP policies.

Stairway Structural Component	Existing (Sq Ft)	Proposed Repair & Maintenance (Sq Ft)	Proposed Replacement due to Destruction by Disaster (Sq Ft)	% Replacement for Maintenance
Columns and Foundations	301	45	0	15%
Landings	474	80	0	17%
Stair Treads	830	0	0	0%
Stringers	-	-	-	-
Handrails	-	-	-	-
TOTALS	**1605**	**125**	**0**	**8%**

Public Trust

In addition to the Coastal Act policies that support public access and equal opportunities for recreation, the Commission has the responsibility to protect the public trust and public trust uses.[6] Coastal Act regulations[7] define public trust lands as "all lands subject" to the common law public trust and associated with trust purposes, including recreation. In the common law, the doctrine traditionally protects in-water uses such as fishing and navigation but has been extended to protect the environment (*Marks v. Whitney* (1971) 6 Cal.3d 251, 259-260), and associated resources that affect trust lands, such as non-navigable tributaries supplying water to a lake (*Nat'l Audubon Soc. v. Super. Ct.* (1983) 33 Cal.3d 419, 436-437). In some jurisdictions, the doctrine explicitly protects "dry sand" recreation adjacent to public trust lands (*Matthews v. Bay Head Improvement Assn.* (1984) 95 N.J. 306, 331-332), on the rationale that "reasonable enjoyment" of the shore and sea cannot be realized without some use of the dry sand area (*id*. at p. 325).[8] California recognizes access as a component of public trust resources. In May 2023, the Coastal Commission unanimously adopted the Public Trust Guiding Principles & Action Plan[9] to describe how the public trust doctrine relates to the Coastal Commission's and local governments' work on sea level rise planning under the Coastal Act. [10] The State Lands Commission, which administers leases on public trust lands, analyzes the entire area of public trust impacts, including impacts on [11] Thus, use of dry land adjacent to the public trust may not interfere with recreation and other public trust uses.

The concern is complicated by the effects of sea level rise. The public trust boundary may migrate landward in response to rising sea levels. And as sea levels rise and

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[6] The State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds and manages these lands for the benefit of all people of the State for statewide purposes consistent with the common law Public Trust Doctrine ("public trust"). In coastal areas, the landward location and extent of the State's sovereign fee ownership of these public trust lands are generally defined by reference to the ordinary high-water mark (Civil Code, § 670), as measured by the mean high tide line (*Borax Consol. v. City of Los Angeles* (1935) 296 U.S. 10); these boundaries remain ambulatory, except where there has been fill or artificial accretion.

[7] Cal. Code of Regs., tit. 14, §13577(f).

[8] In a 2005, the same court affirmed *Matthews* and described access over uplands as "integral to the public trust doctrine." (*Raleigh Ave. Beach Assn. v. Atlantis Beach Club, Inc.* (2005) 185 N.J. 40, 53.)

[9] Available at https://www.coastal.ca.gov/public-trust/.

[10] Center for Ocean Solutions, Stanford Woods Institute for the Environment, The Public Trust Doctrine: A Guiding Principle for Governing California's Coast Under Climate Change (2017), p.5.

[11] See e.g., Section 3.2.4, Public Trust Impact Analysis, Broad Beach Restoration Project Revised Analysis of Impacts to Public Trust Resources and Values, July 2014, including discussion of long-term impacts on recreational use at pp. 3.2-23 to 26. Available at https://www.slc.ca.gov/wp-content/uploads/2016/08/3.2_Recreation.pdf,

beaches and bluffs migrate inland, maintaining residential development adjacent to the shoreline will in many cases cause the narrowing and eventual loss of beaches, dunes and other shoreline habitats as well as the loss of offshore recreational areas. This narrowing, or coastal squeeze, can occur when shoreline protection or other fixed development prevents the landward migration of the beach that would have otherwise occurred.

The applicants have provided a determination from State Lands Commission that no state lands are involved in the development. Additionally, **Special Condition No. 8** clarifies that the Commission's approval of this permit does not constitute a waiver of any public rights that may exist on the property and prohibits the applicant from using the permit as evidence of a waiver of any public rights that may exist on the property now or in the future. Additionally, **Special Condition No. 6** requires the applicant to maintain a constructor coordinator and construction site documents for public viewing near the construction site to ensure public complaints are reviewed and managed while construction occurs on the public beach. Finally, **Special Condition No. 7** requires the applicant to obtain encroachment agreements from all required local governments, such as the County of San Diego and the City of Solana Beach, for construction access and use of public land for construction. The applicant may also provide evidence that an encroachment agreement is not required.

Therefore, as conditioned, the project is consistent with the public access and recreation requirements set forth by Sections 30235 and 30253 of the Coastal Act, and with the private beach access stairway requirements in the City's certified LUP.

D. 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 30240 of the Coastal Act states:

> (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
>
> (b) 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.

The subject application proposes work on the public beach within 20 feet of coastal waters. The applicant has proposed several BMPs related to work on the public beach, including those to protect water quality and manage waste. The applicant proposes to work outside of the summer season (Memorial Day to Labor Day) and proposes to not work on weekends or holidays, including no overnight storage of equipment on the beach. However, to ensure these measures are implemented, **Special Condition No. 3** requires the applicant to submit a best management practices plan that ensures no shotcrete will be allowed onto the sandy beach or allowed to enter coastal waters. **Special Condition No. 2** requires the applicant to provide final plans indicating the location of access corridors to the construction site and staging areas, including requirements for no overnight storage of equipment or materials on sandy beach and no work occurring during the summer season or on weekends or holidays.

Therefore, as conditioned, the Commission finds that the proposed development will include measures to prevent impacts that would significantly degrade the adjacent beach area and water quality. Thus, the project is consistent with Sections 30230 and 30240(b) of the Coastal Act and the City of Solana Beach certified LUP.

E. Visual Resources

Section 30251 of the Coastal Act states:

> The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Section 30240(b) of the Coastal Act states:

> (b) 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 4.29 of the Solana Beach certified Land Use Plan states:

> Limit buildings and structures on the sloped face and toe of the bluff to lifeguard towers, subsurface public utility drainage pipes or lines, bluff retention devices, public stairs and related public infrastructure which satisfy the criteria established in the LCP. No other permanent structures shall be permitted on a bluff face. Such structures shall be maintained so that they do not contribute to further erosion of the bluff face and are to be visually compatible with the surrounding area to the maximum extent feasible.

Policy 4.37 of the Solana Beach certified Land Use Plan states:

> Maximize the natural, aesthetic appeal and scenic beauty of the beaches and bluffs by avoiding and minimizing the size of bluff retention devices, preserving the maximum amount of unaltered or natural bluff face, and minimizing encroachment of the bluff retention device on the beach, to the extent feasible, while ensuring that any such bluff retention device accomplishes its intended purpose of protecting existing principal structures in danger from erosion.

Policy 4.55 of the Solana Beach certified Land Use Plan states:

> To achieve a well maintained, aesthetically pleasing, and safer shoreline, coordination among property owners regarding maintenance and repair of all bluff retention devices is strongly encouraged. This may also result in cost savings through the realization of economies of scale to achieve these goals by coordination through an assessing entity. All bluff retention devices existing as of the date of certification of the LCP, to the extent they do not conform to the requirements of the LCP, shall be deemed non-conforming. A bluff property owner may elect to conform his/her/its bluff property or bluff retention device to the LCP at any time. If the City finds that an existing bluff retention device that is required to protect existing principal structures in danger from erosion is structurally unsound, is unsafe, or is materially jeopardizing contiguous private or public principal structures for which there is no other adequate and feasible solution, then the City may require reconstruction of the bluff retention device.

Much of the bluff along the Solana Beach coastline has been armored at its base, primarily by seawalls, all of which substantially alter the appearance of the bluffs, particularly those that have not been camouflaged to replicate the appearance of a natural bluff face, such as the subject seawall given it was constructed prior to updates to technology to blend seawalls into the natural bluff (Exhibit 2). Seawalls now typically involve sculpted and colored concrete that upon completion closely mimic the natural surface of the lower bluff face. As proposed, the seawall will mimic the appearance of the nearby coastal bluffs by matching, as closely as possible, the natural contours of the bluff using colored and textured concrete. The proposed approximate three-inch visual treatment proposed is similar to the visual treatment approved by the Commission in recent years for shoreline protective devices along the Solana Beach shoreline (Ref: CDP #6-21-0278/DeSimone et al., #6-21-0067/Laughlin and Greenberg, #6-21-0735/Steinberg). **Special Condition No. 1** requires that final plans be submitted in conformance with the plans submitted during the review period to ensure the cosmetic shotcrete treatment is designed to lessen the visual impact, to the greatest extent feasible, of the proposed repairs to the southern portion of the existing seawall.

Therefore, as conditioned, the Commission finds that potential visual impacts associated with the proposed development have been reduced to the maximum extent feasible. Thus, the project is consistent with Sections 30240 and 30251 of the Coastal Act and the City's certified LUP.

F. Attorneys' Fees and Costs

Coastal Act section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications (see also Cal. Code Regs. tit. 14, § 13055(g)). Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition No. 12**, requiring reimbursement of any costs and attorneys' fees the Commission incurs "in connection with the defense of any action brought by a party other than the Applicant/Permittee . . . challenging the approval or issuance of this permit."

G. 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.

As mentioned previously, the homes associated with this permit are located in the City of Solana Beach. The City of Solana Beach Local Coastal Program Land Use Plan was effectively certified in June 2013. However, the City has not yet developed implementing ordinances; thus, a complete LCP has not yet been certified.

The Commission finds that the proposed project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act, and will not prejudice the ability of the City to complete a certifiable LCP. These issues of shoreline planning will need to continue to be addressed in a comprehensive manner in the future through the City's LCP certification process.

H. 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 Solana Beach exempted the project, citing CEQA Guidelines 15269(b) & (c) [emergency prevention] and 15301 [existing facilities].

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 water quality, public access, and shoreline protection monitoring will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen

any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- CDP F4051
- CDP F4051-A
- CDP F4051-A2
- CDP 6-83-168
- CDP 6-83-509
- CDP 6-89-281
- CDP 6-00-009
- CDP 6-00-009-A1
- CDP 6-00-009-A2
- CDP 6-00-009-A3
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