The Trettin Company
Community & Government Relations / Project Development

April 27, 2020

TO: Betty Yee, Chair
California State Lands Commission

FROM: Bob Trettin, Principal
The Trettin Company

RE: CSLC Agenda; 4/29/20
Items #42(Baker), #43(Barr), #47(Garber), #51(O'Neal), #53(Perell)

I am writing in my capacity as a representative of the five property owners at 211-231 Pacific Avenue, Solana Beach, to express support and request the Commission's approval of the leases addressed in the five referenced agenda items.

A representative of the Surfrider Foundation has recently written the Commission to object to these leases (letter dated 4/23/29 from Jennifer Savage), and presumably all similar leases for coastal bluff support measures along the California coastline. While we can all agree that our beaches should be protected and enhanced for the benefit of all residents, the arguments provided by this Surfrider representative were either factually inaccurate or extremely one-sided.

Section 30235 of the California Coastal Act states the following:

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.

Until and unless the California legislature changes this section of the Coastal Act and Public Resources Code seawalls are legally permitted .... legally permitted as much as marinas, coastal businesses and other private uses of State Lands property for which leases are provided.

The homes along Pacific Avenue in Solana Beach are sited on narrow lots atop +/-80-foot high coastal bluffs. These bluffs have eroded to a point that a layer of clean sands has been exposed above the lower sandstone bluffs. Once exposed, this clean sand lens tends to fail quickly, resulting in further failure of upslope terrace sands. When these bluffs experience failure, hundreds of tons of bluff materials can fall as far as 30-feet to 40-feet seaward of the toe of the coastal bluff, posing a significant threat to the public. Seawalls do not provide a false sense of safety ... they provide safety. They make larger areas of the beach safely useable. Virtually all public agencies overseeing coastal areas, other than the Coastal Commission, agree that seawalls protect the public and public infrastructure. These benefits of seawalls have been repeatedly enumerated by almost every coastal city and county, and by the State Lands Commission.

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The Surfrider letter highlighted and underlined their contention that "The mitigation fees associated with the related Coastal Development Permits in no way compensate for the current and coming public loss of sandy beach". At present, however, the owners of the leases addressed in Agenda items #42,43,47,51 and 53, in addition to the lease payments provided to the CSLC over the past 10 years, have paid hundreds of thousands of dollars in beach recreation fees and sand mitigation fees. The sand mitigation fee is approximately $15 for every cubic yard of beach-quality sand prevented from reaching the beach as result of seawall construction. When the property owners for these agenda items first permitted the seawalls, they were subject to the State Lands leases because the Mean High Tide Line extended to the toe of the coastal bluffs and the seawalls were therefore determined to be on State property. At present, the Mean High Tide Line is now sited seaward of the existing seawalls. Ten years from now, the owners of these properties will be required to amend their Coastal permits and pay significantly more in mitigation fees for the right to retain these protective measures and continue protecting their homes, public infrastructure and those who use our beaches.

Further, when the Beach Sand Restoration Project being administered by the San Diego Association of Governments (SANDAG) is fully funded and implemented for areas of the San Diego County coastline, sandy beaches will be expanded, and the existing seawalls will still be present, protecting all beach-goers who congregate below the coastal bluffs.

Surfriders suggests that the best way to protect the public and the homes is to simply move the homes farther to the east, away from the coastal bluff. Unfortunately, when these residences become threatened, there is nowhere they can be relocated. The eastern walls of many homes in the area are already 5'-10' from the public street.

If property owners are not allowed to protect their homes, this would presumably constitute a "taking" of private property and the owners would be compensated. At that point, the question becomes "who pays to protect public infrastructure such as the city street and utilities?". At other areas along the beach in this area, government has paid to protect Highway 101 by the placement of rip-rap. And, government has again paid to protect beach parking via the construction of seawalls. Is Surfriders suggesting that government pick-up the tab for the "taking" of hundreds of millions of dollars representing the worth of residential structures just in Solana Beach .... and then someday reconstruct coastal bluff protection for miles to protect threatened public infrastructure? And what of the annual loss of tens of millions of dollars in property taxes?

The need for coastal bluff protection along urbanized areas in California represents an exceedingly small percentage of the many hundreds of miles of our state's coastline.

It is also important to note that the need for seawalls was created by the loss of beach sands. Seawalls were not the cause of this beach sand loss. In areas like Solana Beach and Encinitas, the loss of beach sand was a direct result of government actions: allowing sand mining of river channels for the production of the concrete that built our roads and cities; and, the construction of the Oceanside Jetty that blocked the natural southerly movement of beach sands in this littoral cell. Studies have documented that the erosion rate of the coastal bluffs was barely measurable many decades in the past ... but that erosion rate is now estimated at almost ½ a foot per year. Seawalls did not cause this ... seawalls became necessary because of this.

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The implementation of "nature-based adaptation strategies" to address sea level rise, as expressed by the Surfrider representative in her April 23rd letter to the Commission, might seem like a laudable concept if it was not your private property that will be taken away and lost forever. There are damaging consequences to what Surfrider is proposing. These are real people with families and mortgages on the properties that Surfrider would like to see destroyed.

And, finally, I know that the engineers and contractors who are involved in seawall design and construction would take great exception to the Surfrider representative's statement that seawalls offer "only temporary protection". With normal maintenance, the coastal bluff protection afforded by seawalls can easily match or exceed the 75-year projected life of the residence being protected (along with the associated benefits of protecting infrastructure and the public). Seawalls for which I processed permits and which were constructed as far back as 1991 are still functioning as designed with little or no maintenance being required.

In closing, I want to thank State Lands staff for the professional assistance they provided in my preparation and processing of the lease applications for the five properties represented in these current agenda items. Again, on behalf of my clients, I ask that you approve the leases in Docket Items 42,43,47, 51 and 53 of the Commission's April 29, 2020 agenda.

Respectfully submitted,

Bob Trettin, Principal
The Trettin Company

cc: Jennifer Lucchesi, Executive Officer
California State Lands Commission

O'Neal; 211 Pacific Avenue; Lease #8182.1
Perell; 251 Pacific Avenue; Lease #8186.1
Baker; 219 Pacific Avenue; Lease #8183.1
Barr; 225 Pacific Avenue; Lease #8187.1
Garber; 231 Pacific Avenue; Lease #8188.1

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April 23, 2020

Chair Betty Yee
California State Lands Commission
100 Howe Ave # 100S
Sacramento CA 95825

CC: Executive Officer Jennifer Lucchesi

Submitted via email: CSLC.CommissionMeetings@slc.ca.gov

SUBJECT: 4/29/2020: Items 42, 43, 47, 51, 53

Dear Chair Yee,

The Surfrider Foundation (Surfrider) requests that the State Lands Commission April 29, 2020 Agenda Items 42, 43, 47, 51 and 53 be removed from the consent calendar and placed for discussion on the regular calendar. We expect staff will address the five lease requests together in a single presentation and we support that approach.

Beach access and coastal preservation make up a significant portion of Surfrider's campaigns. We are dedicated to equitable beach access for all residents of and visitors to California; saving our sandy beaches is critical to achieving that goal. Without sandy beaches, most recreational opportunities evaporate, leaving California's coast to only those wealthy enough to buy property along it. The biggest threat to California's beaches – and therefore to equitable public access – is the hard armoring of our coast in the form of seawalls, rock revetments, concrete bluff fill, rip rap, etc. On behalf of the public to whom the coast belongs, we therefore object to the automatic renewal of the leases described in the agenda items above.

While the City of Solana Beach and the California Coastal Commission have approved related permits in the past, those approvals do not restrict the State Lands Commission's ability to deny the leases now. As noted in the staff report, seawalls and seacave/notch fills result in adverse effects including impacting public access, increasing beach erosion and decreasing natural sand supply. The mitigation fees associated with the related Coastal Development Permits in no way compensate for the current and coming public loss of sandy beach.

The staff report outlines how seawalls destroy the beach and provide a short-lived if false promise of safety to the property:

> "The combination of these projected conditions increases the likelihood of future damage to the seawall and seacave/notch fill that could jeopardize the residence atop the bluff. As discussed in the Safeguarding California Plan: 2018 Update (California Natural Resources Agency 2018), armoring structures along the coast, while intended to safeguard upland properties, offers only temporary protection, eventually leaving homes and property at risk. The seawall and seacave/notch fill may become vulnerable to more frequent inundation during high tides, king tides, and storms, as well as from storm runoff... The seawall has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on State sovereign land. Without sand replenishment, the beach area seaward of the seawall would be subject to width reduction and loss from erosion, scour, and coastal squeeze."

The cost to the public – the forfeiture of our beach – is explicitly acknowledged. Surfrider disagrees that the measures required by the City of Solana Beach, the California Coastal Commission and within the proposed lease adequately compensate for the recreational and economic sacrifices the public is being asked to make on behalf of private property owners.

We do acknowledge that public safety from bluff collapse is a valid concern – but refute the idea that seawalls provide a solution. Instead of presenting the options as either armoring the bluffs or risking human life, why not start with preserving both the beach and human life as the primary goals, both of which could be met through relocating private property structures away from the bluff edge?

We agree with the California Coastal Commission staff, which included in a 2017 Staff Report[1] regarding an amendment to the Solana Beach Land Use Plan, that retention devices should not be confused for a public safety solution and instead contribute to narrowing and hazardous beach conditions:

> "Staff is recommending elimination of these mitigation offsets or reductions for bluff retention devices whose primary purpose is the protection of private property, and that Appendix C be updated accordingly. **The Commission does not agree that bluff retention devices provide any quantifiable public safety benefit, and therefore, reductions to the required recreation mitigation based on the theory that bluff retention devices reduce the number of beach fatalities is not appropriate**. Bluff retention devices could have the opposite effect by creating a more narrow concrete backed beach that that doesn't allow beach users to escape from high tides or large waves resulting in increased hazardous conditions for users." (Staff Recommendation on City of Solana Beach Major Amendment AMENDMENT LCP-6-SOL-16-0020-1 for Commission Meeting of May 11, 20170

The lease renewal period in consideration is ten years. With sea level rise set to exponentially increase, we do not have another ten years to default on planning for this reality. A sea level rise vulnerability assessment conducted in the neighboring city of Del Mar found that the city's

[1] https://documents.coastal.ca.gov/reports/2017/5/th17d/th17d-5-2017-report.pdf

dry beaches could completely disappear in winter within this time frame and it is very realistic to compare this to the future of Solana Beach beaches. Given current planning realities, the mitigation fees set aside for this project will be utilized for beach nourishment projects, which not only have many negative externalities to beaches but which are becoming an increasingly less viable option as sea levels rise.

The State Lands Commission is poised to be the first state agency to adopt "Making California's Coast Resilient to Sea Level Rise: Principle for Aligned State Action." Within those principles, agencies are instructed to "Protect and enhance public trust natural and cultural resources, such as beaches...," to "ensure that adaptation projects do not shift hazards and impacts elsewhere along the coast or shoreline," "Streamline permitting for high-need coastal restoration projects" and to "take action to prevent impacts from SLR to public access as feasible, toward the continued protection and enhancement of public coastal access for all."

To truly embrace those principles, state agencies must reject the reliance on hard armoring of our coast and instead embrace the long-term, nature-based adaptation strategies that will preserve our coast, protect the public trust and usher us closer to the truly equitable beach access we're all striving hard to achieve.

Sincerely,

Jennifer Savage
California Policy Manager
Surfrider Foundation

SURFRIDER FOUNDATION | San Diego County Chapter

February 3, 2017

Delivered via email

To: Eric Stevens
California Coastal Commission
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Re: Item Th18a, Application 6-009-033-A1, O'Neal et al CDP Amendment

Dear Mr. Stevens,

We are writing to express our concern about amending a seven year old Coastal Development Permit (CDP #6-09-033, October 14, 2010) to lengthen the authorization period to a time uncertain. The original CDP had a term of 20 years, so would have expired in 2030. Currently about ⅓ of the permit's lifetime has already passed, so we should not now be discussing extending the permit's lifetime. A 20 year permit lifetime is most protective of coastal resources, which is consistent with the Coastal Act 30007.5:

> *The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources.*

It is one thing to tie new CDP expirations dates with redevelopment, per the current Solana Beach Land Use Plan, but it is opening a can of worms to allow amending older CDPs as the LUP changes. We should keep our options open for the future by letting older CDPs stand on their own, and allowing new CDPs to follow the most recent rules and guidelines. For instance, the Lynch v. Coastal Commission case is still outstanding. Depending on the outcome of the Supreme Court decision, future Commissions or cities may opt to return to the 20-year permit for seawalls, since that is most protective of coastal resources. We feel it is premature to start amending previous permits until that decision is made. Perhaps the Solana Beach LUP will be amended again, like has happened in the past.

Furthermore we disagree with staff's assessment that:

> *"...the proposed amendment would not result in any adverse impacts coastal resources on the site." (p2)*

Changing from a 20-year permit lifetime to a permit lifetime tied to redevelopment will almost certainly allow for much longer permit lifetimes, resulting in loss of beach and beach access. The homeowners at 211, 215, 225, and 231 Pacific Ave will be heavily incentivized to redevelop up to 49.5%, but avoid passing the 50% threshold that would trigger permit expiration.

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The home at 219 Pacific Ave has already waived its right to shoreline protection as it was built in 1984, and we applaud the inclusion of this language in the staff report.

The incremental review of a 20-year permit guarantees an opportunity to reassess the situation based on changed circumstances in the beach environment due to Sea Level Rise and other changes. Without that incremental review, homeowners are motivated to circumvent the definition of redevelopment, and the public may forever lose their beach. Furthermore, this application is a good example of the conundrum we create when coastal armoring is allowed/constructed. Once coastal armoring is installed, a neighbor's home can become dependent on it, then even if a home or homes are redeveloped the wall can exist to protect neighboring properties, decreasing the likelihood of removal.

Also, if this amendment passes, then the following will be true:

> *"As proposed to be amended, instead of the original permit requirement that the seawall be removed or reauthorized in twenty years, when any one of the existing structures warranting armoring is redeveloped, is no longer present, or no longer requires armoring; the applicants would be required at that time of any of those events to submit a complete coastal development permit application to remove the armoring or to modify the terms of the authorization of the armoring as circumstances warrant." (p2)*

As proposed to be amended, the condition requiring seawall removal or reauthorization when one of the existing structures is redeveloped has already been met:

> *"...in June 2016, the Commission approved a permit to demolish and reconstruct a new home at 225 Pacific Avenue (Ref CDP 6-15-1717/Barr). At this time the property owner at 225 Pacific Avenue has not completed the prior to issuance conditions of the permit and the permit has not been issued." (p2)*

They cannot propose to amend a CDP in one breath, but in another breath get to redevelop one of the four specified homes without triggering conditions for permit expiration. Thus, if this CDP is amended, then the permit should be marked as expired as the condition for the proposed amendment has been met.

In conclusion, we urge that you not amend the CDP to lengthen the permit lifetime from 20 years to a period of time that will almost definitely exceed 20 years. However, if you do amend the CDP, then the CDP itself should be considered expired, as the the expiration trigger has been met by the proposed redevelopment of 225 Pacific Ave.

Sincerely,

Kristin Brinner
Resident of Solana Beach
Co-chair, Beach Preservation Committee
San Diego Chapter of the Surfrider Foundation

Jim Jaffee
Resident of Solana Beach
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