BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. _____

On the motion of Supervisor
duly seconded by Supervisor
the following resolution is adopted:

RESOLUTION APPROVING THE ACCEPTANCE OF IRREVOCABLE OFFERS TO DEDICATE PUBLIC LATERAL BEACH ACCESS EASEMENTS ON PRIVATELY OWNED COASTAL PROPERTIES (APNs 028-242-26, 046-321-06, AND 028-234-08)

WHEREAS, as conditions of approval for prior coastal development permits, the California Coastal Commission required the owners of certain privately owned coastal properties in Santa Cruz County to grant Irrevocable Offers to Dedicate public lateral beach access easements; and

WHEREAS, Irrevocable Offers to Dedicate public lateral beach access easements were previously granted and recorded affecting Assessor's Parcel Numbers 028-242-26, 046-321-06, and 028-234-08; and

WHEREAS, all three Irrevocable Offer to Dedicate continues to run with the land and remains valid and enforceable; and

WHEREAS, title to Assessor's Parcel Number 028-242-26 has subsequently transferred to Alexander Randolph MacDonell and Judith Lynn MacDonell, Trustees of the MacDonell 2024 Living Trust dated October 2024; and

WHEREAS, title to Assessor's Parcel Number 046-321-06 has subsequently transferred to B & L Property Investments, LLC, a California Limited Liability Company; and

WHEREAS, title to Assessor's Parcel Number 028-234-08 has subsequently transferred to David Diep, an unmarried man, and Linda Diep, a married woman, as her sole and separate property, as Joint Tenants; and

WHEREAS, the Irrevocable Offers to Dedicate provide for public pedestrian lateral beach access and passive recreational use over limited portions of the properties, as more particularly described in the recorded documents and depicted in the exhibits attached thereto; and

WHEREAS, acceptance of the Irrevocable Offers to Dedicate is necessary to preserve long-term public coastal access rights; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Board of Supervisors of the County of Santa Cruz hereby accepts the Irrevocable Offers to Dedicate public lateral beach access easements over coastal portions of, Assessor's Parcel Number 028-242-26, owned by Alexander Randolph MacDonell and Judith Lynn MacDonell, Trustees of the MacDonell 2024 Living Trust dated October 2024; Assessor's Parcel Number 046-321-06, owned by B & L Property Investments, LLC, a California Limited Liability Company; and Assessor's Parcel Number 028-234-08, owned by David Diep, an unmarried man, and Linda Diep, a married woman, as her sole and separate property, as Joint Tenants, as described in the recorded Irrevocable Offers to Dedicate and associated exhibits.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 24th day of March, 2026, by the following vote:

AYES:

NOES:

ABSENT:

_____
Chairperson of said Board

ATTEST:
Clerk of said Board

_____

Approved as to form:

DocuSigned by:
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Office of County Counsel

2005-0040964

Recorded
Official Records
County Of
SANTA CRUZ
GARY E. HAZELTON
Recorder
CAROL D. SUTHERLAND
Assistant
11:53AM 20-Jun-2005

REC FEE .00
CC CONF 1.00
OR CERT 100.50
lah
Page 1 of 56

RECORDING REQUESTED BY AND

WHEN RECORDED RETURN TO:

CALIFORNIA COASTAL COMMISSION
89 S. California Street, Suite 200
Ventura, CA 930012801

Attn: Legal Division

IRREVOCABLE OFFER TO DEDICATE PUBLIC LATERAL ACCESS EASEMENT

AND

DECLARATION OF RESTRICTIONS

THIS IRREVOCABLE OFFER TO DEDICATE PUBLIC LATERAL ACCESS EASEMENT AND DECLARATION (hereinafter referred to as the "Offer") is made this 31st day of March, 2005, by E. WENDELL CHAMBERS, (hereinafter referred to as the "Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest of certain real property located in the County of Santa Cruz, State of California, legally described as set forth in attached EXHIBIT A hereby incorporated by reference (hereinafter referred to as the "Property"); and

II. WHEREAS, all of the Property is located within the coastal zone as defined in § 30103 of the California Public Resources Code (hereinafter referred to as the "California Coastal Act of 1976," the "Act"); and

III. WHEREAS, the Act creates the California Coastal Commission (hereinafter referred to as the "Commission") and requires that any coastal development permit approved by the Commission must be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code; and

IV. WHEREAS, pursuant to the Act, Grantor applied to the Commission for a permit to undertake development as defined in § 30106 of the Public Resources Code on the Property within the coastal zone of Santa Cruz County; and

V. WHEREAS, coastal development permit number 3-00-164 (hereinafter referred to as the "Permit") was granted on April 15, 2004 by the Commission in accordance with the provisions of the Adopted Findings, attached hereto as EXHIBIT B, and hereby incorporated by reference, subject to the following condition:

5. Beach Access Easement. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, granting or irrevocably offering to dedicate to a political subdivision, public agency or private association approved by the Executive Director either fee title or an easement for public beach access (Beach Dedication). The Beach Dedication shall apply to that portion of the Permittee's property (APN 028-234-08) located seaward of the intersection of the revetment with beach sand or, when beach sand has been stripped, with Purisima Formation sandstone (see area identified as "OTD Area" on exhibit C) (Beach Dedication Area). The recorded document shall include a legal description and a site plan of the easement area and APN 028-234-08.

VI. WHEREAS, the Property is a parcel located between the first public road and the shoreline; and

VII. WHEREAS, under the policies of sections 30210 through 30212 of the Public Resources Code, public access to the shoreline and along the coast is to be maximized, and in all new development projects located between the first public road and the shoreline shall be provided; and

VIII. WHEREAS, the Commission found that but for the imposition of the above condition, the proposed development could not be found consistent with the public access policies of sections 30210 through 30212 of the Public Resources Code and that, therefore, in the absence of such a condition, a permit could not have been granted; and

IX. WHEREAS, Grantor has elected to comply with the condition and execute this Offer so as to enable Grantor to undertake the development authorized by the Permit; and

NOW AND THEREFORE, in consideration of granting of the Permit to the Grantor by the Commission, the Grantor hereby irrevocably offers to dedicate to the People of the State of California, a lateral access easement in gross and in perpetuity over the Property as follows:

1. DESCRIPTION. The easement offered hereby affects that portion of the Property located seaward of the intersection of the revetment with beach sand or, when beach sand has been stripped, with Purisima Formation sandstone, and as specifically described in EXHIBIT C, attached hereto and incorporated herein by reference.

2. PURPOSE. The easement is for the purpose of allowing public pedestrian lateral access and passive recreational use along the shoreline.

3. DECLARATION OF RESTRICTIONS. This offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the Offer, to interfere with any rights of public access acquired through use which may exist on the Property. After acceptance, Grantor shall not interfere with the public's use of the easement nor take any action inconsistent with such use, including, without limitation, constructing or improving the Property within the easement area in a manner inconsistent with the public's use or enjoyment thereof. Grantor shall retain all normal rights and incidents of ownership of the underlying fee interest in the Property not inconsistent with the easement. Grantor shall not be bound to undertake any supervision or maintenance to provide for the public purposes hereunder. Prior to the opening of the accessway, the Grantee, in consultation with the Grantor, may record additional reasonable terms, conditions, and limitations on the use of the Property in order to assure that this Offer for public access is effectuated.

4. DURATION, ACCEPTANCE AND TRANSFERABILITY. This irrevocable offer of dedication shall be binding upon Owner and the heirs, assigns, or successors in interest to the Property described above for a period of 21 years. This Offer may be accepted by any agency of the State of California, a political subdivision, or a private association acceptable to the Executive Director of the Commission (hereinafter referred to as the "Grantee"). Such acceptance shall be effectuated by recordation by the Grantee of an acceptance of this Offer in the form attached hereto as EXHIBIT D. Upon such recordation of acceptance, this Offer and terms, conditions, and

restrictions shall have the effect of a grant of lateral access easement in gross and perpetuity that shall run with the land and be binding on the heirs, assigns, and successors of the Grantor. After acceptance, this easement may be transferred to and held by any entity which qualifies as a Grantee under the criteria hereinabove stated. Acceptance of the Offer is subject to a covenant which runs with the land, providing that the Grantee may not abandon the easement until such time as Grantee effectively transfers said easement to an entity which qualifies as a Grantee under the criteria hereinabove stated.

5. REMEDIES. Any act, conveyance, contract, or authorization by the Grantor, whether written or oral, which uses, or would cause to be used, or would permit use of the protected land contrary to the terms of this Offer will be deemed a violation and a breach hereof. The Grantor, any Grantee of this easement and any offeree of this Offer may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of the Offer and easement and their respective interest in the property. In the event of a breach, any forbearance on the part of any such party to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

6. TAXES AND ASSESSMENTS. Grantor agrees to pay or cause to be paid all real property taxes and assessments levied or assessed against the Property. It is intended that this irrevocable offer and the use restrictions contained herein shall constitute enforceable restrictions within the meaning of (a) Article XIII, § 8, of the California Constitution; and (b) § 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, this Offer, easement and restrictions shall be deemed to constitute a servitude upon and burden to the Property within the meaning of § 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

7. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

8. SEVERABILITY. If any provision of this Offer is held to be invalid, or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed on this 31, day of March, 2005 at San Mateo County

SIGNATURE OF GRANTOR

SIGNATURE OF GRANTOR

E.Wendell Chambers

PRINT NAME & CAPACITY OF ABOVE

PRINT NAME & CAPACITY OF ABOVE

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STATE OF CALIFORNIA

COUNTY OF San Mateo

On March 31, 2005, before me, DORCY Renee Lang, a Notary Public personally appeared Wendell Chambers, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Dorcy Renee Lang

DORCY RENEE LANG
Commission # 1336728
Notary Public - California
San Mateo County
My Comm. Expires Jan 26, 2006

STATE OF CALIFORNIA

COUNTY OF _____

On _____, before me, _____, a Notary Public personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

This is to certify that the Offer to Dedicate set forth above is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to authority conferred by the California Coastal Commission when it granted Coastal Development Permit No. 3-00-164 on April 15, 2004, and the California Coastal Commission consents to recordation thereof by its duly authorized officer.

Dated: June 10, 2005

CALIFORNIA COASTAL COMMISSION

John Bowers

~~John Bowers~~, Staff Counsel

STATE OF CALIFORNIA

COUNTY OF San Francisco

On 6/10/05, before me, Jeff G. Staben, a Notary Public, personally appeared John Bowers,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

JEFF G. STABEN
Comm. # 1449647
NOTARY PUBLIC - CALIFORNIA
City and County of San Francisco
My Comm. Expires Dec. 3, 2007

EXHIBIT "A"

SITUATE in the County of Santa Cruz, State of California.

BEGINNING at a station on the Western line of Twenty-Sixth Avenue from which the Southeast corner of the land conveyed to Wm. H. B. Smith, et ux., by Deed recorded July 29, 1947 in Volume 588, Page 221, Official Records of Santa Cruz County, bears North 33° 30' East 16.0 feet distant; thence from said point of beginning parallel with said southern boundary of said land of Smith and distant 16.0 feet Southerly at right angles therefrom, North 56° 30' West 60.0 feet to a station; thence South 33° 30' West 162.0 feet, more or less, to the Bay of Monterey; thence along the Bay of Monterey South 56° 30' East 60.00 feet to the Western line of Twenty-Sixth Avenue, produced Southwesterly; thence along the Western line of Twenty-Sixth Avenue, North 33° 30' East 162.30 feet to the point of beginning.

APN: 28-234-08

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

ADOPTED

EXHIBIT B

Filed:	9/14/2003
49th day:	11/2/2003
180th day:*	3/12/2004
*PSA deadline extended to:	6/10/2004
Staff:	D.Carl
Staff report prepared:	3/24/2004
Hearing date:	4/15/2004
Hearing item number:	Th3a

COASTAL DEVELOPMENT PERMIT APPLICATION – CONSENT ITEM

Application number.....**3-00-164, Chambers Deck and Revetment**

Applicant.....Wendell Chambers

Project location.....Bluffs and beach seaward of 101 26th Avenue, immediately adjacent to the 26th Avenue Beach public coastal access overlook and stairway, in the unincorporated Live Oak region of Santa Cruz County (APN 028-234-08).

Project description.....Reconstruct deck and revetment seaward of residence.

File documents.....Santa Cruz County Certified Local Coastal Program (LCP); California Coastal Commission Coastal Development Permit (CDP) files XS-82-36 and 3-02-096 (26th Avenue stairway), and 3-81-078 (Ferraro revetment); Santa Cruz County CDP file 97-0799 (Chambers revetment) and 01-0056 (26th Avenue overlook); California Coastal Commission Monterey Bay ReCAP.

Staff recommendation ...**Approval with Conditions**

Summary: The Applicant proposes to reconstruct an existing cantilevered deck and revetment located seaward of his residence that is itself located immediately adjacent to the 26th Avenue overlook and stairway site in the Live Oak beach area of Santa Cruz County. The existing deck pre-dates the coastal permitting requirements of Proposition 20 (the Coastal Initiative) and the Coastal Act, as does the residence at this location. A revetment has likewise been present at this location since before Prop. 20, and it has increased to its current size by virtue of past County-approvals (the latest in 1998). The keyway/revetment expansion and reconstruction, and everything supported by it, including the deck reconstruction, is the project currently before the Commission.

The bluffs fronting the Applicant's site are part of an essentially continuous, half-mile long, rip-rap revetment extending from Corcoran Lagoon to Moran Lake. The Applicant's portion of this revetment is over-steepened, failing in spots, and at least partially in a state of some disrepair. A concrete retaining wall, extending to about ten feet in height, is located within the rip-rap about half way up the bluffs (just seaward of the deck), apparently constructed without a CDP. The Applicant proposes to reconstruct the revetment at a gentler slope (roughly 2 to 1 seaward of the deck) and with a new keyway that would extend its toe seaward; the retaining wall would be removed.

The gentler slope and new keyway of the reconstructed revetment would extend the rock slope approximately 15 feet seaward, occupying a greater area of the back beach than that currently occupied at this location. The 26th Avenue Beach fronting the site is an extremely popular recreational beach, and a prime skimboarding, bodysurfing, and surfing destination. This beach has been diminished over time by the half-mile revetment along the bluffs that has reduced the useable beach area to nearly nothing in wintertime and about 50 feet or less (on average) in summer time. Although the 2:1 slope and new keyway would provided greater stability at the site, the intrusion into a prime beach area that has already been reduced over time would further diminish important public beach and recreational access, and is inconsistent with the Coastal Act policies protecting this area from such inappropriate development.

Fortunately, it is possible to provide for enhanced revetment stability at this location with no net loss of beach area coverage by instead contouring the revetment at a 1.5:1 slope for it full length (and still constructing a new keyway). Although a 1.5:1 sloped revetment will require relatively more maintenance than would a 2:1 slope, it is more appropriate in this case to reduce permanent beach area coverage than to attempt to incrementally reduce long-term maintenance given the importance of the beach area fronting the site. In addition, a 2:1 revetment slope is not necessarily required for long-term stability. In fact, the Commission regularly approves 1.5:1 revetments, including several projects along this same half-mile stretch of coast in the past couple of years. In addition, the 1.5:1 slope will readily match the toe of the up and downcoast permitted revetments because the 26th Avenue project (approved by the Commission in June of 2003; CDP 3-02-096) was specifically configured to wrap back to the Applicant's existing revetment (roughly to the point where a the 1.5:1 slope would extend to), and the upcoast revetment was likewise permitted at a 1.5:1 slope (CDP 3-81-078, Ferraro).

Even in this revised configuration, the project will result in additional rock massing in the public viewshed. In addition, the deck portion of the project retains the existing deck and fence configuration, and this existing profile both imposes on and blocks (to varying degrees) views from the beach and the adjacent 26th Avenue public access overlook and stairway site.

Staff has worked with the Applicant on a roughly proportional project mitigation and condition package meant to address the resource impacts associated with the project. Conditions are attached that:

- Require that the revetment slope be 1.5:1 to essentially eliminate seaward encroachment of the keyway/refurbishment;
- Require that the base of the deck and the top portion of the revetment to be screened with cascading native bluff plantings over the life of the development (all non-native-invasive plants would be removed and prohibited);
- Require that the existing blufftop fence located along the deck at the property line, and any planter box seaward of the blufftop edge on the deck, be reduced in size so that upcoast views from the 26th Avenue overlook/stairway site are no longer blocked, and that this public viewshed be kept clear of obstructions over the life of the development;

- Require that all development be located on the Applicant's property (some is partially in the 26th Avenue right-of-way);
- Require an offer-to-dedicate (OTD) an easement or fee-title providing for public recreational access to the beach area seaward of the revetment;
- Require that all drainage be collected and properly discharged, and that the discharge not be visible from public viewing areas;
- Require that construction impacts be limited, and that all beach areas and beach access points be restored immediately following construction;
- Require long-term monitoring based on as-built plans, and both require (i.e., retrieval of rock and debris seaward of the revetment) and allow routine maintenance, subject to the construction and restoration parameters for five years (where this term can be extended if there aren't changed circumstances that warrant a re-review of it);
- Require that there be no further seaward expansion of the revetment or any other structure beyond the as-built profile established;
- Require that the property owner assume all risk for development at this location;
- Require the property owner to participate in future shoreline planning efforts that may involve this stretch of coastline, where such efforts may involve consideration of a shoreline armoring management entity (meant to cover the larger shoreline that includes the revetment here), and may involve consideration of potential modifications and/or programs designed to reduce public viewshed and beach access impacts due to shoreline armoring; and
- Require that all the terms of the approval be recorded as restrictions on the affected property.

With the recommended conditions, Staff believes that the completed project will proportionately offset its impacts to coastal resources, and further believes that it is the best possible result given the existing shoreline conditions in this area and the history at this site. As so conditioned, Staff recommends approval.

Report Contents

1. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number 3-00-164 pursuant to the staff recommendation.

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

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the grounds that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development 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 feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the development on the environment.

2. Conditions of Approval

A. 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 Co-Permittees or their 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 or 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 Co-Permittees to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit Final Plans (in both full-size and 11" x 17" formats with a graphic scale; two sets of each) to the Executive Director for review and approval. The Final Plans shall be prepared by a licensed civil engineer with experience in coastal structures and processes and shall be substantially in conformance with the plans submitted to the Coastal Commission (*Chambers Residence Beach Revetment* by Ifland Engineers dated received in the Coastal Commission's Central Coast District Office on August 18, 2003) but shall show the following changes and clarifications to the project:

(a) Conditions of Approval. The conditions of approval shown on plan sheet C2 (see exhibit C) shall be replaced by these conditions of approval.

(b) Slope and Seaward Extent of Revetment. The revetment shall be at a 1.5:1 slope for the full revetment (and not at a 2:1 slope seaward of the deck), and shall not extend further seaward than the seaward extent of the existing permitted configuration of the revetment located on the property to the northwest (i.e., upcoast), and shall not extend further seaward than the permitted configuration of the revetment approved by the Coastal Commission for the 26th Avenue stairway site (CDP 3-02-096) to the southeast (i.e., downcoast) (see exhibit E).

(c) Extent of Deck. The deck structure, including but not limited to any structural support members and the planter boxes at its edge, shall extend no further seaward than the existing deck structure, and shall be located entirely within the Permittee's property. The plans shall show the location of the existing deck structure in relation to the proposed deck structure, and all property lines, in site plan and cross section that clearly demonstrate this to be the case.

(d) Blufftop Fence. That portion of the fence extending seaward from the to-be-installed traffic barrier in the 26th Avenue right-of-way (see exhibit E) shall be: (1) reconstructed so that it is located completely on the Permittee's property; (2) prohibited seaward of the blufftop edge; (3) reduced in height as necessary to allow unencumbered upcoast views from the 26th Avenue public blufftop overlook, including views from a standing or sitting (on benches) position, where the maximum height allowed is 42 inches above the grade at the 26th Avenue overlook; and (4) shall be constructed of unfinished wood materials evocative of natural coastal bluff materials (e.g., weathered redwood) that shall not be painted for the life of the fencing.

(e) Viewshed Planters and Plants. The planter boxes located in the area adjacent to the 26th Avenue public blufftop overlook in the upcoast viewshed as seen from the overlook (see exhibit E) shall be lower in height than the top of the reduced height blufftop fence specified in subsection (d) above, and all plant species in the planters shall be species that are not expected to grow taller than the top of the reduced height blufftop fence. For the deck area adjacent to the 26th Avenue public blufftop overlook that is located seaward of the blufftop edge, planters and the species within them are allowed, but neither shall extend higher than 24 inches above the deckboards. If above-deck planters are omitted in the area seaward of the blufftop edge, then this area shall include the same cable-rail (see-through) railing as the remainder of the deck.

(f) Edge of Deck Planters. The upper and lower planter box system shall be extended so that it is included for all portions of the edge of the deck that are located seaward of the blufftop edge. The top row of the planters shall not be in sections between beams, but rather shall be continuous (i.e., the beams shall be cut back as necessary to allow for a continuous planter to be installed).

(g) Grouting Prohibited. Grouting between rock shall be prohibited seaward of the deck.

(h) Drainage. The plans shall clearly identify all permanent measures to be taken to collect and direct site drainage, including drainage in the area below the deck. Such drainage may be used for landscape irrigation provided such irrigation use does not contribute to bluff instability in any way. Any drainage not used for on-site irrigation purposes shall be collected and directed to inland storm drain collection systems. Drainage shall not be allowed: to pond at the blufftop edge; sheet flow over the bluff seaward; or otherwise be directed seaward. Drain pipes shall not be directed over, through, or in any way seaward of the blufftop edge.

(i) Non-Native and/or Invasive Plants Prohibited. Non-native and/or invasive plant species shall be prohibited in the area seaward of the residence. The plans shall provide for this, including providing for the removal of existing non-native and/or invasive plant species (e.g., iceplant) in

this area initially and over the life of the revetment and/or deck. The plans shall include certification from a licensed landscape professional experienced with native species indicating that all plant species are native and non-invasive.

(j) Plant Maintenance. Maintenance and monitoring parameters shall be identified for the plants seaward of the residence to ensure that this area remains devoid of invasive and/or non-native plant species (e.g., iceplant), and to ensure that the cascading planter box system provides for a dense cascading screen of vegetation that completely screens the base of the deck, the deck support columns and beams, and the top of the revetment over the life of the revetment and/or deck. At a minimum, the cascading plants shall be maintained so that they screen all structures and revetment rocks within at least ten vertical feet of a plane measured from the top of the edge of the deck. All plants shall be replaced as necessary to maintain the required dense cascading screen of vegetation over the life of the deck and/or revetment. To allow for initial growth, the required screening shall be initially achieved within at least two years of completion of construction, with an interim standard that at least the top five vertical feet below a plane measured from the top of the edge of the deck be screened within at least one year of completion of construction.

All requirements of this condition above shall be enforceable components of this coastal development permit. All requirements of this condition above shall be specified as plan notes on the Final Plans, and the plan notes shall indicate that they shall apply for the lifetime of the approved development. The Final Plans shall be submitted with evidence of the review and approval of a licensed civil engineer with experience in coastal structures and processes.

The Permittee shall undertake 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 approved Final Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. Construction Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Construction Plan (in both full-size and 11" x 17" formats with a graphic scale; two sets of each) to the Executive Director for review and approval. The Construction Plan shall include, at a minimum, the following:

(a) Construction Areas. The Construction Plan shall identify the specific location of all construction areas, all staging areas, all storage areas, all construction access corridors (to the construction sites and staging areas), and all public pedestrian access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction encroachment on both the beach and 26th Avenue overlook site, and to have the least impact on public access.

(b) Construction Methods and Timing. The Construction Plan shall specify all construction methods to be used, including all methods to be used to keep the construction areas separated

from beach and blufftop recreational use areas (including using the blufftop space available on the Permittee's property inland of the revetment for staging, storage, and construction activities to the maximum extent feasible) and shall include a final construction schedule. All erosion control/water quality best management practices to be implemented during construction and their location shall be noted.

(c) **Property Owner Consent.** The Construction Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to the use of their properties in these manners.

(d) **Construction Coordinator.** The Construction Plan shall designate a construction coordinator to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and in emergencies), and shall include their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction. The Construction Plan shall require that the construction coordinator record the name, phone number, and nature of all complaints received regarding the construction, and that the construction coordinator investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

(e) **Construction Criteria.** The Construction Plan shall, at a minimum, include the following required criteria specified via written notes on the Plan:

- All work shall take place during daylight hours and lighting of the beach area is prohibited unless, due to extenuating circumstances, the Executive Director authorizes non-daylight work and/or beach area lighting.

- Construction work or equipment operations shall not be conducted below the mean high water line unless tidal waters have receded from the authorized work areas.

- Grading of intertidal areas is prohibited with one exception as follows: existing rock that has migrated seaward of the revetment, that is naturally exposed, and that can be retrieved without substantial excavation of the surrounding sediments, shall be retrieved and reused or removed to an appropriate disposal site offsite. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

- Any construction materials and equipment that cannot be delivered to the site from the blufftop above, shall be delivered to the beach area by rubber-tired construction vehicles. When transiting on the beach, all such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.

- All construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and

equipment shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exceptions shall be for erosion and sediment controls (e.g., a silt fence at the base of the revetment) as necessary to contain rock and/or sediments at the revetment site, where such controls are placed as close to the toe of the revetment as possible, and are minimized in their extent.

- Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.

- No work shall occur on the beach during weekends and/or the summer peak months (i.e., from the Saturday of Memorial Day weekend through Labor Day, inclusive) unless, due to extenuating circumstances, the Executive Director authorizes such work.

- Equipment washing, refueling, and/or servicing shall not take place on the beach.

- The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach).

- All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day. At a minimum, silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into the Pacific Ocean.

- The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

All requirements of this condition above shall be enforceable components of this coastal development permit. The Permittee shall undertake construction in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

3. **Construction Site Documents.** DURING ALL CONSTRUCTION, copies of each of the following shall be maintained in a conspicuous location at the construction job site at all times (where such copies shall be available for public review) and all persons involved with the construction shall be briefed on the content and meaning of each prior to commencement of construction: (a) the signed coastal development permit; (b) the approved final plans (see special condition 1); and (c) the approved construction plan (see special condition 2). In addition, the designated construction

coordinator's contact information (including their address and 24-hour phone number at a minimum) shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies).

4. **Beach Restoration.** WITHIN THREE (3) DAYS OF COMPLETION OF CONSTRUCTION, the Permittee shall restore all beach areas and all beach access points impacted by construction activities to their pre-construction condition or better. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office upon completion of beach-area restoration activities to arrange for a site visit to verify that all beach-area restoration activities are complete. If planning staff should identify additional reasonable measures necessary to restore the beach and beach access points, such measures shall be implemented immediately. The beach and beach access points shall be considered restored, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

5. **Beach Access Easement.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, granting or irrevocably offering to dedicate to a political subdivision, public agency or private association approved by the Executive Director either fee title or an easement for public beach access (Beach Dedication). The Beach Dedication shall apply to that portion of the Permittee's property (APN 028-234-08) located seaward of the intersection of the revetment with beach sand or, when beach sand has been stripped, with Purisima Formation sandstone (see area identified as "OTD Area" on exhibit E) (Beach Dedication Area). The recorded document shall include a legal description and a site plan of the easement area and APN 028-234-08.

6. **As-Built Revetment Plans.** WITHIN TWO (2) MONTHS OF COMPLETION OF CONSTRUCTION, the Permittee shall submit to the Executive Director for review and approval As-Built Plans of the deck and revetment structures in 11" x 17" format with a graphic scale that includes one or more permanent surveyed benchmarks inland of the revetment for use in future monitoring efforts. The As-Built Plans shall at a minimum identify in site plan and cross-section views: the full extent of the revetment and deck structures; the bluff and the blufftop edge, and all principal residential structures immediately inland of the deck and revetment. All property and parcel lines, and any other structures, shall be identified in site plan view. Photographs of the as-built structures, with the date and time of the photographs and the location of each photographic viewpoint noted on a site plan, shall be included. The benchmark elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD). The As-Built Plans shall indicate vertical and horizontal reference distances from the surveyed benchmark(s) to survey points along the inland-most top and seaward-most toe of the revetment (located at those points in site plan view where the delineation of the revetment's edge changes direction) and for use in future monitoring efforts; there shall be at least 3 such survey points along the inland top edge of the revetment (one at each parcel line and one in between), and at least 3 such survey points along the seaward toe of the revetment

(one at each parcel line and one in between). The survey points shall be identified through permanent markers, benchmarks, survey position, written description, et cetera to allow measurements to be taken at the same location in order to compare information between years.

The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and processes, acceptable to the Executive Director, verifying that the shoreline structure has been constructed in conformance with the approved final plans described by special condition 1 above.

7. **Monitoring.** The Permittee shall ensure that the condition and performance of the as-built revetment and deck is regularly monitored by a licensed civil engineer with experience in coastal structures and processes. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred that would adversely impact future performance, and identify any structural damage requiring repair to maintain the as-built revetment and/or deck profile. At a minimum, the Permittee shall submit to the Executive Director for review and approval a monitoring report at five year intervals by May 1st of each fifth year (with the first report due May 1, 2009, and subsequent reports due May 1, 2014, May 1, 2019, and so on) for as long as the revetment and/or deck exists at this site. Each such report shall be prepared by a licensed civil engineer with experience in coastal structures and processes and shall cover the monitoring evaluation described in this condition above. All monitoring reports shall also include a section on the effectiveness of the planter box vegetation screen. Photographs of the as-built structures for representative viewpoints (including, at a minimum, from the 26th Avenue overlook and the beach below the deck), with the date and time of the photographs and the location of each photographic viewpoint noted on a site plan, shall be included. Each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the as-built revetment, deck, and/or planter box system.

8. **Shoreline Development Stipulations.** By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that:

(a) No Further Seaward Encroachment. Any future development, as defined in Section 30106 ("Development") of the Coastal Act, including but not limited to modifications to the revetment, shall be constructed inland of, and shall be prohibited seaward of, the seaward plane of the revetment and deck with the following development excepted from this prohibition: (1) appropriately permitted construction activities associated with construction, maintenance, or repair of the revetment, deck, plant screen, and related structures approved by coastal development permit 3-00-164; and (2) standard beach maintenance activities (e.g., those undertaken by the grantee of the fee or easement or of the offer of dedication thereof recorded pursuant to special condition 5). The seaward plane of the revetment and deck is defined by the approved (per coastal development permit 3-00-164) revetment and deck footprint and profile as shown on: (1) the approved final plans; and (2) the approved as-built plans.

(b) Plant Screening. At a minimum, all deck structures and all rocks within at least ten vertical feet

of a plane measured from the top of the edge of the deck shall be completely screened from public view (as seen from the beach and from vantage points at the 26th Avenue blufftop access point, including from the public stairway) by a dense cascading screen of native vegetation. Final plans have been approved pursuant to coastal development permit 3-00-164 that specify the native planting palette and the required vegetation maintenance parameters. All native plantings shall be maintained in good growing conditions, including the use of appropriate irrigation and drainage apparatus, and shall be replaced as necessary to maintain the required screening vegetation.

(c) **Public View.** All structures and vegetation located within the 26th Avenue blufftop view corridor (see exhibit E) shall be not block public views as follows: (1) in the area immediately adjacent to the 26th Avenue blufftop overlook inland of the blufftop edge, structures and vegetation shall be no higher than 42 inches above the grade at the blufftop overlook; (2) in the area immediately adjacent to the 26th Avenue blufftop overlook seaward of the blufftop edge, structures and vegetation shall be no higher than 24 inches above deck board elevation; and (3) in all other areas, any structures placed on the deck (i.e., structures not shown on the approved plans) shall be lower in height than 42 inches (i.e., the railing height) and shall not be placed within deck areas seaward of the existing blufftop edge. Plants shall be kept pruned, and structures removed, to the extent necessary to keep them below these height limits.

(d) **Maintenance.** It is the Permittee's responsibility to maintain the revetment, deck, and vegetative screening in a structurally sound manner and their approved state (per coastal development permit 3-00-164) as shown on: (1) the approved final plans; and (2) the approved as-built plans. Future maintenance of the revetment as specified in special condition 12 is authorized pursuant to the parameters of coastal development permit 3-00-164, but this does not obviate the need to obtain permits from other agencies for any future maintenance and/or repair episodes.

(e) **Rock Retrieval.** Any rocks that move seaward of the as-built revetment shall be retrieved as soon as is feasible and either: (1) restacked within the approved as-built revetment footprint and profile; or (2) removed off the beach to a suitable inland disposal location (subject to any permits and/or approvals that may be required to place the rocks at the chosen disposal location). Final plans and as-built plans have been approved pursuant to coastal development permit 3-00-164 that define the profile and footprint of the approved revetment. Any rock retrieval episode shall be pursuant to the maintenance parameters of coastal development permit 3-00-164. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

(f) **Debris Removal.** The Permittee shall immediately remove all debris that may fall from the area seaward of the residence onto the revetment or the beach below.

(g) **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to hazards from episodic and long-term bluff retreat and coastal erosion; (ii) to assume

the risks to the Permittee 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; (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; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.

(h) Future Shoreline Planning. The Permittee agrees, on behalf of itself and all successors and assigns, to participate in future shoreline armoring planning efforts that involve the revetment approved pursuant to coastal development permit 3-00-164. Such planning efforts may involve consideration of a shoreline armoring management entity meant to cover the larger shoreline that includes the revetment here, and may involve consideration of potential modifications and/or programs designed to reduce public viewshed and beach access impacts due to shoreline armoring. Agreeing to participate in no way binds the Permittee (nor any successors and assigns) to any particular outcome of such planning efforts, and in no way limits the ability of the Permittee (nor any successors and assigns) to express his/her viewpoint during the course of such planning efforts.

9. **Other Agency Review.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the project as approved by coastal development permit 3-00-164 have been granted by: (1) the California State Lands Commission; (2) Santa Cruz County; and (3) the Monterey Bay National Marine Sanctuary. Any changes to the approved project required by these agencies shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

10. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this permit as evidence of a waiver of any public rights which may exist on the property.

11. **Rodent Removal.** If, at any time, evidence indicates that rodents are living in the voids within the revetment, then the Permittee shall take reasonable action to eliminate such rodent colonization consistent with generally accepted professional pest control methods that also ensure the health and safety of the public.

12. **Future Maintenance.** Coastal development permit 3-00-164 authorizes future maintenance as described in this special condition. The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that: (a) it is the Permittee's responsibility to maintain the approved revetment, the vegetative screening, and all irrigation and drainage structures in a structurally sound

manner and their approved state; (b) to retrieve rocks that move seaward of the revetment and either restack them (within the approved revetment footprint and profile) or dispose of them at a suitable inland disposal location as soon as is feasible after discovery of the rock movement; and (c) to remove all debris that may fall from the area seaward of the residence onto the revetment or the beach below. Any such development, or any other maintenance development associated with the revetment, the vegetative screening, and all irrigation and drainage structures, shall be subject to the following:

(a) Maintenance. "Maintenance," as it is understood in this condition, means development that would otherwise require a coastal development permit whose purpose is: (1) to reestablish or place rock within the permitted footprint and/or profile of the approved revetment structure; (2) to reestablish the permitted drainage, vegetation, and/or irrigation elements of the approved planter box system; and/or (3) to retrieve any rocks that move seaward of the approved revetment footprint and/or profile.

(b) Maintenance Parameters. Maintenance shall only be allowed subject to the approved construction plan required by special condition 2. All beach areas shall be restored subject to the beach restoration parameters of special condition 4 above. Any proposed modifications to the approved construction plan and/or beach restoration requirements associated with any maintenance event shall be reported to planning staff of the Coastal Commission's Central Coast District Office with the maintenance notification (described below), and such changes shall require a coastal development permit amendment unless the Executive Director deems the proposed modifications to be minor in nature (i.e., the modifications would not result in additional coastal resource impacts).

(c) Other Agency Approvals. The Permittee acknowledges that these maintenance stipulations do not obviate the need to obtain permits from other agencies for any future maintenance and/or repair episodes.

(d) Maintenance Notification. At least two weeks prior to commencing any maintenance event, the Permittee shall notify, in writing, planning staff of the Coastal Commission's Central Coast District Office. The notification shall include a detailed description of the maintenance event proposed, and shall include any plans, engineering and/or geology reports, proposed changes to the maintenance parameters, other agency authorizations, and other supporting documentation describing the maintenance event. The maintenance event shall not commence until the Permittee has been informed by planning staff of the Coastal Commission's Central Coast District Office that the maintenance event complies with this coastal development permit.

(e) Maintenance Coordination. Maintenance events shall, to the degree feasible, be coordinated with other maintenance events proposed in the immediate vicinity with the goal being to limit coastal resource impacts, including the length of time that construction occurs in and around the beach area and beach access points. As such, the Permittee shall make reasonable efforts to coordinate the Permittee's maintenance events with other events (such as those of Santa Cruz

County and nearby landowners), including adjusting maintenance event scheduling as directed by planning staff of the Coastal Commission's Central Coast District Office.

(f) **Non-compliance Proviso.** If the Permittee is not in compliance with the conditions of this permit at the time that a maintenance event is proposed, then the maintenance event that might otherwise be allowed by the terms of this future maintenance condition shall not be allowed by this condition.

(g) **Emergency.** Nothing in this condition shall serve to waive any Permittee rights that may exist in cases of emergency pursuant to Coastal Act Section 30611, Coastal Act Section 30624, and Subchapter 4 of Chapter 5 of Title 14, Division 5.5, of the California Code of Regulations (Permits for Approval of Emergency Work).

(h) **Duration of Covered Maintenance.** Future maintenance under this coastal development permit is allowed subject to the above terms for five (5) years from the date of approval (i.e., until April 15, 2009). Maintenance can be carried out beyond the 5-year period if the Executive Director extends the maintenance term in writing. The intent of the permit is to regularly allow for 5-year extensions of the maintenance term unless there are changed circumstances that may affect the consistency of the development with the policies of Chapter 3 of the Coastal Act and thus warrant a re-review of the permit.

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

Findings and Declarations

The Commission finds and declares as follows:

3. Existing Conditions

The proposed project is located on the bluffs immediately upcoast of the end of 26th Avenue at 26th Avenue Beach in the unincorporated Live Oak beach area of Santa Cruz County.

Santa Cruz County Regional Setting

Santa Cruz County is located on California's central coast and is bordered to the north and south by San Mateo and Monterey Counties (see exhibit A). The County's shoreline includes the northern half of the Monterey Bay and the rugged north coast extending from the City of Santa Cruz to San Mateo County along the Pacific Ocean. The County's coastal zone resources are varied and oftentimes spectacular, including the Santa Cruz Mountains coastal range and its forests and streams; an eclectic collection of shoreline environments ranging from craggy outcrops to vast sandy beaches (in both urban and more rural locations); numerous coastal wetland, lagoon and slough systems; habitats for an amazing variety and number of endangered species; water and shore oriented recreational and commercial pursuits, including world class skimboarding, bodysurfing, and surfing areas; internationally renowned marine research facilities and programs; special coastal communities like Pleasure Point; large State Parks; and the Monterey Bay itself. The unique grandeur of the region and its national significance was formally recognized in 1992 when the area offshore of the County became part of the Monterey Bay National Marine Sanctuary (MBNMS), the largest of the 12 such federally-protected marine sanctuaries in the nation.

Santa Cruz County's rugged mountain and coastal setting, its generally mild climate, and its well-honed cultural identity has combined to make the area a desirable place to both live and to visit. As a result, the County has seen extensive development and regional growth over the years that the California Coastal Management Program has been in place. In fact, Santa Cruz County's population has more than doubled since 1970 with recent census estimates indicating that the County is home to over one-quarter of a million persons.[1] This level of growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services, but also the need for park areas, recreational facilities, and visitor-serving amenities. For coastal counties such as Santa Cruz where most of the residents live within a half-hour of the coast, and most significantly closer than that, coastal zone resources are a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational systems and destinations like 26th Avenue Beach. With the Santa Cruz County shoreline and beaches providing arguably the warmest and most accessible ocean waters in all of Northern California,

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[1] Census data from 1970 shows Santa Cruz County with 123,790 persons; California Department of Finance estimates for the 2000 census indicate that over 255,000 persons reside in Santa Cruz County.

and with the large population centers of the San Francisco Bay area, San Jose, and the Silicon Valley nearby, this type of resource pressure is particularly evident in coastal Santa Cruz County.

Live Oak is part of a larger area including the Cities of Santa Cruz and Capitola that is home to some of the best recreational beaches in the Monterey Bay area. Not only are north Monterey Bay weather patterns more conducive to beach recreation than the rest of the Monterey Bay area, but north bay beaches are generally the first beaches reached by visitors coming from the north of Santa Cruz. With Highway 17 providing the primary access point from the north (including from the San Francisco Bay Area, San Jose and the Silicon Valley) into the Monterey Bay area, Santa Cruz, Live Oak, and Capitola are the first coastal areas that visitors encounter upon traversing the Santa Cruz Mountains (see exhibit A). As such, the Live Oak beach area is an important coastal access asset for not only Santa Cruz County, but also the entire central and northern California region.

See exhibit A for project location information.

Live Oak Beach Area

Live Oak is the name for the unincorporated segment of Santa Cruz County located between the City of Santa Cruz (upcoast) and the City of Capitola (downcoast). The Live Oak coastal area is well known for excellent public access opportunities for beach area residents, other Live Oak residents, other Santa Cruz County residents, and visitors to the area. Walking, biking, skating, viewing, skimboarding, bodysurfing, surfing, fishing, sunbathing, and more are all among the range of recreational activities possible along the Live Oak shoreline. In addition, Live Oak also provides a number of different coastal environments including sandy beaches, rocky tidal areas, blufftop terraces, and coastal lagoons. Live Oak also includes a number of defined neighborhood and special communities within it. These varied coastal characteristics make the Live Oak shoreline unique in that a relatively small area can provide different recreational users a diverse range of alternatives for enjoying the coast. By not being limited to one large, long beach, or solely an extended stretch of rocky shoreline, the Live Oak shoreline accommodates recreational users in a manner that is typical of a much larger access system.

Primarily residential with some concentrated commercial and industrial areas, Live Oak is a substantially urbanized area with few major undeveloped parcels remaining. Development pressure has been disproportionately intense for this section of Santa Cruz County. Because Live Oak is projected to absorb the majority of the unincorporated growth in Santa Cruz County, development pressure will likely continue to tax Live Oak's public infrastructure (e.g., streets, parks, beaches, etc.) as the remaining vacant parcels are developed and developed residential lots are re-developed with larger homes.[2] Given that the beaches are the largest public facility in Live Oak, this pressure will be particularly evident in the beach area.

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[2] Live Oak is currently home to some 20,000 residents. The LCP identifies Live Oak at buildout with a population of approximately 29,850 persons; based on the County's recreational formulas, this buildout population would require 150-180 acres of park acreage. Though Live Oak accounts for less than 1% of Santa Cruz County's total land acreage, this projected park acreage represents nearly 20% of the County's total projected park acreage.

Proposed Development Site

The project would take place on the bluffs and back beach area of 26th Avenue Beach, an extremely popular recreational beach,[3] and a prime bodysurfing, skimboarding and surfing destination (see photos in exhibit B).[4] 26th Avenue Beach is a narrow stretch of recreational sand area almost entirely backed by rip-rap revetments, including the Applicant's, extending from Corcoran Lagoon upcoast through to the first outcroppings of Pleasure Point downcoast. Although this beach has been severely impacted over time by rip-rap, it remains a significant public access and recreation area.[5] Due to intervening residential development, the 26th Avenue stairway access point is a critical vertical accessway and overlook facility, providing the only public access point for the half-mile stretch of beach between Corcoran Lagoon and Moran Lake. Without the stairway, beach and ocean recreational users are forced up and downcoast to Moran Lake and Corcoran Lagoon to get to the beach. Likewise, overlook locations are limited to street ends at 24th and 25th Avenues where public amenities are not provided.

The stairs at 26th Avenue have been destroyed by winter storms repeatedly. Most recently, they have been missing since the stairway was destroyed by winter storms in 1997-98. The Commission recently approved a CDP to replace the stairway and refurbish the revetment at the stairway site (CDP 3-02-096, June 2003), and the County approved a companion project to enhance the blufftop overlook with new benches, landscaping, parking spaces, directional signs, and advanced water quality filtration (CDP 01-0056). It is expected that these public improvements will commence in May of 2004, and that the Applicant's project could be coordinated with them.

The Applicant's site is located on the upcoast side and immediately adjacent to the 26th Avenue stairway site. An existing revetment and an existing cantilevered deck extend seaward of the residence at the site.

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[3] Historic County analyses estimated average daily use of this beach at 848 persons, showing it to be the second highest beach use area in Live Oak after Twin Lakes State Beach located upcoast near the Santa Cruz Harbor (Technical Appendix; Live Oak General Plan; Planning Analysis and EIR, October 1977). Background LCP reports completed in 1980 estimated annual visitor counts for this beach segment at 195,393 (1980 Public Access Working Paper for the County LCP). Given the doubling of the County's population since 1970, and the increase in recreational use associated with that and population increases in surrounding areas, and the development of a parking area, restrooms, showers, and other park amenities just inland at Moran Lake County Park in the time since these surveys, these historic figures likely underestimate the current level of use at this location.

[4] Along with Aliso and Tenth Street Beaches in Laguna Beach, and the Wedge in Newport Beach, 26th Avenue/Moran Lake Beach is known as one of the best skimboarding and bodysurfing locations in California. Professional and amateur contests are often held here, and recreational users pack the nearshore area at the project site. It is also home to a well-known surfing break that provides a high energy, if somewhat abrupt, rolling beach break known for its Pipeline-esque (but smaller scale) barrels often delivering surfers right to the sandy shore ("26th Avenue"), as well as the break known as "Little Wind-n-Sea" just downcoast where rolling waves form off of the first outcroppings of Soquel Point (better known as "Pleasure Point").

[5] The beach here is in most cases less than 50 feet wide in summer and completely disappears during parts of the winter. Rip-rap revetments armor the backshore and encroach onto areas that otherwise would provide sandy beach access. The Commission's 1995 Monterey Bay ReCAP project, or Regional Cumulative Assessment Project, estimated that roughly 1¼ acres of sandy beach at 26th Avenue Beach was covered by rock revetments (based on a conservative footprint width estimate of 20 feet of sand beach coverage for such structures). However, the ReCAP revetment footprint estimate was a general estimate for revetment size over the entire ReCAP area. Because most of the revetments along this portion of the Santa Cruz coast have a footprint that is bigger than the assumed 20-foot width, the actual area of revetment coverage may actually be higher than that estimated in ReCAP. In any case, because such armoring fixes the bluff location and prevents beach replenishment from eroding bluffs, and in light of sea level rise and continuing shoreline erosion, it is expected that the usable beach areas here will continue to narrow over time (see also "Geologic Conditions and Hazards" section that follows).

The existing deck appears to pre-date the coastal permitting requirements of Proposition 20 (the Coastal Initiative) and the Coastal Act, as does the residence at this location. A revetment has likewise been present at this location since before Prop. 20, although its size has increased since that time. The increased size has been approved by the County through a series of emergency, building, and grading permits over the years. Ultimately, the County approved a coastal permit in 1998 for the project currently before the Commission, limiting their coastal authorization to the portion of the project in their jurisdiction. In other words, the County recognized that portion of the project in their jurisdiction, but required (by condition of approval) Commission authorization for the remainder of it.[6]

The existing revetment and deck cover the approximately 30 feet tall bluff (see exhibits B and C). The revetment is over-steepened, failing in sections, and partially in a state of some disrepair. A concrete retaining wall, extending to about ten feet in height, is located within the rip-rap about half way up the

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[6] The Commission retains coastal permit jurisdiction over tidelands, submerged lands, and/or public trust lands. Other areas within the County's coastal zone are within the County's coastal permit jurisdiction. Historically, it has been relatively difficult to determine the precise jurisdictional boundary with respect to shoreline armoring projects (like revetments). In some cases, where the boundary was mapped, it crossed directly through revetments. Thus, in the past, there have been cases where the County alone has done coastal permits, the Commission alone has done coastal permits, and where the County and Commission have both done coastal permits (i.e., split coastal permit jurisdiction over a project); in the later case there has also been the permutation where the County has done a coastal permit that was appealed to the Commission and the Commission has done a coastal permit for that portion in its jurisdiction.

At the time of the County's 1998 action on the Applicant's project, the Commission and County were splitting jurisdiction on projects such as this. Since then, because of the difficulties in determining the precise jurisdiction boundary, and in an attempt to streamline the process for coastal permit applicants, County and Commission staff agreed in late 2002 that future shoreline armoring projects would be presumed to be located in the Commission's retained coastal permit jurisdiction. In this way, applicants could avoid the additional cost and time required to pursue two coastal permits (one at the County and one at the Commission), and avoid the scenario where their County coastal permit is appealed to the Commission and then there is both a Commission coastal permit application and an appeal; this later scenario can add significantly to the time it takes for a final permit decision to be rendered, and had become more typical for shoreline armoring projects.

The presumption that any particular shoreline armoring project is located in the Commission's retained coastal permit jurisdiction can be rebutted. To do so, applicants provide evidence to the Commission's mapping unit that demonstrates the reasons why the project is not located on tidelands, submerged lands, and/or public trust lands. The Commission's mapping unit, in consultation with the California State Lands Commission, then evaluates that evidence and delineates the jurisdictional boundary for that case. Because this process alone is time consuming and costly, because any portion of a shoreline armoring project deemed through this mapping exercise to not be located in the Commission's retained jurisdiction would still be located in an area where local government coastal permit decisions are appealable to the Commission, and for the split jurisdiction reasons detailed above, such an exercise is not generally pursued.

Thus, based on the 2002 agreement, this entire project would be considered in the Commission's jurisdiction. That said, the County's approval was prior to the agreement in 1998 and was a coastal permit for a portion of the project. This history makes it difficult to parse that portion of the project that is in front of the Commission at this time, and also what is the permitted baseline against which this current expansion is to be compared. For Coastal Act evaluation purposes, the Commission has evaluated this project where the permitted (by the County) baseline is the existing rock above mean high tide (roughly 1.6 NGVD) and the new proposed element for the Commission to consider is the existing toe of the revetment, the new keyway/revetment refurbishment, and everything supported by it, including the deck reconstruction. This evaluation methodology was used because of the lack of clarity regarding the amount of rock pre-dating coastal permit requirements; the County's approval of some portion of the existing rock in their actions since then, and the fact that the Applicant has to date only refurbished the portion of the revetment that was there before the County's 1998 action; a revetment slope/configuration that is not atypical of what exists on up and downcoast neighboring properties (including the Commission-approved 26th Avenue project next door); the conclusion that alternative replacement armoring (such as a vertical seawall) would be unlike the rest of this stretch of coast (leading to incongruous aesthetics and difficult transitions at either end); and the mitigations and conditions agreed to by the Applicant.

bluffs, apparently constructed without a CDP. There is a roughly 6-foot tall fence that extends along the edge of the deck adjacent to the 26th Avenue stairway overlook site, and this deck/fence profile both imposes on and blocks (to varying degrees) views from the beach and the adjacent 26th Avenue public access overlook and stairway site. The history of the fence has not been researched as to when it was initially constructed (pre or post coastal permit requirements) and whether appropriate permits were obtained for it (because the Applicant has agreed to reduce the scale of the fence by condition). From the project plans, it appears that this fence and a small portion of the deck are located on the public road right-of-way.[7]

See exhibit A for a location maps, exhibit B for photos of the project area, exhibit C for proposed project plans, and exhibit D for a geologic cross section of the site (showing the existing and proposed representative cross-section of the revetment in relation to winter and summer beach profiles, the Purisima Formation sandstone, and inland structures).

4. Proposed Project

The Applicant proposes to reconstruct the revetment at a gentler slope and with a new keyway cut into the Purisima Formation sandstone. The revetment slope would be at a 1.5:1 slope below the deck (the upper 15 vertical feet or so of the bluff) and at a 2:1 slope for the remainder of the revetment extending seaward. The toe of the revetment would be extended roughly 15 feet seaward (see geologic cross-section in exhibit D).

The Applicant also proposes to reconstruct the cantilevered deck with a new pier foundation, new see-through horizontal cable railing, and planters along the upcoast and downcoast edges of the deck (extending seaward perpendicular to the bluff edge). The fence would apparently be retained and/or reconstructed in kind, but the plans are not clear on this point. Two rows of planters would also be installed at the edge of the deck both at and below the deck board elevation. These planters would be planted with native bluff species ("Carmel creeper" ceanothus in this case) designed to cascade over the planters and screen both the base of the deck and the top of the revetment from view. See project plans in exhibit C.

5. Coastal Development Permit Determination

A. Geologic Conditions and Hazards

Coastal Act Section 30235 addresses the use of shoreline protective devices:

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[7] As shown on the submitted plans (see exhibit C). The Applicant has indicted that this may be a surveying error, and that his private structures that are in the right-of-way on the plans are actually within the Applicant's property. As of the date of this staff report, the location of these structures relative to property lines remains unresolved.

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

Coastal Act Section 30253 addresses the need to ensure long-term structural integrity, minimize future risk, and avoid additional, more substantial protective measures in the future. Section 30253 provides, in applicable part:

> ***Section 30253.*** *New development shall:*
>
> *(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
>
> *(2) 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.*

1. Shoreline Armoring

Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" methods designed to forestall erosion also alter natural landforms and natural shoreline processes. Accordingly, with the exception of new coastal-dependent uses, Section 30235 limits the construction of shoreline protective works to those required to protect existing structures or public beaches in danger from erosion. The Coastal Act provides these limitations because shoreline structures can have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach.

In addition, the Commission has generally interpreted Section 30235 to apply only to existing principal structures. The Commission must always consider the specifics of each individual project, but has generally found that accessory structures (such as patios, decks, gazebos, stairways, etc.) are not required to be protected under Section 30235, or can be protected from erosion by relocation or other means that do not involve shoreline armoring. The Commission has generally historically permitted at grade structures within the geologic setback area recognizing that they are expendable and capable of being removed rather than requiring a protective device that would alter natural landforms and processes along bluffs, cliffs, and beaches.

In this case, a revetment already exists at this location.[8] The revetment reconstruction proposed would augment the existing revetment to extend its keyway out to match those of the up and downcoast

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[8] Ibid.

revetments, and to provide a less steep (2:1) slope. As such, it proposes an area of revetment in excess of that previously present and permitted. This additional area of revetment represents new armoring.

For Coastal Act Section 30235 consistency, the proposed project must satisfy all of the following requirements: (1) there is an existing structure; (2) the existing structure is in danger from erosion; (3) the new shoreline-altering construction is required to protect the existing threatened structure; and (4) the required protection is designed to eliminate or mitigate its adverse impacts on shoreline sand supply. The first three questions relate to whether the proposed armoring is necessary, while the fourth question applies to mitigating some of the impacts from it.

A. Existing Structures to be Protected

For the purposes of shoreline protective structures, the Coastal Act distinguishes between development that is allowed shoreline armoring, and development that is not. Under Section 30253, new development is to be designed, sited, and built to allow the natural process of erosion to occur without creating a need for a shoreline protective device. Coastal development permittees for new shorefront development are thus making a commitment to the public (through the approved action of the Commission, and its local government counterparts) that, in return for building their project, the public will not lose public beach access, offshore recreational access, sand supply, visual resources, and natural landforms, and that the public will not be held responsible for any future stability problems. In other words, coastal zone development approved and constructed since the Coastal Act should not require shoreline protection in order to "assure stability and structural integrity" because it was constructed with adequate setbacks and/or other measures in order to negate the need for future armoring.

Coastal Act 30235 allows for shoreline protection in certain circumstances (if warranted and otherwise consistent with Coastal Act policies) for "existing" structures. One class of "existing structures" refers to those structures in place prior to the effective date of the Coastal Act. Coastal zone development approved and constructed prior to the Coastal Act went into effect was not subject to Section 30253 requirements. Although some local hazard policies may have been in effect prior to the Coastal Act, these pre-Coastal Act structures have not necessarily been built in such a way as to avoid the future need for shoreline protection (in contrast to those evaluated pursuant to Section 30253). Accordingly, Coastal Act 30235 allows for shoreline protection to be considered for these types of existing structures, where "existing" means it was permitted development prior to the Coastal Act.

A second class of existing structures refers to those structures that have been permitted since the effective date of the Coastal Act. There has long been discussion that these structures should not constitute "existing structures" for purposes of Section 30235 because they were developed pursuant to 30253 (and/or similar LCP) standards so as not to require shoreline armoring in the future. However, the Commission has generally interpreted "existing" to mean structures existing at the time the armoring proposal is being considered, whether these structures were originally constructed before or after the Coastal Act, and has not limited consideration of armoring only to those structures constructed prior to

the Coastal Act.[9]

And finally, in a limited number of cases, the Commission and local government counterparts have required applicants for immediate shoreline development (like blufftop houses) to waive any right to a seawall pursuant to Section 30235. In other words, applicants are required to stipulate that the structures being permitted will not be considered existing structures for 30235 purposes in the future because they have been sited and designed to not need shoreline armoring in the future (pursuant to Section 30253 and LCP counterpart policies).[10]

The structures that would be protected by the reconstructed revetment would be the existing residence and the existing cantilevered deck. The residence and deck appear to pre-date the coastal permitting requirements of both Proposition 20 and the Coastal Act, and thus qualify as existing structures for purposes of Section 30235.

B. Danger from Erosion

The Coastal Act allows shoreline armoring to protect existing structures in danger from erosion, but it does not define the term "in danger." There is a certain amount of risk in maintaining development along a California coastline that is actively eroding and can be directly subject to violent storms, large waves, flooding, earthquakes, and other hazards. These risks can be exacerbated by such factors as sea level rise and localized geography that can focus storm energy at particular stretches of coastline. As a result, some would say that all development along the immediate California coastline is in a certain amount of "danger." It is a matter of the degree of threat that distinguishes between danger that represents an ordinary and acceptable risk, and danger that requires shoreline armoring pursuant to Coastal Act Section 30235. Lacking Coastal Act definition, the Commission's long practice has been to evaluate the immediacy of any threat in order to make determinations as to whether an existing structure is "in danger." While each case is evaluated based upon its own particular set of facts, the Commission has generally interpreted "in danger" to mean that an existing structure would be unsafe to use or otherwise occupy within the next two or three storm season cycles (generally, the next few years) if nothing were to be done (i.e., in the no project alternative).

The Applicant has submitted the following geotechnical evidence to support the contention that the existing structures are in danger from erosion, and that the proposed project is appropriate:

- *Geologic Investigation Chambers Property* by Rogers E. Johnson & Associates, dated March 31, 2003 (RJA);

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9 Note that there is litigation pending in San Francisco County Superior Court (case number CPF 03503643, *Surfrider Foundation v. California Coastal Commission*) involving the Commission's application of this interpretation of "existing structures" based on a recent Commission decision in a Pismo Beach seawall case (A-3-PSB-02-016; Grossman-Cavanagh). In their petition, the Surfrider Foundation challenges the interpretation that existing structures mean structures existing at the time if the decision, alleging instead that existing structures (per Section 30235) refers to structures existing prior to the enactment of the Coastal Act. As of the date of this staff report, no decisions have been reached in the case.

10 For example, the Swenson residence downcoast of this site in the City of Capitola (A-3-CAP-99-023, approved in 1999).

- *Geotechnical and Coastal Engineering Investigation for 101 26th Avenue*, by Haro Kasunich and Associates Inc., dated June 2003 (HKA);

Bluff retreat has effectively been halted at this location by the existing revetment. Provided it were appropriately maintained, there is little reason to believe that this condition couldn't be maintained over the very long-term (RJA). In fact, even if the revetment were allowed to deteriorate without repair, RJA estimates that it would be over a decade until the existing residence were undermined.[11] In this sense, the existing structures aren't "in danger" in the typical Coastal Act sense of that term; particularly if the permitted portion of the existing revetment were maintained. There are other reasons that reconstructing the revetment with a keyway helps achieve Coastal Act policies (such as long-term stability), but such reconstruction is not because of an imminent danger if the revetment is not keyed and not extended seaward. Therefore, the project does not meet the second Section 30235 test and the Commission is not required to approve the project.

C. Feasible Protection Alternatives to a Shoreline Structure

The next Section 30235 test that must be met before a shoreline protective device must be approved is that the proposed armoring must be "required" to protect the existing threatened structure. In other words, shoreline armoring may be permitted if it is the only feasible[12] alternative capable of protecting the endangered structure. Other non-armoring alternatives typically considered include: the "no project" alternative; abandonment of threatened structures; relocation of the threatened structures; sand replenishment programs; drainage and vegetation measures on the blufftop itself; and combinations of each. In some cases, different types of armoring alternatives than that proposed (where the alternatives may have lesser impacts) are also considered.

One feasible alternative project in this case would be to approve a repair of the existing revetment in its existing profile. RJA estimates that such a properly maintained structure "could last for the lifetime of the subject dwelling." Because it is oversteepened and unkeyed, however, such a project would be expected to lead to more frequent rock migration seaward (slumping and subsidence) and corresponding impacts to public recreational access. It would also require more intense and more frequent maintenance, where each successive event brings with it additional public recreational access impacts of its own. Thus, such an option is feasible, but the reduction in some impacts (like beach area coverage) would be offset by increased impacts in other ways.

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[11] Note that RJA's methodology is confusing on this point. Commission staff attempted to clarify RJA's danger evaluation, but, as of the date of this report RJA was not available to provide a clarification. In any case, RJA's estimates are based on the revetment deteriorating over the next 15 years, and the bluffs beginning to erode at up to a foot per year during this time as they are exposed. RJA ultimately concludes that the residence would be expected to be undermined in this scenario in approximately 12 years. RJA has not provided any separate danger evaluation in relation to the deck structure, but he does indicate that the unpermitted retaining wall (that is just seaward of the deck) would be expected to collapse in 5 years. These time frames are longer than the 2 to 3 years generally relied upon by the Commission.

[12] Note that Coastal Act Section 30108 defines feasibility as follows: "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

Another option would be to reconstruct the entire revetment at a 1.5:1 slope with a new keyway.[13] This option would provide better stability than the existing revetment, though not as much stability as a gentler sloped revetment would be expected to provide. While a 2:1 slope may be ideal for stability purposes, it also results in more beach coverage; a critical consideration on beaches like this that are prime visitor destinations and that have already been severely limited by rip-rap. In addition, a 2:1 slope may be a general rule of thumb, but 1.5:1 revetment slopes have also performed well in Santa Cruz County, are as much the norm as 2:1, and have been permitted in that configuration by the Commission.[14] The seaward toe of the keyway in this 1.5:1 slope option would be approximately as far seaward as the existing revetment, negating the need for additional seaward expansion to accommodate a 2:1 slope as proposed. In addition, the 1.5:1 slope will readily match the toe of the up and downcoast permitted revetments because the 26th Avenue project (approved by the Commission in June of 2003; CDP 3-02-096) was specifically configured to wrap back to the Applicant's existing revetment (roughly to the point where a the 1.5:1 slope would extend to),[15] and the upcoast revetment was likewise permitted at a 1.5:1 slope (CDP 3-81-078, Ferraro).

Another alternative would be to replace the existing revetment with a vertical seawall of some type. Such an option would result in similar long-term protection with a lesser beach area footprint. Provided the wall were made to mimic natural bluff forms (i.e., colored, contoured, sculpted, etc.), it could also improve aesthetics at the site (over the existing revetment). It would also be expected to have much less maintenance requirements over its design lifetime (and thus less impacts associated with maintenance). This option is feasible. That said, the site is part of a nearly continuous half mile revetment fronting the bluffs here. A seawall would be unlike the rest of this stretch of coast and could make for difficult areas of transitions at its ends, as well as incongruous aesthetics overall. It could also possibly lead to localized refraction issues for the shoreline skimboarding and offshore surfing areas. Thus, as with the 'repair existing only' option, a seawall is a feasible alternative, but the reduction in some impacts (like beach area coverage) would be offset by increased impacts in other ways. It would also cost substantially more to construct.

Yet another alternative would be the true "no project" alternative. In other words, allowing the existing revetment structure to slowly deteriorate. This slow deterioration would result in higher levels of the types of public recreational access impacts identified for the repair option above, and would ultimately

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[13] The Applicant proposes the top 15 vertical feet of the revetment seaward of the blufftop edge and under the deck to be at this slope, with the remainder at a 2:1 slope.

[14] Including nearby projects at this same beach just downcoast that were recently permitted by the Commission: CDP 3-02-012 (Vista del Mar Homeowner's Association, 2002), CDP 3-02-013 (O'Neill, 2002), CDP amendment (O'Neill and Walker, 2003), and CDP application 3-03-016 (Lang, 2004). The upcoast neighboring site was also permitted by the Commission at a 1.5:1 slope (CDP 3-81-078; Ferraro). The Commission also recently approved a long-term maintenance permit for a 1,500 linear foot revetment in south Santa Cruz County (CDP 3-03-099, Sea Cliff Beach Association, November 2003) where the revetment slope was 1.5:1.

[15] Note that the 26th Avenue revetment was approved at a 2:1 slope. One reason for this was because the 26th Avenue bluff armoring has been less well maintained over the years than has the Applicant's and the adjacent property immediately down coast of 26th Avenue. As a result, the bluff has retreated further back at 26th Avenue than it has at the neighboring properties. This is a common phenomena at public streets ending at the beach in Live Oak that are flanked by private residential development. The 2:1 slope approved at 26th Avenue was in recognition of this fact, and was designed to extend the 26th Avenue revetment to match the seaward extent of the Applicant's existing revetment and that of the downcoast property.

lead to the loss of the deck and residence at this location. This option is not feasible because it doesn't recognize any status of the existing revetment, and would result in loss of existing structures in a relatively short time period.

In terms of other options, relocation of the existing structures is infeasible because there is a lack of available space within which to relocate. In particular, the deck could be removed, but there is no location on the project site for it to be moved to. Similarly, the residence occupies most all of the site as well. Relocation is thus more aptly described as demolition without reconstruction of all or parts of the existing structures here. Drainage and vegetation alone would not be expected to significantly alter erosion patterns, although it would be expected to provide added stability in any alternative.

In sum, there are alternatives to the project proposed, but there don't appear to be non-armoring alternatives. New altering of the shoreline (i.e., seaward extension and addition of the keyway) isn't required, though. The project, therefore, does not meet the third Section 30235 test and the Commission is not required to approve the project.

D. Sand Supply Impacts

The last test of Section 30235 (previously cited) that must be met in order to require Commission approval is that shoreline structures must be designed to eliminate or mitigate adverse impacts to local shoreline sand supply.

Shoreline Processes

Beach sand material comes to the shoreline from inland areas, carried by rivers and streams; from offshore deposits, carried by waves; and from coastal dunes and bluffs, becoming beach material when the bluffs or dunes lose material due to wave attack, landslides, surface erosion, gullying, et cetera. Coastal dunes are almost entirely beach sand, and wind and wave action often provide an on-going mix and exchange of material between beaches and dunes. Many coastal bluffs contain marine terrace deposits that may consist, in part, of ancient beach deposits that formed when land and sea levels differed from current conditions. Since some marine terrace deposits consist of ancient beach material, a large proportion of the material in the terraces is often beach quality sand or cobble, and a valuable contribution to the littoral system when it is added to the beach. While beaches can be preserved as marine terrace deposits over geologic time, the normal exchange of material between beaches and bluffs is for bluff erosion to provide material to the beach. Bluff retreat and erosion is a natural process resulting from many different factors such as erosion by wave action that may cause cave formation, enlargement and eventual collapse, saturation of the bluff soil from ground water causing the bluff to slough off and natural bluff deterioration. When the back-beach or bluff is covered by a shoreline protective device, the natural exchange of material either between the beach and dune or from the bluff to the beach will be interrupted and, if the shoreline is eroding, there will be a measurable loss of material to the beach. Since sand and larger grain material is the most important component of most beaches, only the sand portion of the bluff or dune material is quantified as beach material.

These natural shoreline processes affecting the formation and retention of sandy beaches can be

significantly altered by the construction of shoreline armoring structures since bluff retreat is one of several ways that beach quality sand is added to the shoreline. Bluff retreat and erosion is a natural process resulting from many different factors; shoreline armoring directly impedes these natural processes.

The subject site is located within the Santa Cruz Littoral Cell. The Santa Cruz Cell is a high volume cell with annual longshore transport estimated between 300,000 and 500,000 cubic yards of beach quality materials annually.[16] The dominant direction of longshore transport in this sand supply system is north north-west to south south-east (roughly from up to downcoast in relation to the site).[17] Materials in this system have been estimated to come mainly from coastal streams (roughly 75%), with 20% coming from bluffs, and 5% coming from coastal ravines and sand dunes.[18]

Some of the effects of engineered armoring structures on the beach (such as scour, end effects and modification to the beach profile) are temporary and/or are difficult to distinguish from all the other actions that modify the shoreline. Others are more qualitative (e.g., impacts to the character of the shoreline and visual quality). Some of the effects that a shoreline structure may have on local shoreline sand supply shoreline processes can be quantified, however, including: (1) the loss of the beach area on which the structure is located; (2) the long-term loss of beach which will result when the back beach location is fixed on an eroding shoreline (also known as "passive erosion"); and (3) the amount of material which would have been supplied to the beach if the back beach or bluff were to erode naturally.

In this case, the back-beach is already armored by the existing revetment,[19] and thus the sand supply impact is limited to the loss of the sand-generating area on which the expanded portion of the structure would be located (its encroachment on the beach).[20]

Encroachment on the Beach

Shoreline protective devices such as seawalls, revetments, gunnite facings, groins, et cetera are all physical structures that occupy space. When a shoreline protective device is placed on a beach area, the underlying beach area cannot be used as beach. This generally results in a loss of public access as well as a loss of sand-generating area. The area where the structure is placed will be altered from the time the protective device is constructed, and the extent or area occupied by the device will remain the same over time, until the structure is removed or moved from its initial location, or in the case of a revetment, as it

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16 US Army Corps of Engineers (ACOE), San Francisco District, 1994. Note that ACOE's final EIS/EIR for the recent Pleasure Point Seawall project indicates that there have been differing estimates on the amount of littoral drift over the years, and concludes that annual littoral drift ranges from 250,000 to 325,000 cubic yards annually for the Santa Cruz cell.

17 Ibid.

18 Griggs and Best, 1991: (1) "A Sediment Budget For The Santa Cruz Littoral Cell," Soc. Econ. Paleon. & Mineral. Spec. Pub. No. 46, pp. 35 – 50; and (2) "The Santa Cruz Littoral Cell: Difficulties in Quantifying a Coastal Sediment Budget," Proceedings for Coastal Sediments '91, American Society of Civil Engineers, pp. 2262 – 2276.

19 Ibid.

20 The sand supply impact refers to the way in which the project impacts creation and maintenance of beach sand. Although this ultimately translates into beach impacts, the discussion here is focused on the first part of the equation and the way in which the augmentation proposed here would impact sand supply processes. Recreational beach area coverage is also described in the public access finding.

spreads seaward over time. The beach area located beneath a shoreline protective device, referred to as the encroachment area, is the area of the structure's footprint.

The revetment repair would extend the revetment seaward and key it into the underlying sandstone. While there are access and recreational issues associated with the loss of any useable recreational sandy beach space (as discussed in the public access finding of this report), because the sand would be scraped away and the structures placed onto sandstone (and the displaced sand and sandstone materials pushed back over the structures), the sand supply impact in this case concerns the potential loss of sandstone area for generating sand. As discussed above, sandstone is one probable source of sand for the Santa Cruz Littoral Cell shoreline supply. Using the Commission's long-standing methodology, the proposed project would cover a roughly 900 square foot section of sandstone and beach area that would otherwise contribute to the local sand supply during winter beach conditions, and that would otherwise be occupied by beach sand most of the year (i.e., an expansion seaward by roughly 15 feet along 60 feet of bluff frontage).

To convert the 900 square foot loss of beach sand area into the volume of sand necessary to restore the beach commensurately in cubic yards, coastal engineers use a conversion value representing units of cubic yards per square foot of beach.[21] In this case, the Commission has not been able to establish an actual conversion factor for the 26th Avenue Beach vicinity. RJA has estimated this figure to be 0.88, but rounds this up to 1.0.[22] Using the 1.0 conversion factor (i.e., the low end of the spectrum of values typically assumed by coastal engineers, and as ultimately agreed to by RJA), a conservative estimate of the cubic yard equivalent of the 900 square foot area can be calculated. In this case, the impact measures 900 cubic yards of sand.

Sand Supply Mitigation

The 900 cubic yard sand supply impact has not been minimized by project design. It could be eliminated by strictly repairing the existing profile of the revetment (with or without a new keyway), but this would lead to different impacts, as discussed above. Sand supply mitigation has not been proposed. Because the project as designed does not meet the sand supply impact test of Section 30235 (i.e., the proposed project does not eliminate and does not completely mitigate such impacts), the Commission is not required to approve the revetment augmentation proposed.

As far as mitigating for this impact, typical mitigations required by the Commission for such direct sand supply impacts have been in-lieu fees and/or beach nourishment.

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[21] This conversion value is based on the regional beach and nearshore profiles, and overall characteristics. When there is not regional data to better quantify this value, it is often assumed to be between 1 and 1.5, the idea being that to build a beach seaward one foot, there must be enough sand to provide a one-foot wedge of sand through the entire region of onshore-offshore transport. If the range of reversible sediment movement is from -30 feet msl to +10 feet msl, then a one-foot beach addition must be added for the full range from -30 to +10 feet, or 40 feet total. This 40-foot by 1 foot square parallelogram could be built with 1.5 cubic yards of sand (40 cubic feet divided by 27 cubic feet per cubic yard). If the range of reversible sediment transport is less than 40 feet, it will take less than 1.5 cubic yards of sand to rebuild one square foot of beach; if the range of reversible sediment transport is larger than 40 feet, it will take more than 1.5 cubic yards of sand to rebuild one square foot of beach.

[22] A 0.88 figure would be fairly low, and it isn't clear that a figure that low is appropriate for the 26th Avenue case.

With regards to beach nourishment, a formal sand replenishment strategy can introduce an equivalent amount of sandy material back into the system to mitigate the loss of sand that would be caused by a protective device. Obviously, such an introduction of sand, if properly planned, can feed into the Santa Cruz Littoral Cell sand system to mitigate the impact of the project. However, there are no currently existing beach nourishment programs directed at this beach area. Absent a comprehensive program that provides a means to coordinate and maximize the benefits of mitigation efforts in the area now and in the future, the success of such piecemeal mitigation efforts is questionable. Without a program that evaluates the natural processes and existing conditions in order to establish the most appropriate sites and methods for introducing sand material so that it will mitigate this project's impacts and maximize benefits to the sandy beach, the Commission cannot specify a direct in-kind placement of sandy material as mitigation.

As an alternative mitigation mechanism, an in-lieu fee is oftentimes used by the Commission when in-kind mitigation of impacts is not available. In situations where ongoing sand replenishment programs are not yet in place, the in-lieu sand mitigation fee is deposited into an account until such time as an appropriate program is developed and the fees can then be used to offset the designated impacts. Recent estimates to deliver beach quality sand to Santa Cruz beaches are roughly $25 a cubic yard. For 900 cubic yards, this translates roughly into a $22,500 fee. However, the sand supply mitigation fees that have been collected in the past in the Central Coast District area have not yet been applied to any sand nourishment programs to date, and have not yet resulted in any physical sand supply mitigation as a result.[23]

E. Shoreline Armoring Conclusion

The project does not meet the Section 30235 tests, and the Commission is not required to approve the project. There are other reasons why the proposed project helps achieve some Coastal Act policy objectives, though, and why some variation of it should continue to be considered to formally recognize structures here and improve coastal recreational and view access (see findings that follow and conclusion).

In order to approve the new armoring, though, the sand supply impact must be eliminated or mitigated per Section 30235. One way of doing this would be to require a $22,500 fee from the Applicant. This fee amount is generally similar to the amount of the two past sand supply fees imposed as mitigation by the Commission in the Central Coast District area (i.e., $25,066 required in the Motroni-Bardwell case, and $26,783 in the Panattoni case), and to the amount of sand brought to the site to partially offset this identified impact in another recent case (726 cubic yards of sand representing roughly $18,150 in the Podesto case; CDP 3-02-107). That said, there is neither an account nor a program established to implement such an account for the 26th Avenue Beach area.

More appropriately, the project can be reconfigured to essentially negate the need to extend the

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[23] The Motroni-Bardwell case upcoast of this site in Capitola (CDP 3-97-065), the Panattoni case downcoast in Carmel (CDP 3-98-102). These fees were collected in 1998 and 1999 respectively.

revetment seaward, and thus eliminate a new area of rock coverage toward the beach. This can be accomplished by modifying the revetment slope so that it is 1.5 to 1 for the whole revetment, as opposed to 1.5 to 1 for only the top 15 vertical feet (and 2 to 1 otherwise), and constructing a keyway for stability. In this way, new areas of seaward encroachment would be limited to an extremely small area necessary to meet the toe of the revetment to be constructed at the 26th Avenue stairway site (as approved by the Commission in June, CDP 3-02-096), and at the upcoast neighbor (see exhibit E). These new areas of encroachment would be offset by areas currently occupied by rock that would be pulled back. In sum, the net sand supply impact can be essentially eliminated, as can the requirement for $22,500 worth of sand supply mitigation on behalf of the Applicant. And, because there are other benefits to proceeding with a project (see findings that follow), the revised project can be found consistent with Section 30235 as cited in this finding, even though the Commission is not required to approve a project per 30235.

2. Long Term Structural Stability

A. Shoreline Dynamics

Coastal Act Section 30253 requires the project to assure long-term stability and structural integrity, minimize future risk, and avoid additional, more substantial protective measures in the future. This is particularly critical given the dynamic shoreline environment within which the proposed project would be placed. Moreover, with global warming and sea level rise,[24] increased wave heights and wave energy are likewise expected. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in water depth and wave height can cause a significant increase in wave energy and wave damage. So, combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to both inundation and wave attack, and those areas that are already exposed to wave attack will be exposed to more frequent wave attack with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

A second concern with global warming and sea level rise is that the climatic changes could cause

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[24] There is a growing body of evidence that there has been a slight increase in global temperature and that an acceleration in the rate of sea level can be expected to accompany this increase in temperature. According to the *Third Assessment Report - Climate Change 2001*, by the International Panel on Climate Change (IPCC) global sea level is predicted to rise by 0.09 to 0.88 meters (0.3 to 2.88 feet) from the 1990 level by 2100, with significant regional variability. Monterey Bay was not included in the estimates of sea level rise through the year 2100. The closest tidal stations with an adequate record to use for a 100-year projection were San Francisco and Santa Monica. Both those locations could, by the year 2100, have a rise in sea level approaching 3 feet, with a 10% probability that it would be higher than that, based on estimates of historic and future sea level change provided by the U.S. Environmental Protection Agency in Titus and Narayanan (1995) "The Probability of Sea Level Rise" (EPA 230-R-95-008). In the Monterey Bay area, the trend for sea level rise for the past 25 years has been an increase resulting in an historic rate of nearly 1 foot per 100 years (NOAA, National Ocean Service), significantly higher than the average historic change recorded at either San Francisco or Santa Monica. This deviation in historic trends between Monterey Bay and both San Francisco and Santa Monica is very likely due to the short duration of the tidal record at Monterey; however, it can also suggest that the localized rise in sea level in Monterey Bay may be higher than what was experienced at either San Francisco or at Santa Monica. Thus the future 100 year-change in mean sea level for Monterey Bay may be higher than the estimated 2.7 feet (for San Francisco) or the estimated 2.85 feet (for Santa Monica), for both of which there is a 10% probability of being exceeded.

changes to the storm patterns and wave climate for the entire coast. As water elevations change, the transformation of waves from deep water will be altered and points of energy convergence and divergence could shift. The new locations of energy convergence would become the new erosion "hot spots" while the divergence points may experience accretion or stability. It is highly likely that portions of the coast will experience more frequent storms and the historic "100-year storm" may occur more often.

The frequency of major storm events in the Monterey Bay has been documented to be roughly two every three years, and the frequency of such storms causing significant damage roughly one every 5.3 years (RJA). In an attempt to ensure stability under such conditions, the Commission has typically required that new shoreline structures be designed to withstand either a 100-year storm event, or a storm event comparable to the 1982/83 El Niño event. Also, since it is possible that storm conditions may worsen in the future, the Commission has required that structures be inspected and maintained on a regular basis. The coast can be altered significantly during a major storm and coastal structures need to be inspected on a regular basis to make sure they continue to function as designed. If storm conditions worsen in future years, the structures may require changes or modifications to remain effective. In some rare situations, storm conditions may change so dramatically that existing protective structures may no longer be able to provide any significant protection, even with routine maintenance.

B. Revetment Stability

For revetments, an important component of long-term stability is the function of a keyway to "lock" the revetment into place. The existing revetment is not keyed but rather was placed directly atop beach sands. Such an un-keyed structure is liable to "float" around somewhat on the sand as the beach profile changes and scouring takes place, and as regular wave attack takes its toll. As a result, an un-keyed revetment is more liable to shift and undulate than is a keyed structure. Likewise, lacking a keyway individual rocks are more likely to migrate out onto the beach or into the intertidal area, sometimes migrating just under the sand, where these rocks can become a public access impediment (including beach, near-shore, and offshore recreational access) and a public safety hazard, and where they disrupt coastal views. This impact is magnified at this location because the fact that this is a prime recreational beach destination, particularly for active recreational pursuits like skimboarding and body surfing that take place in the near shore environment where the rock would be expected to make its way. A revetment that is over-steep, such as the existing revetment at a 1:1 slope in most places, only exacerbates these stability problems as the rocks themselves are less secure. Finally, although all rock revetments require substantial maintenance, an un-keyed and over-steep revetment will require relatively more maintenance than a keyed revetment.

These stability problems with the existing revetment lead to public recreational access and view impacts (from migrating rocks and individual construction maintenance events), and can lead to the increased probability of projects taking place under emergency conditions that can result in results that are less than ideal for protecting resources and public recreational access and views in the long-term (see also public access findings). The primary reason for the proposed revetment reconstruction is to install a keyway and to reduce the slope to promote long-term stability at this site. In this narrow sense,

restacking to a 2:1 slope and constructing a keyway should reduce long-term impacts to resources and access and views. That said, it would result in some additional public recreational access and view impacts (from the new area of coverage), that must also be factored into this equation. A project at a 1.5:1 slope and with a keyway (as previously detailed) should likewise reduce long-term impacts to resources and access and views, with a net amount of new beach area coverage that is essentially zero. This latter project is more consistent with the Coastal Act in this regard than that proposed (see special conditions).

C. Deck Stability

Furthermore, the cantilevered deck is in need of repair if it is itself not to become structurally unsound; particularly with an un-maintained and/or maintained in its existing steepened and unkeyed state revetment. Absent some form of stabilization, the deck too would be expected to deteriorate and lead to similar types of public recreational access and view problems as would be attributable to the rock from the revetment. In the deck case, it wouldn't be rock, but timbers, concrete foundation, and other structural members making their way onto the beach and into the surf below. It isn't clear from the materials and geotechnical analysis submitted at what point this might occur, but it would likely be in the relatively near term. For example, HKA indicates that the deck slumped downward during the 1998 storms. At that time, and without coastal authorization, concrete was pumped to the base of the masonry wall (itself constructed without coastal permits) in an unsuccessful effort to restore vertical support.

The project proposes to replace the existing sub-standard deck caissons with 18 inch diameter concrete piers embedded approximately 30 feet down into bedrock. This construction will alter the existing natural landform, and is much more substantial than that that exists now. The unpermitted concrete wall in the rip-rap, and the remnants of concrete and soils placed at it, are proposed for removal, thus rectifying this violation. The new deck foundation system is supportable, and the alteration of the bluff that it entails is supportable under the Coastal Act because it would result in better long-term stability for this pre-Prop. 20 structure, avoiding the above-described types of problems from it deteriorating over time, and because of other elements of the project and the agreed-upon project conditions designed to protect and enhance recreational and visual access to the degree feasible (as discussed above and in the findings that follow).

One problem is that a small portion of the deck (about a foot or so) appears to be constructed in the 26th Avenue right-of-way (see exhibit C). Fortunately, this encroachment on public lands can easily be rectified by reconstructing the deck entirely within the Applicant's property (see special conditions).

D. Monitoring and Maintenance

Critical to the task of ensuring long-term stability as required by Section 30253 is a formal long-term monitoring and maintenance program. If the revetment and/or deck were damaged in the future (e.g. as a result of flooding, landsliding, wave action, storms, etc.) it could lead to a degraded public access condition, it could lead to damage to the adjacent stairway (from dislodged rocks and/or deck pieces forced into it), and it could lead to the need for more bluff alteration and/or more substantial armoring. In addition, such damages could adversely affect the beach by resulting in debris on the beach and/or

creating a hazard to the public using the beach.

Therefore, in order to find the revised project consistent with Coastal Act Section 30253, the proposed project must be maintained in its approved state. Further, in order to ensure that the property owner and the Commission know when repairs or maintenance are required, the Applicant must regularly monitor the condition of the subject armoring, particularly after major storm events. Such monitoring will ensure that the Applicant and the Commission are aware of any damage to or weathering of the armoring and can determine whether repairs or other actions are necessary to maintain the structures in their approved state before such repairs or actions are undertaken. To assist in such an effort, monitoring plans need to be based on clear as-built plans that provide vertical and horizontal reference distances from armoring structures to surveyed benchmarks for use in future monitoring efforts. Further seaward encroachment (and more substantial armoring) must be prohibited, and drainage controlled. See conditions of approval.

E. Assumption of Risk

The Commission's experience in evaluating the consistency of proposed developments with Coastal Act policies regarding development in areas subject to problems associated with geologic instability, flood, wave, or erosion hazard, has been that development has continued to occur despite periodic episodes of heavy storm damage, erosion, landslides, or other such occurrences. Shoreline development is susceptible to bluff retreat and erosion damage due to storm waves and storm surge conditions. Past occurrences statewide have resulted in public costs (through low interest loans and grants) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden on the people of the state for damages, the Commission has regularly required that Applicants acknowledge site geologic risks and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed.

The risks of the project include that the revetment, deck, and/or inland residential structures will be damaged by bluff failure, erosion, and wave action. Although the Commission has tried to minimize these risks, the risks cannot be eliminated entirely. Given that the Applicant has chosen to construct the project despite these risks, the Applicant must assume these risks. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see conditions of approval).

F. Long Term Structural Stability Conclusion

The revised revetment (at a 1.5:1 slope and keyed) and the reconstructed deck can be found consistent with Coastal Act Section 30253 because they would result in better long-term stability at the site than exists now, would avoid the above-described types of problems from deteriorating structures over time, and because of other elements of the project and the agreed-upon project conditions designed to protect and enhance recreational and visual access to the degree feasible (as discussed above and in the findings that follow).

4. Geologic Conditions and Hazards Conclusion

Because it doesn't meet all of the Section 30235 tests, the Commission is not required to approve the

revetment reconstruction. However, portions of the project's objectives are sound from a Coastal Act perspective (enhanced stability, improved viewshed, protection of beach recreational access), and a project that provided for enhanced stability while also accounting for these other objectives could be approved. A revised revetment (at a 1.5:1 slope and keyed) and a reconstructed deck can be found consistent with Coastal Act Sections 30235 and 30253 because stability issues can be addressed (i.e., no future expansion, monitoring, maintenance, as-built plans, assumption of risk, etc.) and because the project, including the other project modifications, can protect and enhance beach recreational access and views (see agreed upon conditions of approval).

B. Public Access and Recreation

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road (East Cliff Drive). Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:

> ***30210.*** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*
>
> ***30211.*** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*
>
> ***30212(a).*** *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects ...*
>
> ***30213.*** *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*
>
> ***30220.*** *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*
>
> ***30221.*** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*
>
> ***30223.*** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Coastal Act Section 30240(b) also protects parks and recreation areas such as the 26th Avenue overlook adjacent to the site, and the beach and offshore recreation area seaward of the site. Section 30240(b) states:

> ***30240(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.*

Finally, Section 30253 protects special recreational destination points such as the beach fronting the revetment and its relation to up and downcoast beaches. Section 30253 states, in part:

> ***30253(5).*** *New development shall: where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

As previously detailed, the project site fronts the extremely popular 26th Avenue Beach that is highly used, and a prime bodysurfing, skimboarding and surfing destination (see also Existing Conditions section of this report preceding). The 26th Avenue public view overlook and to-be-reconstructed stairway is located immediately adjacent to the site.

Permanent Beach Access Loss

The proposed reconstructed revetment would extend the base of the existing revetment[25] seaward in order to construct a new keyway and to integrate with up and downcoast revetments. This extension would cover roughly 900 square feet (i.e., 15 feet seaward along 60 feet of project frontage – see project plans and geologic cross section in exhibits C and D). Although this area of coverage would be relatively small during peak use times (as it would be expected to be covered with sand in a typical summer beach profile), it would represent a new impediment to beach use – particularly during the wintertime months. The ability of the public to use that portion of the beach for lateral access, passive access (e.g., sitting and enjoying the beach), and both sand (such a frisbee, soccer, etc.) and water recreational (such as surfing, body boarding, skimboarding, etc.) access would be reduced and diminished. The beach area in question is heavily used for these public recreational pursuits and this impact is inconsistent with the Coastal Act policies listed above that protect these public use areas.

Fortunately as detailed in the preceding finding, the project can be modified so that the revetment slope is installed at 1.5:1. By doing this, the new area of long-term beach encroachment can be essentially eliminated consistent with the Coastal Act policies protecting this area (see conditions of approval).

Temporary Impacts

That said, rocks and/or deck debris may come off of this site (as detailed in the preceding finding) and negatively impact beach recreational use and facilities. This impact can be due to displacement (where

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[25] Ibid.

rocks occupy beach space), or increased danger to recreation (such as a rock submerged just below the surface or in the recreational surf zone), or increased danger to recreational structures (such as the 26th Avenue stairway site adjacent) when such rocks and/or other debris are thrown landward in storm events, or combinations of each. Individual rocks that migrate can sometimes be retrieved, and other times cannot be located. In both cases, the rock leads to negative impacts depending on its location relative to beach uses areas, the length of time it is located in areas that detract from recreational use, and its potential for causing damage in a storm event (particularly given that such storms typically scour away beach sand and expose strewn rocks otherwise hidden). These impacts need to be mitigated if the revised project is to be found consistent with the above-listed policies.

One way of reducing such impacts is to require that all such rock and debris be retrieved immediately. This is appropriate and required in this case (see conditions). However, while this can reduce these impacts, it does not eliminate them (as the impact will be present from the time the rock and/or debris migrates into the public recreational beach area until it is removed). This impact also requires mitigation.

In addition, during construction times (initially and future maintenance), the project will: require the movement of large equipment, workers, and supplies through the public beach and beach access points to gain access to the revetment site; include large equipment operations on the recreational beach area fronting the site; result in the loss of recreational beach area to a construction zone (at the immediate project area); potentially encroach on Sanctuary waters (depending on tides); and generally intrude and negatively impact the aesthetics, ambiance, serenity, and safety of the recreation beach experience. This is likewise inconsistent with the Coastal Act policies listed above that protect these public use areas

These construction impacts can be contained through construction parameters that limit the area of construction, limit the times when work can take place (to avoid both weekends and peak summer use months when recreational use is highest), clearly fence off the minimum construction area necessary, keep equipment out of Sanctuary waters, require off-beach equipment and material storage during non-construction times, and clearly delineate and avoid to the maximum extent feasible beach use areas. Even with these containment provisions, however, the public will bear the burden of the negative construction impacts associated with construction on this very popular beach. Because this project would allow for multiple such construction episodes, these impacts would be correspondingly multiplied. The Applicant will be required to restore all beach areas and beach access points following construction, but cleaning up one's construction mess does not compensate for the negative public access impacts over the duration of construction.

Thus, mitigation for these temporary construction impacts and for the temporary impacts from rock and/or debris on the beach (as described above) is necessary. In this case, the Applicant owns in fee-title the area of beach extending seaward from the revetment (see exhibit D). To mitigate for the beach recreational access loss, this area can be dedicated directly to an appropriate entity (like the County) or the Applicant can record an offer to dedicate this area. Although the value of such a dedication (in a public recreational access sense) is limited because the area held in fee title by the Applicant is already a de facto part of the existing beach recreational access area, may already be State Lands (see "Other" section of this report), and it cannot be distinguished from the surrounding beach areas, an OTD or fee

title helps in perfecting a public right of access to the beach area in question. While such mitigation is minimal in this sense, lacking an in-lieu (beach access improvement) fee program or some other type of beach acquisition/creation program, this mitigation is sufficient in this case.

Public Access and Recreation Conclusion

By allowing for a project that makes the revetment (at the revised 1.5:1 slope) and deck more stable, impacts to public recreational access from instability can be reduced – this is a public access benefit. The area of permanent increased beach coverage is essentially zero in such a scenario. That said, public recreational access will be negatively impacted during construction (both initially and by future allowed maintenance), and will be negatively impacted during the time that rocks and/or debris enter into the beach access area. These temporary impacts can be mitigated by an OTD for the beach area seaward of the revetment. A revised revetment (at a 1.5:1 slope and keyed) and a reconstructed deck can be found consistent with the Coastal Act sections discussed in this finding because these access impacts can be mitigated by the OTD, and because the project, including the other project modifications, can protect and enhance beach recreational access and views (see agreed upon conditions of approval).

C. Visual Resources

Coastal Act Section 30251 protects coastal viewsheds. Section 30251 states:

> ***Section 30251.*** *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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Coastal Act Section 30240(b) also protects parks and recreation areas such as the 26th Avenue overlook adjacent to the site, and the beach and offshore recreation area seaward of the site. Section 30240(b) states:

> ***30240(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.*

Finally, Section 30253 protects special recreational destination points such as the beach fronting the revetment and its relation to up and downcoast beaches. Section 30253 states, in part:

> ***30253(5).*** *New development shall: where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination*

points for recreational uses.

Again, as previously detailed, the project site fronts the extremely popular 26th Avenue Beach and is immediately adjacent to the 26th Avenue public access overlook and stairway site. These areas are important coastal access destinations for residents and visitors to the area alike. Although the back beach bluffs have been degraded visually by the placement of large revetments along the beach at 26th Avenue (most of whose genesis is pre-Prop. 20 and the Coastal Act), the grandeur of the Monterey Bay crescent offshore, the up and downcoast varied shoreline, the beach sands, the remaining sandstone outcrops, and other areas of natural landform and vegetation all combine to make this a valuable and invigorating viewshed. The Commission has gone to great efforts in recent years to ensure that permitted revetments are adequately camouflaged by requiring the removal of non-native invasive plant species (like iceplant) and requiring the planting of dense screens of native bluff species (like the "Carmel creeper" ceanothus proposed here) capable of covering the upper portions of the revetments over the life of these revetments. Over time, it is expected that the back beach aesthetic at 26th Avenue Beach and elsewhere will be enhanced by virtue of these efforts as individual revetments are repaired and maintained through the Commission's regulatory process.[26]

Thus, the site is part of a significant public beach viewshed (from the beach and areas offshore). Because it is immediately adjacent to the 26th Avenue public view overlook and (to-be-reconstructed) stairway, it is also in the overlook viewshed. Because of its special location, and because of the existing structures present currently, there are several significant visual issues with relation to the existing condition at the site and to the proposed project.

The existing cantilevered deck, the fence attached to it, and the revetment intrude significantly into the 26th Avenue overlook and stairway viewshed (blocking upcoast views), and the revetment and cantilevered deck structure further impose on the beach and offshore viewshed. A portion of the deck and fence adjacent to the 26th Avenue overlook site appears to be located in the public right-of-way.[27] The proposed project would continue these view impacts in some ways (like the view blockage as seen from 26th Avenue), add to them in other ways (increase rock massing in the beach viewshed, potentially concrete grouting between rocks), and decrease them in others (planters with native bluff species should cascade over the planters and screen both the base of the deck and the top of the revetment from view). In sum, though, the visual intrusion brought by the deck and fence adjacent to the 26th Avenue overlook, and the increased rock massing from even the 1.5:1 sloped revised revetment, would result in impacts inconsistent with the Coastal Act's visual policies listed above.

In addition, and in a similar manner as public recreational access, the public viewshed would be temporarily degraded during construction (both initial construction and future maintenance) and

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[26] As previously referenced in the revetment slope discussion, the Commission has recently approved several such projects with these revegetation/camouflage requirements along 26th Avenue Beach, and other similar applications along this beach are pending.

[27] As shown on the submitted plans (see exhibit C). The Applicant has indicted that this may be a surveying error, and that his private structures that are in the right-of-way on the plans are actually within the Applicant's property. As of the date of this staff report, this is unresolved.

temporarily degraded between the time when rocks and/or debris make there way into the beach areas and when they are retrieved. These impacts, too, are inconsistent with the same visual access policies referenced in the preceding paragraph.

To offset these permanent and temporary impacts, the Applicant has agreed to a series of project modifications designed to reduce overall viewshed blockage and enhance overall viewshed aesthetics. This series of modifications would: ensure that all structures are located on the Applicant's property; reduce the height of the fence and the planters along the 26th Avenue right of way so that through public views are provided (see exhibit D); require that the viewshed area be kept clear of plants and/or structures that would impede public views; ensure that the below-deck planter system is continuous to avoid vegetation gaps that would reduce the effectiveness of the vegetative screen; and require the top 10 vertical feet (including below deck supports and top of revetment) be screened by native vegetation over the life of the project (see conditions of approval).

D. Cumulative Impacts

Coastal Act Section 30250(a) addresses cumulative impacts, stating in part as follows:

> *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located...where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. ...*

Due to the revetments fronting the bluffs, the beach between Corcoran Lagoon and Moran Lake is in most cases less than 50 feet wide in summer to completely disappearing during parts of the winter. The Commission's 1995 Monterey Bay ReCAP project, or Regional Cumulative Assessment Project, estimated that over an acre of beach at 26th Avenue Beach had been covered by rock revetments.[28] Since such armoring fixes the bluff location and prevents beach replenishment from eroding bluffs, and in light of sea level rise and continuing shoreline erosion, it is expected that the usable beach areas here will continue to narrow over time.

The mitigations imposed here will alleviate, but cannot completely eliminate, the long-term impacts to the public both as a result of this individual project and the overall cumulative effect of it together with all the other armoring along this stretch of coast. Some of this long term impact was "inherited" by the people of the state due to the fact that much of this stretch of coast was already armored to a certain degree, including the subject site, when the coastal permitting requirements of Proposition 20 and the Coastal Act were instituted in the early 1970s. With the sea level continuing to rise, and the shoreline continuing to erode, it is expected that the beach fronting these properties, like all California beaches on which armoring is located and on which the back-beach has thus been effectively "fixed" in location, will eventually disappear over time. The State has not to date completely come to grips with this

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[28] ReCAP estimated approximately 2,700 linear feet of revetment between Corcoran Lagoon and Pleasure Point at 26th Avenue Beach. Based on a conservative footprint estimate of 20 feet of sand beach coverage for such structures, this translates to approximately 54,000 square feet of beach covered by rock (roughly 1¼ acres).

phenomena, particularly as it relates to existing permitted and pre-Prop. 20/Coastal Act armoring such as this.

At a minimum, additional regional planning (e.g., a specific plan for addressing armoring needs and impacts along this stretch of coastline), regional planning mechanisms (e.g., a shoreline armoring management entity meant to cover the larger shoreline that includes the revetment here), and/or implementation tools (e.g., a systematic approach for identifying and addressing specific armoring impacts, like boulders migrating from revetments) may be necessary. The Applicant has agreed and is required to participate in future planning efforts that involve the revetment here (see special conditions); participation in no way binds the Applicant to a certain outcome, but ensures that the Applicant (or any future property owner) is part of any such future discourse. At this time, the Commission is unaware of any such efforts for this area of Live Oak, although efforts are underway in the Opal Cliffs area of Santa Cruz County just downcoast,[29] at least partially due to the Commission's findings in the 1995 Monterey Bay Regional Cumulative Assessment (or ReCAP) project.[30]

Past such localized planning efforts, there is also a movement statewide to more comprehensively address shoreline erosion through the concept of planned (or sometimes called "managed") retreat. Planned retreat acknowledges that shoreline armoring designed to protect development along an eroding shoreline will ultimately lead to the loss of California beaches and offshore use (like surfing) areas. While the benefit of such armoring accrues to individual property owners (for whom the armoring maintains their shoreline location), the burden falls on the general public, both visitors and residents, because California's beaches are slowly being reduced as a result.[31] The concept of planned retreat advocates that instead of allowing continued armoring, the shoreline should be allowed to retreat naturally. In this way, as the shoreline naturally erodes and sea level rises, new beaches would form (as bluffs naturally crumble and become beaches over time).[32] The primary difficulty with a planned retreat strategy is that much of the armored shoreline is currently fronting development, residential and otherwise, that would eventually need to be retired (e.g., purchased, armoring (if any) and development on it removed) if the shoreline were to be allowed to retreat naturally. The planned retreat dialogue is currently in its infancy statewide, and it is unclear to what (future) extent this concept will be applied to

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[29] Property owners and the County have begun preliminary efforts toward developing these types of regional planning tools to address the issue of shoreline armoring with a case study focusing on the Opal Cliffs portion of the Live Oak beach area just upcoast of the City of Capitola. As the Commission currently understands it, the Opal Cliffs project would focus on the removal of the rubble and rock revetments that block much of the beach access in this area, and would develop measures to sculpt and camouflage any armoring that is allowable under the Coastal Act in such a way as to mimic the natural bluff topography and vegetation. Options for building in pedestrian platforms in permitted armoring that allow for lateral access at even higher tides would also be evaluated

[30] In the 1995 Monterey Bay ReCAP project, the Commission recommended such a regional shoreline planning approach (i.e., by defined geographic units) for the Monterey Bay area where it was estimated that approximately 25 acres of sandy beach had been covered with shoreline armoring in the study region by 1993, most of that in Santa Cruz County.

[31] The burden goes beyond just a lack of beach space available to use and a lack of conducive ocean conditions for recreation inasmuch as the beaches themselves are a huge draw for both local communities and the State as a whole, acting as a driver of both local and state economies. The beaches have also always been a large part of coastal California's cultural identify and social fabric; the effect of their slow (but steady) loss over time in this regard is more difficult to measure.

[32] Beach formation would partly be assisted by the sand generating material in the "freed" bluffs themselves, but more importantly there would be space for the natural equilibrium between the shoreline and the ocean to establish itself and beaches formed.

development applications, such as this, in California. It is noted here only to provide relevant background context for the current application.

E. Other

Other Approvals

The project area is sometimes occupied by waters of the Monterey Bay and may require Monterey Bay National Marine Sanctuary approval. Likewise, the project may involve State Lands. In addition, a number of intervening landowners may need to consent to construction access. Finally, the project has changed in ways since it was approved by Santa Cruz County in 1998, and these changes need to be approved by them. The project is conditioned for County, Sanctuary and State Lands approvals, and consent of other land owners. See conditions of approval.

Rodents

Revetments are known to harbor rodents; particularly revetments fronting popular beach areas (due to visitors' food and garbage). Such rodent infestations in revetments are common in the Live Oak beach area. Rodents living in revetment voids can negatively impact the beach recreational experience, and can lead to serious public health problems. In this case, the Commission is unaware of any evidence indicating that there is any rodent infestation within the subject revetment. The Applicant has agreed to promptly respond to eradicate such an infestation. This approval is conditioned to require same so as to protect beach recreational users in this regard. See conditions of approval.

Other Beach Area Development and Public Rights

There has been a long and steady history of public use of the beach area fronting this site. So as not to prejudice any future evaluations on this topic, and so as to avoid a situation where this approval were described as resolving any ownership/public use issues, a condition is attached stating that the Commission's approval of this project does not constitute a waiver of any public rights which may exist on the property, and that the Applicant cannot use this approval as evidence of a waiver of same. See conditions of approval.

Future Notice

The terms and conditions of this approval are meant to be perpetual. In order to inform future owners of the requirements of the permit, and add a level of legal implementation of this fact, this approval is conditioned for a deed restriction designed to record the project conditions against the affected property. See conditions of approval.

F. Coastal Development Permit Conclusion

The project, as proposed, is inconsistent with the Coastal Act's shoreline structure, public access, recreation, and view policies as cited in these findings. There are, however, project modifications that can achieve the Applicant's reconstruction and stability objectives while also addressing public

recreational access and view concerns in a manner designed to enhance public use areas. The Applicant has consented to the project changes. Toward that end, conditions are attached that:

- Require that the revetment slope be 1.5:1 to essentially eliminate seaward encroachment of the keyway/refurbishment;
- Require that the base of the deck and the top portion of the revetment to be screened with cascading native bluff plantings over the life of the development (all non-native-invasive plants would be removed and prohibited);
- Require that the existing blufftop fence located along the deck at the property line, and any planter box seaward of the blufftop edge on the deck, be reduced in size so that upcoast views from the 26th Avenue overlook/stairway site are no longer blocked, and that this public viewshed be kept clear of obstructions over the life of the development;
- Require that all development be located on the Applicant's property (some is partially in the 26th Avenue right-of-way);
- Require an offer-to-dedicate (OTD) an easement or fee-title providing for beach recreational access to the beach area seaward of the revetment;
- Require that all drainage be collected and properly discharged, and that the discharge not be visible from public viewing areas;
- Require that construction impacts be limited, and that all beach areas and beach access points be restored immediately following construction;
- Require long-term monitoring based on as-built plans, and both require (i.e., retrieval of rock and debris seaward of the revetment) and allow routine maintenance, subject to the construction and restoration parameters for five years (where this term can be extended if there aren't changed circumstances that warrant a re-review of it);
- Require that there be no further seaward expansion of the revetment or any other structure beyond the as-built profile established;
- Require that the property owner assume all risk for development at this location;
- Require the property owner to participate in future shoreline planning efforts that may involve this stretch of coastline, where such efforts may involve consideration of a shoreline armoring management entity (meant to cover the larger shoreline that includes the revetment here), and may involve consideration of potential modifications and/or programs designed to reduce public viewshed and beach access impacts due to shoreline armoring; and
- Require that all the terms of the approval be recorded as restrictions on the affected property.

As conditioned, the Commission finds that the completed project will proportionately offset its impacts to coastal resources, and further finds that the conditioned project is the best possible outcome given the existing shoreline conditions in this area and the history at this site. The Commission finds the revised conditioned project to be consistent to the degree feasible with the Coastal Act.

6. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of 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 Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

Exhibits A through E of the Adopted Findings (Exhibit B) for CDP No. 3-00-164 on file and available for review at the Commission's Central Coast office, 725 Front Street, Suite 300, Santa Cruz, CA 95060-4508.

Content of Exhibits

Exhibit A	Regional Location Map; Project Location Map
Exhibit B	Location Photo
Exhibit C	Chambers Residence Beach Revetment
Exhibit D	Proposed Revetment Maintenance Chambers Property
Exhibit E	Site Plan

Gary Ifland & Assoc., Inc.
SURVEYING | MAPPING | GPS

1100 Water Street, Suite C
Santa Cruz, CA 95062
Tel 831.426.7941 Fax 831.426.6266

LEGAL DESCRIPTION – PUBLIC ACCESS BEACH DEDICATION AREA

SITUATE in Santa Cruz County, California

BEING an public access beach dedication area over that portion of the lands of E. Wendell Chambers as described in deed recorded in Volume 4580, at Page 72, Official Records Santa Cruz County, and more particularly described as follows:

BEGINNING on the west side of 26TH Avenue at the northeasterly corner of parcel as described in deed recorded in Volume 4580, at Page 72, Official Records Santa Cruz County, thence along the southeasterly line of said parcel, South 33°30'00" West, 116 feet more or less to the intersection of the revetment with beach sand or, when beach sand has been stripped, with Purisima Formation, being the TRUE POINT OF BEGINNING; thence leaving the southeasterly line of said parcel along said intersecting conditions the following courses: North 18°23'47" West, 4.6 feet more or less; North 67°12'11" West, 5.70 feet; North 83°47'39" West, 10.72 feet; North 45°57'58" West, 23.79 feet; North 69°47'40" West, 12.10 feet; and North 57°39'42" West, 5.5 feet more or less to the northwesterly line of said parcel, thence along the northwesterly line of said parcel South 33°30'00" West, 41.5 feet more or less; thence leaving the southeasterly line of said parcel South 56 30'00" East, 60 feet to the southeasterly line of said parcel; thence along the southeasterly line of said parcel, North 33°15'00" East, 47.8 feet more or less to the TRUE POINT OF BEGINNING.

The landward and seaward boundaries of the described public access beach dedication area are, for the following reasons, approximate. The landward and seaward boundaries of this public access beach dedication area are dynamic and will change over time because the landward and seaward sides of the public access beach dedication area are not fixed. Rather, they fluctuate in response to seasonal erosion and accretion of sand and the ambulatory nature of the mean high tide line. The public access beach dedication area is defined as that portion of the property that is inland of the mean high tide line and seaward of the intersection of the revetment with beach sand or, when beach sand has been stripped, with Purisima Formation sandstone.

End of Description.

G:\Docs\GIA\2000\G00036\easment052505.doc

GARY IFLAND & ASSOC.
SURVEYING | MAPPING | GPS
1100 Water St, Suite C, Santa Cruz, CA Tel 831.426.7941 Fax 831.426.6266

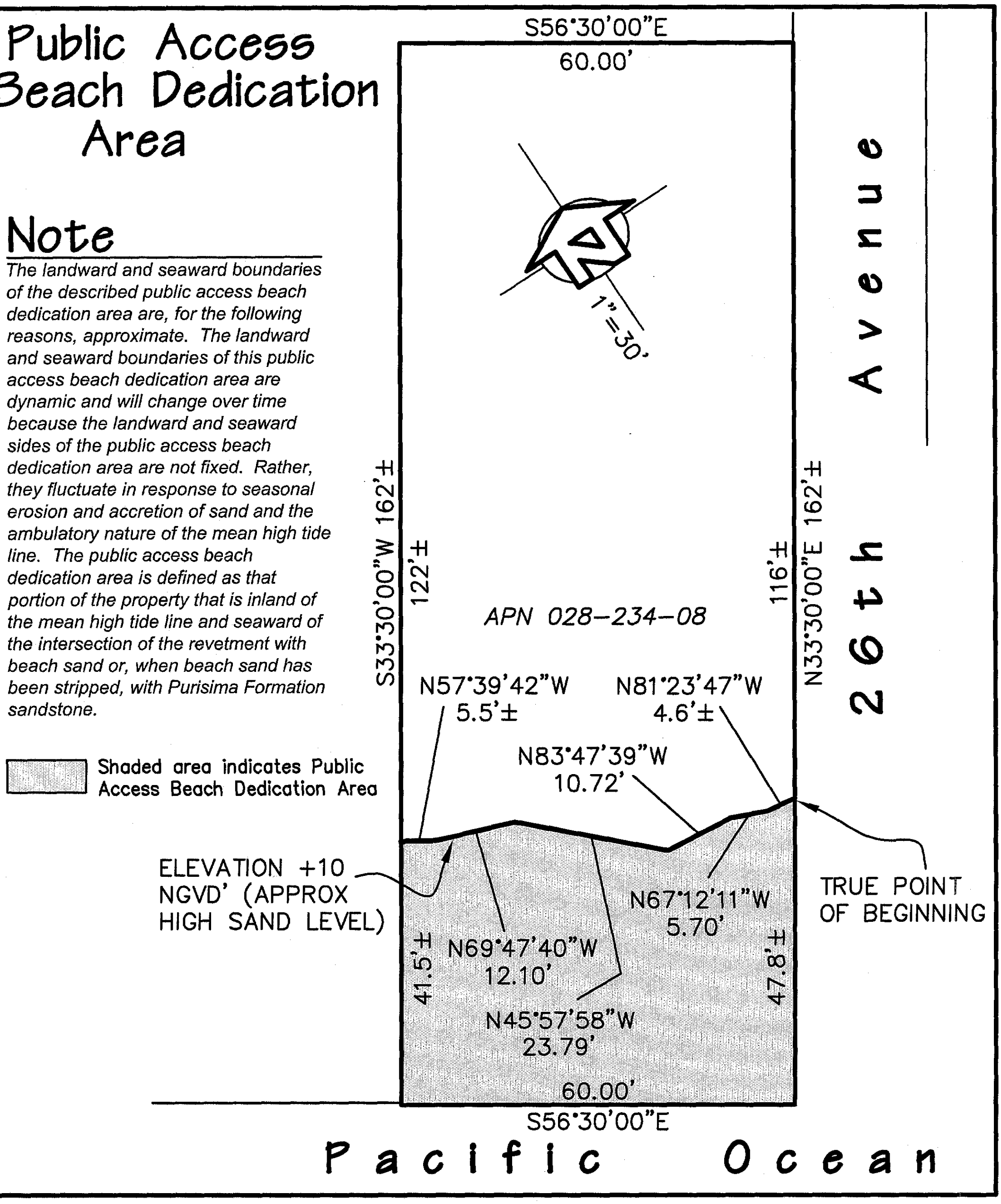
JOB NO. G00036 – CHAMBERS
SHEET NO. 1 OF 1
CALCULATED BY GRJ DATE 06/02/05
SCALE: 1" = 30'

Public Access Beach Dedication Area

Note

The landward and seaward boundaries of the described public access beach dedication area are, for the following reasons, approximate. The landward and seaward boundaries of this public access beach dedication area are dynamic and will change over time because the landward and seaward sides of the public access beach dedication area are not fixed. Rather, they fluctuate in response to seasonal erosion and accretion of sand and the ambulatory nature of the mean high tide line. The public access beach dedication area is defined as that portion of the property that is inland of the mean high tide line and seaward of the intersection of the revetment with beach sand or, when beach sand has been stripped, with Purisima Formation sandstone.

Shaded area indicates Public Access Beach Dedication Area



RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:
CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, 20TH FLOOR
SAN FRANCISCO, CA 94105

EXHIBIT D
PERMIT NO: _____
ACCEPTANCE CERTIFICATE

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Offer to Dedicate dated _____, executed by E. Wendell Chambers and recorded on _____ as Instrument Number _____, is hereby accepted by _____, a public agency/private association on _____, pursuant to authority conferred by resolution of the _____ adopted on _____, and the grantee consents to recordation thereof by its duly authorized officer.

By: _____

For: _____

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a Notary Public personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
NOTARY PUBLIC

ACKNOWLEDGMENT BY THE CALIFORNIA COASTAL COMMISSION

OF ACCEPTANCE OF OFFER TO DEDICATE

This is to certify that _____ is a public agency/private association acceptable to the Executive Director of the California Coastal Commission to be Grantee under the Offer to Dedicate executed by E. Wendell Chambers on _____, and recorded on _____, in the office of the County Recorder of _____ County as Instrument No. _____.

Dated: _____

California Coastal Commission

_____

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a Notary Public personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
NOTARY PUBLIC

2005-0029432

Recorded | REC FEE 242.00
Official Records | CC CONF 1.00
County Of |
SANTA CRUZ |
GARY E. HAZELTON |
Recorder |
CAROL D. SUTHERLAND |
Assistant | JRS
03:23PM 03-May-2005 | Page 1 of 77

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

California Coastal Commission
89 S. California St., Suite 200
Ventura, CA 93001-2801

Attn: Legal Division

IRREVOCABLE OFFER TO DEDICATE PUBLIC LATERAL ACCESS EASEMENT

AND

DECLARATION OF RESTRICTIONS

THIS IRREVOCABLE OFFER TO DEDICATE PUBLIC LATERAL ACCESS EASEMENT AND DECLARATION (hereinafter referred to as the "Offer") is made this 3rd day of May, 2005, by Gary A. Podesto and Janice F. Podesto, Trustees or Successor Trustees of the G & J Podesto Family Trust dated January 15, 1996, (hereinafter collectively referred to as the "Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest of certain real property located in the County of Santa Cruz, State of California, legally described as set forth in attached EXHIBIT A hereby incorporated by reference (hereinafter referred to as the "Property"); and

II. WHEREAS, all of the Property is located within the coastal zone as defined in § 30103 of the California Public Resources Code (hereinafter referred to as the "California Coastal Act of 1976," the "Act"); and

III. WHEREAS, the Act creates the California Coastal Commission (hereinafter referred to as the "Commission") and requires that any coastal development permit approved by the Commission must be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code; and

IV. WHEREAS, pursuant to the Act, Grantor applied to the Commission for a permit to undertake development as defined in § 30106 of the Public Resources Code on the Property within the coastal zone of Santa Cruz County; and

V. WHEREAS, coastal development permit number 3-02-107 (hereinafter referred to as the "Permit") was granted on August 6, 2003, by the Commission in accordance with the provisions of the Adopted Findings, attached hereto as EXHIBIT B; and Notice of Intent to Issue Permit dated September 17, 2003, attached hereto as EXHIBIT B-1, both hereby incorporated by reference, subject to the following condition:

9. **Beach Access Easement.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a political subdivision, public agency or private association approved by the Executive Director either fee title or an easement for beach access (Beach Dedication). The Beach Dedication shall apply to that portion of the Permittee's property (APN 046-321-06) that is located to the west of the seawall location (see area identified as "OTD Area" on exhibit G) (Beach Dedication Area). The recorded document shall include a legal description and a site plan of the easement area and APN 046-321-06. The recorded document shall indicate that no development, as defined in Section 30106 ("Development") of the Coastal Act, shall occur in the easement area except for: (1) appropriately permitted construction activities associated with construction, maintenance, or repair of the seawall, the rock slope area above the seawall, the vegetative screening, and all irrigation and drainage structures approved by coastal development permit 3-02-107; and (2) standard beach maintenance activities undertaken by the California Department of State Parks.

   The offer to dedicate a beach access easement shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording

VI. WHEREAS, the Property is a parcel located between the first public road and the shoreline; and

VII. WHEREAS, under the policies of § 30210 through § 30212 of the Public Resources Code, public access to the shoreline and along the coast is to be maximized, and in all new development projects located between the first public road and the shoreline shall be provided; and

VIII. WHEREAS, the Commission found that but for the imposition of the above condition, the proposed development could not be found consistent with the public access policies of § 30210

through § 30212 of the Public Resources Code and that, therefore, in the absence of such a condition, a permit could not have been granted; and

IX. WHEREAS, Grantor has elected to comply with the condition and execute this Offer so as to enable Grantor to undertake the development authorized by the Permit; and

NOW AND THEREFORE, in consideration of granting of the Permit to the Grantor by the Commission, the Grantor hereby irrevocably offers to dedicate to the People of the State of California, a lateral access easement in gross and in perpetuity over the Property as follows:

1. DESCRIPTION. The easement offered hereby affects that portion of the Property located to the west of the seawall location, as more specifically described in EXHIBIT C, attached hereto and incorporated herein by reference.

2. PURPOSE. The easement is for the purpose of allowing public pedestrian lateral access and passive recreational use along the shoreline; and natural open space for resource conservation uses.

3. DECLARATION OF RESTRICTIONS. This offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the Offer, to interfere with any rights of public access acquired through use which may exist on the Property. After acceptance, Grantor shall not interfere with the public's use of the easement nor take any action inconsistent with such use. No development, as defined in Section 30106 ("Development") of the Coastal Act, shall occur in the easement area except for:

a. appropriately permitted construction activities associated with construction, maintenance, or repair of the
   i. seawall;
   ii. rock slope area above the seawall; and
   iii. vegetative screening

b. irrigation and drainage structures approved by the Permit, as identified in the Irrigation Plan and the Drainage Plan approved by the Executive Director of the Commission pursuant to special conditions 3 (b) and 3 (c), respectively, of the Permit.

c. standard beach maintenance activities undertaken by the California Department of State Parks.

Grantor shall retain all normal rights and incidents of ownership of the underlying fee interest in the Property not inconsistent with the easement. Grantor shall not be bound to undertake any supervision or maintenance to provide for the public purposes hereunder. Prior to the opening of the accessway, the Grantee, in consultation with the Grantor, may record additional reasonable terms, conditions, and limitations on the use of the Property in order to assure that this Offer for public access is effectuated.

4. DURATION, ACCEPTANCE AND TRANSFERABILITY. This irrevocable offer of dedication shall be binding upon Owner and the heirs, assigns, or successors in interest to the Property described above for a period of 21 years. This Offer may be accepted by any agency of the State of California, a political subdivision, or a private association acceptable to the Executive Director of the Commission (hereinafter referred to as the "Grantee"). Such acceptance shall be effectuated by recordation by the Grantee of an acceptance of this Offer in the form attached hereto as EXHIBIT D. Upon such recordation of acceptance, this Offer and terms, conditions, and restrictions shall have the effect of a grant of lateral access easement in gross and perpetuity that shall run with the land and be binding on the heirs, assigns, and successors of the Grantor. After acceptance, this easement may be transferred to and held by any entity which qualifies as a Grantee under the criteria hereinabove stated. Acceptance of the Offer is subject to a covenant which runs with the land, providing that the Grantee may not abandon the easement until such time as Grantee effectively transfers said easement to an entity which qualifies as a Grantee under the criteria hereinabove stated.

5. REMEDIES. Any act, conveyance, contract, or authorization by the Grantor, whether written or oral, which uses, or would cause to be used, or would permit use of the protected land contrary to the terms of this Offer will be deemed a violation and a breach hereof. The Grantor, any Grantee of this easement and any offeree of this Offer may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of the Offer and easement and their respective interest in the property. In the event of a breach, any forbearance on the part of any such

party to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

6. TAXES AND ASSESSMENTS. Grantor agrees to pay or cause to be paid all real property taxes and assessments levied or assessed against the Property. It is intended that this irrevocable offer and the use restrictions contained herein shall constitute enforceable restrictions within the meaning of (a) Article XIII, § 8, of the California Constitution; and (b) § 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, this Offer, easement and restrictions shall be deemed to constitute a servitude upon and burden to the Property within the meaning of § 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

7. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

8. SEVERABILITY. If any provision of this Offer is held to be invalid, or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed on this 3 day of MAY, 2005, at Santa Cruz CA.

Gary A. Podesto, Trustee of the
G & J Podesto Family Trust dated 1/15/96

Janice F. Podesto, Trustee of the
G & J Podesto Family Trust dated 1/15/96

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STATE OF CALIFORNIA

COUNTY OF Santa Cruz

On May 3, 2005, before me, Becky A Doyle, a Notary Public personally appeared Gary A. Podesto and Janice F. Podesto, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Becky A Doyle

BECKY A. DOYLE
Commission # 1307924
Notary Public - California
Santa Cruz County
My Comm. Expires Jun 18, 2006

This is to certify that the Offer to Dedicate set forth above is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to authority conferred by the California Coastal Commission when it granted Coastal Development Permit No. 3-02-107 on August 6, 2003, and the California Coastal Commission consents to recordation thereof by its duly authorized officer.

Dated: Mar. 7, 2005

CALIFORNIA COASTAL COMMISSION

John Bowers

John Bowers, Staff Counsel

STATE OF CALIFORNIA

COUNTY OF San Francisco

On 03/07/05, before me, Jeff G. Staben, a Notary Public, personally appeared JOHN BOWERS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Jeff G. S

JEFF G. STABEN
Comm. # 1449647
NOTARY PUBLIC - CALIFORNIA
City and County of San Francisco
My Comm. Expires Dec. 3, 2007

EXHIBIT "A"

BEING A PART OF LANDS CONVEYED TO MIRIAM D. PARKER BY DEED RECORDED IN VOLUME 609, PAGE 371, OFFICIAL RECORDS OF SANTA CRUZ COUNTY, AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERN BOUNDARY OF LANDS CONVEYED TO THE COUNTY OF SANTA CRUZ BY DEED RECORDED IN VOLUME 973, PAGE 537, OFFICIAL RECORDS OF SANTA CRUZ COUNTY, FROM WHICH A 2 INCH IRON PIPE AT THE MOST WESTERN CORNER OF SAID LANDS CONVEYED TO MIRIAM D. PARKER AS SHOWN ON RECORD OF SURVEY MAP ENTITLED, "RECORD OF SURVEY OF A PORTION OF LOTS 33, 43, & 51 IN THE SAN ANDREAS RANCHO", FILED IN VOLUME 33 OF MAPS, AT PAGE 81, RECORFDS OF SANTA CRUZ COUNTY, BEARS THE FOLLOWING COURSES AND DISTANCES: NORTHWESTERLY ALONG A CURVE TO THE RIGHT FROM A TANGENT BEARING NORTH 28 DEGREES 27' 28" WEST WITH A RADIUS OF 280 FEET THROUGH AN ANGLE OF 13 DEGREES 25' 58" A DISTANCE OF 65.64 FEET, NORTH 56 DEGREES 43' 48" WEST 68.14 FEET AND SOUTH 76 DEGREES 50' 14" WEST 334.89 FEET DISTANT; THENCE FROM SAID POINT OF BEGINNING SOUTH 79 DEGREES 54' 17" WEST 362.66 FEET TO THE SOUTHWESTERN BOUNDARY OF LANDS CONVEYED TO PARKER; THENCE ALONG SAID LAST MENTIONED BOUNDARY NORTH 30 DEGREES 17'20" WEST 100.00 FEET TO THE MOST WESTERN CORNER OF SAID LANDS; THENCE ALONG THE NORTHWESTERN BOUNDARY OF SAID LANDS; THENCE ALONG THE NORTHWESTERN BOUNDARY OF SAID LANDS CONVEYED TO PARKER NORTH 76 DEGREES 59' 14" EAST 334.89 FEET TO THE WESTERN CORNER OF SAID LANDS CONVEYED TO THE COUNTY OF SANTA CRUZ; THENCE ALONG THE SOUTHWESTERN BOUNDARY OF SAID LAST MENTIONED LANDS SOUTH 56 DEGREES 43' 48" EAST 68.14 FEET TO A STATION; THENCE SOUTHEASTERLY CURVING TO THE LEFT FROM A TANGENT BEARING SOUTH 15 DEGREES 01' 30" EAST WITH A RADIUS OF 280 FEET THROUGH AN ANGLE OF 13 DEGREES 25' 58" FOR A DISTANCE OF 65.64 FEET TO THE PLACE OF BEGINNING.

STATE OF CALIFORNIA

SET NAIL/TAG LS 4134 TOP
SOUTH SIDE 6X6 POST

FOUND 3/4" OPEN IRON
PIPE BEARS N0°14'25"E 0.18

(N30°17'20"W 100.00)

STA.1

SET 1 1/2" IRON
PIPE TAGGED L.S.4134
IN CONC.

N 30°23'20" W
100.00

66.34

Set 1/2" pipe
Tagged LS 4134

1" = 50'

FOGEL 4516 OR 21

(S 79°54'17" W 362.66)
S 79°45'05" W 362.96

APN 46-321-06

PODESTO

5301 OR 115

268.55
S 76°53'15" W 334.89
(S 76°50'14" W 334.89)

294 OR 211

COUNTY OF SANTA CRUZ

Set 1/2" pipe
Tagged LS 4134

R&M
D=13°25'58"
R=280' L=65.64

N 57°17'21" W 68.14
(N 56°43'48" W 68.14)

LICENSED LAND SURVEYOR
THEODORE J. BRIDGETT
No. 4134
EXP. 6-30-11
STATE OF CALIFORNIA

SAN ANDREAS RD.

This EXHIBIT taken from the record of survey map recorded in Volume 95 of Maps, Page 34, Santa Cruz County Records

EXHIBIT A, P.2 of 2

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

ADOPTED

EXHIBIT B

Filed:	5/3/2003
49th day:	6/21/2003
180th day:	10/30/2003
Staff:	D.Carl
Staff report prepared:	7/17/2003
Hearing date:	8/6/2003
Hearing item number:	W13b

COASTAL DEVELOPMENT PERMIT APPLICATION

Application number.....**3-02-107, Podesto Revetment and Seawall**

Applicant.....Gary Podesto

Project location.....Manresa State Beach, at the toe of the bluff area below the residence at 1443 San Andreas Road (the first residential structure immediately downcoast of the beach access ramp at the Manresa parking lot).

Project description.....Temporary retention of a rip-rap revetment (that was installed without a coastal development permit in February 1998) and subsequent replacement of the revetment with a sculpted concrete vertical seawall with rip-rap wave-splash wedge along roughly 250 linear feet of shoreline.

File documents.....Coastal Development Permit (CDP) application file 3-02-018; Santa Cruz County Certified Local Coastal Program (LCP); California Coastal Commission Monterey Bay ReCAP.

Staff recommendation ...**Approval with Conditions**

Summary: The proposed project is located at the base of the bluffs backing Manresa State Beach in the unincorporated La Selva Beach area of south Santa Cruz County. The bluff area is located where an unnamed intermittent stream meets the beach and, as a result, forms a wrapped headland (with part of the bluff facing the Monterey Bay and part running perpendicular to the shoreline facing the channel area immediately downcoast of the Manresa State Beach parking lot). The base of the bluffs involved is currently occupied by an un-engineered rock revetment that the Applicant had installed in February 1998 without a coastal development permit (CDP).

The Applicant proposes to construct a 250 linear foot sculpted concrete seawall founded in deep piers at the base of the bluffs with a 6-foot tall wedge of rip-rap at its top (to address potential wave runup and overtopping of the seawall). The existing revetment would be retained as a temporary measure until the seawall is constructed, and then a portion used for the wave splash wedge, and the remainder removed and disposed of off-site. The upper portion of the seawall would be faced with sculpted concrete to resemble the natural bluff face in color and texture, the rip-rap slope above it would be covered with sandy soils and vegetated, and sand backfill would be brought in to hide the seawall from view.

The Coastal Act limits the use of shoreline structures in this case to those required to protect existing endangered structures. The Applicant's residence is located as close as 13 feet (seaward side) and 7 feet (channel side) from the blufftop edge. The historical photographic record indicates that there was little or no erosion at this site between 1928 and 1998. The winter storms of 1997-98 scoured the base of the bluffs and removed the 3-4 foot tall vegetated sand terrace that had previously acted to protect from wave attack the nearly cohesionless and highly erodable sandy bluff soils that make up the bluffs at this site. Lacking the natural protection, the erodable soils are more vulnerable to erosion from wave and stream attack. The Applicant's geotechnical consultants indicate that the site is now subject to regular and routine wave attack. They have presented slope stability and wave attack modeling analyses that indicate that, without armoring, the existing residence could be threatened in one storm event.

The Commission's Geologist and Coastal Engineer have reviewed the slope stability, geologic analyses, and engineering evaluations and have concluded that, although based on fairly conservative assumptions, the conclusions are valid in light of the extremely erodable bluff soils at this location and the evidence of increased frequency of storm wave attack. The Commission's Geologist also has concluded that the evidence is borderline regarding whether the existing structure is "in danger from erosion" at this time. But the fact that waves now routinely impact an area that consists of poorly consolidated nearly cohesionless sand indicates that, absent some form of shore protection, a clear danger from erosion would exist in the very near future were the existing revetment to be removed. To err on the side of protecting life and property, Staff have concluded that it is prudent to assume in this case that the existing structure is in danger from erosion in a Coastal Act sense.

The only feasible non-shoreline armoring alternative to protect the endangered residence is to partially demolish and to relocate/reconstruct it inland on the site, and remove the existing revetment. This alternative, however, is made more complicated by the fact that the site is oddly configured and defined to the north and south by steep slopes and retaining walls. While the structure could be relocated as described, it would need to be substantially moved inland and rotated, resulting in a significantly different residential structure, orientation, and surroundings than the existing structure. Moreover, the slope erosion danger exists along the entire northern property line, and the LCP requires a minimum 25 foot setback to address geologic hazard safety issues along this slope. In other words, the variances necessary would not just be of the side and front yard variety, but would be to geologic hazard minimum setbacks established to protect against erosion and other hazard threats. In sum, relocation in this case would be a significant physical undertaking, and it is unclear that the required variances to inland location setbacks would be appropriate. Staff has concluded that, in this case, based on the site constraints and the existing development present on site, a relocation option does not appear to be a feasible alternative for protecting this existing threatened structure.

Some impacts from such a project cannot be avoided, but they can be reduced and mitigated by conditions designed to: ensure that that the sculpted concrete closely mimics natural bluff characteristics of the area over the life of the project; to require vegetation of the bluff above the seawall with non-invasive native species; to collect and control bluff drainage; to put existing bluff drainage pipes underground; to restore the beach, bluff area, and beach access point after construction; to commit to no

further seaward encroachment in relation to the approved seawall profile; to prohibit further development on the bluff; to commit to long-term monitoring and maintenance of the seawall structure, and all vegetation, drainage, and irrigation approved; to assume all risks for developing in light of the known hazards present at this bluff location; to require all other agency approvals; and to mitigate for remaining project impacts through an easement/fee-title offer of the small beach area held in fee-title by the Applicant, and the restoration/enhancement of the Manresa State Beach parking lot beach access ramp.

As so conditioned, and as further detailed in the conditions and findings below, Staff believes that the approved project is consistent to the degree feasible with the Coastal Act, and Staff recommends approval.

Staff Report Contents

I. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number 3-02-107 pursuant to the staff recommendation.

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

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the grounds that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development 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 feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the development on the environment.

II. Conditions of Approval

A. 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 Permittee 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 or 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 Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Final Seawall Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit Final Engineered Seawall Plans to the Executive Director for review and approval. The Final Plans shall be substantially in conformance with the plans submitted to the Coastal Commission (*Site Plan for Podesto Residence* by Ifland Engineers, Inc. dated received in the Coastal Commission's Central Coast District Office April 3, 2003) but shall show the following changes to the project:

   (a) Temporary Rip-Rap Allowed. The project plans shall indicate that the existing rip-rap may be retained until the seawall project construction commences. Unless extraordinary conditions warrant altering this date due to extenuating circumstances (as determined by the Executive Director), the temporary rip-rap shall be removed and the new seawall installed as soon as possible but in no event later than August 6, 2005.

   (b) Permanent Base of Seawall Rip-Rap Prohibited. Retaining wall note number 2 on page 2 of the plans shall indicate that rip-rap is prohibited on the seaward and/or channel side of the seawall notwithstanding the 2001 geotechnical report recommendations.

   (c) Top of Seawall Rock Slope. The rock slope topping the seawall and extending inland of it shall be as shown on the Haro, Kasunich and Associates, Inc. detail dated received in the Coastal Commission's Central Coast District Office June 19, 2003 (see page 4 of exhibit B).

   (d) Sand Import. The plans shall clearly state that all sand imported to cover the base of the seawall structure shall be beach quality sand consistent with the quality of the existing beach sand at Manresa State Beach.

   (e) Cross-Sections. The cross-sections and the expanded profile of the seawall structure shown on page 3 of the submitted plans shall also clearly identify: (1) the lowest elevation of the base of the pier elements; (2) the lower edge of the concrete facing to be applied to the seawall; (3) the wave return; and (4) the rock slope protection inland and on top of the seawall.

   (f) Seawall Surfacing. The seawall shall be faced with a sculpted concrete surface that mimics the natural bluffs in the immediate vicinity. The surfacing shall completely hide the vertical pier elements so that the surfaced wall does not appear to be concrete-faced equidistant piers, but rather a natural undulating bluff in integral color, texture, and undulation. The integral color, texture, and undulation shall be maintained through-out the life of the structure. The project plans shall include a materials palette and/or brochures and photo examples describing the seawall facing techniques that will be applied and the expected finished facing product.

The Permittee shall undertake development in accordance with the approved Final Engineered Seawall Plans. Any proposed changes to the approved Final Plans shall be reported to the Executive Director. No changes to the approved Final Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Construction Plan to the Executive Director for review and approval. The Construction Plan shall identify the specific location of all construction areas, all staging areas, all storage areas, all construction access corridors (to the construction sites and staging areas), and all public pedestrian access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction encroachment on the beach and to have the least impact on public access. The Plan shall specify all construction methods to be used, including all methods to be used to keep the construction areas separated from beach recreational use areas (including using the blufftop space available on the Permittee's property inland of the revetment for staging, storage, and construction activities to the maximum extent feasible) and shall include a final construction schedule. All erosion control/water quality best management practices to be implemented during construction and their location shall be noted. Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into the Pacific Ocean. The Construction Plan shall, at a minimum, include the follow required criteria specified via written notes on the Plan:

(a) All work shall take place during daylight hours. Lighting of the beach area is prohibited.

(b) Construction work or equipment operations shall not be conducted below the mean high water line unless tidal waters have receded from the authorized work areas.

(c) Grading of intertidal areas is prohibited with one exception as follows: existing rock that has migrated seaward of the revetment, that is naturally exposed, and that can be retrieved without substantial excavation of the surrounding sediments, shall be retrieved and reused or removed to an appropriate disposal site offsite. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

(d) Any construction materials and equipment that cannot be delivered to the site from the blufftop above, shall be delivered to the beach area by rubber-tired construction vehicles. When transiting on the beach, all such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.

(e) All construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs. The only

exceptions shall be for: (1) erosion and sediment controls (e.g., a silt fence at the base of the revetment) as necessary to contain rock and/or sediments at the revetment site, where such controls are placed as close to the toe of the revetment/seawall as possible, and are minimized in their extent; and (2) storage of larger materials (i.e., steel I-beams, lagging members, large forms, etc.) beyond the reach of tidal waters for which moving the materials each day would be extremely difficult. If larger materials are to be left on the beach area overnight, the Construction Plan shall clearly specify what types of materials are to be so stored, the difficulty associated with moving them each day, the methods to be taken to ensure they are completely encased (i.e., not in contact with beach sands and completely covered), and the contingency plan for moving said materials in the event of tidal/wave surge reaching them.

(f) Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.

(g) No work shall occur on the beach during the summer peak months (start of Memorial Day weekend to Labor day) unless, due to extenuating circumstances, the Executive Director authorizes such work.

(h) Equipment washing, refueling, and/or servicing shall not take place on the beach.

(i) The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach).

(j) All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.

A copy of the approved Construction Plan shall be kept at the construction job site at all times and all persons involved with the construction shall be briefed on its content and meaning prior to commencement of construction.

The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

3. **Bluff Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee

shall submit a Bluff Plan to the Executive Director for review and approval. The Bluff Plan shall at a minimum apply to the area extending from a 5-foot setback line (measured inland from the blufftop edge) to the top of the seawall (the "upper bluff area" for the purposes of this condition), and shall have three related and overlapping elements: a revegetation plan, an irrigation plan, and a drainage plan. These are more specifically described as follows:

(a) Revegetation Plan. The revegetation plan shall provide for the removal of all non-native and/or invasive plant species (e.g., iceplant) present on the upper bluff area above the seawall, and the planting of native species along the full linear extent of the upper bluff area above the seawall in a manner designed to completely cover all exposed soils with vegetation. For that upper bluff area located directly above the seawall, the rock slope protection shall be completely covered with soil, and appropriate trailing vegetation shall be planted to provide for a dense cascading screen of vegetation to completely cover the upper 3 vertical feet of the seawall. Any imported soil shall match the sandy soils present in the bluff, and shall be free of impurities that could affect the success of the native revegetation effort or would otherwise result in beach area degradation. For the area where sand is to be placed to cover the base of the seawall (below the seawall and both towards the channel and the sea), vegetation capable of success in sand shall be planted in plugs in the five-foot area extending down the sand slope from the top of the seawall in a manner designed to provide a slow transition from the heavily vegetated slope above to the sandy beach below (i.e., reduced density of plants extending down from the top of the seawall). The revegetation plan shall clearly identify in site plan view the type, size, extent and location of all native plant materials to be used as chosen from the following native planting palette (substitutions of appropriate non-invasive native bluff edge plants to complement this planting palette may be allowed upon written consent from the Executive Director):

- Achillea millefolium – yarrow
- Artemisia californica – California sagebrush
- Bromus carinatus var. maritimus – seaside brome
- Ceanothus griseus var. horizontalis – "Carmel creeper"
- Ceanothus griseus var. horizontalis – "Yankee Point"
- Dudleya caespitosa – live forever
- Dudleya farinosa – live forever
- Elymus glaucus – blue wild rye
- Erigeron glaucus – seaside daisy
- Eriogonum latifolium – buckwheat
- Eriogonum parvifolium – dune buckwheat
- Eriophyllum staechadifolium – lizard tail

- Fragaria chiloensis – beach strawberry
- Grindelia stricta – gumweed
- Leymus pacificus – beach wild rye
- Mimulus aurantiacus – sticky monkey flower
- Myrica californica – wax myrtie
- Poa douglasii – maritime bluegrass
- Rhamnus californica – coffeeberry

The revegetation plan shall include maintenance and monitoring parameters, and shall require that: all plants above the top of the seawall are replaced as necessary to maintain the dense screen of vegetation to completely cover the bluff area and rock slope between the blufftop edge and the seawall, and to cover the top 3 feet of the seawall. Plants installed below the top of the seawall (i.e., in the imported back-fill sand) do not have to be replaced if they are removed by tidal action.

(b) Irrigation Plan. The irrigation plan shall provide for irrigation (e.g., drip emitters) as necessary to ensure that the revegetation plan is successful. All irrigation elements necessary for planting success shall be clearly identified in site plan view. All other irrigation elements present in the blufftop area shall be identified.

(c) Drainage Plan. The drainage plan shall clearly identify all permanent measures to be taken to collect and direct blufftop area drainage. Such drainage may be used for landscape irrigation, including for the native planting revegetation, provided such irrigation use does not contribute to bluff instability in any way. Any drainage not used for on-site irrigation purposes shall be collected and directed to the drainage pipe extending down the channel side of the property that is to be moved underground. Drainage shall not be allowed: to pond at the blufftop edge; sheet flow over the bluff seaward or channelward; or otherwise be directed seaward.

The Bluff Plan shall be developed with input from a landscape professional experienced in invasive plant eradication and native bluff planting efforts, and shall be submitted with evidence of the review and approval of a licensed engineering geologist and/or a licensed civil engineer with experience in coastal structures and processes to ensure that the Plan is consistent with promoting bluff stability. The Plan shall include maintenance and monitoring parameters designed to ensure revegetation, irrigation, and drainage success. The Plan shall include site plans and cross-sections that clearly identify all above-described elements in relation to the approved project and all property lines.

The approved Bluff Plan shall be implemented immediately upon completion of seawall construction. WITHIN ONE (1) MONTH OF COMPLETION OF SEAWALL CONSTRUCTION, all non-native and/or invasive plant species (e.g., iceplant) on the upper bluff area above the seawall shall be removed, all native species identified in the Plan shall be planted, and all drainage and

irrigation facilities shall be installed and shall be in working order.

The Permittee shall undertake development in accordance with the approved Bluff Plan. Any proposed changes to the approved Bluff Plan shall be reported to the Executive Director. No changes to the approved Bluff Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office when all native species identified in the Plan have been planted and all drainage and irrigation facilities have been installed and are in working order consistent with the approved Plan. Initial implementation of the Bluff Plan shall be considered complete, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

4. **Manresa State Beach Access Ramp Repair.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit an Access Ramp Repair Plan to the Executive Director for review and approval. The Ramp Repair Plan shall apply to the access ramp providing vehicular access from the Manresa State Beach parking lot to the beach below. The Plan shall provide for restoration of the entirety of the access ramp to its pre-construction state, and shall also provide for a repair of the 40-foot base section of it nearest the beach. The objective of the 40-foot base repair shall be to improve the stability of the base of the ramp, and to prevent scour and other damage during storm events. Such repair shall not increase the ramp's footprint (unless a narrow (approximately 6 inch) wall-type structure along the channel side of the base of the ramp is part of the repair plan), and shall not involve rip-rap. Rather, the Plan shall provide for a repair of the ramp's concrete foundation through pouring new concrete and/or by pumping sand and/or sand slurry within its undermined footprint, and resurfacing the ramp itself when the foundation repairs are complete. Any new exposed surfaces along the side of the base of the ramp along the channel (e.g., an exterior wall along the channel) shall be camouflaged with a surface treatment that mimics the natural bluffs in the immediate vicinity (e.g., with facing similar to the approved seawall) and/or non-invasive native vegetation. Any ramp-area landscaping impacted by construction access and/or ramp repair shall be replaced with non-invasive native bluff species specified in the list shown in special condition 3. The Permittee's total expense for the 40-foot ramp repair, including costs to have plans prepared, shall not exceed $20,000. The Ramp Repair Plan shall include an estimate of the cost to implement the 40-foot ramp repair, and an identification of the cost expended by the Permittee to have the 40-foot ramp repair portion of the Ramp Repair Plan prepared. The Ramp Repair Plan shall be submitted with evidence of approval, or evidence of disapproval, from the California Department of Parks and Recreation's Santa Cruz District. In the event that the California Department of Parks and Recreation does not consent to a ramp repair project consistent with the parameters of this condition, then the Permittee shall be released from further obligation to implement the Ramp Repair Plan and this condition shall be deemed satisfied upon verification by the Executive Director of said disapproval.

WITHIN THIRTY (30) DAYS OF COMPLETION OF SEAWALL CONSTRUCTION, or within

such additional time as deemed appropriate by the Executive Director if there are extenuating circumstances, the Permittee shall restore and repair the ramp consistent with the approved Access Ramp Repair Plan. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office upon completion of ramp repair activities to arrange for a site visit to verify that all ramp repair activities are complete. The ramp shall be considered repaired and restored, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

5. **Temporary Revetment**. The existing rip-rap placed without benefit of a coastal development permit may be retained on a temporary basis until construction on the permitted seawall commences. The temporary rip-rap shall be removed as soon as possible but in no event later than August 6, 2005.

6. **Seawall Facing Verification.** PRIOR TO SURFACING THE SEAWALL, the Permittee shall arrange to have a small test section of the seawall faced consistent with the seawall surfacing component of the approved plans specified in special condition 1. The small test section shall be located at the end of the seawall (to allow direct comparison between the natural bluff and the seawall) and shall include at least one pier element, the wall on both sides of the pier element(s), and a complete vertical section of the wave return and top of the seawall. After the small test section has been faced and allowed to cure to its final expected integral color, configuration, and texture, the Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office to arrange for a site visit to verify that the seawall facing approximates the approved expected finished facing product shown in the approved plans and is consistent with their objective for this design element (i.e., it mimics the natural bluffs in the immediate vicinity, completely hides the vertical pier elements so that the surfaced wall does not appear to be concrete-faced equidistant piers, and approximates a natural undulating bluff). At the Executive Director's discretion, the Permittee may submit photos of the test section to planning staff of the Central Coast District Office in lieu of the site visit. If planning staff should identify additional reasonable measures necessary to modify the facing in order to achieve consistency with the approved expected finished facing product and design objectives identified in the approved plans, then such measures shall be applied to the test section or a new test section. In such a case, after the small test section (or a new test section subject to the same criteria) has been faced and allowed to cure to its final expected color, configuration, and texture, the Permittee shall again notify planning staff of the Coastal Commission's Central Coast District Office to review the new or re-faced test section. The Permittee shall arrange for as many iterations of the facing and review process as necessary to achieve consistency with the objective of the approved plans for this design element. The seawall shall not be faced until planning staff of the Coastal Commission's Central Coast District Office has indicated in writing to the Permittee that the test section is consistent with the approved expected finished facing product and design objectives identified in the approved plans. After the Permittee has received written verification that the test section is in conformance, the Permittee shall face that portion of the remainder of the seawall to which facing is to be applied (pursuant to the approved plans) consistent with the approved test section facing. The approved integral color, configuration, and texture of the seawall facing shall be maintained throughout the life of the structure.

7. **Seawall Facing at Base of Seawall.** The Permittee shall view the seawall at least one time per month during the non-winter months (i.e., March through November) and shall immediately contact planning staff of the Coastal Commission's Central Coast District Office if any portion of the base of the seawall for which seawall facing is not required per the approved plans specified in special condition 1 (i.e., that portion of the seawall extending below –5 NGVD (National Geodetic Vertical Datum)) should become visible at any time during the non-winter months. If any such portion of the base of the seawall should become visible at any time during non-winter months (based on the Permittee's monthly checks and/or based on identification of same by planning staff of the Coastal Commission's Central Coast District Office), then the Permittee shall within one-month of such discovery submit a Seawall Facing Augmentation Plan to the Executive Director for review and approval. The Augmentation Plan shall provide for facing that portion of the seawall that is visible during non-winter months or the entire base of the seawall consistent with the facing parameters defined in the approved plans (specified in special condition 1) and subject to all of the seawall facing parameters specified in special condition 6. If, at some point, the entire seawall becomes faced in this process, then the monthly monitoring pursuant to this condition shall no longer be required after that time.

8. **Beach Area Restoration.** WITHIN THREE (3) DAYS OF COMPLETION OF SEAWALL CONSTRUCTION, the Permittee shall restore all beach areas and all beach access points impacted by construction activities to their pre-construction condition. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office upon completion of beach restoration activities to arrange for a site visit to verify that all beach restoration activities are complete. If planning staff should identify additional reasonable measures necessary to restore the beach and beach access point, such measures shall be implemented immediately. The beach and beach access point shall be considered restored, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

9. **Beach Access Easement.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a political subdivision, public agency or private association approved by the Executive Director either fee title or an easement for beach access (Beach Dedication). The Beach Dedication shall apply to that portion of the Permittee's property (APN 046-321-06) that is located to the west of the seawall location (see area identified as "OTD Area" on exhibit G) (Beach Dedication Area). The recorded document shall include a legal description and a site plan of the easement area and APN 046-321-06. The recorded document shall indicate that no development, as defined in Section 30106 ("Development") of the Coastal Act, shall occur in the easement area except for: (1) appropriately permitted construction activities associated with construction, maintenance, or repair of the seawall, the rock slope area above the seawall, the vegetative screening, and all irrigation and drainage structures approved by coastal development permit 3-02-107; and (2) standard beach maintenance activities undertaken by the California Department of State Parks.

The offer to dedicate a beach access easement shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

10. **As-Built Seawall Plans.** WITHIN TWO (2) MONTHS OF COMPLETION OF SEAWALL CONSTRUCTION, the Permittee shall submit to the Executive Director for review and approval As-Built Plans of the seawall structure in 11" x 17" format with a graphic scale that include one or more permanent surveyed benchmarks inland of the seawall for use in future monitoring efforts. The As-Built Plans shall identify the seawall structure, the rock slope protection above it, the bluff, all property lines, the blufftop edge, and all blufftop development in site plan and cross-section views. The benchmark elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD). The As-Built Plans shall indicate vertical and horizontal reference distances from the surveyed benchmark(s) to survey points located along the top edge (on the edge closest to the sea/channel) of the seawall at each pier location and at each point where the seaward edge of the seawall crosses a property line (in site plan view) for use in future monitoring efforts. The survey points shall be identified through permanent markers, benchmarks, survey position, written description, et cetera to allow measurements to be taken at the same location in order to compare information between years.

    The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and process, acceptable to the Executive Director, verifying that the seawall has been constructed in conformance with the approved project plans described by special condition 1 above.

11. **Monitoring.** The Permittee shall ensure that the condition and performance of the as-built seawall (including the rock slope above it) is regularly monitored by a licensed civil engineer with experience in coastal structures and processes. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred that would adversely impact its future performance, and identify any structural damage requiring repair to maintain the as-built seawall (including the rock slope above it) profile. At a minimum, the Permittee shall submit to the Executive Director for review and approval a monitoring report once every five years by May 1st (with the first report due May 1, 2008) for as long as the seawall exists at this site. Each such report shall be prepared by a licensed civil engineer with experience in coastal structures and processes and shall cover the monitoring evaluation described in this condition above. Each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the as-built seawall (including the rock slope above it). All monitoring reports shall include sections on both: (a) the bluff elements (i.e., vegetation, irrigation, and drainage) consistent with the parameters for monitoring, maintenance, and success established in the approved Bluff Plan described in special condition 3 above; and (b) the seawall facing and potential for augmentation required pursuant to the approved plans (special condition 1), seawall facing verification (special condition 6), and potential seawall facing augmentation (special condition 7).

12. Shoreline Development Stipulations. By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that:

(a) No Further Seaward or Channel Encroachment. Any future response to coastal hazards (including but not limited to coastal hazards associated with shoreline erosion, stream erosion and scour, landslides, wave attack, etc.) requiring the placement of any type of shoreline structure, including, but not limited to, modifications to the as-built seawall and associated rock-slope, shall be constructed inland (i.e., toward the blufftop) of the location of the seawall. An As-Built Seawall Plan has been approved pursuant to coastal development permit 3-02-107 that defines the location of the seawall.

(b) Bluff Vegetation. A Bluff Plan has been approved pursuant to coastal development permit 3-02-107 that provides for the removal of invasive plants and the planting with non-invasive native bluff plants in the bluff area above the seawall and extending inland 5 feet past the blufftop edge. The full linear extent of the upper bluff area above the seawall shall be completely covered by native vegetation so that exposed soils are not visible. For that upper bluff area located directly above the seawall, the upper 3 vertical feet of the seawall shall be completely screened from view (as seen from the beach and/or channel area) by a dense cascading screen of native vegetation. To allow for initial growth, the required screening shall be initially achieved within two years of the construction of the seawall, and shall thereafter be maintained for the life of the seawall. A Bluff Plan has been approved pursuant to coastal development permit 3-02-107 that specifies the allowed native planting palette and the required vegetation maintenance parameters. All native plantings shall be maintained in good growing conditions, including the use of appropriate irrigation and drainage apparatus, and shall be replaced as necessary to maintain the bluff vegetation consistent with the approved Bluff Plan.

(c) Bluff Development Prohibition. Development, as defined in Section 30106 ("Development") of the Coastal Act, shall be prohibited in the area located between the seawall and the blufftop edge, and below the blufftop edge where there is not seawall, except for existing permitted development and approved repair and/or maintenance thereto.

(d) Maintenance. It is the Permittee's responsibility to maintain the seawall, rock slope protection above the seawall, and all irrigation, drainage, and vegetation approved pursuant to coastal development permit 3-02-107 in a structurally sound manner and its approved state. An As-Built Seawall Plan has been approved pursuant to coastal development permit 3-02-107 that defines the profile and footprint of the constructed seawall. A Bluff Plan has been approved pursuant to coastal development permit 3-02-107 that provides for vegetation, irrigation, and drainage standards and criteria. Future maintenance as specified in special condition 15 is authorized pursuant to the parameters of coastal development permit 3-02-107, but this does not obviate the need to obtain permits from other agencies for any future maintenance and/or repair episodes. Special condition 15 (Future Maintenance) is incorporated here in its entirety by reference.

(e) Rock Retrieval. Any rocks that move seaward of the as-built seawall shall be immediately

retrieved and either: (1) restacked within the approved rock slope profile inland of the seawall; or (2) removed off the beach to a suitable disposal location. An As-Built Seawall Plan has been approved pursuant to coastal development permit 3-02-107 that defines the profile and footprint of the as-built seawall (including the rock slope above it). Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

(f) Debris Removal. The Permittee shall immediately remove all materials and/or debris that may fall from the blufftop area inland of the seawall onto the bluff, beach, or channel below.

(g) Assumption of Risk, Waiver of Liability and Indemnity Agreement. The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to hazards from episodic and long-term bluff retreat and coastal erosion, stream erosion and scour, wave and storm events, bluff and other geologic instability, and the interaction of same; (ii) to assume the risks to the Permittee 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; (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; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.

(h) Future Shoreline Planning. The Permittee acknowledges, on behalf of itself and all successors and assigns, that there may be future shoreline armoring planning efforts that involve the seawall (including the rock slope above it) approved pursuant to coastal development permit 3-02-107. Such planning efforts may involve consideration of a shoreline armoring management entity meant to cover the larger shoreline that includes the shoreline structure here, and may involve consideration of potential modifications and/or programs designed to reduce public viewshed and beach access impacts due to shoreline armoring. Acknowledgement in no way binds the Permittee (and all successors and assigns) to any particular outcome of such planning efforts, and in no way limits the ability of Permittee (and all successors and assigns) to express their viewpoint during the course of such planning efforts.

13. **Other Agency Review.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the project as approved by coastal development permit 3-02-107 have been granted by the: (1) the California Department of Parks and Recreation; (2) Santa Cruz County; and (3) Monterey Bay National Marine Sanctuary.

14. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this permit as

evidence of a waiver of any public rights which may exist on the property.

15. **Future Maintenance.** Coastal development permit 3-02-107 authorizes future maintenance as described in this special condition. The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that: (a) it is the Permittee's responsibility to maintain the as-built seawall, the rock slope area above the seawall, the vegetative screening, and all irrigation and drainage structures in a structurally sound manner and their approved state; (b) to immediately retrieve rocks that move seaward of the as-built seawall and either restack them (within the approved rock slope profile inland of the seawall) or dispose of them at a suitable inland disposal location; and (c) remove all debris that may fall from the blufftop area inland of the seawall onto the bluff, beach, or channel below. Any such development, or any other maintenance development associated with the as-built seawall, the rock slope area above the seawall, the vegetative screening, and all irrigation and drainage structures, shall be subject to the following:

    (a) Maintenance. "Maintenance," as it is understood in this condition, means development that would otherwise require a coastal development permit whose purpose is: (1) to repair, reface, and/or otherwise maintain the approved seawall structure in its approved configuration (as shown on the approved As-Built Seawall Plan); (2) to reestablish or place rock within the permitted footprint and/or profile of the approved rock slope area above the seawall (as shown on the approved As-Built Seawall Plan); (3) to reestablish the permitted upper bluff drainage, vegetation, and/or irrigation elements of the approved Bluff Plan; and/or (4) to retrieve any rocks that move seaward of the footprint and/or profile of the approved rock slope area above the seawall (as shown on the approved As-Built Seawall Plan).

    (b) Maintenance Parameters. Maintenance shall only be allowed subject to the parameters of the approved construction plan required by special condition 2. All beach areas shall be restored subject to the beach restoration parameters of special condition 8 above. Any proposed modifications to the approved construction plan and/or beach restoration requirements associated with any maintenance event shall be reported to planning staff of the Coastal Commission's Central Coast District Office with the maintenance notification (described below), and such changes shall require a coastal development permit amendment unless the Executive Director deems the proposed modifications to be minor in nature (i.e., the modifications would not result in additional coastal resource impacts).

    (c) Other Agency Approvals. The Permittee acknowledges that these maintenance stipulations do not obviate the need to obtain permits from other agencies for any future maintenance and/or repair episodes.

    (d) Maintenance Notification. At least 2 weeks prior to commencing any maintenance event, the Permittee shall notify, in writing, planning staff of the Coastal Commission's Central Coast District Office. The notification shall include a detailed description of the maintenance event proposed, and shall include any plans, engineering and/or geology reports, proposed changes to the maintenance parameters, other agency authorizations, and other supporting documentation

describing the maintenance event. The maintenance event shall not commence until the Permittee has been informed by planning staff of the Coastal Commission's Central Coast District Office that the maintenance event complies with this coastal development permit.

(e) Maintenance Coordination. Maintenance events shall, to the degree feasible, be coordinated with other maintenance events proposed in the immediate vicinity with the goal being to limit coastal resource impacts, including the length of time that construction occurs in and around the beach area and beach access points at Manresa State Beach. As such, the Permittee shall make reasonable efforts to coordinate the Permittee's maintenance events with other events (such as those of the California Department of Parks and Recreation), including adjusting maintenance event scheduling as directed by planning staff of the Coastal Commission's Central Coast District Office.

(f) Non-compliance Proviso. If the Permittee is not in compliance with the conditions of this permit at the time that a maintenance event is proposed, then the maintenance event that might otherwise be allowed by the terms of this future maintenance condition shall not be allowed by this condition.

(g) Emergency. Nothing in this condition shall serve to waive any Permittee rights that may exist in cases of emergency pursuant to Coastal Act Section 30611, Coastal Act Section 30624, and Subchapter 4 of Chapter 5 of Title 14, Division 5.5, of the California Code of Regulations (Permits for Approval of Emergency Work).

(h) Duration of Covered Maintenance. Future maintenance under this coastal development permit is allowed subject to the above terms for five (5) years from the date of approval (i.e., until August 6, 2008). Maintenance can be carried out beyond the 5 year period if the Executive Director extends the maintenance term in writing.

16. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction is in addition to, and not a substitute for, the dedication required by special condition 9. The deed restriction shall include a legal description and site plan of: the entire parcel or parcels governed by this permit; the Bluff Development Prohibition area specified in special condition 12; and the Beach Dedication Area specified in special condition 9. 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.

III. Findings and Declarations

The Commission finds and declares as follows:

A.Project Location and Description

The proposed project is located on the bluffs fronting Manresa State Beach in the unincorporated La Selva Beach area of south Santa Cruz County (see exhibit A).

Santa Cruz County Regional Setting

Santa Cruz County is located on California's central coast and is bordered to the north and south by San Mateo and Monterey Counties (see exhibit A). The County's shoreline includes the northern half of the Monterey Bay and the rugged north coast extending to San Mateo County along the Pacific Ocean. The County's coastal zone resources are varied and oftentimes spectacular, including the Santa Cruz Mountains coastal range and its vast forests and streams; an eclectic collection of shoreline environments ranging from craggy outcrops to vast sandy beaches (in both urban and more rural locations); numerous coastal wetland, lagoon and slough systems; habitats for an amazing variety and number of endangered species; water and shore oriented recreational and commercial pursuits, including world class surfing areas; internationally renowned marine research facilities and programs; special coastal communities; vast State Park lands; and the Monterey Bay itself. The unique grandeur of the region and its national significance was formally recognized in 1992 when the area offshore of the County became part of the Monterey Bay National Marine Sanctuary – the largest of the 12 such federally protected marine sanctuaries in the nation.

Santa Cruz County's rugged mountain and coastal setting, its generally mild climate, and its well-honed cultural identity combine to make the area a desirable place to both live and visit. As a result, the County has seen extensive development and regional growth over the years that the California Coastal Management Program has been in place. In fact, Santa Cruz County's population has more than doubled since 1970 alone with current census estimates indicating that the County is home to over one-quarter of a million persons.[1] This level of growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services, but also the need for park areas, recreational facilities, and visitor serving amenities. For coastal counties such as Santa Cruz where the vast majority of residents live within a half-hour of the coast, and many closer than that, coastal zone resources are a critical element in helping to meet these needs. Furthermore, with the shoreline itself (and its parks, beaches, trails, etc.) attracting visitors into the region, an even greater pressure is felt at coastal recreational areas and destinations like Manresa State Beach. With the Santa Cruz County shoreline and

[1] Census data from 1970 shows Santa Cruz County with 123,790 persons; California Department of Finance estimates for the 2000 census indicate that over 255,000 persons reside in Santa Cruz County.

beaches providing arguably the warmest and most accessible ocean waters in all of Northern California, and with the large population centers of the San Francisco Bay area and the Silicon Valley nearby, this type of resource pressure is particularly evident in coastal Santa Cruz County.

La Selva Beach Area

The unincorporated La Selva Beach area is located in the southern portion of Santa Cruz County just downcoast of the Seascape residential and resort development that marks the southernmost end of the County's urban services line (again, see exhibit A). La Selva Beach proper, just upcoast of the site, is developed to semi-urban residential densities. Downcoast of La Selva Beach, coastal agriculture still predominates in the County's coastal zone, with some large-lot residential development nearest the coast, including a few semi-isolated subdivision communities (e.g., Place de Mer, Sand Dollar, Pajaro Dunes, etc.). This area is decidedly less urban than the portion of the County's coastal zone surrounding the Cities of Santa Cruz and Capitola upcoast (i.e., Live Oak and Aptos-Seacliff-Rio Del Mar).

Proposed Development Site

The proposed project is located on the bluffs and back beach area of the California Department of Parks and Recreation's (DPR's) Manresa State Beach unit on the seaward side of San Andreas Road. Part of the land area involved is publicly owned (by Santa Cruz County), and part is owned by the Applicant (see exhibit C).[2] The bluff area is located where an unnamed intermittent stream meets the beach and, as a result, forms a wrapped headland (with part of the bluff facing the Monterey Bay and part running perpendicular to the shoreline facing the channel area immediately downcoast of the Manresa State Beach parking lot). The Manresa State Beach parking lot is located on the blufftop immediately on the upcoast side of the unnamed intermittent stream from the Applicant's property; another private residence is located downcoast. A culvert passes under San Andreas Road and discharges immediately on the beach upcoast of the Applicant's property. The culvert has been protected by rip-rap consisting of small rock (less than ½ ton) at its discharge point.[3] The Applicant's residence sits atop the roughly 40 foot tall bluff next to the channel and facing the ocean. The bluff has been shaped dominantly by subaerial, rather than marine, erosion and has a gradient of less than 45 degrees (1:1).

The base of the bluffs at this location is currently occupied by an un-engineered rock rip-rap revetment that the Applicant installed in February 1998 without a CDP (see alleged violation finding).[4] The revetment is made up of an estimated 800 tons (or 500 cubic yards) of rock stretching roughly 250 linear feet around the headland with a footprint extending horizontally up to about 10 feet from the base of the

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2 A portion of sandy beach within the primary project area is held in fee-title by the Applicant. This sandy beach area, however, is indistinguishable from the rest of Manresa State Beach and has been used by the public for many years as if it were public lands. A formal State Lands determination has not been completed for this area.

3 The culvert was repaired and the rip-rap authorized by emergency CDPs issued by the County for the main body of work, and by the Commission for the stockpiling of rock and equipment on the beach in support of the County emergency permit operation (Commission emergency permit 3-98-014-G). The culvert work was made permanent by regular County coastal permit number 98-0408 approved in 1999.

4 The revetment that was installed without CDP is referred to in the report as "existing" where existing is understood to mean physically in place but not recognized by a CDP.

bluff. The rock is partially on DPR property, partially on Santa Cruz County property, and partially on the Applicant's fee-title property (again, see exhibit C). The existing revetment is an anomaly inasmuch as there is no armoring up and downcoast other than the culvert rip-rap, and limited armoring (pre-Coastal Act) in the overall larger Manresa State Beach area.

The beach area fronting the Applicant's property is part of a roughly 15 mile unbroken stretch of beach reaching from New Brighton State Beach in Capitola down to the Pajaro River. The beach here is generally fairly wide, a width of 100 yards or more, and is part of DPR's Manresa State Beach unit.

See exhibit A for location map, and exhibit D for before and after (revetment placement) photos of the site, and exhibit E for additional photos of the site and surrounding area.

Proposed Project

The Applicant has applied to construct a 250-foot long shotcrete seawall that would be founded in steel I-beams that are set in concrete piers extending to –6 NGVD at the base of the bluff (near the inland edge of the existing revetment), with tie back anchors fastening the wall against the bluff itself. The wall would extend from the existing culvert mouth and rip-rap, around the headland, and downcoast to the neighboring property line. The height of the proposed structure would vary from +17 NGVD along the ocean side to +13 feet NGVD nearest the culvert (equaling a structural vertical dimension ranging from 19 to 23 feet in height from top to bottom), with the solid concrete wall element extending from +1 NGVD to its top (i.e., the space between the piers would be open below +1 NGVD). The upper two-thirds of the solid portion of the wall, roughly, would be faced with 6 inches of sculpted concrete designed to match the color and texture of the surrounding bluff materials. The uppermost 2½ feet of the wall would have a small wave recurve along the approximately 170 feet of it fronting the ocean and the headland "nose" itself, and would be topped with ¼ to 1 ton rip-rap stones in a 4 by 5 foot wedge covered with sand and landscaping. Imported sand would be used to cover the seawall and approximate the slope gradient (beach sand would not be harvested and used for this purpose).

The Applicant also has applied to retain the existing revetment as a temporary measure until the seawall is constructed.[5] At that time it would be removed. The Applicant proposes to use some of the retained rip-rap to construct the rock slope proposed atop the new seawall structure (roughly 100 cubic yards). The Applicant has indicated that rip-rap would not be placed at the toe of new seawall.[6]

See exhibit B for proposed project plans.

Standard of Review

Since the proposed project falls within the Commission's retained jurisdiction, the standard of review is

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5 See alleged violation finding.

6 Note that the original geotechnical report for the project recommends that some of the larger rip-rap stones be retained and placed at the toe of new seawall. Although the plan notes require that the project comply with the geotechnical report recommendations, the Applicant (through his geotechnical consultants) has subsequently indicated the proposed project does not include any rip-rap at the base of the structure (April 2, 2003 letter report from Rogers Johnson & Associates and Haro, Kasunich and Associates).

the Coastal Act. As relevant, the County's LCP can provide non-binding guidance. Given that the Coastal Act and LCP policies are very similar as regards allowing shoreline armoring and protecting against its impacts, the LCP's relevance in this regard is limited.

B.Coastal Development Permit Determination

1. Geologic Conditions and Hazards

Coastal Act Section 30235 addresses the use of shoreline protective devices:

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

Coastal Act Section 30253 addresses the need to ensure long-term structural integrity, minimize future risk, and to avoid landform altering protective measures in the future. Section 30253 provides, in applicable part:

> ***Section 30253.*** *New development shall:*
>
> *(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
>
> *(2) 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.*

Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" methods designed to forestall erosion also alter natural landforms and natural shoreline processes. Accordingly, with the exception of new coastal-dependent uses, Section 30235 limits the construction of shoreline protective works to those required to protect existing structures or public beaches in danger from erosion. The Coastal Act provides these limitations because shoreline structures can have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach.

In addition, the Commission generally has interpreted Section 30235 to apply only to existing *principal* structures. The Commission must always consider the specifics of each individual project, but has generally found that accessory structures (such as patios, decks, gazebos, stairways, etc.) are not required to be protected under Section 30235, or can be protected from erosion by relocation or other means that do not involve shoreline armoring. The Commission has generally historically permitted at-grade

structures within coastal erosion setback areas recognizing that they are expendable and capable of being removed rather than requiring a protective device that would alter natural landforms and processes along bluffs, cliffs, and beaches.

Under Coastal Act Section 30235, a shoreline structure must be approved if: (1) there is an existing structure; (2) the existing structure is in danger from erosion; (3) shoreline-altering construction is required to protect the existing threatened structure; and (4) the required protection is designed to eliminate or mitigate its adverse impacts on shoreline sand supply. The first three questions relate to whether the proposed armoring is necessary, while the fourth question applies to mitigating some of the impacts from it.

A. Existing Structure to be Protected

The Applicant proposes shoreline armoring to protect the residence located on the blufftop at this location. County Assessor records indicate that the existing residence was originally constructed in 1961, prior to the coastal permitting requirements of both Proposition 20 and the Coastal Act. As such, the blufftop residence qualifies as an existing structure for purposes of Section 30235.

B. Danger from Erosion

The Coastal Act allows shoreline armoring to protect existing structures in danger from erosion, but it does not define the term "in danger." There is a certain amount of risk in maintaining development along a California coastline that is actively eroding and can be directly subject to violent storms, large waves, flooding, earthquakes, and other hazards. These risks can be exacerbated by such factors as sea level rise and localized geography that can focus storm energy at particular stretches of coastline. As a result, some would say that all development along the immediate California coastline is in a certain amount of "danger." It is a matter of the degree of threat that distinguishes between danger that represents an ordinary and acceptable risk, and danger that requires shoreline armoring per 30235. Lacking Coastal Act definition, the Commission's long practice has been to evaluate the immediacy of any threat in order to make determinations as to whether an existing structure is "in danger." While each case is evaluated based upon its own particular set of facts, the Commission has generally interpreted "in danger" to mean that an existing structure would be unsafe to occupy within the next two or three storm season cycles (generally, the next few years) if nothing were to be done (i.e., in the no project alternative).

The Applicant has submitted the following geotechnical evidence to support the allegation that the existing residence is in danger from erosion:

- *Geologic Investigation Podesto Property* by Rogers E. Johnson & Associates, dated February 25, 2001 (RJA);
- *Geotechnical and Coastal Engineering Investigation for Proposed Seawall Podesto Property* by Haro, Kasunich & Associates Inc., dated June 2001 (HKA 2001);

- *Podesto Proposal Alternatives Analysis*, by Haro, Kasunich & Associates Inc., dated March 18, 2002 (HKA 2002).

- *California Coastal Commission request for additional information*, by Rogers E. Johnson & Associates and Haro, Kasunich & Associates Inc., dated April 2, 2003 (RJA & HKA 2003);

The Applicant's geotechnical consultants conclude that the Applicant's residence is in danger from erosion as that term is understood in the Act.

The existing residence is located between roughly 13 and 25 feet from the blufftop's edge along its seaward side, and between 7 and 15 feet along its channel side. The bluff is a semi-steep slope (HKA and RJA identify a roughly 33 to 40 degree gradient), but does not contain a vertical or near-vertical sea cliff. The bluff materials are made up of Aromas sand and marine terrace deposits, which are difficult to distinguish and together constitute a single poorly consolidated unit. Bedrock, as that term is commonly understood, is not present in the bluff.

Bluff Retreat

RJA evaluated aerial photographs spanning the years from 1928 through 1997 and noted that there was no retreat of the bluff over this time frame. The photos indicated that the toe of the bluff was continuously vegetated over this interval, indicating that there was no surf scour over this time period; a time period that included the severe 1982-83 El Niño storms that pounded the California Coast and resulted in tremendous shoreline damage within the Monterey Bay. RJA indicates that only limited slope weathering, resulting in minor slumps, was identified from the aerial photo analysis. In sum, between 1928 and 1997, the bluff did not retreat noticeably. This is probably at least partly due to the approximately 100-yard wide beach that may have served to protect the bluffs in this area from ongoing erosion and direct wave attack.

During the winter storms of February 1998, the culvert beneath San Andreas Road (that conveys the intermittent stream to its outlet at the beach immediately adjacent to the bluff at this location) failed during an intense rain storm. RJA notes that a combination of scour (from the intermittent stream that breached the failed culvert), and wave attack eroded away a 3-4 foot tall vegetated sand terrace that fronted the base of the bluff on the ocean side. This vegetated terrace historically kept waves from impacting directly onto the poorly consolidated bluff materials. HKA further indicates that the same storms also eroded roughly 10 to 15 horizontal feet of the toe of the bluff leaving a 15 foot high vertical scarp along the channel and a 8 to 10 foot near vertical scarp on the seaward side of the bluff.

RJA indicates that the site is now subject to regular and routine surf attack, and has submitted corroborating photos and a video of such storm events (see exhibit F for photos). Absent the previously existing toe support afforded by the sand terrace, and absent any shoreline armoring, the highly erodable sandy bluff soils are now more vulnerable to surf attack. With sea level rise bringing deeper waters closer to the shoreline, larger and more frequent waves are expected to impact both the ocean and channel side of the bluff.

Thus, the concept of using a long-term erosion rate to help estimate the degree of threat in this case has little relevance. There was essentially no erosion for 70 years, then there was one episodic event that removed the terrace at the toe of the slope and exposed the sandy bluff slope itself. Over that time, and most recently, the site conditions have changed from a wide protective beach to one where the bluffs are regularly attacked by waves. With the change in geologic conditions, and the change in the way the ocean interacts with this site, it would be somewhat misleading to attempt to estimate a long-term erosion rate. Further, the long-term erosion rate is less important in this case to assessing the risk posed to structures than the amount of erosion that can occur over a single episodic event. As demonstrated by the 1997-1998 erosion, this bluff can erode as much as 10 to 15 feet in a single winter season. Absent toe protection, the exposed sandy soils are highly erodable and storms now more frequently reach them.

Slope Stability

In addition to the erosion and bluff retreat process described above, coastal bluffs are subject to landslides, which have the capacity to place structures on blufftops at risk. Measuring the degree of threat thus also requires evaluating the stability of the bluff materials themselves and their ability to resist failure.

A landslide occurs because a number of factors come together; these include the overall geometry of the hillside (or bluff), decreases in the effective normal stress at depth caused by increased water in the slope (buoyancy forces); and the strength of the bluff materials themselves. Landslides on coastal bluffs occur at least partly because marine erosion continually undermines the toe of the bluff, creating an unsupported geometry that is prone to landsliding. The risk of landslide can be quantified, to some extent, by taking the forces resisting a landslide (principally the strength of the materials along a potential slide plane) and dividing them by the forces driving a landslide (principally the weight of the materials as projected onto the potential slide plane). If the quotient, called the factor of safety, is 1.0, failure is imminent. The factor of safety should never, in theory, be below 1.0, as a slide would have already occurred. Factors of safety greater than 1.0 lead to increasing confidence that the bluff is safe from failure.

Slope stability can be evaluated quantitatively by a "slope stability analysis." In practice, hundreds of potential slide planes are typically evaluated. The one with the lowest factor of safety is the one on which failure will occur. So the potential slide plane with the minimum factor of safety is the appropriate one to design for. If one steps back far enough from the edge of the bluff, potential slide planes intersecting the top of the bluff generally will have higher and higher factors of safety. A factor of safety of greater than or equal to 1.5 is the industry standard for new development to be "safe" from a landslide. During an earthquake, additional forces act on the bluff, and a landslide is more likely. To test for the stability during an earthquake, a "pseudostatic" slope stability analysis can be performed. This analysis is rather crude, but the standard methodology is to apply a "seismic coefficient" of 15% of the force of gravity (0.15g), the force of which is added to the forces driving the landslide. The standard for new development in California is to assure a minimum factor of safety greater than or equal to 1.1 in the pseudostatic case.

As indicated, the slope at this location is semi-consolidated Aromas sand material, with the degree of cohesion/density increasing as the distance below the surface of the slope increases (RJA, HKA). The HKA slope stability analysis concludes that slope failures extending from 5 top 20 feet back of the blufftop edge are probable during an extreme event. One such event would be enough to undermine the existing residence.

In sum, RJA concludes that in a worst case scenario (where all of the beach sand and 2 feet of the underlying Aromas sand has been scoured, and storm waves are attacking the base of the bluff) there is the potential for bluff retreat at this location; if the scour were to reach a depth of 1 foot NGVD at the base of the bluff in this worst case scenario, RJA indicates that the residence would be undermined. This is reiterated by HKA's slope stability analysis that uses RJA's worst case scenario and assumes correspondingly conservative soil saturation, soil strength, and earthquake values to validate the conclusion that the residence could be undermined in one such event. The Commission's Geologist has reviewed the slope stability and geologic analyses and has concluded that, although based on very conservative assumptions,[7] the conclusions are valid in light of the extremely erodable bluff soils at this location and the evidence of increased frequency of storm wave attack.

Conclusion

This site presents some unique geologic conditions and facts that complicate the degree of threat evaluation. The soils at the site are highly erodable, consisting almost entirely of nearly cohesionless sand. These erodable soils are no longer protected from wave attack by the vegetated terrace that historically supported the base of the slope (though they are currently keyed into the existing revetment). Because of this, there is little margin for error in determining risk in a no project (including no revetment) scenario. For example, with the absence of the sand terrace (and without the revetment), it is reasonable to assume that one moderate wave event could result in some bluff failure. An erosion event similar to that of the 1997-1998 El Niño, even without the contributory stream-induced erosion, could quite possibly lead to erosion and slope failure that could undermine the residence. If such an event were to occur in tandem with a larger than usual flow from the culvert on the channel side (as would be expected in a winter storm event), this effect could be exacerbated on the wrapped headland. Second, the residence is set back approximately 7 feet from the blufftop edge at its minimum point. Given the low soil cohesion, even an event that didn't undermine the residence could make the residence itself unsafe to occupy because of the nature of the loose soils underlying the foundation. Major storms (i.e., storms including "either high seas, strong winds, and/or damage to at least some portion of the Monterey Bay region") have historically occurred in the Monterey Bay area every 1.5 years on average, with those directed at this location (i.e., approaching from the south or southwest, generally leading to more damage on this portion of the Bay's coast) occurring roughly every 5.3 years (RJA).

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[7] Slope stability analyses are typically based on the worst case assumptions during the most severe of geologic conditions. In other words, failure planes are typically evaluated based upon a hypothetical scenario where, simultaneously, there is a rainstorm, ocean waves have stripped all of the beach sands down to their deepest scour and are attacking the base of the bluffs, when an earthquake hits. In this case, the HKA analyses use fairly high seismic coefficients and fairly high groundwater estimates to arrive at the factors of safety described. The Commission's Geologist indicates that the analyses thus show a slope stability "danger" when these conservative values are used.

Although historically (at least from 1928 until 1998) the bluff at this location was stable and did not measurably erode, the winter 1997-98 storms removed the toe of the poorly consolidated bluff slope making the bluff more vulnerable to storm attack. Although a broad sandy beach effectively protected the bluffs from erosion for many years,[8] photographic and video evidence submitted by the Applicant's geotechnical consultants indicate that the bluffs are now subject to more frequent wave attack. With sea level rise bringing deeper waters closer to the shoreline, larger and more frequent waves are expected to impact both the ocean and channel side of the bluff. When these factors are considered together, and evaluated in the context of an extreme storm event, the Applicant's consulting geotechnical engineers and geologist have concluded that the existing residence is in danger of being undermined. The Commission's Geologist has concluded that the evidence is borderline regarding whether the existing structure is "in danger from erosion" at this time. But the fact that waves now routinely impact an area that consists of poorly consolidated nearly cohesionless sand indicates that, absent some form of shore protection, a clear danger from erosion would exist in the near future. To err on the side of protecting life and property, it is prudent to assume in this case that the existing structure is in danger from erosion.

As such, the blufftop residence qualifies as an existing structure in danger from erosion for purposes of Section 30235.

C. Feasible Protection Alternatives to a Shoreline Structure

The next Section 30235 test that must be met before a shoreline protective device can be approved is that the proposed armoring must be "required" to protect the existing threatened structure. In other words, shoreline armoring shall be permitted if it is the only feasible alternative capable of protecting the structure.[9] Other alternatives typically considered include: the "no project" alternative; abandonment of threatened structures; relocation of the threatened structures; sand replenishment programs; drainage and vegetation measures on the blufftop itself; and combinations of each. The Applicant has developed an analysis directed to this question (HKA) where the following alternatives to the proposed project were considered: (1) remove the existing revetment; (2) remove the existing revetment and relocate the existing residence inland; (3) permanently retain the existing revetment (and either re-engineer it or leave in its un-engineered state); (4) construct a retaining wall structure in the upper bluff (roughly 15 feet in height); and (5) construct a sheet pile seawall at the base of the bluffs. Only the first two HKA alternatives evaluate non-shoreline structure alternatives, with the other alternatives evaluating alternative shoreline structure designs. Since the first part of the question revolves around whether a shoreline structure is necessary, the first question is whether these non-shoreline structure alternatives (or others) can effectively protect the existing threatened structure.[10] Other applicable non-shoreline structure alternatives also include drainage and landscaping measures, and, reestablishment of the

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8 RJA indicating that it was only "during rare and violent storm events" that wave runup was capable of reaching the bluff at this location historically.

9 Note that Coastal Act Section 30108 defines feasibility as follows: "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

10 Only the non-shoreline structure alternatives are relevant to the current 30235 test; alternative armor designs is a discussion relevant if armoring is deemed necessary.

vegetated sand terrace that was lost in the 1998 storms.

Drainage and landscaping

Although not analyzed by HKA, another non-shoreline structure alternative typically considered by the Commission to respond to erosion is the use of selected bluff plantings and improved blufftop drainage controls. In this case, the Applicant's geologic and geotechnical reports do not clearly identify current drainage controls and whether blufftop drainage improvements could help protect the slope, although this is typically the case.[11] The proposed project plans indicate that the site is extremely level at the building pad, and that drainage in the driveway area (directly inland of the residence) is collected and directed down the slope to the adjacent channel by a 12-inch diameter pipe outletting at the rip-rap.[12] The Applicant indicates that the drainage in the patio area seaward of the residence is collected and directed to the 12-inch pipe as well. It generally appears that blufftop drainage is essentially controlled and it is not clear that additional drainage controls would lead to greatly improved bluff stability.

As to vegetation, HKA notes that the slope has been stripped of ice-plant and vegetated with long-rooted native species meant to help stabilize the slope. So, some landscaping measures have been taken. It doesn't appear that the plantings have yet established themselves (see site photos in exhibits D and E), and there may be some augmentation that would be appropriate.

In any case, the alternative of plantings and bluff drainage controls (in some combination) is not necessarily meant to be considered an equal alternative to a seawall or other more major form of bluff altering armor. In fact, this alternative is not generally seen as the ultimate "fix" or as a replacement for a "hard" armoring project such as that proposed. Rather, these types of "soft" alternatives can serve to greatly extend the design life of setbacks by increasing bluff stability and slowing erosion. Thus, they must be understood as alternatives that can allow for natural processes to continue while simultaneously providing continued stability to the bluff. Given the active forces of erosion taking place unabated along the unarmored California coast, erosion will eventually (over the long-term) result in bluff retreat. At that point, in some cases, plantings and bluff drainage controls may not be adequate to address the erosion problem of themselves (particularly if they have already been implemented previously and their effect on bluff stability already factored into the analysis), and other alternatives could become more feasible (including wholesale relocation out of danger and even armoring of the coast).

In this case, given the highly erodable bluff materials at this location, and the narrow bluff setbacks (13 feet along the ocean side and 7 feet along the channel side at the minimum), it doesn't appear that additional drainage controls and/or additional plantings by themselves would be able to stabilize the bluff to such a degree as to protect against a relatively severe bluff failure in one major storm event. This alternative alone would be insufficient to protect the existing threatened structure in this case. That said,

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[11] The project plans do identify weep holes in the proposed structure to drain the area behind the proposed seawall, but this type of drainage is to mitigate a project impact as opposed to a drainage measure relevant to increasing bluff stability by controlling blufftop drainage.

[12] It is not clear if the pipe outlet is leading to localized erosion at its outlet. It is fair to assume that it could in a no project/remove rip-rap scenario, but isn't currently because the rip-rap would be expected to somewhat dissipate the energy of water coming from the pipe.

such measures have a utility in all other alternative project scenarios and should be included in any approval of a project here.

Reconstruct vegetated sand shelf

Not considered by HKA in their original alternatives analysis, another non-shoreline structure alternative would be to recreate the vegetated sand shelf that existing prior to 1998 and that appears to have acted as protection of sorts for the bluff slope during that time. This alternative would require import of a sand-soil mix, and intensive planting. It is likely that some form of temporary structural retaining wall would be required until the sand shelf became self-sustaining and cohesive. This option can be considered a permutation of a type of single property sand replenishment program (not typically considered a feasible option of itself because sand replenishment programs need to target much larger areas – up to entire littoral cells; see also sand supply discussion below) with the added element that the imported sand here would be vegetated to form a more stable back beach area.

In the April 2003 report, HKA and RJA considered this alternative and concluded that replacing the vegetated sand terrace may indeed offer some protection from surf attack, but because storm surf reaches the base of the bluff much more frequently now than it did prior to the 1997-1998 winter, future storm surf would quickly remove the sand terrace and once again attack the bluff.

Although this alternative is attractive because it directly addresses the main problem identified by the Applicant's geotechnical consultants (that the previous sand shelf eroded) and it provides a solution consistent with the natural landform, it is not clear that such a solution could protect the existing threatened structure. First, it isn't clear that such a bench could be recreated that effectively mimicked the natural toe buttress previously provided, nor that it could be constructed to a similar degree of stability; particularly in the short term when the plants were establishing their roots and the bench "solidifying." In addition, the previous natural bench already eroded and it seems likely that the same fate could befall a recreation, particularly in the short term. During the short term, the threatened structure would not be protected; the same could be said even were it to establish and then wash out as the previous shelf did. RJA concludes that future storm surf would quickly remove the sand terrace and attack the bluff, thus making this inadequate to protect the residence (RJA 2003). Even in combination with incremental drainage and vegetation improvements, it is not likely that this alternative could effectively protect the existing threatened structure.

Remove revetment

Because this application is for after-the-fact retention of the existing revetment until such time as a new wall were installed, this alternative is conceptually the "no project" alternative as that term is commonly understood. As indicated above, there is an existing structure in danger from erosion (per 30235) at this location. The 'no-project, remove the revetment' alternative would not provide any protection to the threatened structure and cannot alone suffice as the approvable alternative in this case, even were it considered in tandem with drainage and landscaping (as detailed above).

Remove revetment and relocate residence

The only non-shoreline structure alternative capable of protecting the existing endangered structure is to the alternative of relocating the existing residence to a more inland blufftop location on the Applicant's property, combined with the removal of the existing revetment, as evaluated by HKA.[13] Although there appears to be adequate inland space on the property with which to accommodate a relocation episode, depending on the final footprint established, it appears that a relocation of this type would require one or more variances to inland setback requirements (including, potentially, front (30-foot), side (15-foot), and coastal bluff (25-foot minimum) setback requirements). The Applicant estimates that this option would cost roughly $800,000, while the proposed project is estimated to cost roughly $450,000.[14]

The relocation of the residence would be located within the County's coastal permitting jurisdiction and thus would be subject to LCP review and approval via an appealable coastal permit.[15] It could ultimately result in a residence sited inland, further removed from the beach viewshed, and further removed from the most geologically unstable portions of the site. Such inland location would make the structure more visible from San Andreas Road, but would also increase the life of any seaward bluff setback so established because natural erosion could take place for some period of time. Of course, eventually, the relocated structure would itself be threatened and the same armoring questions might arise at that time. In any case, such an alternative could be combined with effective drainage controls and appropriate blufftop and bluff vegetation so as to help further extend the useful life of any blufftop setbacks so established. A more detailed analysis of such an alternative project in a typical coastal permit review would be necessary to ultimately determine the parameters of this option, particularly the necessary modifications and/or variances that would be necessary to accommodate the moved structure.

Relocation is a reasonable and feasible alternative to consider in some cases, particularly where the relocation envisioned is relatively minor in relation to the structure and the site, and the geologic hazard is confined to the ocean side of the property. In some cases, inland setback variances could be appropriate to avoid shoreline erosion dangers on the seaward side of properties. In this case, the site is oddly configured and defined to the north and south by steep slopes and retaining walls. While the structure could be relocated as described, it would need to be substantially moved inland and rotated, resulting in a significantly different residential structure, orientation, and surroundings than the existing structure. In addition, the slope erosion danger exists along the entire northern property line, and the LCP requires a minimum 25-foot setback to address geologic hazard safety issues along this slope. In other

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[13] HKA describes this alternative as demolition and reconstruction. However, the bid estimate (from Mid-Cal Constructors) is to move the residence 25 feet inland. The Applicant has more recently indicated that this alternative involves demolition of the foundations, and moving and reconstruction of structures whatever amount is necessary to provide space for them inland (including rotating and realigning the structures because the blufftop portion of the lot narrows and then widens again as one moves inland towards San Andreas Road, and the house in its current configuration could not likely be moved directly backwards since it is wider than the blufftop area immediately inland - see exhibit B). Thus, "relocation" in this case is really a term of art inasmuch as relocation would include some demolition and reconstruction, and some relocation.

[14] April 3, 2003 letter indicates a bid amount of $760,100 and an estimated permit fee amount of $18,737. Removal of the revetment alone is estimated by HKA to cost 25,000 to $30,000.

[15] The removal of the revetment would still require a coastal permit directly from the Commission in this scenario because it is located within the Commission's retained permitting jurisdiction.

words, the variances necessary would not just be of the side and front yard variety, but would be to geologic hazard minimum setbacks established to protect against erosion and other hazard threats. Furthermore, when the Commission has considered moving residential structures in response to identified 30235 danger, it has not typically considered the degree of relocation that would be necessary in this case. Part of the reason for this is that part of the what is being protected is the orientation of the threatened structure to the site, and its surroundings. In other words, long before the Coastal Act or Proposition 20 were conceived, this residence was present at this location on the site. It is surrounded by complementary residential amenities including pathways, elaborate ponds, decorative walls, and mature landscaping.

In sum, relocation in this case would be a significant physical undertaking, with technical hazard difficulties, for which it is not clear that the required variances to inland location setbacks would be appropriate. Therefore, in this case, based on the site constraints and the existing development present on site, a relocation option does not appear to be a feasible alternative for protecting this existing threatened structure.

Conclusion

Absent a Statewide planned retreat policy (or some other form of similar legal measures designed to address such pre-Coastal Act development), a hard armoring project is necessary in this case. There are a number of armoring possibilities, some evaluated by the Applicant in their alternatives analysis. However, it seems clear that a lower bluff structure is necessary in this case due to the nature of the bluff materials and the configuration of the bluffs here. An upper bluff structure could be constructed closer to the Applicant's property on the channel side (though not likely on the Applicant's property since the property line is near to the top of the bluff; see exhibit C), thus leading to less impact over time. However, an upper bluff and/or buried wall alternative would, over time, lead to an artificial vertical bluff roughly 40 feet tall that would be completely different than the natural bluffs in this stretch of coast. As to lower bluff solutions, a vertical wall would occupy a lesser amount of beach space than would a revetment. Its height and location relative to the toe of the bluff become critical to balance protection (based on expected storm up-rush) versus height and increased visibility. In this case, the seawall structure proposed has struck an appropriate balance in this sense, and is an appropriate armoring project if one must be approved due to Section 30235.

The project, therefore, meets the third test of Section 30235 of the Coastal Act.

D. Sand Supply Impacts

The fourth test of Section 30235 (previously cited) that must be met in order to allow Commission approval is that shoreline structures must be designed to eliminate or mitigate adverse impacts to local shoreline sand supply.

Shoreline Processes

Beach sand material comes to the shoreline from inland areas, carried by rivers and streams; from

offshore deposits, carried by waves; and from coastal dunes and bluffs, becoming beach material when the bluffs or dunes lose material due to wave attack, landslides, surface erosion, gullying, et cetera. Coastal dunes are almost entirely beach sand, and wind and wave action often provide an on-going mix and exchange of material between beaches and dunes. Many coastal bluffs are marine terraces – ancient beaches which formed when land and sea levels differed from current conditions. Since the marine terraces were once beaches, much of the material in the terraces is often beach quality sand or cobble, and a valuable contribution to the littoral system when it is added to the beach. While beaches can become marine terraces over geologic time, the normal exchange of material between beaches and bluffs is for bluff erosion to provide beach material. Bluff retreat and erosion is a natural process resulting from many different factors such as erosion by wave action causing cave formation, enlargement and eventual collapse, saturation of the bluff soil from ground water causing the bluff to slough off and natural bluff deterioration. When the back-beach or bluff is protected by a shoreline protective device, the natural exchange of material either between the beach and dune or from the bluff to the beach will be interrupted and, if the shoreline is eroding, there will be a measurable loss of material to the beach. Since sand and larger grain material is the most important component of most beaches, only the sand portion of the bluff or dune material is quantified as beach material.

These natural shoreline processes affecting the formation and retention of sandy beaches can be significantly altered by the construction of shoreline armoring structures since bluff retreat is one of several ways that beach quality sand is added to the shoreline. Bluff retreat and erosion is a natural process resulting from many different factors (such as erosion by wave action causing cave formation, enlargement and eventual collapse, saturation of the bluff soil from ground water causing the bluff to slough off and natural bluff deterioration); shoreline armoring directly impedes these natural processes.

The subject site is located within the Santa Cruz Littoral Cell. The Santa Cruz Cell is a high volume cell with annual longshore transport estimated between 300,000 and 500,000 cubic yards of beach quality materials annually.[16] The dominant direction of longshore transport in this sand supply system is north north-west to south south-east (roughly from up top downcoast in relation to the site).[17] Materials in this system have been estimated to come mainly from coastal streams (roughly 75%), with 20% coming from bluffs, and 5% coming from coastal ravines and sand dunes.[18]

Some of the effects of engineered armoring structures on the beach (such as scour, end effects and modification to the beach profile) are temporary or are difficult to distinguish from all the other actions that modify the shoreline. Others are more qualitative (e.g., impacts to the character of the shoreline and visual quality). Some of the effects that a shoreline structure may have on natural shoreline processes can be quantified, however, including: (1) the loss of the beach area on which the structure is located (as described above); (2) the long-term loss of beach which will result when the back beach location is fixed on an eroding shoreline; and (3) the amount of material which would have been supplied to the beach if

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[16] United States Army Corps of Engineers (USACOE), San Francisco District, 1994.

[17] USACOE, San Francisco District, 1994.

[18] Griggs and Best, 1991.

the back beach or bluff were to erode naturally. In this case, the sand supply impacts relate to both the temporary placement of the revetment, and the long-term placement of the seawall.[19]

Fixing the back beach

Experts generally agree that where the shoreline is eroding and armoring is installed, as is the case here, the armoring will eventually define the boundary between the sea and the upland. On an eroding shoreline fronted by a beach, the beach will be present as long as some sand is supplied to the shoreline. As erosion proceeds, the profile of the beach also retreats. This process stops, however, when the retreating shoreline comes to a revetment or a seawall. While the shoreline on either side of the armor continues to retreat, shoreline retreat in front of the armor stops. Eventually, the shoreline fronting the armor protrudes into the water, with the mean high tide line fixed at the base of the structure. In the case of an eroding shoreline, this represents the loss of a beach as a direct result of the armor.

In addition, sea level has been rising slightly for many years. In the Monterey Bay area, the trend for sea level for the past 25 years has been an increase resulting in a 100 year rate of nearly 1 foot per 100 years.[20] Also, there is a growing body of evidence that there has been a slight increase in global temperature and that an acceleration in the rate of sea level can be expected to accompany this increase in temperature. Mean water level affects shoreline erosion several ways and an increase in the average sea level will exacerbate all these conditions. On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore. On a relatively flat beach (such as that found at Manresa), with a slope of 40:1, every inch of sea level rise will result in a 40-inch landward movement of the ocean/beach interface.[21] This, too, leads to loss of the beach as a direct result of the armor.

The Commission has established a methodology for calculating the long-term loss of public beach due to fixing the back beach, this impact being equal to the long-term erosion rate multiplied by the width of property which has been fixed by a resistant shoreline protective device.[22] However, in this case, the Applicant's consulting engineers and geologists have not been able to identify a long term erosion rate. This is due to the unusual erosion history of the site where there was no noticeable erosion from 1928 until 1997, and then one event, and then the site was armored. The Applicant's geologist indicates that, because of this history, there is no geologic basis for establishing a long-term rate in this case. The Commission's Geologist and Coastal Engineer concur that although a rate could be developed in a number of ways, it is not clear which methodology makes the most sense in this case. Ultimately, the Applicant's and Commission's technical experts have concluded that an erosion rate is meaningless at

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[19] The sand supply impact refers to the way in which the project impacts creation and maintenance of beach sand. Although this ultimately translates into beach access impacts, the discussion here is focused on the first part of the equation and the way in which the proposed project would impact sand supply processes.

[20] NOAA, National Ocean Service.

[21] In other words, a one-inch rise in sea level can result in over 3 landward feet of dry sandy beach loss.

[22] The area of beach lost due to long-term erosion (Aw) is equal to the long-term average annual erosion rate (R) times the number of years that the back-beach or bluff will be fixed (L) times the width of the property that will be protected (W). This can be expressed by the following equation: $Aw = R \times L \times W$.

this location.

Therefore, it can be concluded that the both the proposed seawall and the rip-rap revetment (for the time since it was installed in February 1998 until the seawall were to take its place), would result in some incremental loss of beach due to fixing the back beach.

Encroachment on the Beach

Shoreline protective devices such as the seawall and revetment proposed are all physical structures that occupy space. When a shoreline protective device is placed on a beach area, the underlying beach area cannot be used as beach. This generally results in a loss of public access as well as a loss of sand and/or areas from which sand generating materials can be derived. The area where the structure is placed will be altered from the time the protective device is constructed, and the extent or area occupied by the device will remain the same over time, until the structure is removed or moved from its initial location, or in the case of a revetment, as it spreads seaward over time. The beach area located beneath a shoreline protective device, referred to as the encroachment area, is the area of the structure's footprint.

In this case, the seawall would not have a beach footprint because it would be constructed in the bluff itself inland of the beach area (roughly at the inland edge of the existing revetment). As to the revetment, its footprint is roughly 2,500 square feet. That said, it was placed on top of beach sand. This sand would have (had the revetment not been placed) been part of the overall sand supply system. It can be assumed that some portion of the underlying sand has migrated out of, and some into, the encroachment area during tidal events. It is reasonable to presume that some amount of underlying sand materials did not migrate during this time due to the presence of the revetment, but it is difficult to quantify what portion this is. It might be easier to quantify if the revetment were placed on sandstone bedrock, and the rate of erosion of the bedrock were known, but that is not the case here.[23] In any case, there wouldn't be a permanent encroachment impact because the revetment would be removed.

Therefore, it can be concluded that the rip-rap revetment (for the time since it was installed in February 1998 until the seawall were to take its place), has resulted (and would result) in some minor loss of beach sand that would have been delivered into the system due to encroachment onto it.

Retention of Potential Beach Material

If natural erosion were allowed to continue (absent the proposed armoring), some amount of beach material would be added to the Manresa State Beach and larger littoral cell sand supply system from the bluffs. The volume of total material that would have gone into the sand supply system over the lifetime of the shoreline structure would be the volume of material between (a) the likely future bluff face location with shoreline protection; and (b) the likely future bluff location without shoreline protection. Since the main concern is with the sand component of this bluff material, the total material lost must be multiplied by the percentage of bluff material which is beach sand, giving the total amount of sand

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[23] In that case, one could estimate the amount of sandstone bedrock that would have eroded and placed sand generating materials into the system had the revetment not been present.

which would have been supplied to the littoral system for beach deposition if the proposed device were not installed. The Commission has established a methodology for identifying this impact.[24]

As with the fixing the back beach calculation from above, this calculation is dependent on an erosion rate, and an erosion rate cannot be accurately established at this location.

Therefore, it can be concluded that the both the proposed seawall and the rip-rap revetment (for the time since it was installed in February 1998 until the seawall were to take its place), would result in some incremental loss of beach due to retention of beach material.

Sand Supply Impacts Conclusion

As detailed above, it is difficult to quantify the shoreline sand supply impact in this case due to the unusual erosion facts that make an erosion rate less meaningful at this site than is typically the case. Suffice it to say that there would be some incremental sand supply impact from both the revetment and the seawall. The Applicant has designed the project to reduce some of these impacts (e.g., by placing the base of the wall inland of the beach-bluff interface), but they cannot be eliminated. Furthermore, the revetment has already resulted in these adverse impacts over the past 5½ years. Therefore, some form of mitigation is necessary to offset these impacts for the project to be found consistent with the third test of Section 30235.

Note that mitigation typically required by the Commission for such direct sand supply impacts have been in-lieu fees and/or beach nourishment. With regards to beach nourishment, a formal sand replenishment strategy can introduce an equivalent amount of sandy material back into the system over time to mitigate the loss of sand that would be caused by a protective device over its lifetime. Obviously, such an introduction of sand, if properly planned, can feed into the Santa Cruz Littoral Cell sand system to mitigate the impact of the project. However, there are not currently any existing beach nourishment programs directed at this beach area. Absent a comprehensive program that provides a means to coordinate and maximize the benefits of mitigation efforts in the area now and in the future, the success of such piecemeal mitigation efforts is questionable. Moreover, as detailed above, the lack of a defined erosion rate makes it extremely difficult in this case to quantify the amount of the sand supply impact in order to specify the amount of nourishment that would be necessary to offset it over time.

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[24] The equation is Vb = (S x W x L) x [(R x hs) + (1/2hu x (R + (Rcu - Rcs)))]/27. Where: Vb is the volume of beach material that would have been supplied to the beach if natural erosion continued (this is equivalent to the long-term reduction in the supply of bluff material to the beach resulting from the structure); S is the fraction of beach quality material in the bluff material; W is the width of property to be armored; L is the design life of structure (100 years assumed per HKA, though its lifetime can also be considered indefinite) or, if assumed a value of 1, an annual amount is calculated; R is the long term average annual erosion rate; hs is the height of the shoreline structure; hu is the height of the unprotected upper bluff; Rcu is the predicted rate of retreat of the crest of the bluff during the period that the shoreline structure would be in place, assuming no seawall were installed (this value can be assumed to be the same as R unless the Applicant provides site-specific geotechnical information supporting a different value); Rcs is the predicted rate of retreat of the crest of the bluff, during the period that the seawall would be in place, assuming the seawall has been installed (this value will be assumed to be zero unless the Applicant provides site-specific geotechnical information supporting a different value); and divide by 27 (since the dimensions and retreat rates are given in feet and volume of sand is usually given in cubic yards, the total volume of sand must be divided by 27 to provide this volume in cubic yards, rather than cubic feet).

As an alternative mitigation mechanism, an in-lieu fee is oftentimes used by the Commission when in-kind mitigation of impacts is not available. In situations where ongoing sand replenishment programs are not yet in place, the in-lieu sand mitigation fee is deposited into an account until such time as an appropriate program is developed and the fees can then be used to offset the designated impacts. Again, it is not possible to clearly quantify the amount of sand supply impact in this case, and thus specifying the fee that would be applied is also problematic. Moreover, the sand supply mitigation fees that have been collected in the past in the Central Coast District area have not yet been applied to any sand nourishment programs to date, and have not yet resulted in any physical sand supply mitigation as a result.[25]

The Applicant has proposed importing approximately 726 cubic yards of beach quality sand to cover the seawall and to recreate the base of bluff slope so that it appears that there is not a seawall here. Although this serves partially as a visual impact mitigation, it also serves to somewhat offset sand supply impacts that are not eliminated by project design by increasing the supply of sand in the overall system. It is difficult to assess the degree to which this one-time placement of sand can offset the long-term sand supply impacts at this location due to this project. This effectively constitutes the type of individual beach nourishment effort described above that is typically not pursued, with the added element that it would be done one time.

That said, the sand import mitigation proposed by the Applicant is not inconsequential. Based on the cost estimates to supply sand to this location, the 726 cubic yards of sand translates into a cost ranging from $18,709 to $27,697. This cost range is generally similar to the amount of the two past sand supply fees imposed as mitigation by the Commission in the Central Coast District area (i.e., $25,066 required in the Motroni-Bardwell case, and $26,783 in the Panattoni case).[26]

Therefore, in this case, because it is not possible to quantify more precisely the sand supply impact in a well-supported (factually) manner, this sand import mitigation proposed by the Applicant (as conditioned to ensure it is clean, beach quality sand similar to that present at Manresa State beach – see special condition 1) at least partially mitigates the sand supply impact. Since this impact is ultimately a beach recreational access impact, additional access mitigation can also offset sand supply impacts (see access and recreation findings that follow).

The project thus satisfies the fourth test of Section 30235 to the degree the adverse impact and its required mitigation can be understood in this case, and is thus consistent to the degree feasible with this Section of the Coastal Act.

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[25] The Motroni-Bardwell case upcoast of this site in Capitola (CDP 3-97-065), the Panattoni case downcoast in Carmel (CDP 3-98-102). These fees were collected in 1998 and 1999 respectively.

[26] The cost identified is significantly less than the fee calculated for a seawall proposed upcoast in Santa Cruz County that the Commission is currently reviewing (Medeiros, CDP application 3-02-060). In that case, the sand supply impact calculation turned out to be 1,081 cubic yards the first year and the 171 cubic yards per year thereafter (based on the same type of methodology used here, but where an erosion rate was available). Using the sand delivery costs identified by the Applicant (roughly $25 per cubic yard delivered to the beach), the fee in that case would translate to $27,025 the first year and $4,275 per year for the life of the project; if a 100 year design life were presumed (as stated by the project engineers in that case), the fee would total $454,525.

E. Long Term Structural Stability and Assumption of Risk

Pursuant to Coastal Act Section 30253 (previously sited), development is to be designed, sited, and built to allow for natural shoreline processes to occur without creating a need for additional more substantive armoring. Coastal development permittees for new shorefront development thus are essentially making a commitment to the public (through the approved action of the Commission, and its local government counterparts) that, in return for building their project, the public will not lose public beach access, sand supply, ESHA, visual resources, and natural landforms, and that the public will not be held responsible for any future stability problems. Coastal Act Section 30253 requires that the proposed project assure structural stability without the need for additional armoring. The project has been designed by engineers with experience in coastal armoring projects to provide protection for 100 years or more (HKA).

Off-site Impacts

Oftentimes there are also concerns that installing shoreline armoring where adjacent properties are not armored, such as is the case here at the downcoast (southern) end of the project, can result in increased erosion or other "end effects" at that location. This can lead to structural stability issues off-site. In this case, the Applicant's geologist indicates that such effects have not been documented in the five and a half years since the revetment has been in place, and would appear to be insignificant at this location. Thus, based on the Applicant's geotechnical consultant's conclusions in this regard, and absent any evidence to the contrary, the proposed project would not be expected to result in any significant offsite end effects.

Assumption of Risk

The experience of the Commission in evaluating the consistency of proposed developments with Coastal Act policies regarding development in areas subject to problems associated with geologic instability, flood, wave, or erosion hazard, has been that development has continued to occur despite periodic episodes of heavy storm damage, landslides, or other such occurrences. Oceanfront development is susceptible to bluff retreat and erosion damage due to storm waves and storm surge conditions. Past occurrences statewide have resulted in public costs (through low interest loans, grants, subsidies, direct assistance, etc.) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden on the people of the state for damages, the Commission has regularly required that Applicants acknowledge site geologic risks and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed.

There are inherent risks associated with development on and around seawalls and eroding bluffs in a dynamic coastal bluff environment; this applies to the project proposed as well as for the development landward of the bluffs themselves. The seawall project site, and all development inland of it, is likely to be affected by shoreline erosion in the future.

Although the Commission has sought to minimize the risks associated with the development proposed in this application, the risks cannot be eliminated entirely. Given that the Applicant has chosen to pursue

the development despite these risks, the Applicant must assume these risks. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see special condition 12).

No Seaward Encroachment

Coastal Act Section 30253 requires that the seawall structure not create the need for additional more substantive armoring in the future. Such potential future armoring could include seaward encroachment that would give rise to another level of potential Coastal Act inconsistency inasmuch as it would occupy recreational sandy beach and increase the amount of armoring within the beach area public viewshed. Further, to allow a project that would itself require additional armoring seaward of that existing revetment would not be consistent with Section 30253 because stability and structural integrity must be assured without reliance on future armoring. Therefore, to protect the beach area seaward and channelward of the seawall consistent with the Coastal Act, and in order to find this project consistent with Coastal Act Section 30253 requiring that development not require additional armoring in the future, the Commission finds that no further seaward encroachment is allowed in the future (see special condition 12).

Monitoring, Maintenance, and Long-Term Stability

If the seawall was damaged in the future (e.g. as a result of wave action, storms, landsliding, etc.) it could threaten the stability of the site, which could lead to need for more bluff alteration and/or additional or more substantive armoring. In addition, the upper bluff soils must be adequately stabilized with vegetation, and upper bluff drainage controlled, to ensure overall stability. Long-rooted non-invasive native plant species should be used for this purpose.[27] In a bluff setting, these species can help to stabilize bluff soils, minimize irrigation of the bluff (again helping to stabilize the bluff), and can help to avoid bluff failure and sloughing in some cases (e.g., mats of iceplant can become so heavy that they rip out of the bluff, particularly in saturated situations, taking bluff materials with them). They also help to create a more natural (to the bluff area) looking natural landform, helping to offset visual impacts of unnatural structures along bluffs (see also visual findings below).

Therefore, in order to find the proposed project consistent with the Coastal Act, the Commission finds that the condition of the seawall, the rock slope wedge on top of the seawall, the bluff plantings, and the drainage controls in their approved state must be maintained for the life of the seawall. Further, in order to ensure that the Permittee and the Commission know when repairs or maintenance are required, the Permittee must monitor the condition of the seawall and the bluff over the long term. The monitoring will ensure that the Permittee and the Commission are aware of any damage and can determine whether repairs or other actions are necessary to maintain the seawall and bluff measures in their approved state before such repairs or actions are undertaken. Finally, such future monitoring and maintenance activities

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[27] Non-native invasive plants invade native habitat areas and vastly alter the ecological landscape by outcompeting and excluding native plants and animals; altering nutrient cycles, hydrology, and wildfire frequencies, and hybridizing. Rare species are particularly vulnerable to the changes brought about by non-native invaders. The most effective and efficient way to deal with weedy species is to prevent invasions. Preventing invasion is of greater conservation benefit in the long run than the far more costly and difficult efforts to control a widespread pest species.

must be understood in relation to clear as-built plans.

Therefore, special conditions are attached to this approval for the submittal of as-built plans (to define the footprint and profile of the permitted structures) with surveyed reference points to assist in evaluation of future proposals at this site (see special condition 10) and drainage and non-invasive native vegetation parameters for the bluff area (see special condition 3). For monitoring, the Applicant is responsible for ensuring adequate monitoring of the seawall and is required to submit a monitoring report on five year intervals that evaluates the condition and performance of the seawall, and related drainage and vegetation elements, and to submit the report with recommendations, if any, for necessary maintenance, repair, changes or modifications to the project (see special condition 11). All monitoring and maintenance commitments must be recorded as property restrictions to ensure long-term compliance, and to ensure that any future landowners are clearly notified of these commitments (see special condition 16). Finally, this approval is structured to allow future standard maintenance to the approved project to maintain it in its approved state subject to the same construction and restorations parameters of the initial development; the term of this future maintenance is indefinite until there are changed circumstances that require its reevaluation (see special condition 15).

Future Shoreline Management

Although none are known or anticipated at this time, it is possible that in the future there may be a regional shoreline management project designed to address shoreline armoring issues in a more comprehensive regional manner. It is unknown what form such a planning initiative may take, or whether it will happen at all for this portion of the shoreline. This approval is conditioned for the Applicant to acknowledge that such future planning initiatives may involve this property (see special condition 12).

Conclusion

As conditioned for final engineered plans (that can be peer-reviewed by the Commission's coastal engineer), long-term monitoring and maintenance to ensure the permitted structure remains effective and in its approved state, a prohibition on additional armoring seaward of the seawall structure, and for the Applicant to assume all risk and responsibility for development at this shoreline location, and as discussed above, the proposed project is consistent with Coastal Act Section 30253.

F. Geologic Conditions and Hazards Conclusion

As discussed above, the facts of this particular case show that the proposed project is required to protect existing structures in danger from erosion and that it is the only feasible alternative to do so in this case. The proposed project has been designed to minimize (to the extent feasible) sand supply impacts, and includes mitigation, as implemented by special condition, to offset impacts that are unavoidable in this regard. Conditions have been applied for monitoring, long-term maintenance, prohibition on future seaward or channel encroachment, and assumption of risk. As conditioned, the proposed project can be found consistent with Coastal Act Sections 30235 and 30253 as discussed in this finding.

2. Public Access and Recreation

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road (San Andreas Road). Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:

> ***30210.*** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*
>
> ***30211.*** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*
>
> ***30213.*** *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*
>
> ***30221.*** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*
>
> ***30223.*** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Coastal Act Section 30240(b) also protects parks and recreation areas, such as the adjacent Manresa State Beach area. Section 30240(b) states:

> ***30240(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.*

These overlapping policies clearly protect the public beach, and access to and along it, for public access and recreation purposes, particularly free and low cost access such as that provided at Manresa State Beach. For the purposes of the discussion that follows, there is little distinction made between the seaward side of the site and the channel side of the site because both of these areas can, and have been in the past, used for public access. Clearly the seaward side of the site provides for the more generally recognized type of public beach access, but the channel side provides for some such access as well.

Loss of Back Beach Recreational Area

The proposed seawall has been designed so that it doesn't encroach onto existing beach area. It would, however, be placed in an area (seaward side) that would eventually become beach area over time were the bluffs allowed to erode naturally, and it would be placed on lands both owned by the County and that would also become beach area over time if natural erosion continued (channel side). The seawall would not be placed on lands owned in fee-title by State Parks, and the County has given permission for the Applicant to pursue the proposed project in relation to the County-owned property in this case. The impact of this future encroachment is difficult to measure without a clear erosion rate (as discussed previously), but it would appear likely that it would lead to some loss of back beach recreational area over the life of the seawall.

The revetment has been placed over a beach area representing approximately 2,500 square feet. This area has been occupied since 1998 and would be so occupied until the seawall were installed. For impact calculation purposes (this and others that are evaluated that follow), the time frame during which the existing revetment would remain in place in any approval scenario is assumed to be 5½ years.[28]

Therefore, the proposed project has and would result in an incremental reduction in useable beach area at Manresa State Beach. This can be offset somewhat by the Applicant's proposal (as implemented by special condition) to import beach sand to cover the base of the seawall, and by the requirement that no future armoring be placed seaward or channelward of the seawall), but these mitigations respond to other impacts (sand supply and long-term stability) and their value as an additional compensatory mitigation tool for the loss of useable beach space is limited as a result. Nonetheless, the additional sand imported should result in a return, in the short term, of the beach space that had been occupied by the revetment. And the prohibition of future armoring expansion should ensure that the beach space recreated is kept clear of incompatible structures. In terms of compensating for the 5½ years and the long-term impacts identified above, additional public beach access mitigation is required.

In this case, the Applicant owns in fee-title a triangular area of beach, approximately 1,100 square feet in size, that would be seaward of the proposed seawall location (see exhibit G). To mitigate for the beach recreational access loss, this area can be dedicated directly to an appropriate entity (like DPR) or the Applicant can record an offer to dedicate this area. Although the value of such a dedication (in a public beach access sense) is limited because the area held in fee title by the Applicant is already a de facto part of the existing public beach access area, and it cannot be distinguished from the surrounding beach areas, deeding fee title helps in perfecting a public fee-title legal ownership of the beach area in question. Therefore, this approval is conditioned for a dedication, either outright or an offer, to an appropriate management entity of the triangular beach area that would be seaward of the seawall (see exhibit G and special condition 9).

In addition, as indicated by the Applicant and in the County's consent to allow the Applicant to proceed

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[28] Five and a half years is a conservative estimate inasmuch as the August 2003 hearing is 5½ years after February 1998, and the project wouldn't commence immediately. It is possible that it could remain in place for longer should there be permitting (or other) difficulties encountered.

with an application that would place development on County property (i.e., along the channel side), the Applicant will need to formalize an easement or other legal right to develop on County property. It is assumed that the County will require commensurate lease fees in any such arrangement given the extremely high value of coastal real estate in the County, but this is at the County's discretion.[29] Given the long-term planned nature of the seawall and the way that beach and other circumstances change, it may be wise for any such arrangements made to include reevaluation clauses at regular intervals (such as every five years) to respond to changing circumstances and property holding costs (including recreational uses foregone because the wall is located on the County property). In any event, this approval is conditioned for evidence of County approval and authorization for any development on County property (see exhibit C and special condition 13).

This approval also includes a deadline for project completion designed to get the project completed as soon as possible, acknowledging that summer season limitations and winter season storms may conspire to put off construction (see special conditions 1 and 5). In this way, continuing impacts can be further limited to the degree feasible.

Construction Impacts

The project would involve large equipment that would drive over the recreational beach area and the main Manresa State Beach beach entrance point and parking lot area, occupy a construction zone of recreational beach area (at the immediate project area), and generally intrude and negatively impact the aesthetics, ambiance, serenity, and safety of the recreational beach experience at this State Park. The public would bear the burden of the negative construction impacts associated with roughly 3 months of construction on this State beach. Any future maintenance episodes would lead to similar construction impacts. During such construction times, the immediate beach construction area will not be available for public access. Although this impact can be minimized by appropriate construction controls (such as limiting the width of construction corridors, limiting the times when work can take place, clearly fencing the minimum construction area necessary, keeping equipment out of high use areas, storing equipment off of the public beach at night, and clearly delineating and avoiding to the maximum extent feasible public use areas, etc., see required construction plan – special condition 2), it cannot be eliminated. Manresa State Beach is a very popular beach recreational area and project construction will not only remove beach area from being potentially used, but it will negatively impact the beach recreational experience by introducing construction (including large equipment, noise, etc), into what is a fairly tranquil natural area. The Applicant will be required to restore all beach areas and beach access points following construction (see special condition 8), but cleaning up one's construction mess does not compensate for the negative public access impacts over the duration of construction. In order to mitigate this impact, the Applicant shall be required to do up to $20,000 of repair to the currently damaged concrete access ramp (used by State Parks for emergency and ranger access to Manresa State Beach) consistent with DPR's standards for such repairs as part of beach and beach access restoration (see

[29] Note for example, that State Lands recently leased similar coastal beach area to a private applicant for a revetment and sheetpile wall at Pelican Point (Pajaro Dunes). In that case, the cost to the applicant to lease the property from State Lands for a one-year period was $58,370.

special condition 4).[30] Such repair shall not increase the ramp's footprint, and shall not involve rip-rap.[31] If DPR should not consent to such a project, then the Applicant's responsibilities in this regard shall be waived (again, see condition 4).

As conditioned, the Commission finds that the proposed project has been designed in such a way as to minimize public access and recreation impacts and, as such, is consistent with Coastal Act Sections 30210 through 30214, 30220 through 30224, and 30240(b) as discussed in this finding.

3. Visual Resources and Landform Alteration

Coastal Act Section 30251 states:

> ***Section 30251.*** *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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Coastal Act Section 30240(b), previously cited, also protects the aesthetics of parks and recreation areas such as those involved in this application. Section 30240(b) states:

> ***Section 30240(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 proposed project has (via the revetment that would be retained until replaced) and would introduce a decidedly unnatural and artificial structure into the significant public recreational viewshed at Manresa State Beach. This includes public views from the beach, from offshore, and from the parking lot and overlook at the Manresa parking lot. The initial sand cover proposed to be placed in front of the seawall should help to camouflage the structure in the short-term (i.e., until it is washed away by normal and storm tidal action), but its effectiveness is limited in the long-run. In addition, the photo-simulations provided by the Applicant show that such an initial sand cover might look fairly unnatural itself (see

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[30] Although DPR has indicated that they are very interested in having the ramp repaired to address scour issues, DPR is uncertain as to the what would be necessary to repair the ramp. The $20,000 cost cap is provided to ensure that the Applicant's commitment is not without limit, and this figure was derived from consultation with the Applicant's engineers on measures that may be necessary to so repair the base of the ramp. It may be that the up to $20,000 worth of repairs is partially to have the ramp assessed by a civil engineer and a repair plan developed.

[31] The ramp should be able to be repaired by redoing its concrete foundation and/or by pumping sand and/or sand slurry within its undermined footprint, and resurfacing the ramp itself when the foundation repairs are complete.

photo-simulation on page 5 of exhibit B).

The Applicant has proposed to face the seawall with a sculpted concrete cover, although the details of this approach are not clear in the proposal. If done correctly, such sculpting can help to camouflage large slabs of concrete; when done poorly, however, they just reinforce the unnatural element present in the back beach area. This approval is conditioned to ensure the proposed facing is done in a way that clearly approximates, to the extent feasible, a natural landform (see special conditions 1 and 6). In addition, the facing is proposed down to an elevation of +5 NGVD. Although this is likely sufficient to camouflage the wall during all but the most significant winter scour events, it would result in an additional summer impact were the facing not to extend far enough towards the base of the structure. This approval is conditioned to ensure that the facing extends to an adequate depth so that all seawall visibly exposed during the non-winter times of the year is so faced (see special condition 7).

Such camouflaging, however, cannot completely hide a seawall such as this. Based on the elevation at which it would be installed and the beach profiles provided by the Applicants geologist (RJA), the top 5 feet or so of the seawall would be expected to be visible in a typical winter, and potentially summer, beach profile. This would be the case even though the Applicant would bring in a sand to cover the seawall initially because the sand at the base of the structure would ebb and flow along with the winter and summer beach profiles. In severe winter seasons, much more of the structure is likely to be visible. The proposed design also includes a recurve that is unlike the bluff formations found in this area; even if properly faced with sculpted concrete, the recurve would also serve to emphasize the unnatural nature of the structure. The rip-rap proposed along the top of the seawall may also become visible if its sand/soil and vegetation cover is not maintained or is washed out. In sum, the adverse impact to the public viewshed would be significant.

In addition, the existing revetment proposed for retention has degraded the public viewshed since February 1998, and it will continue to do so until removed. The revetment is an unsightly pile of white dolomite rock of uneven sizes placed in a cluttered configuration. Likewise, the bluff slope itself appears denuded, though HKA indicates that it has been vegetated with native species. See photos of the site in exhibits D and E.

Furthermore, and as with access and recreation, the project would introduce large construction equipment and activities that are antithetical to shoreline viewshed qualities during construction. The same would apply to any future maintenance episodes, although their duration would be expected to be less than the initial construction.

These viewshed impacts require visual mitigation. In this case, there are measures available that can work to minimize and mitigate for such visual impacts, at the same time as helping to promote bluff stability. This approval is conditioned: to ensure that the seawall is faced with sculpted concrete that approximates the natural landforms in this areas, and extends to an adequate depth to cover all exposed portions of the seawall in a non-winter beach condition (as discussed above); to require that the small revetment wave splash atop the seawall is covered with sand and vegetation, and recovered if it becomes exposed; as proposed by the applicant, to consolidate and underground the drainage pipes along the

channel side of the site; to implement a bluff drainage and vegetation plan designed to control drainage and vegetate the bluff slope above the seawall with non-invasive native bluff species (as discussed in preceding findings); to require that the vegetation planted directly atop the seawall is trailing vegetation capable of screening the upper 3 feet of the seawall structure; to require the sand cover to be planted with appropriate vegetation meant to provide a slow visual transition from the heavily vegetated slope above to the sandy beach below (i.e., reduced density of plants extending down from the top of the seawall); to prohibit additional development in the bluff area below the blufftop edge where such development would further diminish the viewshed and alter the natural landform and mitigation planting established; and to require that all such measures are monitored and maintained over the life of the project.

As conditioned, the Commission finds that the proposed project has been designed in such a way as to minimize public view impacts and to be visually compatible with the character of surrounding area; and, as such, is consistent with Coastal Act Sections 30240(b) and 30251 as discussed in this finding.

4. Cumulative Impacts

Coastal Act Section 30250(a) addresses cumulative impacts, stating in part as follows:

> *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located...where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. ...*

The proposed project would introduce shoreline armoring into a fairly rural stretch of coast for which there is very limited armoring in place to date. The armoring that does exist in this area is overwhelmingly pre-Coastal Act. Shoreline armoring generally begets more shoreline armoring. The reasons for this are many including the fact that armoring on one site can lead to increased and/or more focused erosion at adjacent properties due to end scour and eddying at the point where the unarmored coastline abuts the armor.[32] More generally, as the shoreline continues to actively erode around the now hardened stretch of coast, there can be pressure to extend the existing armoring to cover adjacent areas. Over time, the armoring slowly stretches down the coast until it comes to a headland of other armor.

Moreover, if and when unarmored sites adjacent to armored sites propose their own armoring, one of the salient facts of the specific case will be that the adjacent site is already similarly armored and it is just a continuation of that trend, not something atypical because there is already armoring next door. In other words, installing armoring on an essentially unarmored stretch of coastline, as is proposed here, may prejudice future decisions in the immediate area. Moreover, it can start in motion a series of projects that not only individually result in significant adverse impacts to beach area resources (for example, as detailed above for the proposed project in this case), but can cumulatively lead to overall degradation of the resource on a much grander scale.

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[32] These end effects are not expected in this case (based on the Applicant's geologist's findings), but this is a known issue with shoreline armoring.

In any case, however, this cumulative impact is difficult to measure, particularly when it involves a stretch of coast for which armoring projects are not currently pending. It is unclear what may be proposed in the future nearby, and what effect that may have on coastal resources cumulatively. Ultimately, when the back beach is fixed due to armoring, and the shoreline continues to erode, and the sea level continues to rise, the end result is that beaches may eventually no longer exist. In any case, this project has been conditioned to reduce to the extent feasible the coastal resource impacts associated with it (as discussed above). Accordingly, this project can be found consistent with Section 30250(a) cumulative impact requirements. The same may not necessarily be the case in future applications in this area, and the Commission's action in this application does not set a precedent nor should it be used as justification for future armoring projects in this area. The facts of this particular case dictate that shoreline armoring is necessary to protect an existing endangered structure. The Applicant has attempted to develop a project that responds to the coastal resource impacts inherent in such projects, and specific to this one, and conditions have been applied to further reduce these impacts and/or mitigate proportionately for them. Future project will likewise be dependent on the set of facts applicable in those cases.

5. Other

Other Agency Approvals

A portion of the conditioned project would take place on County-owned lands (the channel portion of the seawall), a portion would take place on DPR-owned lands (the access ramp and construction area at the base of the bluffs), and all of the proposed project would require construction access on both County and DPR-owned lands. In addition, the project area is sometimes occupied by waters of the Monterey Bay and may require Monterey Bay National Marine Sanctuary approval. These agencies will need to consent to the approved project. In addition, due to enforcement issues associated with the existing revetment, the requirement of preliminary Santa Cruz County approvals was waived in this case. Thus, the County will need to provide evidence that they have reviewed and approved the project approved here. See special condition 13.

Clarifications

The applicant has modified the project plans in several ways through project description text submitted. However, the project plans themselves show different things than the text, and this could lead to interpretation confusion on several points. Therefore, this approval is conditioned to: ensure that the base of seawall rip-rap is not a part of the project; modify the rock slope wedge at the top of the wall so that it is inland of the seawall piers; ensure that the plan cross-sections accurately reflect the base of the seawall piers (currently, the cross sections do not show this element – see page 3 of exhibit B) (see special condition 1).

Future Notice

The terms and conditions of this approval are meant to be perpetual. In order to inform future owners of the requirements of the permit, and add a level of legal implementation of this fact, this approval is

conditioned for a deed restriction designed to record the project conditions against the affected property (see special condition 16).

6. Coastal Development Permit Conclusion

There exists an existing endangered structure for which the only feasible alternative is a shoreline structure. In order to meet Coastal Act policy requirements as cited in these findings, the shoreline structure needs to be revised from that proposed, the unavoidable impacts from it need to be reduced and mitigated, long term maintenance and stability need to be assured and responsibility for it assumed by the Applicant, and all other approvals necessary need to be granted. Special conditions have been applied for these purposes as discussed above. As so conditioned, the approved project is consistent to the degree feasible with the Coastal Act.

C.Alleged Violation

In February 1998, the existing revetment was installed at the base of the bluff fronting the Podesto property on Manresa State Beach. The Applicant contends that this was done after verbal permission for the placement of the rip-rap as an emergency measure was granted by Santa Cruz County. However, the Applicant has not to date provided, and the Commission has not to date otherwise obtained, any evidence that such a verbal authorization from an appropriate Santa Cruz County official was so obtained, nor any evidence that a written emergency permit ever followed (as would have been the case were there to have been a verbal emergency authorization), nor any evidence of a regular follow-up CDP (as is required to make any development authorized by County emergency authorization permanent).

Moreover, Commission staff were present at the site on February 5, 1998. Commission staff were responding to an emergency permit request by the County for stockpiling of rock and equipment on the beach in support of the County emergency permit operation to repair a blow out in the culvert running under San Andreas Road. Commission staff issued emergency permit 3-98-014-G to the County at that time.[33] During the February 5, 1998 site visit, Commission staff declined to issue an emergency permit for work on the bluff fronting the Applicant's property when requested by persons apparently representing the Applicant at that time. Subsequently, the rip-rap was placed nonetheless. The rip-rap has been in place continuously since that time; a period of roughly 5½ years.

The proposed project has been evaluated based upon the acknowledged existence of the unpermitted rip-rap in the project area. In fact, the Applicant applied for the retention of the existing rip-rap on a temporary basis until a seawall is constructed. In other words, the Applicant applied after the fact for partial (i.e., temporary) retention of the rip-rap.

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[33] The culvert work was made eventually made permanent by regular County coastal permit number 98-0408 approved in 1999.

Although this application has been considered based upon the policies of Chapter 3 of the Coastal Act, consideration of this application does not constitute an admission as to the legality of any development undertaken on the subject site without benefit of a coastal development permit and shall be without prejudice to the California Coastal Commission's ability to pursue any legal remedy available under Chapter 9 of the Coastal Act.

D.California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of 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 Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

Exhibits A through G of the Adopted Findings (Exhibit B) for CDP No. 3-02-107 on file and available for review at the Commission's Central Coast office, 725 Front Street, Suite 300, Santa Cruz, CA 95060-4508.

Content of Exhibits

Exhibit A	Location Map
Exhibit B	Proposed Project Plans (5 pages)
Exhibit C	Property Ownership Detail
Exhibit D	Site Photos (2 pages) page 1 USGS Pre-El-Nino Oblique Photo; page 2 – USGS Post El-Nino Oblique Photo
Exhibit E	Photos – (3 pages) page 1 - California Coastal Records Project Image 6792, 6793; page 2 – seaward blufftop setback; page 3 – channel side blufftop setback
Exhibit F	Photos (8 pages)
Exhibit G	OTD Area

CALIFORNIA COASTAL COMMISSION

Central Coast Area Office
725 Front Street, Suite 300
Santa Cruz, CA 95060
(831) 427-4863

Date: September 17, 2003
Permit Application No.: 3-02-107

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

THIS IS NOT A COASTAL DEVELOPMENT PERMIT

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all of the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at California Code of Regulations. Title 14, Section 13169.

On **August 6, 2003**, the California Coastal Commission approved Coastal Development Permit No. **3-02-107**, requested by **Gary Podesto** subject to the attached conditions, for development consisting of: **Temporary retention of a rip-rap revetment (that was installed without a coastal development permit in February 1998) and subsequent replacement of the revetment with a sculpted concrete vertical seawall with rip-rap wave-splash wedge along roughly 250 linear feet of shoreline.** More specifically described in the application file in the Commission offices. **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone at Manresa State Beach, at the toe of the bluff area below the residence at 1443 San Andreas Road (the first residential structure immediately downcoast of the beach access ramp at the Manresa parking lot).

EXHIBIT B-1

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)
Date: September 17, 2003
Permit Application No.: 3-02-107

If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. 3-02-107, please contact Dan Carl, the Coastal Program Analyst.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: Steve Monowitz
Permit Supervisor
Date: September 17, 2003

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

9-29-03
Date

Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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

SPECIAL CONDITIONS:

NOTE: IF THE **SPECIAL CONDITIONS** REQUIRE THAT DOCUMENT(S) BE RECORDED WITH THE COUNTY RECORDER, YOU WILL RECEIVE THE LEGAL FORMS TO COMPLETE (WITH INSTRUCTIONS). IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE DISTRICT OFFICE.

1. **Final Seawall Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit Final Engineered Seawall Plans to the Executive Director for review and approval. The Final Plans shall be substantially in conformance with the plans submitted to the Coastal Commission (*Site Plan for Podesto Residence* by Hland Engineers, Inc. dated received in the Coastal Commission's Central Coast District Office April 3, 2003) but shall show the following changes to the project:

   (a) **Temporary Rip-Rap Allowed.** The project plans shall indicate that the existing rip-rap may be retained until the seawall project construction commences. Unless extraordinary conditions warrant altering this date due to extenuating circumstances (as determined by the Executive Director), the temporary rip-rap shall be removed and the new seawall installed as soon as possible but in no event later than August 6, 2005.

   (b) **Permanent Base of Seawall Rip-Rap Prohibited.** Retaining wall note number 2 on page 2 of the plans shall indicate that rip-rap is prohibited on the seaward and/or channel side of the seawall notwithstanding the 2001 geotechnical report recommendations.

   (c) **Top of Seawall Rock Slope.** The rock slope topping the seawall and extending inland of it shall be as shown on the Haro, Kasunich and Associates, Inc. detail dated received in the Coastal Commission's Central Coast District Office June 19, 2003 (see page 4 of exhibit B).

   (d) **Sand Import.** The plans shall clearly state that all sand imported to cover the base of the seawall structure shall be beach quality sand consistent with the quality of the existing beach sand at Manresa State Beach.

(e) **Cross-Sections.** The cross-sections and the expanded profile of the seawall structure shown on page 3 of the submitted plans shall also clearly identify: (1) the lowest elevation of the base of the pier elements; (2) the lower edge of the concrete facing to be applied to the seawall; (3) the wave return; and (4) the rock slope protection inland and on top of the seawall.

(f) **Seawall Surfacing.** The seawall shall be faced with a sculpted concrete surface that mimics the natural bluffs in the immediate vicinity. The surfacing shall completely hide the vertical pier elements so that the surfaced wall does not appear to be concrete-faced equidistant piers, but rather a natural undulating bluff in integral color, texture, and undulation. The integral color, texture, and undulation shall be maintained through-out the life of the structure. The project plans shall include a materials palette and/or brochures and photo examples describing the seawall facing techniques that will be applied and the expected finished facing product.

The Permittee shall undertake development in accordance with the approved Final Engineered Seawall Plans. Any proposed changes to the approved Final Plans shall be reported to the Executive Director. No changes to the approved Final Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Construction Plan to the Executive Director for review and approval. The Construction Plan shall identify the specific location of all construction areas, all staging areas, all storage areas, all construction access corridors (to the construction sites and staging areas), and all public pedestrian access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction encroachment on the beach and to have the least impact on public access. The Plan shall specify all construction methods to be used, including all methods to be used to keep the construction areas separated from beach recreational use areas (including using the blufftop space available on the Permittee's property inland of the revetment for staging, storage, and construction activities to the maximum extent feasible) and shall include a final construction schedule. All erosion control/water quality best management practices to be implemented during construction and their location shall be noted. Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into the Pacific Ocean. The Construction Plan shall, at a minimum, include the follow required criteria specified via written notes on the Plan:

(a) All work shall take place during daylight hours. Lighting of the beach area is prohibited.

(b) Construction work or equipment operations shall not be conducted below the mean high water line unless tidal waters have receded from the authorized work areas.

(c) Grading of intertidal areas is prohibited with one exception as follows: existing rock that has migrated seaward of the revetment, that is naturally exposed, and that can be retrieved

without substantial excavation of the surrounding sediments, shall be retrieved and reused or removed to an appropriate disposal site offsite. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

(d) Any construction materials and equipment that cannot be delivered to the site from the blufftop above, shall be delivered to the beach area by rubber-tired construction vehicles. When transiting on the beach, all such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.

(e) All construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exceptions shall be for: (1) erosion and sediment controls (e.g., a silt fence at the base of the revetment) as necessary to contain rock and/or sediments at the revetment site, where such controls are placed as close to the toe of the revetment/seawall as possible, and are minimized in their extent; and (2) storage of larger materials (i.e., steel I-beams, lagging members, large forms, etc.) beyond the reach of tidal waters for which moving the materials each day would be extremely difficult. If larger materials are to be left on the beach area overnight, the Construction Plan shall clearly specify what types of materials are to be so stored, the difficulty associated with moving them each day, the methods to be taken to ensure they are completely encased (i.e., not in contact with beach sands and completely covered), and the contingency plan for moving said materials in the event of tidal/wave surge reaching them.

(f) Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.

(g) No work shall occur on the beach during the summer peak months (start of Memorial Day weekend to Labor day) unless, due to extenuating circumstances, the Executive Director authorizes such work.

(h) Equipment washing, refueling, and/or servicing shall not take place on the beach.

(i) The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach).

(j) All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.

A copy of the approved Construction Plan shall be kept at the construction job site at all times and all persons involved with the construction shall be briefed on its content and meaning prior to commencement of construction.

The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

3. **Bluff Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Bluff Plan to the Executive Director for review and approval. The Bluff Plan shall at a minimum apply to the area extending from a 5-foot setback line (measured inland from the blufftop edge) to the top of the seawall (the "upper bluff area" for the purposes of this condition), and shall have three related and overlapping elements: a revegetation plan, an irrigation plan, and a drainage plan. These are more specifically described as follows:

   (a) **Revegetation Plan.** The revegetation plan shall provide for the removal of all non-native and/or invasive plant species (e.g., iceplant) present on the upper bluff area above the seawall, and the planting of native species along the full linear extent of the upper bluff area above the seawall in a manner designed to completely cover all exposed soils with vegetation. For that upper bluff area located directly above the seawall, the rock slope protection shall be completely covered with soil, and appropriate trailing vegetation shall be planted to provide for a dense cascading screen of vegetation to completely cover the upper 3 vertical feet of the seawall. Any imported soil shall match the sandy soils present in the bluff, and shall be free of impurities that could affect the success of the native revegetation effort or would otherwise result in beach area degradation. For the area where sand is to be placed to cover the base of the seawall (below the seawall and both towards the channel and the sea), vegetation capable of success in sand shall be planted in plugs in the five-foot area extending down the sand slope from the top of the seawall in a manner designed to provide a slow transition from the heavily vegetated slope above to the sandy beach below (i.e., reduced density of plants extending down from the top of the seawall). The revegetation plan shall clearly identify in site plan view the type, size, extent and location of all native plant materials to be used as chosen from the following native planting palette (substitutions of appropriate non-invasive native bluff edge plants to complement this planting palette may be allowed upon written consent from the Executive Director):

   - Achillea millefolium – yarrow
   - Artemisia californica – California sagebrush
   - Bromus carinatus var. maritimus – seaside brome
   - Ceanothus griseus var. horizontalis – "Carmel creeper"
   - Ceanothus griseus var. horizontalis – "Yankee Point"

- Dudleya caespitosa – live forever
- Dudleya farinosa – live forever
- Elymus glaucus – blue wild rye
- Erigeron glaucus – seaside daisy
- Eriogonum latifolium – buckwheat
- Eriogonum parvifolium – dune buckwheat
- Eriophyllum stacchadifolium – lizard tail
- Fragaria chiloensis – beach strawberry
- Grindelia stricta – gumweed
- Leymus pacificus – beach wild rye
- Mimulus aurantiacus – sticky monkey flower
- Myrica californica – wax myrtle
- Poa douglasii – maritime bluegrass
- Rhamnus californica – coffeeberry

The revegetation plan shall include maintenance and monitoring parameters, and shall require that: all plants above the top of the seawall are replaced as necessary to maintain the dense screen of vegetation to completely cover the bluff area and rock slope between the blufftop edge and the seawall, and to cover the top 3 feet of the seawall. Plants installed below the top of the seawall (i.e., in the imported back-fill sand) do not have to be replaced if they are removed by tidal action.

(b) **Irrigation Plan.** The irrigation plan shall provide for irrigation (e.g., drip emitters) as necessary to ensure that the revegetation plan is successful. All irrigation elements necessary for planting success shall be clearly identified in site plan view. All other irrigation elements present in the blufftop area shall be identified.

(c) **Drainage Plan.** The drainage plan shall clearly identify all permanent measures to be taken to collect and direct blufftop area drainage. Such drainage may be used for landscape irrigation, including for the native planting revegetation, provided such irrigation use does not contribute to bluff instability in any way. Any drainage not used for on-site irrigation purposes shall be collected and directed to the drainage pipe extending down the channel side of the property that is to be moved underground. Drainage shall not be allowed: to pond at the blufftop edge; sheet flow over the bluff seaward or channelward; or otherwise be directed seaward.

The Bluff Plan shall be developed with input from a landscape professional experienced in invasive plant eradication and native bluff planting efforts, and shall be submitted with

evidence of the review and approval of a licensed engineering geologist and/or a licensed civil engineer with experience in coastal structures and processes to ensure that the Plan is consistent with promoting bluff stability. The Plan shall include maintenance and monitoring parameters designed to ensure revegetation, irrigation, and drainage success. The Plan shall include site plans and cross-sections that clearly identify all above-described elements in relation to the approved project and all property lines.

The approved Bluff Plan shall be implemented immediately upon completion of seawall construction. WITHIN ONE (1) MONTH OF COMPLETION OF SEAWALL CONSTRUCTION, all non-native and/or invasive plant species (e.g., iceplant) on the upper bluff area above the seawall shall be removed, all native species identified in the Plan shall be planted, and all drainage and irrigation facilities shall be installed and shall be in working order.

The Permittee shall undertake development in accordance with the approved Bluff Plan. Any proposed changes to the approved Bluff Plan shall be reported to the Executive Director. No changes to the approved Bluff Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office when all native species identified in the Plan have been planted and all drainage and irrigation facilities have been installed and are in working order consistent with the approved Plan. Initial implementation of the Bluff Plan shall be considered complete, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

4. **Manresa State Beach Access Ramp Repair.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit an Access Ramp Repair Plan to the Executive Director for review and approval. The Ramp Repair Plan shall apply to the access ramp providing vehicular access from the Manresa State Beach parking lot to the beach below. The Plan shall provide for restoration of the entirety of the access ramp to its pre-construction state, and shall also provide for a repair of the 40-foot base section of it nearest the beach. The objective of the 40-foot base repair shall be to improve the stability of the base of the ramp, and to prevent scour and other damage during storm events. Such repair shall not increase the ramp's footprint (unless a narrow (approximately 6 inch) wall-type structure along the channel side of the base of the ramp is part of the repair plan), and shall not involve rip-rap. Rather, the Plan shall provide for a repair of the ramp's concrete foundation through pouring new concrete and/or by pumping sand and/or sand slurry within its undermined footprint, and resurfacing the ramp itself when the foundation repairs are complete. Any new exposed surfaces along the side of the base of the ramp along the channel (e.g., an exterior wall along the channel) shall be camouflaged with a surface treatment that mimics the natural bluffs in the immediate vicinity (e.g., with facing similar to the approved seawall) and/or non-invasive native vegetation. Any ramp-area landscaping impacted by construction access and/or ramp repair shall be replaced with non-invasive native bluff species specified in the list shown in special condition 3. The Permittee's total expense for the 40-foot ramp repair, including costs to have plans prepared,

shall not exceed $20,000. The Ramp Repair Plan shall include an estimate of the cost to implement the 40-foot ramp repair, and an identification of the cost expended by the Permittee to have the 40-foot ramp repair portion of the Ramp Repair Plan prepared. The Ramp Repair Plan shall be submitted with evidence of approval, or evidence of disapproval, from the California Department of Parks and Recreation's Santa Cruz District. In the event that the California Department of Parks and Recreation does not consent to a ramp repair project consistent with the parameters of this condition, then the Permittee shall be released from further obligation to implement the Ramp Repair Plan and this condition shall be deemed satisfied upon verification by the Executive Director of said disapproval.

WITHIN THIRTY (30) DAYS OF COMPLETION OF SEAWALL CONSTRUCTION, or within such additional time as deemed appropriate by the Executive Director if there are extenuating circumstances, the Permittee shall restore and repair the ramp consistent with the approved Access Ramp Repair Plan. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office upon completion of ramp repair activities to arrange for a site visit to verify that all ramp repair activities are complete. The ramp shall be considered repaired and restored, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

5. **Temporary Revetment.** The existing rip-rap placed without benefit of a coastal development permit may be retained on a temporary basis until construction on the permitted seawall commences. The temporary rip-rap shall be removed as soon as possible but in no event later than August 6, 2005.

6. **Seawall Facing Verification.** PRIOR TO SURFACING THE SEAWALL, the Permittee shall arrange to have a small test section of the seawall faced consistent with the seawall surfacing component of the approved plans specified in special condition 1. The small test section shall be located at the end of the seawall (to allow direct comparison between the natural bluff and the seawall) and shall include at least one pier element, the wall on both sides of the pier element(s), and a complete vertical section of the wave return and top of the seawall. After the small test section has been faced and allowed to cure to its final expected integral color, configuration, and texture, the Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office to arrange for a site visit to verify that the seawall facing approximates the approved expected finished facing product shown in the approved plans and is consistent with their objective for this design element (i.e., it mimics the natural bluffs in the immediate vicinity, completely hides the vertical pier elements so that the surfaced wall does not appear to be concrete-faced equidistant piers, and approximates a natural undulating bluff). At the Executive Director's discretion, the Permittee may submit photos of the test section to planning staff of the Central Coast District Office in lieu of the site visit. If planning staff should identify additional reasonable measures necessary to modify the facing in order to achieve consistency with the approved expected finished facing product and design objectives identified in the approved plans, then such measures shall be applied to the test section or a new test section. In such a case, after the small test section (or a new test section subject to the same criteria) has been faced and allowed to cure to its final expected color,

configuration, and texture, the Permittee shall again notify planning staff of the Coastal Commission's Central Coast District Office to review the new or re-faced test section. The Permittee shall arrange for as many iterations of the facing and review process as necessary to achieve consistency with the objective of the approved plans for this design element. The seawall shall not be faced until planning staff of the Coastal Commission's Central Coast District Office has indicated in writing to the Permittee that the test section is consistent with the approved expected finished facing product and design objectives identified in the approved plans. After the Permittee has received written verification that the test section is in conformance, the Permittee shall face that portion of the remainder of the seawall to which facing is to be applied (pursuant to the approved plans) consistent with the approved test section facing. The approved integral color, configuration, and texture of the seawall facing shall be maintained throughout the life of the structure.

7. **Seawall Facing at Base of Seawall.** The Permittee shall view the seawall at least one time per month during the non-winter months (i.e., March through November) and shall immediately contact planning staff of the Coastal Commission's Central Coast District Office if any portion of the base of the seawall for which seawall facing is not required per the approved plans specified in special condition 1 (i.e., that portion of the seawall extending below –5 NGVD (National Geodetic Vertical Datum)) should become visible at any time during the non-winter months. If any such portion of the base of the seawall should become visible at any time during non-winter months (based on the Permittee's monthly checks and/or based on identification of same by planning staff of the Coastal Commission's Central Coast District Office), then the Permittee shall within one-month of such discovery submit a Seawall Facing Augmentation Plan to the Executive Director for review and approval. The Augmentation Plan shall provide for facing that portion of the seawall that is visible during non-winter months or the entire base of the seawall consistent with the facing parameters defined in the approved plans (specified in special condition 1) and subject to all of the seawall facing parameters specified in special condition 6. If, at some point, the entire seawall becomes faced in this process, then the monthly monitoring pursuant to this condition shall no longer be required after that time.

8. **Beach Area Restoration.** WITHIN THREE (3) DAYS OF COMPLETION OF SEAWALL CONSTRUCTION, the Permittee shall restore all beach areas and all beach access points impacted by construction activities to their pre-construction condition. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office upon completion of beach restoration activities to arrange for a site visit to verify that all beach restoration activities are complete. If planning staff should identify additional reasonable measures necessary to restore the beach and beach access point, such measures shall be implemented immediately. The beach and beach access point shall be considered restored, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

9. **Beach Access Easement.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a political subdivision, public agency or private association approved by the Executive Director either fee title or an easement for beach access (Beach Dedication). The Beach Dedication shall apply to that portion of the Permittee's property (APN 046-321-06) that is located to the west of the seawall location (see area identified as "OTD Area" on exhibit G) (Beach Dedication Area). The recorded document shall include a legal description and a site plan of the easement area and APN 046-321-06. The recorded document shall indicate that no development, as defined in Section 30106 ("Development") of the Coastal Act, shall occur in the easement area except for: (1) appropriately permitted construction activities associated with construction, maintenance, or repair of the seawall, the rock slope area above the seawall, the vegetative screening, and all irrigation and drainage structures approved by coastal development permit 3-02-107; and (2) standard beach maintenance activities undertaken by the California Department of State Parks.

   The offer to dedicate a beach access easement shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

10. **As-Built Seawall Plans.** WITHIN TWO (2) MONTHS OF COMPLETION OF SEAWALL CONSTRUCTION, the Permittee shall submit to the Executive Director for review and approval As-Built Plans of the seawall structure in 11" x 17" format with a graphic scale that include one or more permanent surveyed benchmarks inland of the seawall for use in future monitoring efforts. The As-Built Plans shall identify the seawall structure, the rock slope protection above it, the bluff, all property lines, the blufftop edge, and all blufftop development in site plan and cross-section views. The benchmark elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD). The As-Built Plans shall indicate vertical and horizontal reference distances from the surveyed benchmark(s) to survey points located along the top edge (on the edge closest to the sea/channel) of the seawall at each pier location and at each point where the seaward edge of the seawall crosses a property line (in site plan view) for use in future monitoring efforts. The survey points shall be identified through permanent markers, benchmarks, survey position, written description, et cetera to allow measurements to be taken at the same location in order to compare information between years.

    The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and process, acceptable to the Executive Director, verifying that the seawall has been constructed in conformance with the approved project plans described by special condition 1 above.

11. ***Monitoring.*** The Permittee shall ensure that the condition and performance of the as-built seawall (including the rock slope above it) is regularly monitored by a licensed civil engineer with experience in coastal structures and processes. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred that would

adversely impact its future performance, and identify any structural damage requiring repair to maintain the as-built seawall (including the rock slope above it) profile. At a minimum, the Permittee shall submit to the Executive Director for review and approval a monitoring report once every five years by May 1st (with the first report due May 1, 2008) for as long as the seawall exists at this site. Each such report shall be prepared by a licensed civil engineer with experience in coastal structures and processes and shall cover the monitoring evaluation described in this condition above. Each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the as-built seawall (including the rock slope above it). All monitoring reports shall include sections on both: (a) the bluff elements (i.e., vegetation, irrigation, and drainage) consistent with the parameters for monitoring, maintenance, and success established in the approved Bluff Plan described in special condition 3 above; and (b) the seawall facing and potential for augmentation required pursuant to the approved plans (special condition 1), seawall facing verification (special condition 6), and potential seawall facing augmentation (special condition 7).

12. **Shoreline Development Stipulations.** By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that:

    (a) **No Further Seaward or Channel Encroachment.** Any future response to coastal hazards (including but not limited to coastal hazards associated with shoreline erosion, stream erosion and scour, landslides, wave attack, etc.) requiring the placement of any type of shoreline structure, including, but not limited to, modifications to the as-built seawall and associated rock-slope, shall be constructed inland (i.e., toward the blufftop) of the location of the seawall. An As-Built Seawall Plan has been approved pursuant to coastal development permit 3-02-107 that defines the location of the seawall.

    (b) **Bluff Vegetation.** A Bluff Plan has been approved pursuant to coastal development permit 3-02-107 that provides for the removal of invasive plants and the planting with non-invasive native bluff plants in the bluff area above the seawall and extending inland 5 feet past the blufftop edge. The full linear extent of the upper bluff area above the seawall shall be completely covered by native vegetation so that exposed soils are not visible. For that upper bluff area located directly above the seawall, the upper 3 vertical feet of the seawall shall be completely screened from view (as seen from the beach and/or channel area) by a dense cascading screen of native vegetation. To allow for initial growth, the required screening shall be initially achieved within two years of the construction of the seawall, and shall thereafter be maintained for the life of the seawall. A Bluff Plan has been approved pursuant to coastal development permit 3-02-107 that specifies the allowed native planting palette and the required vegetation maintenance parameters. All native plantings shall be maintained in good growing conditions, including the use of appropriate irrigation and drainage apparatus, and shall be replaced as necessary to maintain the bluff vegetation consistent with the approved Bluff Plan.

    (c) **Bluff Development Prohibition.** Development, as defined in Section 30106 ("Development") of the Coastal Act, shall be prohibited in the area located between the

seawall and the blufftop edge, and below the blufftop edge where there is not seawall, except for existing permitted development and approved repair and/or maintenance thereto.

(d) Maintenance. It is the Permittee's responsibility to maintain the seawall, rock slope protection above the seawall, and all irrigation, drainage, and vegetation approved pursuant to coastal development permit 3-02-107 in a structurally sound manner and its approved state. An As-Built Seawall Plan has been approved pursuant to coastal development permit 3-02-107 that defines the profile and footprint of the constructed seawall. A Bluff Plan has been approved pursuant to coastal development permit 3-02-107 that provides for vegetation, irrigation, and drainage standards and criteria. Future maintenance as specified in special condition 15 is authorized pursuant to the parameters of coastal development permit 3-02-107, but this does not obviate the need to obtain permits from other agencies for any future maintenance and/or repair episodes. Special condition 15 (Future Maintenance) is incorporated here in its entirety by reference.

(e) Rock Retrieval. Any rocks that move seaward of the as-built seawall shall be immediately retrieved and either: (1) restacked within the approved rock slope profile inland of the seawall; or (2) removed off the beach to a suitable disposal location. An As-Built Seawall Plan has been approved pursuant to coastal development permit 3-02-107 that defines the profile and footprint of the as-built seawall (including the rock slope above it). Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

(f) Debris Removal. The Permittee shall immediately remove all materials and/or debris that may fall from the blufftop area inland of the seawall onto the bluff, beach, or channel below.

(g) Assumption of Risk, Waiver of Liability and Indemnity Agreement. The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to hazards from episodic and long-term bluff retreat and coastal erosion, stream erosion and scour, wave and storm events, bluff and other geologic instability, and the interaction of same; (ii) to assume the risks to the Permittee 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; (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; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.

(h) Future Shoreline Planning. The Permittee acknowledges, on behalf of itself and all successors and assigns, that there may be future shoreline armoring planning efforts that involve the seawall (including the rock slope above it) approved pursuant to coastal

development permit 3-02-107. Such planning efforts may involve consideration of a shoreline armoring management entity meant to cover the larger shoreline that includes the shoreline structure here, and may involve consideration of potential modifications and/or programs designed to reduce public viewshed and beach access impacts due to shoreline armoring. Acknowledgement in no way binds the Permittee (and all successors and assigns) to any particular outcome of such planning efforts, and in no way limits the ability of Permittee (and all successors and assigns) to express their viewpoint during the course of such planning efforts.

13. **Other Agency Review.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the project as approved by coastal development permit 3-02-107 have been granted by the: (1) the California Department of Parks and Recreation; (2) Santa Cruz County; and (3) Monterey Bay National Marine Sanctuary.

14. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this permit as evidence of a waiver of any public rights which may exist on the property.

15. **Future Maintenance.** Coastal development permit 3-02-107 authorizes future maintenance as described in this special condition. The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that: (a) it is the Permittee's responsibility to maintain the as-built seawall, the rock slope area above the seawall, the vegetative screening, and all irrigation and drainage structures in a structurally sound manner and their approved state; (b) to immediately retrieve rocks that move seaward of the as-built seawall and either restack them (within the approved rock slope profile inland of the seawall) or dispose of them at a suitable inland disposal location; and (c) remove all debris that may fall from the blufftop area inland of the seawall onto the bluff, beach, or channel below. Any such development, or any other maintenance development associated with the as-built seawall, the rock slope area above the seawall, the vegetative screening, and all irrigation and drainage structures, shall be subject to the following:

(a) **Maintenance.** "Maintenance," as it is understood in this condition, means development that would otherwise require a coastal development permit whose purpose is: (1) to repair, reface, and/or otherwise maintain the approved seawall structure in its approved configuration (as shown on the approved As-Built Seawall Plan); (2) to reestablish or place rock within the permitted footprint and/or profile of the approved rock slope area above the seawall (as shown on the approved As-Built Seawall Plan); (3) to reestablish the permitted upper bluff drainage, vegetation, and/or irrigation elements of the approved Bluff Plan; and/or (4) to retrieve any rocks that move seaward of the footprint and/or profile of the approved rock slope area above the seawall (as shown on the approved As-Built Seawall Plan).

(b) **Maintenance Parameters.** Maintenance shall only be allowed subject to the parameters of the approved construction plan required by special condition 2. All beach areas shall be restored subject to the beach restoration parameters of special condition 8 above. Any proposed modifications to the approved construction plan and/or beach restoration requirements associated with any maintenance event shall be reported to planning staff of the Coastal Commission's Central Coast District Office with the maintenance notification (described below), and such changes shall require a coastal development permit amendment unless the Executive Director deems the proposed modifications to be minor in nature (i.e., the modifications would not result in additional coastal resource impacts).

(c) **Other Agency Approvals.** The Permittee acknowledges that these maintenance stipulations do not obviate the need to obtain permits from other agencies for any future maintenance and/or repair episodes.

(d) **Maintenance Notification.** At least 2 weeks prior to commencing any maintenance event, the Permittee shall notify, in writing, planning staff of the Coastal Commission's Central Coast District Office. The notification shall include a detailed description of the maintenance event proposed, and shall include any plans engineering and/or geology reports, proposed changes to the maintenance parameters, other agency authorizations, and other supporting documentation describing the maintenance event. The maintenance event shall not commence until the Permittee has been informed by planning staff of the Coastal Commission's Central Coast District Office that the maintenance event complies with this coastal development permit.

(e) **Maintenance Coordination.** Maintenance events shall, to the degree feasible, be coordinated with other maintenance events proposed in the immediate vicinity with the goal being to limit coastal resource impacts, including the length of time that construction occurs in and around the beach area and beach access points at Manresa State Beach. As such, the Permittee shall make reasonable efforts to coordinate the Permittee's maintenance events with other events (such as those of the California Department of Parks and Recreation), including adjusting maintenance event scheduling as directed by planning staff of the Coastal Commission's Central Coast District Office.

(f) **Non-compliance Proviso.** If the Permittee is not in compliance with the conditions of this permit at the time that a maintenance event is proposed, then the maintenance event that might otherwise be allowed by the terms of this future maintenance condition shall not be allowed by this condition.

(g) **Emergency.** Nothing in this condition shall serve to waive any Permittee rights that may exist in cases of emergency pursuant to Coastal Act Section 30611, Coastal Act Section 30624, and Subchapter 4 of Chapter 5 of Title 14, Division 5.5, of the California Code of Regulations (Permits for Approval of Emergency Work).

(h) **Duration of Covered Maintenance.** Future maintenance under this coastal development permit is allowed subject to the above terms for five (5) years from the date of approval

(i.e., until August 6, 2008). Maintenance can be carried out beyond the 5 year period if the Executive Director extends the maintenance term in writing.

16. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction is in addition to, and not a substitute for, the dedication required by special condition 9. The deed restriction shall include a legal description and site plan of: the entire parcel or parcels governed by this permit; the Bluff Development Prohibition area specified in special condition 12; and the Beach Dedication Area specified in special condition 9. 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.

Beach Dedication Easement

SITUATE in the San Andreas Rancho, Santa Cruz County, California.

BEING a portion of the lands conveyed to Gary and Janice Podesto as shown on that record of survey map, recorded in Volume 95 of Maps, at Page 34, Santa Cruz County Records and more particularly described as follows:

BEGINNING on the west boundary of the above mentioned lands of Podesto and at the west face of a seawall, said Point of Beginning bears N 30° 23'20" W 18.19 feet distant from the southwest corner of the said lands of Podesto, thence from said Point of Beginning leave said west boundary and along the said west face of a seawall, the following courses, N 18°04'32" W 22.05 feet; N 22°27'14" W 8.03 feet; N 19°54'46" W 8.16 feet; N 12°56'02" W 8.18 feet; N 10°20'19" W 8.13 feet; N 6°32'49" W 8.16 feet; N 1°42'56" W 8.26 feet; N 5°37'45" E 8.05 feet to the north boundary of the said lands of Podesto; thence leave said face of seawall and along the said north boundary S 76°53'15" W 25.69 feet to the northwest corner of the said lands of Podesto; thence along the aforesaid west boundary S 30°23'20" E 81.81 feet to the Point of Beginning.

A portion of APN 046-321-06, Santa Cruz County, California

Prepared by:

Michael J. Bridgette, PLS
Bridgette Land Surveying
Job No. 0446 9-24-04

LICENSED LAND SURVEYOR
MICHAEL J. BRIDGETTE
No.7329
EXP. 12-31-05
STATE OF CALIFORNIA

EXHIBIT C

③	N 12°56'02" W	8.16
④	N 10°20'19" W	8.13
⑤	N 6°32'49" W	8.16
⑥	N 1°42'56" W	8.26
⑦	N 5°37'45" W	8.05
⑧	S 76°53'15" W	25.69
⑨	S 30°23'20" E	81.81

LICENSED LAND SURVEYOR
MICHAEL J. BRIDGETT
No. 7329
Renew: 12-31-05
STATE OF CALIFORNIA

EXHIBIT C

Set 1 1/2" pipe in concrete tagged LS 4134

Water line 1-31-02

Edge of rocks (typ.)

48"RCP 6.73 Inv

Set 1/2" pipe tagged LS 4134

66.34

Beach Dedication Easement

BBQ

12"CMP

Concrete

Stucco

Wall

Patio

Existing House

Pond

Koi

Catch Basin

Concrete

Driveway

Gardens

Podesto
APN 46-321-06

Concrete Curb(typ.)

Concrete Patio

Gazebo

Concrete Stucco Wall (typ.)

Set 1/2" pipe tagged LS 4134

Set nail & tag LS 4134 top 6x6 post

Flag pole

I-Beam

Cyp.tree(s)

Wood Retaining Wall

Waterfall and Garden

Existing Garage

Stucco Wall

Concrete Patio

Existing House

Catch Basin Concrete Driveway

Conc Stucco Wall

Set 1/2" pipe tagged LS 4134

Fogel
APN 46-321-07

Set 1/2" pipe tagged LS 4134

SAN ANDREAS ROAD

County of Santa Cruz

294 OR 211

N 76°53'15" E 334.89

S 57°17'21" E 68.14

Δ=13°25'58"
R=280'
L=65.64

N 79°45'05" E 362.96

State of California 33 M 81 674 OR 198

N 30°23'20" W 100.00

20 30 40 60

SITE PLAN
Beach Dedication Easement

1" = 40'

BRIDGETTE LAND SURVEYING

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:
CALIFORNIA COASTAL COMMISSION
89 S. CALIFORNIA ST., SUITE 200
VENTURA, CA 93001-2801

EXHIBIT D
PERMIT NO: _____
ACCEPTANCE CERTIFICATE
PAGE ONE (1) OF TWO (2)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Irrevocable Offer to Dedicate Public Lateral Access Easement and Declaration of Restrictions dated _____, executed by Gary A. Podesto and Janice F. Podesto, Trustees or Successor Trustees of the G & J Podesto Family Trust dated January 15, 1996, and recorded on _____ as Instrument Number _____, is hereby accepted by _____, a public agency / private association on _____, pursuant to authority conferred by resolution of the _____ adopted on _____, and the grantee consents to recordation thereof by its duly authorized officer.

By: _____

For: _____

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a Notary Public personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
NOTARY PUBLIC

ACKNOWLEDGMENT BY THE CALIFORNIA COASTAL COMMISSION

OF ACCEPTANCE OF OFFER TO DEDICATE

This is to certify that _____ is a public agency / private association acceptable to the Executive Director of the California Coastal Commission to be Grantee under the Offer to Dedicate executed by Gary A. Podesto and Janice F. Podesto, Trustees or Successor Trustees of the G & J Podesto Family Trust dated January 15, 1996, on _____, and recorded on _____, in the office of the County Recorder of _____ County as Instrument No. _____.

Dated: _____

California Coastal Commission

_____

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a Notary Public personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____

NOTARY PUBLIC

2006-0036232

Recorded
Official Records
County of
Santa Cruz
GARY E. HAZELTON
Recorder

REC FEE 175.00
CC CONFORMED CO 55.00

HN
02:05PM 21-Jun-2006 Page 1 of 55

RECORDING REQUESTED BY AND

WHEN RECORDED RETURN TO:
CALIFORNIA COASTAL COMMISSION
725 Front Street, Suite 300
Santa Cruz, CA 95060

IRREVOCABLE OFFER TO DEDICATE PUBLIC LATERAL ACCESS EASEMENT

AND

DECLARATION OF RESTRICTIONS

THIS IRREVOCABLE OFFER TO DEDICATE PUBLIC LATERAL ACCESS EASEMENT AND DECLARATION (hereinafter referred to as the "Offer") is made this 17th day of June, 2006, by Chuck Dimick, John K. Walker, Jr., and Isabel M. Walker as Trustee of the John K. Walker and Isabel M. Walker Trust, (hereinafter collectively referred to as the "Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest of certain real property located in the County of Santa Cruz, State of California, legally described as set forth in attached EXHIBIT A, hereby incorporated by reference (hereinafter referred to as the "Property"); and

II. WHEREAS, all of the Property is located within the coastal zone as defined in § 30103 of Division 20 of the California Public Resources Code, also known as the "California Coastal Act of 1976," (hereinafter referred to as the "Act"); and

III. WHEREAS, the Act creates the California Coastal Commission (hereinafter referred to as the "Commission") and requires that any coastal development permit approved by the Commission must be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code; and

IV. WHEREAS, pursuant to the Act, Isabel M. Walker applied to the Commission for a permit to undertake development as defined in § 30106 of the Public Resources Code on the Property within the coastal zone of Santa Cruz County; and

V. WHEREAS, coastal development permit numbers 3-02-013, 3-02-013-A1, and 3-02-013-A2 (hereinafter collectively referred to as the "Permit, as amended") were granted on May 14, 2002, April 22, 2003, and April 16, 2004, respectively, by the Commission in accordance with the provisions of the Staff Recommendation and Findings, attached hereto as EXHIBIT B and hereby incorporated by reference, subject to the following condition:

5. Beach Access Easement. PRIOR TO ISSUANCE OF THE AMENDED COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record as document, in a form and content acceptable to the Executive Director, granting or irrevocably offering to dedicate to a political subdivision, public agency or private association approved by the Executive Director either fee title or an easement for public beach access (Beach Dedication). The Beach Dedication shall apply to that portion of the Permittee's property (APNs 028-242-26 and 028-242-08) located seaward of the intersection of the revetment with beach sand or, when beach sand has been stripped, with Purisma Formation sandstone. The Beach Dedication shall state that future rip-rap removal shall require an amendment to the Beach Dedication to extend the dedication area inland to the seaward extent of: (1) permitted shoreline armoring immediately installed to replace the rip-rap (e.g., to the seaward face of the base of a seawall); or (2) the base of the coastal bluff, where the inland extent of the dedication area is required to extend inland to the sand-bluff intersection as the beach sand vacillates and as the bluff erodes. The recorded document shall include a legal description and a site plan of the easement area and APNs 028-242-26 and 028-242-08.

VI. WHEREAS, the Property is a parcel located between the first public road and the shoreline; and

VII. WHEREAS, under the policies of § 30210 through § 30212 of the Public Resources Code, public access to the shoreline and along the coast is to be maximized, and in all new development projects located between the first public road and the shoreline shall be provided; and

VIII. WHEREAS, the Commission found that but for the imposition of the above condition, the proposed development could not be found consistent with the public access policies of § 30210 through § 30212 of the Public Resources Code and that, therefore, in the absence of such a condition, a permit could not have been granted; and

IX. WHEREAS, Grantor has elected to comply with the condition and execute this Offer so as to enable Grantor to undertake the development authorized by the Permit, as amended; and

NOW AND THEREFORE, in consideration of granting of the Permit, as amended to Isabel M. Walker by the Commission, the Grantor hereby irrevocably offers to dedicate to the People of the State of California, a lateral access easement in gross and in perpetuity over the Property as follows:

1. DESCRIPTION. The easement offered hereby affects that portion of the Property located seaward of the intersection of the revetment with beach sand or, when beach sand has been stripped, with Purisma Formation sandstone, and as specifically described in EXHIBIT C, attached hereto and incorporated herein by reference.

2. PURPOSE. The easement is for the purpose of allowing public pedestrian lateral access and passive recreational use along the shoreline.

3. DECLARATION OF RESTRICTIONS.

a. Non-Interference. This offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the Offer, to interfere with any rights of public access acquired through use that may exist on the Property. After acceptance, Grantor shall not interfere with the public's use of the easement nor take any action inconsistent with such use, including, without limitation, constructing or improving the Property within the easement area in a manner inconsistent with the public's use or enjoyment thereof.

b. Retention of Rights. Grantor shall retain all normal rights and incidents of ownership of the underlying fee interest in the Property not inconsistent with the easement.

c. Maintenance. Grantor shall not be bound to undertake any supervision or maintenance to provide for the public purposes hereunder.

d. Additional Terms. Prior to the opening of the accessway, the Grantee, in consultation with the Grantor, may record additional reasonable terms, conditions, and limitations on the use of the Property in order to assure that this Offer for public access in effectuated.

e. Beach Dedication. Future rip-rap removal shall require an amendment to this Offer, or to the easement that results from acceptance of this Offer, to extend the dedication area inland to the seaward extent of:

i. Permitted shoreline armoring immediately installed to replace the rip-rap (e.g., to the seaward face of the base of a seawall); or

ii. The base of the coastal bluff, where the inland extent of the dedication area is required to extend inland to the sand-bluff intersection as the beach sand vacillates and as the bluff erodes.

4. DURATION, ACCEPTANCE AND TRANSFERABILITY. This irrevocable offer of dedication shall be binding upon Owner and the heirs, assigns, or successors in interest to the Property described above for a period of 21 years. Said period running from the date of recordation of this offer. This Offer may be accepted by any agency of the State of California, a political subdivision, or a private association acceptable to the Executive Director of the Commission (hereinafter referred to as the "Grantee"). Such acceptance shall be effectuated by recordation by the Grantee of an acceptance of this Offer in the form attached hereto as EXHIBIT D. Upon such recordation of acceptance, this Offer and terms, conditions, and restrictions shall have the effect of a grant of lateral access easement in gross and perpetuity that shall run with the land and be binding on the heirs, assigns, and successors of the Grantor. After acceptance, this easement may be transferred to and held by any entity that qualifies as a Grantee under the criteria hereinabove stated. Acceptance of the Offer is subject to a covenant that runs with the land, providing that the Grantee may not abandon the easement until such time as Grantee effectively transfers said easement to an entity that qualifies as a Grantee under the criteria hereinabove stated.

5. REMEDIES. Any act, conveyance, contract, or authorization by the Grantor, whether written or oral, which uses, or would cause to be used, or would permit use of the protected land contrary to the terms of this Offer will be deemed a violation and a breach hereof. The Grantor, any Grantee of this easement and any offeree of this Offer may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of the Offer and easement and their respective interest in the property. In the event of a breach, any forbearance on the part of any such party to enforce the terms

and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

6. TAXES AND ASSESSMENTS. Grantor agrees to pay or cause to be paid all real property taxes and assessments levied or assessed against the Property. It is intended that this irrevocable offer and the use restrictions contained herein shall constitute enforceable restrictions within the meaning of (a) Article XIII, § 8, of the California Constitution; and (b) § 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, this Offer, easement and restrictions shall be deemed to constitute a servitude upon and burden to the Property within the meaning of § 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

7. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

8. SEVERABILITY. If any provision of this Offer is held to be invalid, or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed on this 17TH, day of JUNE, 2006, at PALO ALTO, CALIF.

CHUCK DIMICK

Isabel M. Walker, Trustee for Isabelle Walker Trust

ISABEL M. WALKER
Trustee of the John K. Walker and Isabel M. Walker Trust

John K Walker, Jr.

JOHN K. WALKER, Jr.

NOTARY ACKNOWLEDGEMENT (S) ON NEXT PAGE

STATE OF CALIFORNIA

COUNTY OF Santa Clara

On February 1st, 2006, before me, Roumiana A. Kadiev, a Notary Public personally appeared Isabel M. Walker, ~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Roumiana A. Kadiev

ROUMIANA A. KADIEV
COMM. #1460331
NOTARY PUBLIC - CALIFORNIA
SANTA CLARA COUNTY
My Comm. Expires Jan. 17, 2008

STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

On MAY 8 2006, before me, Michael Kaufman, a Notary Public personally appeared CHUCK DIMICK AKA CHARLES DIMICK ~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Michael Kaufman

MICHAEL KAUFMAN
COMM. NO. 1454802
NOTARY PUBLIC - CALIFORNIA
SANTA CLARA COUNTY
COMM. EXPIRES DEC. 10, 2007

STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

On June 17, 2006, before me, Karen Choy Singer, a Notary Public personally appeared

John K. Walker, Jr, ~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Karen Choy Singer

KAREN CHOY SINGER
COMM. #1378863
NOTARY PUBLIC - CALIFORNIA
SAN MATEO COUNTY
My Comm. Expires Oct. 7, 2006

This is to certify that the Offer to Dedicate set forth above is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to authority conferred by the California Coastal Commission when it granted Coastal Development Permit No. 3-02-013-A2 on April 16, 2004 and the California Coastal Commission consents to recordation thereof by its duly authorized officer.

Dated: June 7, 2006

CALIFORNIA COASTAL COMMISSION

John Bowers, Staff Counsel

STATE OF CALIFORNIA
COUNTY OF San Francisco

On 06/07/06, before me, Jeff G. Staben, a Notary Public personally appeared John Bowers, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

JEFF G. STABEN
Comm. # 1449647
NOTARY PUBLIC - CALIFORNIA
City and County of San Francisco
My Comm. Expires Dec. 3, 2007

Exhibit A

BEGINNING AT 3/4 INCH IRON PIPE, (L.S. 2765), WHICH BEARS SOUTH 33° 14' WEST, A DISTANCE OF 288.86 FEET FROM THE NORTHWESTERN CORNER OF THE ABOVE DESCRIBED PARCEL ONE; THENCE SOUTH 56° 46' EAST, A DISTANCE OF 94.96 FEET TO A POINT ON THE EASTERN BOUNDARY OF SAID PARCEL CONVEYED TO DAVIDSON; THENCE ALONG SAID BOUNDARY, SOUTH 33° 14' WEST TO THE BAY OF MONTEREY; THENCE ALONG THE BAY OF MONTEREY TO A POINT WHICH BEARS SOUTH 33° 14' WEST, FROM THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 33° 14' EAST TO THE POINT OF BEGINNING.

APN: 028-242-26

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863
www.coastal.ca.gov

EXHIBIT B

AMENDMENT TO COASTAL DEVELOPMENT PERMIT

DATE: April 16, 2004

Permit No: 3-02-013-A2

issued to: Mr. Patrick O'Neill; Ms. Isabel Walker

for **CDP issued to Patrick O'Neill and Isabel Walker to repair and maintain an existing revetment (fill gaps and voids - no seaward encroachment) on the bluffs seaward of 2-2700 and 2-2720 East Cliff Drive along 26th Avenue Beach in the Live Oak beach area of unincorporated Santa Cruz County. (DC-SC)**

at **2-2720 East Cliff Drive (along 26th Avenue Beach), San Andreas (Santa Cruz County)**

has been amended to include the following changes:

Amend original conditions of approval to allow maintenance on a five-year basis, and to modify construction, monitoring, maintenance, and mitigation parameters to more effectively protect coastal resources in the long-term.

This amendment was determined by the Executive Director to be immaterial, was duly noticed, and no objections were received or the Commission concurred with the Executive Director's determination of immateriality (Sec. 13166 (b)(2)).

This amendment will become effective upon return of a signed copy of this form to the Central Coast District office. Please note that the original permit conditions are still in effect.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: STEVE MONOWITZ
Permit Supervisor

ACKNOWLEDGMENT:

I have read and understand the above amendment and agree to be bound by its conditions and the remaining conditions of Permit No: 3-02-013-A2. Refer to attached special conditions.

Date: 6-12-04 Signature:

RECEIVED
JUN 18 2004
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

ADOPTED

B. Special Conditions

1. **Approved Repair Plans.** This approval allows for the repair of the revetment present on the bluff seaward of 2-2700 and 2-2720 East Cliff Drive (APNs 028-242-26 and 028-242-08) to a 1.5:1 slope as measured inland from the existing toe of the subject revetment in conformance with the plans submitted to the Coastal Commission (by Haro, Kasunich and Associates ("Repair Plans"), shown in exhibit B of adopted Coastal Development Permit staff report for 3-02-013). Placement of rock seaward of the existing toe of the revetment or seaward of the 1.5:1 slope profile at any point on the revetment is prohibited. All private stairways, railings, and associated structures present in the revetment shall be removed in their entirety.

   All requirements of this condition above shall be enforceable components of this coastal development permit and shall apply for the lifetime of the approved development.

   The Permittee shall undertake development in accordance with the approved Repair Plans. Any proposed changes to the approved Repair Plans shall be reported to the Executive Director. No changes to the approved Repair Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. **Construction Plan.** PRIOR TO ISSUANCE OF THE AMENDED COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Construction Plan (in both full-size and 11" x 17" formats with a graphic scale; two sets of each) to the Executive Director for review and approval. The Construction Plan shall include, at a minimum, the following:

   (a) **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, all storage areas, all construction access corridors (to the construction sites and staging areas), and all public pedestrian access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction encroachment on both the beach and beach access point opposite the parking lot at Moran Lake County Park, and to have the least impact on public access.

   (b) **Construction Methods and Timing.** The Construction Plan shall specify all construction methods to be used, including all methods to be used to keep the construction areas separated from beach and blufftop recreational use areas (including using the blufftop space available on the Permittee's property inland of the revetment for staging, storage, and construction activities to the maximum extent feasible) and shall include a final construction schedule. All erosion control/water quality best management practices to be implemented during construction and their location shall be noted.

   (c) **Property Owner Consent.** The Construction Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to the use of their properties in these manners.

   (d) **Construction Coordinator.** The Construction Plan shall designate a construction coordinator to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and in emergencies), and shall include their contact information (i.e.,

address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction. The Construction Plan shall require that the construction coordinator record the name, phone number, and nature of all complaints received regarding the construction, and that the construction coordinator investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

(e) Construction Criteria. The Construction Plan shall, at a minimum, include the following required criteria specified via written notes on the Plan:

- All work shall take place during daylight hours and lighting of the beach area is prohibited unless, due to extenuating circumstances, the Executive Director authorizes non-daylight work and/or beach area lighting.

- Construction work or equipment operations shall not be conducted below the mean high water line unless tidal waters have receded from the authorized work areas.

- Grading of intertidal areas is prohibited with one exception as follows: existing rock that has migrated seaward of the revetment, that is naturally exposed, and that can be retrieved without substantial excavation of the surrounding sediments, shall be retrieved and reused or removed to an appropriate disposal site offsite. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

- Any construction materials and equipment that cannot be delivered to the site from the blufftop above, shall be delivered to the beach area by rubber-tired construction vehicles. When transiting on the beach, all such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.

- All construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exceptions shall be for erosion and sediment controls (e.g., a silt fence at the base of the revetment) as necessary to contain rock and/or sediments at the revetment site, where such controls are placed as close to the toe of the revetment as possible, and are minimized in their extent.

- Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.

- No work shall occur on the beach during weekends and/or the summer peak months (i.e., from the Saturday of Memorial Day weekend through Labor Day, inclusive) unless, due to extenuating circumstances, the Executive Director authorizes such work.

- Equipment washing, refueling, and/or servicing shall not take place on the beach.

- The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of

all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach).

- All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day. At a minimum, silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into the Pacific Ocean.

- The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

All requirements of this condition above shall be enforceable components of this coastal development permit. The Permittee shall undertake construction in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

3. **Construction Site Documents.** DURING ALL CONSTRUCTION, copies of each of the following shall be maintained in a conspicuous location at the construction job site at all times (where such copies shall be available for public review) and all persons involved with the construction shall be briefed on the content and meaning of each prior to commencement of construction: (a) the signed coastal development permit; (b) the approved repair plans (see special condition 1); and (c) the approved construction plan (see special condition 2). In addition, the designated construction coordinator's contact information (including their address and 24-hour phone number at a minimum) shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies).

4. **Beach Restoration.** WITHIN THREE (3) DAYS OF COMPLETION OF CONSTRUCTION, the Permittee shall restore all beach areas and all beach access points impacted by construction activities to their pre-construction condition or better. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach. The beach access ramp, providing pedestrian access from the crosswalk on East Cliff Drive to the sandy beach opposite Moran Lake, shall be reestablished. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office upon completion of beach-area restoration activities to arrange for a site visit to verify that all beach-area restoration activities are complete. If planning staff should identify additional reasonable measures necessary to restore the beach and beach access points, such measures shall be implemented immediately. The beach and beach access points shall be considered restored, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

5. **Beach Access Easement.** PRIOR TO ISSUANCE OF THE AMENDED COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, granting or irrevocably offering to dedicate to a political subdivision, public agency or private association approved by the Executive Director either fee title or an easement for public beach access (Beach Dedication). The Beach Dedication shall

apply to that portion of the Permittees' property (APNs 028-242-26 and 028-242-08) located seaward of the intersection of the revetment with beach sand or, when beach sand has been stripped, with Purisima Formation sandstone. The Beach Dedication shall state that future rip-rap removal shall require an amendment to the Beach Dedication to extend the dedication area inland to the seaward extent of: (1) permitted shoreline armoring immediately installed to replace the rip-rap (e.g., to the seaward face of the base of a seawall); or (2) the base of the coastal bluff, where the inland extent of the dedication area is required to extend inland to the sand-bluff intersection as the beach sands vacillates and as the bluff erodes. The recorded document shall include a legal description and a site plan of the easement area and APNs 028-242-26 and 028-242-08.

6. **Upper Bluff Plan.** WITHIN ONE (1) MONTH OF COMPLETION OF REVETMENT CONSTRUCTION, the Permittee shall submit an Upper Bluff Plan to the Executive Director for review and approval. The Upper Bluff Plan shall have three related and overlapping elements: a revegetation plan, an irrigation plan, and a drainage plan. These are more specifically described as follows:

   (a) Revegetation Plan. The revegetation plan shall provide for the removal of all the non-native invasive iceplant currently present on the upper bluff area above the revetment, and the planting of native species along the full linear extent of the bluff area above the revetment in a manner designed to provide for a dense cascading screen of vegetation to completely cover the upper one-third (roughly 10 vertical feet) of the revetment. Soils, soil composites (e.g., a mixture of sandy loam soil and cement), and support for same (such as filter fabric or equivalent), may be placed in and/or on top of the upper portion of the revetment to provide adequate planting pockets as necessary to ensure effective and successful screening. The revegetation plan shall clearly identify in site plan view the type, size, extent and location of all native plant materials to be used as chosen from the following native planting palette (substitutions of appropriate native bluff edge plants to complement this planting palette may be allowed upon written consent from the Executive Director):

   - Achillea millefolium – yarrow
   - Artemisia californica – California sagebrush
   - Baccharis pilularis – prostrate greasewood
   - Bromus carinatus var. maritimus – seaside brome
   - Ceanothus griseus var. horizontalis – "Carmel creeper"
   - Ceanothus griseus var. horizontalis – "Yankee Point"
   - Dudleya caespitosa – live forever
   - Dudleya farinosa – live forever
   - Elymus glaucus – blue wild rye
   - Erigeron glaucus – seaside daisy
   - Eriogonum latifolium – buckwheat
   - Eriogonum parvifolium – dune buckwheat
   - Eriophyllum staechadifolium – lizard tail

- Fragaria chiloensis – beach strawberry
- Grindelia stricta – gumweed
- Leymus pacificus – beach wild rye
- Mimulus aurantiacus – sticky monkey flower
- Myrica californica – wax myrtie
- Poa douglasii – maritime bluegrass
- Rhamnus californica – coffeeberry

The revegetation plan shall include maintenance and monitoring parameters, and shall require that all plants are replaced as necessary to maintain the dense cascading screen of vegetation to completely cover the upper one-third (roughly 10 vertical feet) of the revetment over the life of the revetment.

(b) Irrigation Plan. The irrigation plan shall provide for irrigation (e.g., drip emitters) as necessary to ensure that the revegetation plan is successful. All irrigation elements necessary for planting success shall be clearly identified in site plan view. All other irrigation elements present in the blufftop area shall be identified.

(c) Drainage Plan. The drainage plan shall clearly identify all permanent measures to be taken to collect and direct blufftop area drainage. Such drainage may be used for landscape irrigation, including for the native planting revegetation, provided such irrigation use does not contribute to bluff instability in any way. Any drainage not used for on-site irrigation purposes shall be collected and directed inland to East Cliff Drive. Drainage shall not be allowed: to pond at the bluff edge; sheet flow over the bluff seaward; or otherwise be directed seaward. Drainage pipes are prohibited in, under, over, or through the revetment.

The Upper Bluff Plan shall be developed with input from a landscape professional experienced in iceplant eradication and native bluff planting efforts, and shall be submitted with evidence of the review and approval of an licensed engineering geologist or licensed geotechnical engineer to ensure that the Plan is consistent with promoting bluff stability.

The Upper Bluff Plan shall be implemented immediately upon its approval by the Executive Director. WITHIN ONE (1) MONTH OF APPROVAL OF THE UPPER BLUFF PLAN BY THE EXECUTIVE DIRECTOR, all native species identified in the Plan shall be planted and all drainage and irrigation facilities shall be installed and shall be in working order.

The Permittee shall undertake development in accordance with the approved Upper Bluff Plan. Any proposed changes to the approved Upper Bluff Plan shall be reported to the Executive Director. No changes to the approved Upper Bluff Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office when all native species identified in the Plan have been planted and all drainage and irrigation facilities have been installed and are in working order consistent with the approved Plan. Initial implementation of the Upper Bluff Plan shall be considered complete, and this condition satisfied,

upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

7. **As-Built Revetment Plans.** WITHIN TWO (2) MONTHS OF COMPLETION OF CONSTRUCTION, the Permittee shall submit to the Executive Director for review and approval As-Built Plans of the deck and revetment structures in 11" x 17" format with a graphic scale that includes one or more permanent surveyed benchmarks inland of the revetment for use in future monitoring efforts. The As-Built Plans shall at a minimum identify in site plan and cross-section views: the full extent of the revetment; the bluff and the blufftop edge, and all principal residential structures immediately inland of the revetment. All property and parcel lines, and any other structures, shall be identified in site plan view. Photographs of the as-built revetment, with the date and time of the photographs and the location of each photographic viewpoint noted on a site plan, shall be included. The benchmark elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD). The As-Built Plans shall indicate vertical and horizontal reference distances from the surveyed benchmark(s) to survey points along the inland-most top and seaward-most toe of the revetment (located at those points in site plan view where the delineation of the revetment's edge changes direction) and for use in future monitoring efforts; there shall be at least 3 such survey points along the inland top edge of the revetment (one at each parcel line and one in between), and at least 3 such survey points along the seaward toe of the revetment (one at each parcel line and one in between). The survey points shall be identified through permanent markers, benchmarks, survey position, written description, et cetera to allow measurements to be taken at the same location in order to compare information between years.

   The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and processes, acceptable to the Executive Director, verifying that the shoreline structure has been constructed in conformance with the approved repair plans described by special condition 1 above.

8. **Monitoring.** The Permittee shall ensure that the condition and performance of the as-built revetment is regularly monitored by a licensed civil engineer with experience in coastal structures and processes. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred that would adversely impact future performance, and identify any structural damage requiring repair to maintain the as-built revetment profile. At a minimum, the Permittee shall submit to the Executive Director for review and approval a monitoring report at five year intervals by May 1st of each fifth year (with the first report due May 1, 2007, and subsequent reports due May 1, 2012, May 1, 2017, and so on) for as long as the revetment exists at this site. Each such report shall be prepared by a licensed civil engineer with experience in coastal structures and processes and shall cover the monitoring evaluation described in this condition above. All monitoring reports shall also include a section on the effectiveness of the vegetation screen. Photographs of the as-built structures for representative viewpoints (including, at a minimum, from vantage points upcoast, downcoast, and directly seaward of the revetment), with the date and time of the photographs and the location of each photographic viewpoint noted on a site plan, shall be included. Each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the as-built revetment and upper bluff elements (i.e., the vegetation screening, drainage, or irrigation system specified in Special Condition 6 above).

9. **Shoreline Development Stipulations.** By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that:

(a) **No Further Seaward Encroachment.** Any future development, as defined in Section 30106 ("Development") of the Coastal Act, including but not limited to modifications to the revetment, shall be constructed inland of, and shall be prohibited seaward of, the seaward plane of the revetment with the following development excepted from this prohibition: (1) appropriately permitted construction activities associated with construction, maintenance, or repair of the revetment and related structures approved by coastal development permit 3-02-013; and (2) standard beach maintenance activities (e.g., those undertaken by the grantee of the fee or easement or of the offer of dedication thereof recorded pursuant to special condition 5). The seaward plane of the revetment and deck is defined by the approved (per coastal development permit 3-02-013) revetment footprint and profile as shown on: (1) the approved repair plans; and (2) the approved as-built plans.

(b) **Revetment Screening.** The upper one-third (roughly 10 vertical feet) of the revetment located at the seaward edge of APNs 028-242-26 and 028-242-08 shall be completely screened from view (as seen from the beach) by a dense cascading screen of native vegetation. To allow for initial growth, the required screening shall be initially achieved by at least May 1, 2006, with an interim standard that at least the top 5 vertical feet of the revetment shall be screened by May 1, 2005. After May 1, 2006, the 10 vertical feet of revetment screening shall be maintained for the life of the revetment. An Upper Bluff Plan has been approved pursuant to coastal development permit 3-02-013 that specifies the allowed native planting palette and the required vegetation maintenance parameters. All native plantings shall be maintained in good growing conditions and shall be replaced as necessary to maintain the dense cascading screen of vegetation to completely cover the upper one-third (roughly 10 vertical feet) of the revetment over the life of the revetment.

(c) **Maintenance.** It is the Permittee's responsibility to maintain the revetment and vegetative screening in a structurally sound manner and their approved state (per coastal development permit 3-02-013) as shown on: (1) the approved repair plans; and (2) the approved as-built plans. Future maintenance of the revetment as specified in Special Condition 13 is authorized pursuant to the parameters of coastal development permit 3-02-013, but this does not obviate the need to obtain permits from other agencies for any future maintenance and/or repair episodes.

(d) **Rock Retrieval.** Any rocks that move seaward of the as-built revetment shall be retrieved as soon as is feasible and either: (1) restacked within the approved as-built revetment footprint and profile; or (2) removed off the beach to a suitable inland disposal location (subject to any permits and/or approvals that may be required to place the rocks at the chosen disposal location). Final repair plans and as-built plans have been approved pursuant to coastal development permit 3-02-013 that define the profile and footprint of the approved revetment. Any rock retrieval episode shall be pursuant to the maintenance parameters of coastal development permit 3-02-013. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

(e) **Debris Removal.** The Permittee shall immediately remove all debris that may fall from the area seaward of the residence onto the revetment or the beach below.

(f) **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to hazards from episodic and long-term bluff retreat and coastal erosion; (ii) to assume

the risks to the Permittee 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; (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; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.

(g) **Future Shoreline Planning.** The Permittee agrees, on behalf of itself and all successors and assigns, to participate in future shoreline armoring planning efforts that involve the revetment approved pursuant to coastal development permit 3-02-013. Such planning efforts may involve consideration of a shoreline armoring management entity meant to cover the larger shoreline that includes the revetment here, and may involve consideration of potential modifications and/or programs designed to reduce public viewshed and beach access impacts due to shoreline armoring. Agreeing to participate in no way binds the Permittee (nor any successors and assigns) to any particular outcome of such planning efforts, and in no way limits the ability of the Permittee (nor any successors and assigns) to express his/her viewpoint during the course of such planning efforts.

10. **Other Agency Review.** PRIOR TO ISSUANCE OF THE AMENDED COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the project as approved by coastal development permit 3-02-013 have been granted by: (1) Santa Cruz County; and (2) the Monterey Bay National Marine Sanctuary. Any changes to the approved project required by these agencies shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

11. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this permit as evidence of a waiver of any public rights which may exist on the property.

12. **Rodent Removal.** If, at any time, evidence indicates that rodents are living in the voids within the revetment, then the Permittee shall take reasonable action to eliminate such rodent colonization consistent with generally accepted professional pest control methods that also ensure the health and safety of the public.

13. **Future Maintenance.** Coastal development permit 3-02-013 authorizes future maintenance as described in this special condition. The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that: (a) it is the Permittee's responsibility to maintain the approved revetment, the vegetative screening, and all irrigation and drainage structures in a structurally sound manner and their approved state; (b) to retrieve rocks that move seaward of the revetment and either restack them (within the approved revetment footprint and profile) or dispose of them at a suitable inland disposal location as soon as is feasible after discovery of the rock movement; and (c) to remove all debris that may fall from the area seaward of the residence onto the revetment or the beach below. Any such development, or any other maintenance development associated with the

revetment, the vegetative screening, and all irrigation and drainage structures, shall be subject to the following:

(a) Maintenance. "Maintenance," as it is understood in this condition, means development that would otherwise require a coastal development permit whose purpose is: (1) to reestablish or place rock within the permitted footprint and/or profile of the approved revetment structure; (2) to reestablish the permitted drainage, vegetation, and/or irrigation elements of the approved upper bluff plan; and/or (3) to retrieve any rocks that move seaward of the approved revetment footprint and/or profile.

(b) Maintenance Parameters. Maintenance shall only be allowed subject to the approved construction plan required by special condition 2. All beach areas shall be restored subject to the beach restoration parameters of special condition 4 above. Any proposed modifications to the approved construction plan and/or beach restoration requirements associated with any maintenance event shall be reported to planning staff of the Coastal Commission's Central Coast District Office with the maintenance notification (described below), and such changes shall require a coastal development permit amendment unless the Executive Director deems the proposed modifications to be minor in nature (i.e., the modifications would not result in additional coastal resource impacts).

(c) Other Agency Approvals. The Permittee acknowledges that these maintenance stipulations do not obviate the need to obtain permits from other agencies for any future maintenance and/or repair episodes.

(d) Maintenance Notification. At least two weeks prior to commencing any maintenance event, the Permittee shall notify, in writing, planning staff of the Coastal Commission's Central Coast District Office. The notification shall include a detailed description of the maintenance event proposed, and shall include any plans, engineering and/or geology reports, proposed changes to the maintenance parameters, other agency authorizations, and other supporting documentation describing the maintenance event. The maintenance event shall not commence until the Permittee has been informed by planning staff of the Coastal Commission's Central Coast District Office that the maintenance event complies with this coastal development permit.

(e) Maintenance Coordination. Maintenance events shall, to the degree feasible, be coordinated with other maintenance events proposed in the immediate vicinity with the goal being to limit coastal resource impacts, including the length of time that construction occurs in and around the beach area and beach access points. As such, the Permittee shall make reasonable efforts to coordinate the Permittee's maintenance events with other events (such as those of Santa Cruz County and nearby landowners), including adjusting maintenance event scheduling as directed by planning staff of the Coastal Commission's Central Coast District Office.

(f) Non-compliance Proviso. If the Permittee is not in compliance with the conditions of this permit at the time that a maintenance event is proposed, then the maintenance event that might otherwise be allowed by the terms of this future maintenance condition shall not be allowed by this condition.

(g) Emergency. Nothing in this condition shall serve to waive any Permittee rights that may exist in cases of emergency pursuant to Coastal Act Section 30611, Coastal Act Section 30624, and

Subchapter 4 of Chapter 5 of Title 14, Division 5.5, of the California Code of Regulations (Permits for Approval of Emergency Work).

(h) Duration of Covered Maintenance. Future maintenance under this coastal development permit is allowed subject to the above terms for five (5) years from the date of amendment approval (i.e., until April 15, 2009). Maintenance can be carried out beyond the 5-year period if the Executive Director extends the maintenance term in writing. The intent of the permit is to regularly allow for 5-year extensions of the maintenance term unless there are changed circumstances that may affect the consistency of the development with the policies of Chapter 3 of the Coastal Act and thus warrant a re-review of the permit.

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

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST AREA OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

AMENDMENT TO COASTAL DEVELOPMENT PERMIT

DATE: April 22, 2003

Permit No: 3-02-013-A1

issued to: Mr. Patrick O'Neill; Isabel M. Walker

for **Fill gaps and voids in an existing revetment (with no seaward encroachment).**

at **2-2720 East Cliff Drive (beach and bluffs seaward of the residence fronting 26th Avenue Beach), Live Oak (Santa Cruz County)**

has been amended to include the following changes:

Amend coastal development permit to include additional rock placement on the revetment fronting the residence at 2-2700 East Cliff Drive (APN 028-242-26). Rock would be placed within the existing permitted profile and footprint of revetment at this location, and would be about 80 tons of 3 to 4 ton rock. Project description incorporates long-term vegetative screening, drainage, monitoring, shoreline development stipulations, and assumption of risk requirements applicable to the property inland of the revetment (similar to those on the original CDP that applied to the downcoast site).

This amendment was determined by the Executive Director to be immaterial, was duly noticed, and no objections were received or the Commission concurred with the Executive Director's determination of immateriality (Sec. 13166 (b)(2)).

This amendment will become effective upon return of a signed copy of this form to the Central Coast Area office. Please note that the original permit conditions are still in effect.

Sincerely,
PETER M. DOUGLAS
Executive Director

STEVE MONOWITZ
Permit Supervisor

ACKNOWLEDGMENT:

I have read and understand the above amendment and agree to be bound by its conditions and the remaining conditions of Permit No: 3-02-013-A1.

Date: 4-25-03 Signature: _____

RECEIVED
APR 25 2003
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST AREA OFFICE
725 FRONT STREET SUITE 300
SANTA CRUZ, CA 95060-4508
(831) 427-4863

Date: May 14, 2002

Permit Application No.: 3-02-013

COASTAL DEVELOPMENT PERMIT

On April 11, 2002, the California Coastal Commission granted to

Patrick O'Neill

this permit subject to the attached Standard and Special conditions, for development consisting of

Fill gaps and voids in an existing revetment (with no seaward encroachment).

more specifically described in the application filed in the Commission offices.

The development is within the coastal zone at

Coastal bluff seaward of 2-2720 East Cliff Drive (APN 028-242-08) along 26th Avenue Beach in the Live Oak beach area of unincorporated Santa Cruz County.

Issued on behalf of the California Coastal Commission by

PETER M. DOUGLAS
Executive Director

By: Charles Lester
District Manager

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part that: "A Public entity is not liable for injury caused by the issuance. . . of any permit. . . " applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

5/14/02
Date

Signature of Permittee

COASTAL DEVELOPMENT PERMIT

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

SPECIAL CONDITIONS:

1. **Approved Repair.** This approval allows for the repair of the revetment present on the bluff seaward of 2-2720 East Cliff Drive (APN 028-242-08) to a 1.5:1 slope as measured inland from the existing toe of the subject revetment. Placement of rock seaward of the existing toe of the revetment or seaward of the 1.5:1 slope profile at any point on the revetment is prohibited. All private stairways, railings, and associated structures present in the revetment shall be removed in their entirety.

2. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Construction Plan to the Executive Director for review and approval. The Construction Plan shall identify the specific location of all construction areas, all staging areas, all construction access corridors (to the construction sites and staging areas), and all public pedestrian access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction encroachment on the beach and to have the least impact on public access. The Plan shall specify all construction methods to be used,

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including all methods to be used to keep the construction areas separated from beach recreational use areas (including using the blufftop space available inland of the revetment for staging, storage, and construction activities to the maximum extent feasible) and shall include a final construction schedule. All erosion control/water quality best management practices to be implemented during construction and their location shall be noted. Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into the Pacific Ocean. The Construction Plan shall, at a minimum, include the follow required criteria specified via written notes on the Plan:

(a) All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exception shall be for erosion and sediment controls (e.g., a silt fence at the base of the revetment) as necessary to contain rock and/or sediments at the revetment site; such controls to be placed as close to the toe of the revetment as possible, and to be minimized in their extent.

(b) All work shall take place during daylight hours. Lighting of the beach area is prohibited.

(c) Construction work or equipment operations shall not be conducted below the mean high water line unless tidal waters have receded from the authorized work areas.

(d) Grading of intertidal areas is prohibited with one exception as follows: existing rock that has migrated seaward of the revetment, that is naturally exposed, and that can be retrieved without substantial excavation of the surrounding sediments, shall be retrieved and reused or removed to an appropriate disposal site offsite. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

(e) Any construction materials and equipment that cannot be delivered to the site from the blufftop above, shall be delivered to the beach area by rubber-tired construction vehicles. When transiting on the beach, all such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.

(f) All construction materials placed on the beach during construction shall be stored beyond the reach of tidal waters. Use of sandy beach outside of the defined construction and staging areas is prohibited.

(g) No work shall occur on the beach during the summer peak months (start of Memorial Day weekend to Labor day).

(h) Equipment washing, refueling, and/or servicing shall not take place on the beach.

(i) The construction site shall maintain good construction housekeeping (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place

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trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach).

(j) All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.

The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

3. **Beach Restoration.** WITHIN THREE (3) DAYS OF COMPLETION OF REVETMENT CONSTRUCTION, the Permittee shall restore all beach areas and all beach access points impacted by construction activities to their pre-construction condition. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach. The beach access ramp, providing pedestrian access from the crosswalk on East Cliff Drive to the sandy beach opposite Moran Lake, shall be reestablished. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office upon completion of beach restoration activities to arrange for a site visit to verify that all beach restoration activities are complete. If planning staff should identify additional reasonable measures necessary to restore the beach and beach access point, such measures shall be implemented immediately. The beach and beach access point shall be considered restored, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

4. **Upper Bluff Plan.** WITHIN ONE (1) MONTH OF COMPLETION OF REVETMENT CONSTRUCTION, the Permittee shall submit an Upper Bluff Plan to the Executive Director for review and approval. The Upper Bluff Plan shall have three related and overlapping elements: a revegetation plan, an irrigation plan, and a drainage plan. These are more specifically described as follows:

   (a) Revegetation Plan. The revegetation plan shall provide for the removal of all the non-native invasive iceplant currently present on the upper bluff area above the revetment, and the planting of native species along the full linear extent of the bluff area above the revetment in a manner designed to provide for a dense cascading screen of vegetation to completely cover the upper one-third (roughly 10 vertical feet) of the revetment. Soils, soil composites (e.g., a mixture of sandy loam soil and cement), and support for same (such as filter fabric or equivalent), may be placed in and/or on top of the upper portion of the

COASTAL DEVELOPMENT PERMIT

revetment to provide adequate planting pockets as necessary to ensure effective and successful screening. The revegetation plan shall clearly identify in site plan view the type, size, extent and location of all native plant materials to be used as chosen from the following native planting palette (substitutions of appropriate native bluff edge plants to complement this planting palette may be allowed upon written consent from the Executive Director):

- Dudleya farinosa – live forever
- Dudleya caespitosa – live forever
- Erigeron glaucus – seaside daisy
- Eriophyllum staechadifolium – lizard tail
- Mimulus aurantiacus – sticky monkey flower
- Artemisia californica – California sagebrush
- Achillea millefolium – yarrow
- Eriogonum latifolium – buckwheat
- Elymus glaucus – blue wild rye
- Ceanothus griseus var. horizontalis – "Carmel creeper"
- Ceanothus griseus var. horizontalis – "Yankee Point"

The revegetation plan shall include maintenance and monitoring parameters, and shall require that all plants are replaced as necessary to maintain the dense cascading screen of vegetation to completely cover the upper one-third (roughly 10 vertical feet) of the revetment over the life of the revetment.

(b) Irrigation Plan. The irrigation plan shall provide for irrigation (e.g., drip emitters) as necessary to ensure that the revegetation plan is successful. All irrigation elements necessary for planting success shall be clearly identified in site plan view. All other irrigation elements present in the blufftop area shall be identified.

(c) Drainage Plan. The drainage plan shall clearly identify all permanent measures to be taken to collect and direct blufftop area drainage. Such drainage may be used for landscape irrigation, including for the native planting revegetation, provided such irrigation use does not contribute to bluff instability in any way. Any drainage not used for on-site irrigation purposes shall be collected and directed inland to East Cliff Drive. Drainage shall not be allowed: to pond at the bluff edge; sheet flow over the bluff seaward; or otherwise be directed seaward. Drainage pipes are prohibited in, under, over, or through the revetment.

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The Upper Bluff Plan shall be developed with input from a landscape professional experienced in iceplant eradication and native bluff planting efforts, and shall be submitted with evidence of the review and approval of an licensed engineering geologist or licensed geotechnical engineer to ensure that the Plan is consistent with promoting bluff stability.

The Upper Bluff Plan shall be implemented immediately upon its approval by the Executive Director. WITHIN ONE (1) MONTH OF APPROVAL OF THE UPPER BLUFF PLAN BY THE EXECUTIVE DIRECTOR, all native species identified in the Plan shall be planted and all drainage and irrigation facilities shall be installed and shall be in working order.

The Permittee shall undertake development in accordance with the approved Upper Bluff Plan. Any proposed changes to the approved Upper Bluff Plan shall be reported to the Executive Director. No changes to the approved Upper Bluff Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office when all native species identified in the Plan have been planted and all drainage and irrigation facilities have been installed and are in working order consistent with the approved Plan. Initial implementation of the Upper Bluff Plan shall be considered complete, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

5. **As-Built Revetment Plans.** WITHIN TWO (2) MONTHS OF COMPLETION OF REVETMENT CONSTRUCTION, the Permittee shall submit to the Executive Director for review and approval As-Built Plans of the revetment structure that include one or more permanent surveyed benchmarks inland of the revetment for use in future monitoring efforts. The As-Built Plans shall identify the extent of the revetment structure in site plan and cross-section views. The benchmark elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD). The As-Built Plans shall indicate vertical and horizontal reference distances from the surveyed benchmark(s) to at least 3 survey points along the top edge of the revetment (one at each property line and one in between), and to at least 3 survey points along the toe of the revetment (one at each property line and one in between) for use in future monitoring efforts. The survey points shall be identified through permanent markers, benchmarks, survey position, written description, et cetera to allow measurements to be taken at the same location in order to compare information between years.

   The As-Built Plans shall be submitted with certification by a licensed geotechnical engineer, acceptable to the Executive Director, verifying that the shoreline structure has been constructed in conformance with the approved repair project described by special condition 1 above.

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6. **Monitoring.** The Permittee shall ensure that the condition and performance of the as-built revetment is regularly monitored by a licensed engineering geologist or licensed geotechnical engineer. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred that would adversely impact its future performance, and identify any structural damage requiring repair to maintain the as-built revetment profile. At a minimum, the Permittee shall submit to the Executive Director for review and approval a monitoring report once every five years by May 1st (with the first report due May 1, 2007) for as long as the revetment exists at this site. Each such report shall be prepared by a licensed engineering geologist or licensed geotechnical engineer and shall cover the monitoring evaluation described in this condition above. Each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the as-built revetment.

7. **Shoreline Development Stipulations.** By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that:

   (a) **No Further Seaward Encroachment.** Any future response to shoreline erosion requiring the placement of any type of protective structure, including, but not limited to, modifications to the as-built revetment, shall be constructed inland of the seaward plane of the as-built revetment located at the seaward edge of APN 028-242-08. The seaward plane of the as-built revetment is defined by the as-built revetment footprint and profile. An As-Built Revetment Plan has been approved pursuant to coastal development permit 3-02-013 that defines the profile and footprint of the as-built revetment.

   (b) **Revetment Screening.** The upper one-third (roughly 10 vertical feet) of the revetment located at the seaward edge of APN 028-242-08 shall be completely screened from view (as seen from the beach) by a dense cascading screen of native vegetation. To allow for initial growth, the required screening shall be initially achieved by at least May 1, 2004, with an interim standard that at least the top 5 vertical feet of the revetment shall be screened by May 1, 2003. After May 1, 2004, the 10 vertical feet of revetment screening shall be maintained for the life of the revetment. An Upper Bluff Plan has been approved pursuant to coastal development permit 3-02-013 that specifies the allowed native planting palette and the required vegetation maintenance parameters. All native plantings shall be maintained in good growing conditions and shall be replaced as necessary to maintain the dense cascading screen of vegetation to completely cover the upper one-third (roughly 10 vertical feet) of the revetment over the life of the revetment.

   (c) **Maintenance.** It is the Permittee's responsibility to maintain the as-built revetment and vegetative screening in a structurally sound manner and its approved state. An As-Built Revetment Plan has been approved pursuant to coastal development permit 3-02-013 that defines the profile and footprint of the as-built revetment. The approval of coastal development permit 3-02-013 does not obviate the need to obtain future permits for any future maintenance and/or repair episodes. The Permittee agrees to apply for a coastal development permit, and any and all other permits required, for any proposed future

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maintenance and/or repair episodes.

(d) Rock Retrieval. Any rocks that move seaward of the as-built revetment shall be immediately retrieved and either: (1) restacked within the approved as-built revetment footprint and profile; or (2) removed off the beach to a suitable disposal location. An As-Built Revetment Plan has been approved pursuant to coastal development permit 3-02-013 that defines the profile and footprint of the as-built revetment. The Permittee agrees to apply for a coastal development permit, and any and all other permits required, prior to initiating any rock retrieval episode. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

(e) Debris Removal. The Permittee shall immediately remove all debris that may fall from the blufftop area inland of the revetment onto the revetment or the beach below.

(f) Assumption of Risk, Waiver of Liability and Indemnity Agreement. The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to hazards from episodic and long-term bluff retreat and coastal erosion; (ii) to assume the risks to the Permittee 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; (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; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.

WITHIN SIX (6) MONTHS OF COMPLETION OF REVETMENT CONSTRUCTION, the Permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction (Deed Restriction) shall affect the entire parcel (APN 028-242-08) and shall include a legal description and a site plan of the as-built revetment footprint (per special condition 5) and the Permittee's entire parcel (APN 028-242-08). The Deed Restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This Deed Restriction shall not be removed or changed without a Commission amendment to coastal development permit 3-02-013.

8. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this permit as evidence of a waiver of any public rights which may exist on the property.

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

Adopted

Filed:	3/21/2002
49th day:	5/9/2002
180th day:	9/17/2002
Staff:	D.Carl
Staff report prepared:	3/21/2002
Hearing date:	4/11/2002
Hearing item number:	Th15j

COASTAL DEVELOPMENT PERMIT APPLICATION

Application number.....**3-02-013, O'Neill Revetment Repair**

Applicant.....Patrick O'Neill

Project location.....Coastal bluff seaward of 2-2720 East Cliff Drive (APN 028-242-08) along 26th Avenue Beach in the Live Oak beach area of unincorporated Santa Cruz County.

Project description.....Fill gaps and voids in an existing revetment (with no seaward encroachment).

File documents.....Santa Cruz County Certified Local Coastal Program; California Coastal Commission Monterey Bay ReCAP.

Staff recommendation ...**Approval with Conditions**

Summary: The Applicant proposes to fill a series of gaps and voids that have developed in an existing permitted revetment fronting the popular 26th Avenue Beach in coastal Live Oak. Although such a repair project is fairly routine, Coastal Act issues are engendered nonetheless because: recreational beach area will be impacted for the duration of the construction time frame; additional rock massing will be present in the public viewshed in the long-term; failure of the revetment could adversely affect recreational resources; and future erosion response could lead to more substantive hard armoring in the future.

These Coastal Act issues are readily addressed by conditions that require the Applicant: to restore the beach and bluff area after construction; to remove the non-native ice plant landscape cover and replace it with native plantings designed to cascade over the topmost portion of the revetment; to commit to no further seaward encroachment in relation to the approved revetment profile; to commit to long-term monitoring and maintenance of the revetment and the bluff plantings; and to assume all risks for developing in light of the known hazards present at this bluff location.

As so conditioned, Staff recommends approval.

Staff Report Contents

I. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number 3-02-013 pursuant to the staff recommendation.

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

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the grounds that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development 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 feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the development on the environment.

II. Conditions of Approval

A. 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 Permittee 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 or 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 Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Approved Repair.** This approval allows for the repair of the revetment present on the bluff seaward of 2-2720 East Cliff Drive (APN 028-242-08) to a 1.5:1 slope as measured inland from the existing toe of the subject revetment. Placement of rock seaward of the existing toe of the revetment or seaward of the 1.5:1 slope profile at any point on the revetment is prohibited. All private stairways, railings, and associated structures present in the revetment shall be removed in their entirety.

2. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Construction Plan to the Executive Director for review and approval. The Construction Plan shall identify the specific location of all construction areas, all staging areas, all construction access corridors (to the construction sites and staging areas), and all public pedestrian access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction encroachment on the beach and to have the least impact on public access. The Plan shall specify all construction methods to be used, including all methods to be used to keep the construction areas separated from beach recreational use areas (including using the blufftop space available inland of the revetment for staging, storage, and construction activities to the maximum extent feasible) and shall include a final construction schedule. All erosion control/water quality best

management practices to be implemented during construction and their location shall be noted. Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into the Pacific Ocean. The Construction Plan shall, at a minimum, include the follow required criteria specified via written notes on the Plan:

(a) All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exception shall be for erosion and sediment controls (e.g., a silt fence at the base of the revetment) as necessary to contain rock and/or sediments at the revetment site; such controls to be placed as close to the toe of the revetment as possible, and to be minimized in their extent.

(b) All work shall take place during daylight hours. Lighting of the beach area is prohibited.

(c) Construction work or equipment operations shall not be conducted below the mean high water line unless tidal waters have receded from the authorized work areas.

(d) Grading of intertidal areas is prohibited with one exception as follows: existing rock that has migrated seaward of the revetment, that is naturally exposed, and that can be retrieved without substantial excavation of the surrounding sediments, shall be retrieved and reused or removed to an appropriate disposal site offsite. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

(e) Any construction materials and equipment that cannot be delivered to the site from the blufftop above, shall be delivered to the beach area by rubber-tired construction vehicles. When transiting on the beach, all such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.

(f) All construction materials placed on the beach during construction shall be stored beyond the reach of tidal waters. Use of sandy beach outside of the defined construction and staging areas is prohibited.

(g) No work shall occur on the beach during the summer peak months (start of Memorial Day weekend to Labor day).

(h) Equipment washing, refueling, and/or servicing shall not take place on the beach.

(i) The construction site shall maintain good construction housekeeping (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach).

(j) All erosion and sediment controls shall be in place prior to the commencement of construction as

well as at the end of each work day.

The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

3. **Beach Restoration.** WITHIN THREE (3) DAYS OF COMPLETION OF REVETMENT CONSTRUCTION, the Permittee shall restore all beach areas and all beach access points impacted by construction activities to their pre-construction condition. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach. The beach access ramp, providing pedestrian access from the crosswalk on East Cliff Drive to the sandy beach opposite Moran Lake, shall be reestablished. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office upon completion of beach restoration activities to arrange for a site visit to verify that all beach restoration activities are complete. If planning staff should identify additional reasonable measures necessary to restore the beach and beach access point, such measures shall be implemented immediately. The beach and beach access point shall be considered restored, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

4. **Upper Bluff Plan.** WITHIN ONE (1) MONTH OF COMPLETION OF REVETMENT CONSTRUCTION, the Permittee shall submit an Upper Bluff Plan to the Executive Director for review and approval. The Upper Bluff Plan shall have three related and overlapping elements: a revegetation plan, an irrigation plan, and a drainage plan. These are more specifically described as follows:

   (a) Revegetation Plan. The revegetation plan shall provide for the removal of all the non-native invasive iceplant currently present on the upper bluff area above the revetment, and the planting of native species along the full linear extent of the bluff area above the revetment in a manner designed to provide for a dense cascading screen of vegetation to completely cover the upper one-third (roughly 10 vertical feet) of the revetment. Soils, soil composites (e.g., a mixture of sandy loam soil and cement), and support for same (such as filter fabric or equivalent), may be placed in and/or on top of the upper portion of the revetment to provide adequate planting pockets as necessary to ensure effective and successful screening. The revegetation plan shall clearly identify in site plan view the type, size, extent and location of all native plant materials to be used as chosen from the following native planting palette (substitutions of appropriate native bluff edge plants to complement this planting palette may be allowed upon written consent from the Executive Director):

- Dudleya farinosa – live forever
- Dudleya caespitosa – live forever
- Erigeron glaucus – seaside daisy
- Eriophyllum staechadifolium – lizard tail
- Mimulus aurantiacus – sticky monkey flower
- Artemisia californica – California sagebrush
- Achillea millefolium – yarrow
- Eriogonum latifolium – buckwheat
- Elymus glaucus – blue wild rye
- Ceanothus griseus var. horizontalis – "Carmel creeper"
- Ceanothus griseus var. horizontalis – "Yankee Point"

The revegetation plan shall include maintenance and monitoring parameters, and shall require that all plants are replaced as necessary to maintain the dense cascading screen of vegetation to completely cover the upper one-third (roughly 10 vertical feet) of the revetment over the life of the revetment.

(b) Irrigation Plan. The irrigation plan shall provide for irrigation (e.g., drip emitters) as necessary to ensure that the revegetation plan is successful. All irrigation elements necessary for planting success shall be clearly identified in site plan view. All other irrigation elements present in the blufftop area shall be identified.

(c) Drainage Plan. The drainage plan shall clearly identify all permanent measures to be taken to collect and direct blufftop area drainage. Such drainage may be used for landscape irrigation, including for the native planting revegetation, provided such irrigation use does not contribute to bluff instability in any way. Any drainage not used for on-site irrigation purposes shall be collected and directed inland to East Cliff Drive. Drainage shall not be allowed: to pond at the bluff edge; sheet flow over the bluff seaward; or otherwise be directed seaward. Drainage pipes are prohibited in, under, over, or through the revetment.

The Upper Bluff Plan shall be developed with input from a landscape professional experienced in iceplant eradication and native bluff planting efforts, and shall be submitted with evidence of the review and approval of an licensed engineering geologist or licensed geotechnical engineer to ensure that the Plan is consistent with promoting bluff stability.

The Upper Bluff Plan shall be implemented immediately upon its approval by the Executive Director. WITHIN ONE (1) MONTH OF APPROVAL OF THE UPPER BLUFF PLAN BY THE EXECUTIVE DIRECTOR, all native species identified in the Plan shall be planted and all drainage

and irrigation facilities shall be installed and shall be in working order.

The Permittee shall undertake development in accordance with the approved Upper Bluff Plan. Any proposed changes to the approved Upper Bluff Plan shall be reported to the Executive Director. No changes to the approved Upper Bluff Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office when all native species identified in the Plan have been planted and all drainage and irrigation facilities have been installed and are in working order consistent with the approved Plan. Initial implementation of the Upper Bluff Plan shall be considered complete, and this condition satisfied, upon written indication of same from planning staff of the Coastal Commission's Central Coast District Office.

5. **As-Built Revetment Plans.** WITHIN TWO (2) MONTHS OF COMPLETION OF REVETMENT CONSTRUCTION, the Permittee shall submit to the Executive Director for review and approval As-Built Plans of the revetment structure that include one or more permanent surveyed benchmarks inland of the revetment for use in future monitoring efforts. The As-Built Plans shall identify the extent of the revetment structure in site plan and cross-section views. The benchmark elevation(s) shall be described in relation to National Geodetic Vertical Datum (NGVD). The As-Built Plans shall indicate vertical and horizontal reference distances from the surveyed benchmark(s) to at least 3 survey points along the top edge of the revetment (one at each property line and one in between), and to at least 3 survey points along the toe of the revetment (one at each property line and one in between) for use in future monitoring efforts. The survey points shall be identified through permanent markers, benchmarks, survey position, written description, et cetera to allow measurements to be taken at the same location in order to compare information between years.

   The As-Built Plans shall be submitted with certification by a licensed geotechnical engineer, acceptable to the Executive Director, verifying that the shoreline structure has been constructed in conformance with the approved repair project described by special condition 1 above.

6. **Monitoring.** The Permittee shall ensure that the condition and performance of the as-built revetment is regularly monitored by a licensed engineering geologist or licensed geotechnical engineer. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred that would adversely impact its future performance, and identify any structural damage requiring repair to maintain the as-built revetment profile. At a minimum, the Permittee shall submit to the Executive Director for review and approval a monitoring report once every five years by May 1st (with the first report due May 1, 2007) for as long as the revetment exists at this site. Each such report shall be prepared by a licensed engineering geologist or licensed geotechnical engineer and shall cover the monitoring evaluation described in this condition above. Each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the as-built revetment.

7. **Shoreline Development Stipulations.** By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that:

   (a) No Further Seaward Encroachment. Any future response to shoreline erosion requiring the placement of any type of protective structure, including, but not limited to, modifications to the as-built revetment, shall be constructed inland of the seaward plane of the as-built revetment located at the seaward edge of APN 028-242-08. The seaward plane of the as-built revetment is defined by the as-built revetment footprint and profile. An As-Built Revetment Plan has been approved pursuant to coastal development permit 3-02-013 that defines the profile and footprint of the as-built revetment.

   (b) Revetment Screening. The upper one-third (roughly 10 vertical feet) of the revetment located at the seaward edge of APN 028-242-08 shall be completely screened from view (as seen from the beach) by a dense cascading screen of native vegetation. To allow for initial growth, the required screening shall be initially achieved by at least May 1, 2004, with an interim standard that at least the top 5 vertical feet of the revetment shall be screened by May 1, 2003. After May 1, 2004, the 10 vertical feet of revetment screening shall be maintained for the life of the revetment. An Upper Bluff Plan has been approved pursuant to coastal development permit 3-02-013 that specifies the allowed native planting palette and the required vegetation maintenance parameters. All native plantings shall be maintained in good growing conditions and shall be replaced as necessary to maintain the dense cascading screen of vegetation to completely cover the upper one-third (roughly 10 vertical feet) of the revetment over the life of the revetment.

   (c) Maintenance. It is the Permittee's responsibility to maintain the as-built revetment and vegetative screening in a structurally sound manner and its approved state. An As-Built Revetment Plan has been approved pursuant to coastal development permit 3-02-013 that defines the profile and footprint of the as-built revetment. The approval of coastal development permit 3-02-013 does not obviate the need to obtain future permits for any future maintenance and/or repair episodes. The Permittee agrees to apply for a coastal development permit, and any and all other permits required, for any proposed future maintenance and/or repair episodes.

   (d) Rock Retrieval. Any rocks that move seaward of the as-built revetment shall be immediately retrieved and either: (1) restacked within the approved as-built revetment footprint and profile; or (2) removed off the beach to a suitable disposal location. An As-Built Revetment Plan has been approved pursuant to coastal development permit 3-02-013 that defines the profile and footprint of the as-built revetment. The Permittee agrees to apply for a coastal development permit, and any and all other permits required, prior to initiating any rock retrieval episode. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).

   (e) Debris Removal. The Permittee shall immediately remove all debris that may fall from the blufftop area inland of the revetment onto the revetment or the beach below.

(f) **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to hazards from episodic and long-term bluff retreat and coastal erosion; (ii) to assume the risks to the Permittee 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; (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; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.

WITHIN SIX (6) MONTHS OF COMPLETION OF REVETMENT CONSTRUCTION, the Permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction (Deed Restriction) shall affect the entire parcel (APN 028-242-08) and shall include a legal description and a site plan of the as-built revetment footprint (per special condition 5) and the Permittee's entire parcel (APN 028-242-08). The Deed Restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This Deed Restriction shall not be removed or changed without a Commission amendment to coastal development permit 3-02-013.

8. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this permit as evidence of a waiver of any public rights which may exist on the property.

III. Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

The proposed project is located on the bluffs seaward of East Cliff Drive along 26th Avenue Beach in the unincorporated Live Oak beach area of Santa Cruz County.

Regional Setting

Situated on the northern shore of the Monterey Bay, Santa Cruz County is bordered to the north and south by San Mateo and Monterey Counties. Santa Cruz County is characterized by a wealth of natural resource systems ranging from mountains and forests to beaches and the Monterey Bay itself. The Bay has long been a focal point for area residents and visitors alike providing opportunities for surfers,

fishermen, divers, marine researchers, kayakers, and boaters, among others. The unique grandeur of the region and its national significance was formally recognized in 1992 when the area offshore became part of the Monterey Bay National Marine Sanctuary – the largest of the 12 such federally protected marine sanctuaries in the nation.

Santa Cruz County's rugged mountain and coastal setting, its generally mild climate, and its well-honed cultural identity combine to make the area a desirable place to both live and visit. As a result, Santa Cruz County has seen extensive development and regional growth over the years since the California Coastal Management Program has been in place. In fact, Santa Cruz County's population has more than doubled since 1970 alone with current census estimates indicating that the County is currently home to over one-quarter of a million persons.[1] This level of growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services, but also the need for parks and recreational areas. For coastal counties such as Santa Cruz where the vast majority of residents live within a half-hour of the coast, coastal recreational resources are a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational systems such as that found in Live Oak. With Santa Cruz County beaches providing arguably the warmest and most accessible ocean waters in all of Northern California, and with the vast population centers of the San Francisco Bay area and the Silicon Valley nearby, this type of resource pressure is particularly evident in coastal Live Oak.

Live Oak is part of a larger area including the Cities of Santa Cruz and Capitola that is home to some of the best recreational beaches in the Monterey Bay area. Not only are north Monterey Bay weather patterns more conducive to beach recreation than the rest of the Monterey Bay area, but north bay beaches are generally the first beaches accessed by visitors coming from the north of Santa Cruz. With Highway 17 providing the primary access point from the north (including San Francisco and the Silicon Valley) into the Monterey Bay area, Santa Cruz, Live Oak, and Capitola are the first coastal areas that visitors encounter upon traversing the Santa Cruz Mountains. As such, the Live Oak beach area is an important coastal access asset for not only Santa Cruz County, but also the entire central and northern California region.

See exhibit A for project location information.

Live Oak Beach Area

Live Oak represents the unincorporated segment of Santa Cruz County located between the City of Santa Cruz (upcoast) and the City of Capitola (downcoast). The Live Oak coastal area is well known for excellent public access opportunities for beach area residents, other Live Oak residents, other Santa Cruz County residents, and visitors to the area. Walking, biking, skating, viewing, surfing, fishing, sunbathing, and more are all among the range of recreational activities possible along the Live Oak shoreline. In addition, Live Oak also provides a number of different coastal environments including

[1] Census data from 1970 shows Santa Cruz County with 123,790 persons; California Department of Finance estimates for the 2000 census indicate that over 255,000 persons reside in Santa Cruz County.

sandy beaches, offshore surfing areas, rocky tidal shelves, blufftop terraces, and coastal lagoons. These varied coastal characteristics make the Live Oak shoreline unique in that a relatively small area can provide different recreational users a diverse range of alternatives for enjoying the coast. By not being limited to one large, long beach, or solely an extended stretch of rocky shoreline, the Live Oak shoreline accommodates recreational users in a manner that is typical of a much larger access system.

Primarily residential with some concentrated commercial and industrial areas, Live Oak is a substantially urbanized area with few major undeveloped parcels remaining. Development pressure has been disproportionately intense for this section of Santa Cruz County. Because Live Oak is projected to absorb the majority of the unincorporated growth in Santa Cruz County, development pressure will likely continue to tax Live Oak's public infrastructure (e.g., streets, parks, beaches, etc.).[2] Given that the beaches are the largest public facility in Live Oak, this pressure will be particularly evident in the beach area.

Proposed Development Site

The project would take place on the bluffs and back beach area of 26th Avenue Beach, an extremely popular recreational beach and surfing destination.[3] 26th Avenue Beach is a narrow stretch of recreational sand area almost entirely backed by rip-rap revetments extending from Corcoran Lagoon upcoast through to the first outcroppings of Pleasure Point downcoast.

Due to the revetments fronting the bluffs, the beach here is in most cases less than 100 feet wide in summer to completely disappearing during parts of the winter. The Commission's 1995 Monterey Bay ReCAP project, or Regional Cumulative Assessment Project, estimated that over an acre of beach at 26th Avenue Beach was covered by rock revetments.[4] Since such armoring fixes the bluff location and prevents beach replenishment from eroding bluffs, and in light of sea level rise and continuing shoreline erosion, it is expected that the usable beach areas here will continue to narrow over time.

The subject site is developed with a residence fronted by a revetment stacked against the bluffs below. The Commission was unable to locate any coastal permit history for this site, including the subject revetment. From permit files for adjacent sites,[5] it appears that the subject revetment was initially installed in the 1960s, prior to Proposition 20 and Coastal Act coastal permitting requirements. A review

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2 The LCP identifies Live Oak at buildout with a population of approximately 29,850 persons; based on the County's recreational formulas, this corresponds to a park acreage of 150-180 acres. Though Live Oak accounts for less than 1% of Santa Cruz County's total acreage, this projected park acreage represents nearly 20% of the County's total projected park acreage.

3 Historic County analyses identified an estimated average daily use of this beach of 848 persons, showing it to be the second highest beach use area in Live Oak after Twin Lakes State Beach (Technical Appendix; Live Oak General Plan; Planning Analysis and EIR, October 1977). Background LCP reports completed in 1980 estimated annual visitor counts for this beach segment at 195,393 (1980 Public Access Working Paper for the County LCP). Given the doubling of the County's population since 1970, and the increase in recreational use associated with that and population increases in surrounding areas, these historic figures appear to undercount the current level of use at this location.

4 ReCAP estimated approximately 2,700 linear feet of revetment between Corcoran Lagoon and Pleasure Point at 26th Avenue Beach. Based on a conservative footprint estimate of 20 feet of sand beach coverage for such structures, this translates to approximately 54,000 square feet of beach covered by rock (roughly 1¼ acres).

5 CDP files P-1554 and P-77-947 for Cermak.

of 1972 oblique air photos is inconclusive on this point. In 1983, the subject revetment was refurbished and extended slightly upslope and inland using roughly 450 tons of rock in response to the 1982-83 El Nino storms.[6] This inland revetment refurbishment per the 1983 County permit can be seen in a comparison of historical site photos from 1978 (for the adjacent Cermak development in 1978, P-77-947) as compared to 2002 that show additional rock massing against the bluff at this location. In any case, lacking a coastal permit history, as-built plans of the revetment are not available from coastal permit files.

See exhibits A and B for location maps and photos of the site and surrounding area.

Proposed Revetment Repair Project

The Applicant proposes to fill the voids and gaps that have developed in the revetment at the subject site. The project here would be to place roughly 630 cubic yards of two-ton to four-ton rock in the voids and depressions that have formed in the existing revetment. The existing deteriorated private stairway and rusted metal railing present in the revetment would be removed.

The revetment would not be extended seaward, rather rock would only be placed inland of the existing seaward extent of the rock. The Applicant proposes to commence the repair in April 2002 to take advantage of expected low tides and calm weather. The repair would take roughly 7 to 10 days, depending on the tides (it may take less time than that since the 7 to 10 day estimate is based on a conservatively estimated 4 hour workday should tides dictate). The project would require construction access from East Cliff Drive onto the beach and to the subject site (roughly 150 yards downcoast); the rock to be used would be staged at the access ramp area along East Cliff Drive above the beach for the duration of the project. The project would be coordinated to take place at the same time as a similar repair project fronting the adjacent property.[7] Although the Applicant is exploring other options as of the date of this staff report, the Applicant proposes to park the rubber tired bobcat tractor (to be used to transport rock on the beach) on the backbeach area nearest East Cliff Drive.

See exhibit B for proposed project plans.

B. Coastal Development Permit Determination

1. Applicable Policies

Public Access, Recreation, and Views

Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. This includes protecting public visual access as well. In particular:

30210. In carrying out the requirement of Section 4 of Article X of the California Constitution,

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6 Per a Santa Cruz County grading permit issued in April 1983.

7 Coastal development permit application 3-02-012 (Cermak), item Th15i on the April 2002 Commission agenda.

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.

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

30213. *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

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

30223. *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Coastal Act Section 30240(b) also protects parks and recreation areas such as the beach and surfing area seaward of the site. Section 30240(b) states:

30240(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.*

Coastal Act Section 30251 details specific public viewshed protections. Section 30251 states:

30251. *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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Finally, Section 30253 protects special recreational destination points such as that at 26th Avenue Beach. Section 30253 states, in part:

30253(5). *New development shall: where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Shoreline protective devices
Section 30235 of the Coastal Act:

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

Long term stability
Section 30253 of the Coastal Act alos addresses the need to ensure long-term structural integrity, minimize future risk, and avoid additional, more substantial protective measures in the future:

> *30253. New development shall:*
> *(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
> *(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. ...*

Policy Summary
In sum, while repair of existing permitted shoreline protective structures is clearly within the established parameters of the Coastal Act, and fairly routine projects in the Commission's experience, Coastal Act policies protecting the adjacent recreational beach, its offshore surf area, the beach area public viewshed, and the overall shoreline visitor experience must be respected in that process.

2. Consistency Analysis

As detailed previously, the beach area at the project site has been degraded over time by the presence of revetments fronting the majority of the recreational beach area. This degradation includes the unnatural back beach character defined by large piles of boulders, the loss of beach area given over to the boulders, the fixing of the back beach and its relation to overall loss of beach as the shoreline continues to erode and the sea level continues to rise. The 26th Avenue Beach recreational area is one of the most popular for visitors in all of unincorporated Santa Cruz County, and supports an offshore surfing area that is extremely well known both locally and around the world. The Monterey Bay National Marine Sanctuary is located directly offshore. It is within this context, and in light of the Coastal Act parameters established because of it, that individual projects must be understood and evaluated for their effect on the recreational beach experience.

In this case, the proposed project would add roughly 630 cubic yards of rock to the back beach environment. Such a project raises Coastal Act issues because: recreational beach area will be impacted

for the duration of the construction time frame; additional rock massing will be present in the public viewshed in the long-term; failure of the revetment could adversely affect recreational resources; and future erosion response could lead to more substantive hard armoring in the future. Fortunately, these issues can be readily rectified to ensure Coastal Act consistency as follows:

Construction Impacts

The project would involve large equipment that would drive over the recreational beach area and the main beach entrance point (back and forth from East Cliff Drive to the project site), occupy a construction zone of recreational beach area (at the immediate project area), potentially intrude on Sanctuary waters (depending on tides), include a rock staging area along East Cliff Drive covering the main beach entrance, include overnight storage of large equipment on the beach, and generally intrude and negatively impact the aesthetics, ambiance, serenity, and safety of the recreation beach experience. These impacts can be contained through a construction plan that limits the width of construction corridors (from East Cliff Drive to the project area), limits the times when work can take place, clearly fences off the minimum construction area necessary, keeps equipment out of Sanctuary waters, more appropriately stores equipment off of the public beach at night (e.g., parked along East Cliff Drive or in the Moran Lake parking lot), and clearly delineates and avoids to the maximum extent feasible public use areas (see special condition 2). Even with these containment provisions, however, the public will bear the burden of the negative construction impacts associated with roughly 10 days of construction on this very popular beach. Although the beach area and the beach access point can and must be restored to their original configuration immediately following construction to limit these impacts (see special condition 3), the loss of beach use associated with the 10 days of construction requires some form of compensatory mitigation. Unfortunately, there doesn't currently exist a formal program in this area for addressing such impacts in a systematic way (e.g., an in-lieu fee to be applied to beach access enhancements in the area). That said, there are other project impacts for which direct mitigation is required (see below). When the impacts are considered together, an appropriate roughly proportional mitigation can be applied (see revegetation requirements below).

Additional Rock Massing in the Public Viewshed

In addition to the direct construction impacts to the public recreational beach and surfing area, the proposed project would also adversely affect the overall public viewshed and aesthetic over the long term by introducing 630 additional cubic yards of large rock into the back beach area. The long-term result would be an ever more imposing and unnatural (compared to the natural bluff landforms in this area) rock boulder facade in the back beach area. Absent some form of effective camouflaging, this would be a significant long-term burden borne by the public, with the benefit from the rock all to the private landowner.

Of course, there currently exists some landscape cover along the upper bluffs that provides some visual relief. However, the existing landscape cover is a non-native invasive species (iceplant), that while providing some greenery, also contributes to the incremental alteration of the natural bluff landform and vegetation. Furthermore, iceplant is a landscape species with a shallow root system that can lead to bluff instability when the weight of the plant matter above grade becomes too heavy (for example, during

storm events) and causes the plant material to topple over the bluffs (bringing with it bluff soils). A better vegetative solution for promoting the natural back beach aesthetic, and for enhancing upper bluff stability altogether, is to plant long-rooted native species that can help to better hold together the upper bluff materials and can better cascade over the revetment.

Therefore, to mitigate for the direct negative construction impacts, to mitigate for the long-term impact of additional rock massing in the viewshed, and to enhance the natural landform and bluff stability, the applicant must remove the existing top of revetment ice-plant, create planting pockets as necessary in the upper revetment voids, replant with appropriate native species, and achieve and maintain vegetation performance standards for a long-term cascading planting screen to cover the upper third (roughly 10 vertical feet) of the bluffs and revetment for the life of the project (see special conditions 4 and 7). Given that the bluff is roughly 30 feet tall in a winter scour condition, and roughly 20 feet tall in a summer beach condition, such screening should provide effective upper bluff camouflaging. Extending the screening further down slope does not appear feasible at this time due to the lack of available soil areas for plantings, and the potential for the loss of materials in the lower revetment area during winter storm events.

As discussed, almost the entire stretch of back beach area at 26th Avenue Beach is covered in rock revetments. Some of these revetments include a vegetative cap with native plants, some a vegetative cap with iceplant, and others none at all. Given that these revetments require fairly regular maintenance, over time it is anticipated that the straggly non-native invasive vegetation atop the revetments in the public viewshed can be replaced by a cascading screen of native species through similar coastal permit conditions as additional repair projects are forwarded. In fact, in addition to this repair application, there are two additional repair applications in front of the Commission at the April 2002 hearing for revetments fronting 26th Avenue Beach for which similar revegetation conditions are identified.[8]

No Seaward Encroachment

The plans submitted indicate that the 630 cubic yards of rock would be placed inland of the existing seaward edge of the revetment. The plans submitted include one cross section defining the edge of the existing revetment, but do not include a corresponding site plan; important in this case because the bluffs are not straight-line linear at this location. Since the plans include photographs describing the areas in which the rock would be placed, this omission is not critical. However, to ensure that there is no confusion on this point, and since the revetments and underlying natural bluffs here undulate, the Commission considers the seaward edge of the revetment to be the seaward most location of the bulk of the existing rock currently located here. In other words, individual boulders, or clumps of several boulders, that may have migrated seaward from the main revetment do not extend the seaward edge of the revetment to encompass them.

Pursuant to Coastal Act Section 30253, development is to be designed, sited, and built to allow the natural shoreline processes to occur without creating a need for additional more substantive armoring.

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8 Application numbers 3-83-200-A2 (Gibson) and 3-02-012 (Cermak); item numbers Th16a and Th15i respectively.

Coastal development permittees for new shorefront development thus are essentially making a commitment to the public (through the approved action of the Commission, and its local government counterparts) that, in return for building their project, the public will not lose public beach access, sand supply, visual resources, and natural landforms, and that the public will not be held responsible for any future stability problems. Thus, Coastal Act Section 30253 requires that the proposed project assure structural stability without the need for additional armoring.

The proposed revetment refurbishment (to re-stack at a 1.5:1 slope) is consistent with the general practice for such armoring along 26th Avenue Beach. The existing armoring structure here has basically fixed the back beach at the revetment location and halted bluff retreat. Thus, it is not anticipated that additional rock seaward of the revetment profile will be necessary in the future due to the fact that the blufftop residence is being protected consistent with the general standards for armoring along this stretch of coast. Such potential seaward encroachment would give rise to another level of potential Coastal Act inconsistency inasmuch as it would occupy recreational sandy beach and intensify the amount of rock within the beach area public viewshed. Further, to allow a project that would itself require additional armoring seaward of that existing revetment would not be consistent with Section 30253 because stability and structural integrity must be assured without reliance on future armoring.

Therefore, to protect the beach area seaward of the revetment consistent with the Coastal Act, and in order to find this project consistent with Coastal Act Section 30253 requiring that development not require additional armoring in the future, the Commission finds that no further seaward encroachment is allowed by either this repair or any future repairs (see special conditions 1, 5, and 7). This applies to the wedge of rock in a 1.5:1 slope making up the revetment profile as well as the seaward toe itself. In other words, at no time shall additional rock be allowed seaward of any point on the revetment profile.[9]

Monitoring, Maintenance, and Long-Term Stability

If the revetment was damaged in the future (e.g. as a result of wave action, storms, landsliding, etc.) it could threaten the stability of the site, which could lead to need for more bluff alteration and/or additional or more substantive armoring. In addition, any boulders that separate themselves from the main revetment would adversely affect beach recreational and surfing access here. The upper bluff soils must be adequately stabilized with vegetation, and upper bluff drainage controlled, to ensure overall stability. Therefore, in order to find the proposed revetment repair consistent with the Coastal Act, the Commission finds that the condition of the revetment in its approved state must be maintained for the life of the revetment. Any boulders that migrate seaward of the seaward most edge of the revetment must be promptly retrieved and restacked or removed off-site. Further, in order to ensure that the Permittee and the Commission know when repairs or maintenance are required, the Permittee must monitor the condition of the revetment over the long term. The monitoring will ensure that the Permittee and the Commission are aware of any damage to revetment and can determine whether repairs or other actions

[9] This point is made so as to avoid any future confusion should it be argued that the toe of the revetment in site plan view by itself defines the line past which rock cannot be placed. Using this incorrect interpretation, an applicant could argue that additional armoring could be placed on top of the approved revetment slope so long as it didn't go seaward of the toe. Such placement would lead to even more substantive armoring in the back beach placed at a steep and unstable slope (i.e., in excess of the 1.5:1 slope approved).

are necessary to maintain the revetment in its approved state before such repairs or actions are undertaken. Finally, as evidenced by the difficulties in reviewing such applications without clear as-built plans, such future monitoring and maintenance activities must be understood in relation to a clear as-built revetment footprint and profile.

Therefore, special conditions are attached to this approval for the submittal of as-built plans (to define the footprint and profile of the permitted structure) with surveyed reference points to assist in evaluation of future proposals at this site (see special condition 5) and drainage and vegetation parameters for the upper bluff area (see special condition 4). For monitoring, the Applicant is responsible for ensuring adequate monitoring of the revetment and is required to submit a monitoring report on five year intervals that evaluates the condition and performance of the revetment, and to submit the report with recommendations, if any, for necessary maintenance, repair, changes or modifications to the project (see special condition 6). The Applicant is responsible for promptly retrieving and restacking (or removing off-site) any boulders that migrate seaward of the existing revetment (see special condition 7). All monitoring and maintenance commitments must be recorded as property restrictions to ensure long-term compliance, and to ensure that any future landowners are clearly notified of these commitments (see special condition 7).

Assumption of Risk

The experience of the Commission in evaluating the consistency of proposed developments with Coastal Act policies regarding development in areas subject to problems associated with geologic instability, flood, wave, or erosion hazard, has been that development has continued to occur despite periodic episodes of heavy storm damage, landslides, or other such occurrences. Oceanfront development is susceptible to bluff retreat and erosion damage due to storm waves and storm surge conditions. Past occurrences statewide have resulted in public costs (through low interest loans, grants, subsidies, direct assistance, etc.) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden on the people of the state for damages, the Commission has regularly required that Applicants acknowledge site geologic risks and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed.

There are inherent risks associated with development on and around revetments and eroding bluffs in a dynamic coastal bluff environment; this applies to the repair proposed as well as for the development landward of the bluffs themselves. The project site, and all development on it, is likely to be affected by shoreline erosion in the future.

Although the Commission has sought to minimize the risks associated with the development proposed in this application, the risks cannot be eliminated entirely. Given that the Applicant has chosen to pursue the development despite these risks, the Applicant must assume these risks. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see special condition 7). Specifically, special condition 7 requires the Applicant to record a deed restriction that evidences their acknowledgment of the risks and that indemnifies the Commission against claims for damages that may

be brought by third parties against the Commission as a result of its approval of this permit.

Public Rights

The Applicant does not propose to install any rock seaward of the existing revetment footprint, as discussed above. As such, the only direct removal of beach recreational space due to the project is confined to the construction impacts that are addressed by conditions described above. That said, the revetment, and the beach area directly seaward of it, appears to occupy an area of beach sand that may be contained at least partially within APN 028-242-08; a parcel owned in fee-title by the Applicant. Because of the transitory nature of the mean high tide line, the exact seaward extent of APN 028-242-08 is difficult to verify with any certainty. Since the Applicant hasn't proposed any seaward encroachment, and there are no artificial impediments (such as signs, fences, etc.) to the ongoing recreational public use of the beach area seaward of the revetment, this issue need not be resolved here. That said, however, there has been a long and steady history of public use of the beach area here. So as not to prejudice any future evaluations on this topic, and so as to avoid a situation where this revetment repair approval were described as resolving this ownership-public use issue, a condition is attached stating that the Commission's approval of this project does not constitute a waiver of any public rights which may exist on the property, and that the Applicant cannot use this approval as evidence of a waiver of same (see special condition 8).

Coastal Act Consistency Conclusion

Although the project is in some ways a fairly straight forward revetment repair, it includes impacts to beach recreational resources that must be properly mitigated, and it must not itself require additional more substantive armoring for the Commission to find the project consistent with the Coastal Act policies cited herein. Thus special conditions are included to define construction parameters, to restore the beach area after construction, to ensure the project is properly monitored and maintained over time, to provide for a native plant vegetated screen across the top of the revetment, to ensure that there will be no current or future seaward encroachment of rock, and to record these restrictions on the property to ensure that any future landowners are made aware of the requirements applicable to the revetment (see special conditions).

In terms of condition timing, it is noted that the Commission typically requires conditions to be complied with prior to issuance of the permit. In this case, to minimize beach recreational impacts, the project is to take place in early April to take advantage of low tides, mild weather, and to avoid peak summer beach use times (i.e., starting around Memorial Day). Therefore, so as to allow the project to timely commence, only the construction plan has been conditioned for completion prior to issuance of the coastal development permit. In this way, the direct construction impacts can be contained before any work can commence under this approval. The final plan for the upper bluff elements must then be completed within one month of construction completion, and initial implementation must be verified within 2 months. After 2 months, the as-built plans must be completed as well. All legal instruments must be complete within 6 months. These timing parameters allow the project to commence in April and provide ample time within which the Applicant can prepare the follow-up documentation required.

Finally, the mitigations imposed here will alleviate, but cannot completely eliminate, the long-term impacts to the public both as a result of this individual project and the overall cumulative effect of it together with all the other armoring along this stretch of coast. Some of this long term impact was "inherited" by the people of the state due to the fact that much of this stretch of coast was already armored to a certain degree when the coastal permitting requirements of Proposition 20 and the Coastal Act were instituted in the early 1970s. Ultimately, additional regional planning (e.g., a specific plan for addressing armoring needs and impacts along 26th Avenue Beach) and regional planning mechanisms (e.g., an in lieu-fee program within which individual project impacts can be more systematically quantified and addressed by a fee that could be applied to beach recreational enhancements in the area) are necessary.

The Commission notes that the County has begun preliminary efforts toward developing these types of regional planning tools to address the issue of shoreline armoring with a case study focusing on the nearby Opal Cliffs area (just downcoast of Pleasure Point from the 26th Avenue Beach area). As the Commission currently understands it, the Opal Cliffs project would focus on the removal of the rubble and rock revetments that block much of the beach access in this area, and would develop measures to sculpt and camouflage any armoring that is allowable under the Coastal Act in such a way as to mimic the natural bluff topography and vegetation. Options for building in pedestrian platforms in permitted armoring that allow for lateral access at even higher tides would also be evaluated.[10]

The 26th Avenue Beach area shares some of the same armoring issues as are present along nearby Opal Cliffs, most notably the large area of recreational sandy beach currently occupied by revetments. In the 26th Avenue Beach case, the tension between armoring on the beach and recreational use is heightened due to the fact that the beach at 26th Avenue is much more widely used than that at Opal Cliffs. Thus, 26th Avenue Beach would appear ripe for a similar specific planning exercise. Of course, and as the Commission has already observed with respect to the Opal Cliffs effort,[11] such a plan must be premised within the context of avoiding armoring to the absolute extent feasible consistent with the Coastal Act, and ensuring that the public is adequately compensated for any burden borne over the long term by armoring that fully meets the applicable LCP and Coastal Act policy tests.[12]

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[10] It appears at this time that the vehicle for such a regional solution would be a specific plan for Opal Cliffs that would be an amendment into the LCP. The specific plan approach has the benefit of allowing decision makers at the County and Commission levels to develop appropriate regional planning standards based upon the unique regional geology and existing situation of a specific stretch of coast rather than being limited by the piecemeal approach of individual permit applications. A specific plan also has the added advantage of providing an increased level of certainty in the permitting process since individual applications would then simply need to fit within the regional guidelines so established and agreed upon. Alternatively, if course, there is the potential for some type of larger project by multiple applicants or through some type of special district and/or County-sponsored arrangement. In either case, planning is completed ahead of any associated permitting and the same level of certainty is provided.

[11] In adopted findings for the March 2002 denials of 3 armoring proposals in Opal Cliffs: A-3-SCO-01-109 (Adams), A-3-SCO-01-117 (Banman), and A-3-SCO-01-118 (Black).

[12] The Commission, through the 1995 Monterey Bay ReCAP project, has previously recommended such a regional shoreline planning approach for the Monterey Bay area where it was estimated that approximately 25 acres of sandy beach had been covered with shoreline armoring in the study region by 1993, most of that in Santa Cruz County. In fact, the Commission's ReCAP analysis focused on the Opal Cliffs area as a case study to illustrate the coastal resource problems associated with project-by-project review of armoring

3. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of 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 Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

proposals as opposed to long-term planning. Most of Opal Cliffs, like 26th Avenue Beach, is currently armored in some way, and much (if not most) of the armoring appears to pre-date Proposition 20 and the Coastal Act.

IRREVOCABLE OFFER TO DEDICATE PUBLIC LATERAL ACCESS EASEMENT AND DECLARATION OF RESTRICTIONS EXHIBIT B NOTE

The Exhibits A and B for the Staff Recommendation and Findings for the original Coastal Permit 3-02-013 (IRREVOCABLE OFFER TO DEDICATE PUBLIC LATERAL ACCESS EASEMENT AND DECLARATION OF RESTRICTIONS Exhibit B) are on file and available for review at the California Coastal Commission's Central Coast District Office (currently located at 725 Front Street, Suite 300, Santa Cruz, CA 95060-4508). These exhibits are incorporated herein by reference.

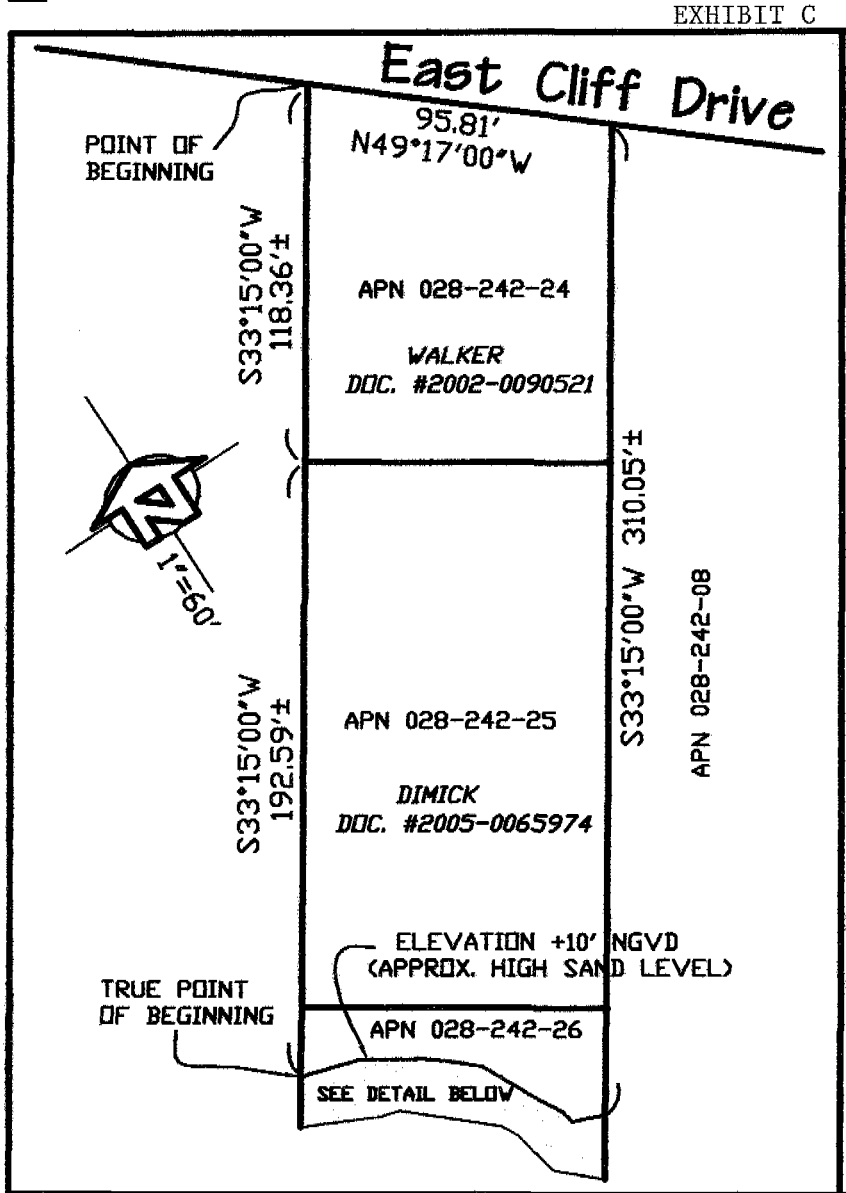
Content of Staff Recommendation and Findings Exhibits

Exhibit A: Location Map, Vicinity Map and Assessor Parcel Map/Site Plan: (3 pages)
Exhibit B: Construction Access Proposed, Beach Profile Existing, Beach Profile Proposed, Site Photographs (4 pages)

GARY PLANK & ASSOC.
SURVEYING | MAPPING | GPS
1100 Water St, Suite C, Santa Cruz, CA Tel 831.426.7941 Fax 831.426.6266

JOB NO. G05159 – DIMICK
SHEET NO. [redacted] OF 1
CALCULATED BY GJ DATE 01/12/06
SCALE: AS NOTED

EXHIBIT C

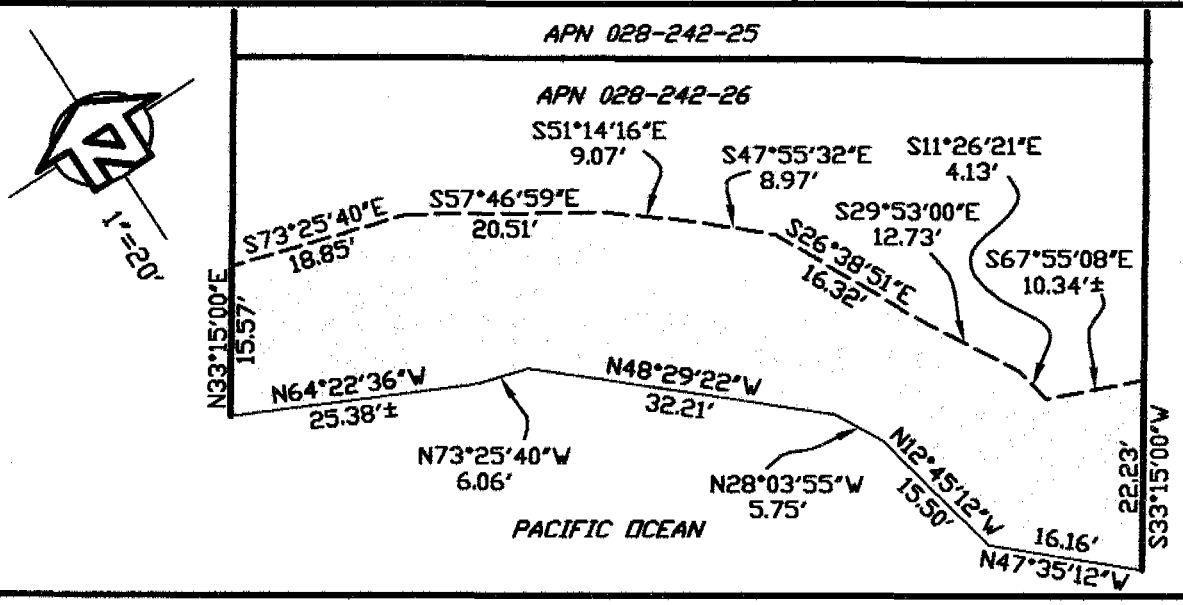


Easement for Public Access

Note

The landward and seaward boundaries of the described easement for public access are, for the following reasons, approximate. The landward and seaward boundaries of this easement for public access are dynamic and will change over time because the landward and seaward sides of the easement for public access are not fixed. Rather, they fluctuate in response to seasonal erosion and accretion of sand and the ambulatory nature of the mean high tide line. The easement for public access is defined as that portion of the property that is inland of the mean high tide line and seaward of the intersection of the revetment with beach sand or, when beach sand has been stripped, with Purisima Formation sandstone.

Shaded area indicates Easement for Public Access



Gary Ifland & Assoc., Inc.
SURVEYING | MAPPING | GPS

1100 Water Street, Suite C
Santa Cruz, CA 95062
Tel 831.426.7941 Fax 831.426.6266

LEGAL DESCRIPTION

SITUATE in Santa Cruz County, California

BEING an easement for public access over that portion of the lands of Dimick as described in deed recorded in Document #2005-0065974, Official Records Santa Cruz County, and more particularly described as follows:

BEGINNING on the west side of East Cliff Drive at the most northerly corner of the lands of Walker as described in deed recorded in Document #2002-0090521, Official Records Santa Cruz County, thence along the northwesterly line of the lands of Walker, South 33°15'00" West, 118.36 feet more or less to the most northerly corner of the lands of Dimick as described in deed recorded in Document #2005-0065974, Official Records Santa Cruz County, thence along the northwesterly line of the lands of Dimick, South 33°15'00" West, 192.59 feet more or less to to the TRUE POINT OF BEGINNING; thence leaving the northwesterly line of the lands of Dimick and along the following courses: South 73°25'40" East, 18.85; South 57°46'59" East, 20.51 feet; South 51°14'16" East, 9.07 feet; South 47°55'32" East, 8.97 feet; South 26°38'51" East, 16.32 feet; South 29°53'00" East, 12.73 feet; South 11°26'21" East, 4.13 feet; and South 67°55'08" East, 10.34 feet more or less to the southeasterly line of said lands of Dimick; thence along the southeasterly line of said lands of Dimick South 33°15'00" West, 22.23 feet; thence leaving the southeasterly line of said lands of Dimick along the following courses: North 47°35'12" West, 16.16 feet; North 12°45'12" West, 15.50 feet; North 28°03'55" West, 5.75 feet; North 48°29'22" West, 32.21 feet; North 73°25'40" West, 6.06 feet; and North 64°22'36" West, 25.38 feet more or less to the northwesterly line of said parcel; thence along the northwesterly line of said parcel, North 33°15'00" East, 15.57 feet to the TRUE POINT OF BEGINNING.

The landward and seaward boundaries of the described easement for public access are, for the following reasons, approximate. The landward and seaward boundaries of this easement for public access are dynamic and will change over time because the landward and seaward sides of the easement for public access are not fixed. Rather, they fluctuate in response to seasonal erosion and accretion of sand and the ambulatory nature of the mean high tide line. The easement for public access is defined as that portion of the property that is inland of the mean high tide line and seaward of the intersection of the revetment with beach sand or, when beach sand has been stripped, with Purisima Formation sandstone.

End of Description.

Gary Ifland & Associates, Inc.
Job #G05159 – Dimick

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:
CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, 20TH FLOOR
SAN FRANCISCO, CA 94105

EXHIBIT D
PERMIT NO: 3-02-013-A2
ACCEPTANCE CERTIFICATE
PAGE ONE (1) OF TWO (2)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Offer to Dedicate dated _____, executed by _____ and recorded on _____ as Instrument Number _____, is hereby accepted by _____, a public agency/private association on _____, pursuant to authority conferred by resolution of the _____ adopted on _____, and the grantee consents to recordation thereof by its duly authorized officer.

By: _____

For: _____

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a Notary Public personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
NOTARY PUBLIC

ACKNOWLEDGMENT BY THE CALIFORNIA COASTAL COMMISSION

OF ACCEPTANCE OF OFFER TO DEDICATE

This is to certify that _____ is a public agency/private association acceptable to the Executive Director of the California Coastal Commission to be Grantee under the Offer to Dedicate executed by _____ on _____, and recorded on _____, in the office of the County Recorder of _____ County as Instrument No. _____.

Dated: _____

California Coastal Commission

_____

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a Notary Public personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____

NOTARY PUBLIC

Certificate Of Completion

Envelope Id: D0F375BC-759E-425A-8AA2-93C59B3E41DC
Status: Completed
Subject: Complete with Docusign: (Final) Parks Coastal Access OTDs__Resolution.pdf
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Document Pages: 190
Signatures: 1
Envelope Originator:
Certificate Pages: 5
Initials: 0
Gerardo Vargas
AutoNav: Enabled
701 Ocean Street
EnvelopeId Stamping: Enabled
Santa Cruz, CA 95060
Time Zone: (UTC-08:00) Pacific Time (US & Canada)
Gerardo.Vargas@santacruzcountyca.gov
IP Address: 63.194.190.227

Record Tracking

Status: Original
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Gerardo.Vargas@santacruzcountyca.gov
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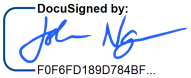
Pool: County of Santa Cruz
Location: Docusign

Signer Events	Signature	Timestamp
John Nguyen John.Nguyen@santacruzcountyca.gov Lead Assistant County County Counsel Security Level: Email, Account Authentication (None)	DocuSigned by:  F0F6FD189D784BF... Signature Adoption: Uploaded Signature Image Using IP Address: 63.194.190.225	Sent: 3/5/2026 8:30:20 AM Resent: 3/6/2026 1:29:02 PM Viewed: 3/6/2026 2:15:25 PM Signed: 3/6/2026 2:16:47 PM

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Editor Delivery Events	Status	Timestamp

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Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
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Signing Complete	Security Checked	3/6/2026 2:16:47 PM
Completed	Security Checked	3/6/2026 2:16:47 PM

Payment Events	Status	Timestamps

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If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

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If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

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You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
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To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at nada.algharib@santacruzcounty.us and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

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- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify County of Santa Cruz as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by County of Santa Cruz during the course of your relationship with County of Santa Cruz.