STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Council Members
FROM: David Ott, Interim City Manager
MEETING DATE: January 14, 1015
ORIGINATING DEPT: Community Development Department
SUBJECT: DRP - Second Time Extension Request for 675 South Sierra Avenue (Case No. 17-09-28; Applicant: Seascape 1 Condominiums Homeowners Association)

BACKGROUND:
The Applicant, Seascape 1 Condominiums Homeowners Association, is requesting a second 12-month extension of a Development Review Permit (DRP), originally approved on December 14, 2011, to allow:

1) Proposed in-kind relocation of an existing bluff-top sidewalk approximately five feet inland, in-kind replacement of a railing, construction of associated curb, drainage improvements to redirect drainage away from the edge of the bluff, a retaining wall, and replacement of landscaping;
2) Proposed in-kind repair and replacement for maintenance purposes of a wooden section of existing beach access stairs;
3) Proposed in-kind repair and replacement for maintenance purposes of a concrete section of existing beach access stairs;
4) Remediation of in-kind repair and replacement for maintenance purposes of wooden sections of existing beach access stairs constructed without permits; and
5) Remediation of the installation of windows in four units constructed without permits, including related structural modifications.

Since approval of the first Time Extension on August 27, 2014, the Applicant has submitted applications for building and grading permits for all components of the DRP. All but two have been issued and the Applicant is nearing completion of the corrections to enable these final two permits to be issued. A second Time Extension is needed to provide the Applicant time to finalize the plans for the outstanding permits so the permits can be issued.

The issue before the Council is whether to approve or deny the Applicant’s request for a second 12-month time extension.

COUNCIL ACTION:

AGENDA ITEM B.1.
DISCUSSION:
The Applicant received Council approval for DRP Case No. 17-09-28 on December 14, 2011, with a vote of 5-0. Please see the Staff Report (Attachment 1) and Resolution No. 2011-142 (Attachment 2) for details.

The Project approval was set to expire on December 14, 2013, unless the Applicant received building permits prior to that date. Solana Beach Municipal Code (SBMC) Section 17.72.110 (Lapse of Approval and Extensions) allows the Council to grant one or more (but not more than a total of four) extensions not exceeding a cumulative total of 24 months after the date the original approval expires. The duration of an extension must be in an increment of 30 days; the minimum duration of an extension is six months, while the maximum duration of an extension is not more than 12 months. The duration of an extension is determined at the discretion of the issuing authority. SBMC 17.72.110 also requires that “All applications for extensions shall be filed with the director at least 60 days prior to the expiration date of the approval.” Applications for Time Extensions are considered on hold until the City Council makes a decision on the Time Extension request.

On September 30, 2013, the Applicant submitted an application requesting a 12-month time extension of the approved Project. The application was properly filed at least 60 days prior to the expiration date of the approval. On August 27, 2014, the Council approved the 12-month extension of the approved Project until December 14, 2014. Please see the Staff Report (Attachment 3) and Resolution 2014-105 (Attachment 4) for details.

On October 14, 2014, the Applicant submitted an application (Attachment 5) requesting a second 12-month time extension of the approved Project. The application was properly filed at least 60 days prior to the expiration date of the approval and has been considered on hold until the Council makes a decision on the Time Extension request.

SBMC 17.72.110 establishes that Council action is required to review and act on a request for an extension of a DRP when the Council was the original approving body. The Council may extend the approval of a project if it is able to make the seven required findings, which are as follows:

1. *The applicant has presented facts which establish that the applicant has timely and diligently pursued issuance of a building permit during the 24 month period following the issuance of the original approval for the project (or the different period set forth as a condition of approval of the project) or during the then current extension period;*  

2. *Circumstances beyond the applicant’s control have intervened and prevented the applicant from obtaining the issuance of a building permit for the project prior to expiration of the 24 month period (or the expiration date established as a condition of the approval) or during the then current extension period;*
3. The application for the extension sets forth a reasonable and substantial factual basis for issuance of the extension;

4. There is a substantial factual basis to determine that the applicant will be able to perform the actions necessary to obtain issuance of a building permit prior to expiration of the requested extension;

5. The duration of the extension requested by the applicant is not longer than is reasonably necessary to perform the actions necessary to obtain the issuance of a building permit;

6. There have not been any significant changes in the general plan, applicable specific plan, if any, zoning, or character of the area within which the project is located that would cause the approved project to become inconsistent, incompatible, or nonconforming therewith; and

7. The granting of an extension shall not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

The application for the extension requires the Applicant to provide a detailed factual description and explanation of the reasons why a building permit was not issued prior to the expiration of the original approval. The City required each component of the Project to receive a separate building permit. Since approval of the first Time Extension, the Applicant addressed the City's conditions and has applied for all building and grading permits. As of the date of the expiration of the DRP, all but one building permit for a portion of the stairs and the grading permit for the upper bluff component have been issued. The Applicant is nearing completion of the corrections to enable these final two permits to be issued. These permits have been on hold since expiration of the first Time Extension and will not be issued unless the Council approves the second Time Extension.

The original Project was reviewed pursuant to the draft Local Coastal Plan (LCP) Land Use Plan (LUP) policies. After the original approval of DRP for this Project, the City's LCP/LUP was adopted by the Council on February 27, 2013. The Land Use Plan Amendment (LUPA) was subsequently adopted by the Council on June 11, 2014 and certified by the CCC on August 13, 2014. As a part of consideration of the first Time Extension, Staff compared the draft LCP/LUP policies under which the Project was originally considered with the adopted LUP. This comparison was detailed in the Staff Report (Attachment 3) and Resolution 2014-105 (Attachment 4); as described, the Project could be found in conformance with the LUP as amended by the Council on June 11, 2014. Additionally, there is also no indication that the Project would be detrimental to the public health, safety or welfare of the properties within the surrounding area.
If the Council can make the required findings to approve a second 12-month time extension, the Applicant will be required to comply with the original conditions of approval and obtain building permits for the Project prior to the new expiration date of December 14, 2015. Should the request for an extension of the DRP be denied, a new application would then be required for project. Staff also notes that if the Council can make the required findings to approve a second 12-month extension, no additional extensions are allowed per SBMC 17.72.110, which limits the granting of extensions to a cumulative total of 24 months after the date the original approval expires.

A draft Resolution of Approval (Resolution 2015-004) has been prepared by Staff for consideration of the Council (Attachment 6). The draft Resolution is based upon the information provided in this Staff Report. The Council may direct Staff to modify Resolution 2015-004 to reflect the findings and conditions it deems appropriate as a part of the public hearing process. Alternatively, if Council determines the request is to be denied, Staff will prepare a Resolution of Denial for an action to be taken at a subsequent Council meeting.

Notices of a public hearing for this project were mailed to property owners and occupants within 300 feet of the project site more than 10 days prior to the Council date. As of the date of preparation of this Staff Report, no phone calls, letters, or emails have been received by Staff in regard to the extension request.

CEQA COMPLIANCE STATEMENT:
Time Extensions are not a project as defined by CEQA. The original project was found exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301, Existing Facilities.

FISCAL IMPACT: N/A

WORKPLAN: N/A

OPTIONS:

- Approve a 12-month extension for the DRP (Case No. 17-09-28) setting an expiration date of December 14, 2015.
- Approve an extension for the DRP (Case No. 17-09-28) setting an expiration date of less than 12 months, in increments of not less than 30 days, with a minimum duration of six months.
- Deny the request for a time extension.
- Provide direction to Staff.

DEPARTMENT RECOMMENDATION:
Staff recommends that the City Council:

2. Adopt Resolution 2015-004, approving the request for a 12-month extension for a DRP for Case No. 17-09-28, and setting the expiration date as December 14, 2015.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation

David Ott, Interim City Manager

Attachments:

1. December 14, 2011 Staff Report
2. Resolution 2011-142
3. August 27, 2014 Staff Report (1st Time Extension)
4. Resolution 2014-105 (1st Time Extension)
5. Project Time Extension Application (2nd Time Extension)
6. Draft Resolution 2015-004 (2nd Time Extension)
TO: Honorable Mayor and City Councilmembers
FROM: David Ott, City Manager
MEETING DATE: December 14, 2011
ORIGINATING DEPT: Community Development Department
SUBJECT: DRP for 675 South Sierra Avenue (Seascape 1 Condominiums)
(Case # 17-09-28 Applicant: Seascape 1 Homeowners Association)

BACKGROUND
The Applicant, Seascape 1 Homeowners Association, seeks City Council (Council) approval of a Development Review Permit (DRP) to allow:

1) Proposed in-kind relocation of an existing bluff-top sidewalk approximately five feet inland, in-kind replacement of a railing, construction of associated curb, drainage improvements to redirect drainage away from the edge of the bluff, a retaining wall, and replacement of landscaping;

2) Proposed in-kind repair and replacement for maintenance purposes of a wooden section of existing beach access stairs;

3) Proposed in-kind repair and replacement for maintenance purposes of a concrete section of existing beach access stairs;

4) Remediation of in-kind repair and replacement for maintenance purposes of wooden sections of existing beach access stairs constructed without permits; and

5) Remediation of the installation of windows in four units constructed without permits, including related structural modifications.

In total, the proposed Project includes the five components listed above. For clarity, each component included in the proposed Project has been given a number for reference and discussion purposes. Components 1, 2, and 3 are proposed to be completed by the Applicant. Components 4 and 5 are requests to remediate unpermitted construction completed in violation of Sections 15.04.010 and 15.04.030 of the City of Solana Beach Municipal Code (SBMC). The Project will also require approval of a Coastal Development Permit from the California Coastal Commission (CCC) for the various components prior to issuance of building permits. A summary of the five components follows. Each component is addressed in greater detail later in the Staff Report.

CITY COUNCIL ACTION:

ATTACHMENT 1
The Applicant is requesting that the Council consider approval of a DRP for the proposed Project, as follows:

- A DRP is required pursuant to SBMC Section 17(B)(1)(d), which requires a DRP for any development or construction that involves the grading of more than 50 cubic yards of soil. (This pertains to Component 1.)
- Section 17.68.040(B)(1)(i) of the SBMC requires approval of a DRP because the project proposes development on a coastal bluff-top property, on the face, or the toe of a bluff for which the California Coastal Commission requires a coastal development permit. (This pertains to all components.)
- A DRP is also required pursuant to Section 17.68.040(B)(2), which states that no building permit or grading permit shall be issued relating to a project for which a development review permit is required until a DRP is obtained. (This pertains to all components.)

The various unpermitted components that are a part of this application were brought to Staff’s attention initially through a complaint and later confirmed through Staff observation during several site visits conducted in December 2009. When City Staff visited the site to observe the work reportedly done without permits (including installation of windows, modifications to the interior of one residential unit, replacement of front doors on several units, repair to several balconies, and construction of a small deck), additional unpermitted work was discovered (including the replacement and repair of portions of the beach access stairs). The work that was ministerial in nature (that is, only requiring a building permit, including front door replacement, balcony repairs, and modifications to the interior of one unit) subsequently was brought into compliance by the Applicant and property owners through the City’s code compliance process. The unpermitted deck was removed because it was a new structure that had been constructed within the required 40-foot coastal bluff setback. Components 4 and 5 represent the remaining unpermitted work that requires discretionary approval of a DRP prior to issuance of building permits, including installation of new windows and repair and replacement of the beach access stairs.

The issue before the Council is whether to approve, approve with conditions, or deny the Applicant’s request for a DRP. The Council may approve or deny any of the individual components of the project separately or may approve or deny the entire request, based upon the requisite findings. Attachment 1 includes a site plan that shows the locations of each of the five components. Attachment 2 includes the plans for all five projects. The attached Resolution (Attachment 3) provides the full discussion of the required findings. Attachment 4 provides photographs of the proposed components, including a set submitted by the Applicant. Additional information is provided in Attachments 5-8.

DISCUSSION
The proposed Project is located on a 2.9 acre property in the High Residential zone. The proposed Project is a consolidation of five individual components, three of which are proposed (Components 1, 2, and 3) and two that were constructed without permits (Components 4 and 5). Staff worked with the Applicant to consolidate all the requests,
both for the proposed and unpermitted work, into one DRP application so that all the various items could be reviewed and evaluated as a package. Each individual component of the overall Project is discussed in greater detail below. Also included is a discussion of potential issues the Council may consider regarding approval or denial of each component.

Project Description of the Five Components:

1. **Bluff Sidewalk and Associated Work (Proposed):** Component 1 is a request for in-kind relocation of an existing sidewalk a minimum of five feet away from the bluff edge and replace it with a new sidewalk, curb, railing, concrete block retaining wall, and landscaping, as the existing sidewalk has been undermined by coastal bluff erosion at its most westerly point. The existing bluff-top sidewalk is located between the top of the bluff and Units 1-4. (See Attachment 1 for the location of Component 1.) Grading in the amount of 51 cubic yards, including 28 cubic yards of cut, 23 cubic yards of undercuts, and 12 cubic yards of fill, is proposed for construction of the proposed sidewalk and wall, with 16 cubic yards proposed to be exported off-site. Approximately 2,500 square feet of non-native vegetation is estimated to be disturbed as a result of the proposed work. All existing onsite permanent irrigation within 100 feet of the bluff edge will be capped per LUP policy.

As outlined in the geotechnical report that was prepared for the proposed Project, several sea-cliff and upper bluff failures have occurred to the Seascape 1 bluffs since the Seascape 1 Condominiums development was built in 1970. Bluff failures at the property to the south (Seascape Chateau), including sea-cliff and upper bluff failures and sea-cave collapses, also have induced lateral migration and impacted the Seascape 1 bluff. After an additional failure in 1983, both Seascape 1 and Seascape Chateau applied for and obtained Coastal Development Permits for coastal bluff stabilization to arrest marine erosion and provide upper bluff stabilization on a portion of the bluff. Since those improvements in 1983, erosion has continued to undermine the Seascape 1 upper-bluff. As a result of continued erosion, the bluff is now less than 6 inches from the western sidewalk edge at its closest point and a portion of the sidewalk is already undermined. (Please see photographs in Attachment 4.)

In 2005, the Applicant originally applied for a Conditional Use Permit (CUP) to allow the construction of a 36-foot timber pile wall across a portion of the western bluff edge for the purpose of coastal bluff stabilization. After extensive discussion among the Applicant, the Applicant’s architect, the Applicant’s geotechnical consultant, City Staff, the City’s geotechnical consultant, the City’s Local Coastal Program (LCP) consultant, and Coastal Commission staff, the determination was made that the CUP application did not meet the SBMC nine findings required for bluff repair requests; therefore, the project was ultimately withdrawn. As a part of the CUP process, one of the alternatives considered was relocation of the existing sidewalk away from the edge of the bluff and supporting work to redirect run-off and mitigate erosion. That alternative was recommended by City Staff, Coastal Commission staff, and the City’s third party geotechnical consultant as the preferred option. After
the 2005 CUP application was closed, the Applicant pursued the sidewalk relocation alternative, which is Component 1 of this proposed Project.

This application also includes redirecting surface drainage away from the face of the bluff to reduce bluff erosion. Bluff erosion is currently exacerbated by significant run-off during heavy periods of rain, which flows from the site seaward from Unit 23, runs between Units 3 and 9, and then flows across the sidewalk and over the bluff. The proposed new sidewalk would be graded and a curb would be installed on the bluff side of the sidewalk to redirect the run-off away from the bluff. The existing railing will be relocated adjacent to the new sidewalk, and will be constructed of galvanized posts with a steel cable tension system. In addition, catch basins would be installed in key locations where run-off regularly occurs; drain pipes would be installed to collect the run-off; and a new drain pipe would be placed into the concrete floor of the existing garage to transport the run-off away from the bluff edge and into the public right-of-way to the storm drain.

Relocating the sidewalk will require cutting into the bank between the eastern edge of the existing sidewalk and the building that includes Units 1-4; therefore, a concrete block retaining wall not to exceed 42 inches is proposed. Two benches would be set into the retaining wall to provide opportunities for residents to sit and enjoy the view, and will replace two existing benches. The landscaped area directly to the east of the proposed new retaining wall and the newly created area between the edge of the bluff and the relocated sidewalk will be landscaped with native, drought-tolerant, salt-tolerant, fire-resistant, non-invasive plant species. As permanent irrigation is not allowed within 100 feet of the coastal bluff, no irrigation is proposed by the Applicant.

The existing sidewalk, which leads from Seascape's underground parking garage, is the only at-grade path of travel that exists for the residents and visitors to the entire property. All other access to the development from the garage and the street requires the use of stairs. However, this sidewalk is currently nonconforming as to slope and cross slope for compliance with ADA standards for an accessible path of travel in its current condition.

Based on discussions with Coastal Commission staff, the Applicant, the Applicant's architect, the Applicant's geotechnical engineer, City Staff, the City's third-party geotechnical consultant, and the City's LCP consultant, the solution proposed in Component 1 was determined to be the preferred alternative to all others considered to mitigate bluff erosion. In addition, the proposed repair and relocation of the existing sidewalk for maintenance purposes will both improve the safety of the sidewalk relative to its location further away from the bluff's edge and provide a sidewalk that is in compliance with current standards for accessibility, thereby providing an ADA compliant accessible path of travel to the site from the garage for those with disabilities.

If the Council determines that the findings can be made to approve Component 1, the Applicant will be required to obtain the requisite Coastal Development Permit.
and then City building permits. If the Council determines that the findings cannot be
made to approve Component 1, the geotechnical report concluded that without
mitigation, continued erosion will inevitably result in the loss of the bluff-top sidewalk.

2. Wood Beach Stairs (Proposed): Seascape 1 Condominiums currently has a private
stairway that connects the development on the top of the bluff to the beach below.
The stairway is composed of several sections of wooden stairs, a large wooden deck
midway, and a concrete section of stairs at the base of the stairway at the beach.
Component 2 is a request for in-kind repair and replacement of the section of
wooden stairs that connects to the existing concrete section, including removal and
replacement of treads and risers and in-kind repair and replacement of framing.
(See Attachment 1 for the location of Component 2.) The proposed work would not
involve new piers. This request is for maintenance purposes due to dry rot, long-
term exposure to the elements, and termite damage. In addition, there are safety
concerns regarding the current condition of this section of stairs.

If the Council determines that the findings can be made to approve Component 2,
The Applicant will be required to obtain the requisite Coastal Development Permit
and then City building permits. In the absence of these repairs, the stairs will
eventually become unusable.

3. Concrete Beach Stairs (Proposed): Component 3 is a request for in-kind repair and
replacement for maintenance purposes of portions of the concrete steps and the
exterior side of the concrete stringer stair due to damage caused by water
penetration. (See Attachment 1 for the location of Component 3.) Several of the
concrete steps are cracked and/or chipped and much of the exterior side of the
concrete staircase is damaged. The proposed process of repair involves removing
unsound concrete, saw-cutting past the unsound edge, and either hand-patching or
forming and pouring repair mortar. This request also involves removing existing
chain link fencing and adding aluminum or stainless steel handrails. The beach
access stair will still be secure, because the gate that had been located at the
bottom of the concrete stairs has been relocated to the end of the lowest level of
stairs as described in Component 4.

If the Council determines that the findings can be made to approve Component 3,
The Applicant will be required to obtain the requisite City building and Coastal
Development permits. In the absence of these repairs, the stairs will eventually
become unusable.

4. Beach Stairs (Work Conducted Without Permit): Component 4 is a request for in-
kind replacement of several sections of private beach access stairs for repair and
maintenance purposes due to dry rot, long-term exposure to the elements, and
termite damage. (See Attachment 1 for the locations of the sections of stairs
included in Component 4.) These sections of stairs were repaired without City
building or Coastal Development permits; therefore, approval of this request would
allow the Applicant to apply for the necessary permits to bring the unpermitted work
into compliance with the SBMC. The work that was done included in-kind
replacement of posts, stringers, and treads, and new handrails. A gate was relocated from the bottom of the concrete stairs to the end of the lowest level of stairs. This request also includes proposed modification to the upper-most landing, which was also replaced without permits, to adjust the height of the first riser. Approximately 7.5 cubic yards of soil was disturbed as a result of this work. A total of approximately 198 square feet of vegetation was disturbed as a result of replacement of the posts. Based on a site inspection, it appears that revegetation in the areas around the posts is naturally occurring.

If the Council determines that the findings can be made to approve Component 4, which was constructed without permits, the Applicant will be required to: 1) obtain the requisite CCC permit and City building permits; 2) pay investigation fees for the applicable permits as a result of the stop work order issued for work done without a permit, which are in addition to the notices of violation fines the Applicant has paid to date; and 3) carry out any other actions the City may determine are necessary to complete the City’s process for compliance. If the Council determines that the findings cannot be made to approve Component 4, the Applicant will be required to remove the stairs.

5. Windows (Work Conducted Without Permit): Component 5 is a request for remediation of the installation of new windows, including related structural modifications, in Units 8, 21, 22, and 33 that were installed without a permit. The work includes the following:
   a. Unit 8: One window installed in the first-floor powder room;
   b. Unit 21: One clerestory window added to Bedroom 1 on the second floor;
   c. Unit 22: Two clerestory windows added to Bedroom 1 on the second floor;
   d. Unit 33: Two clerestory windows added to Bedroom 1 and three clerestory windows added to Bedroom 2 on the second floor.

Before receiving a building permit for the windows, the Applicant will be required to demonstrate to the satisfaction of the Building Department that they were installed in compliance with the City’s building code.

If the Council determines that the findings can be made to approve Component 5, which was constructed without permits, the Applicant will be required to: 1) obtain the requisite CCC permit and City building permits; 2) pay investigation fees for the applicable permits as a result of the stop work order issued for work done without a permit, which are in addition to the notices of violation fines the Applicant has paid to date; and 3) carry out any other actions necessary to complete the City’s process for compliance. If the Council determines that the findings cannot be made to approve Component 5, the Applicant will be required to remove the windows and return the walls and exterior of the units to their original state.

The property is not located within any of the City’s Specific Plans. The property is located within the boundaries of the Hillside Overlay Zone (HOZ). As a condition of project approval, the Applicant will be required to obtain a Coastal Development Permit,
Waiver, or Exemption for each component from the California Coastal Commission prior to the issuance of building permits.

In accordance with Section 17.20.030(E)(1)(b) of the SBMC, the Applicant submitted a geotechnical report, an addendum geotechnical report, and hydrology calculations that show that the site is stable enough to support the development within the proposed bluff edge setback and that it will neither be subject to nor contribute to significant bluff instability for 70 years. The reports were reviewed by City Staff and the City's third-party geotechnical consultant and were found to meet all applicable requirements of the SBMC and the City's draft Local Coastal Program Land Use Plan (LUP).

Provided below is a summary timeline of key actions and activities with respect to this application and other related actions. Although this DRP was not initiated until 2009, the timeline includes actions and/or activities that began in 2005 because they reference the original CUP that preceded the request for Component 1. (Please note additional meetings, several rounds of document review, additional site visits, and revisions to plans also occurred during this time frame but are not included in this timeline summary.)

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<tr>
<th>Timeline</th>
<th>Key Actions/Activities</th>
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<tr>
<td>September 2005:</td>
<td>Applicant requests a Conditional Use Permit (CUP) for the construction of a 38-foot</td>
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<td>Dec. 2005 - Aug. 2007: Geotechnical report submitted to the City and reviewed by various third party consultants. Discussions between City Staff, Applicant, Applicant’s representative, and Coastal Commission staff regarding the proposed wall and alternatives. Bluff stabilization request was withdrawn because it did not meet the nine findings required for bluff repair requests.</td>
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<td>December 2007:</td>
<td>Meetings with HOA members regarding options for bluff repair. Request was made by City Staff for an engineering study and analysis to relocate the existing sidewalk away from the edge of the bluff as an alternative to construction of a coastal bluff stabilization structure. (Note: This request by the City eventually became Component 1 of this proposal.)</td>
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<td>Sept. - Oct 2008:</td>
<td>Feasibility Study with respect to alternative accessible sidewalk (adjacent to bluff) submitted to the City by the Applicant. Another request was made by City Staff for an engineering study, with maps and plans, for the sidewalk to be moved away from the bluff edge instead of installing an upper bluff stabilization device.</td>
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<td>January 2009:</td>
<td>City Staff issued a letter to the Applicant stating that the bluff stabilization permit application file was being closed because</td>
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City Staff could not make the necessary findings required to recommend approval of the project.

December 16, 2009: City received a complaint regarding unpermitted construction on various units in Seascape 1.

December 23, 2009: City Staff conducted an inspection of the property's common area and substantiated unpermitted construction. Notice of Violation, Notice to Cease All Construction, and Citation for $500.00 were issued for the following work (Attachment 5):

- Unpermitted structural modification to more than one building;
- Unpermitted replacement of windows and doors to more than one building; and
- Unpermitted construction of a new deck.

December 24, 2009: Stop Work Notice issued by City to HOA (Attachment 6).

December 30, 2009: HOA applied for a DRP to bring unpermitted structural modification related to installation of windows into compliance (Component 5 of this application).

January 5, 2010: Partial lift of stop work order to allow Applicant to complete siding replacement, which had an approved permit.

January 2010: Geotechnical Addendum Report submitted that provided engineering parameters for the relocation of the sidewalk to the east and away from the bluff edge.

January 2010: Community Development Director inspected the property and met with members of the HOA board to discuss the requirements to obtain permits for all the unpermitted work at the site. During that site visit, the Community Development Director identified additional work that was done without permits, including:

- Replacement of portions of upper beach access stairs (Component 4 of this project) without the required DRP, demolition, building, and grading permits; and
- Removal of vegetation on the coastal bluff in the area of demolition and construction of the stairs without the required grading permit.

May 5, 2010: Citation for $700.00 issued by the City for the work described above. (Attachment 7).

May, 2010: Applicant submitted plans for site drainage enhancement. (Portion of Component 1).

June, 2010: Applicant submitted architectural plans for the DRP application for sidewalk relocation, retaining wall, landscaping, and
remediation of unpermitted work (Components 1, 4, and 5 of this Project).

December 12, 2010: Plans resubmitted to address City Staff comments.

January 10, 2011: Hydrology/drainage calculations submitted to City Staff.

July 27, 2011: Applicant submitted application for building permit to conduct in-kind repair and replacement maintenance work on the lowest section of the wood beach access stairs and the concrete portion of the beach access stairs (Components 2 and 3 of this proposal).

August 23, 2011: City Staff met with HOA members and representatives regarding status of the application. Staff determined that the work requested by the building permit (above) also required approval of a DRP and recommended consolidation of all individual projects (for unpermitted and proposed work) into one application.

September 7, 2011: Applicant submitted revised plans to consolidate individual components into one project, per City Staff’s request.

September 15, 2011: Third party geotechnical review of geotechnical report and plans confirms that the plans and documents provided by the Applicant for the proposed DRP meet all applicable requirements of the SBMC and the draft LUP.

Development Review Permit Compliance:
The following is a discussion of the findings for a DRP as they apply to the proposed Project. Also included is a discussion of the development plan and recommended conditions of approval as contained in the Resolution (Attachment 3). Please note that this section applies to the proposed Project as requested by the Applicant and includes all five proposed components. Attachment 8 provides a chart that discusses possible DRP findings for each of the proposed Project components. This is provided as additional information for the Council’s consideration and also offers a method for the Council to consider the components individually if findings for approval of the entire Project cannot be made.

In addition to meeting zoning requirements, the Project must be found in compliance with development review criteria. The Applicant is requesting that the Council consider approval of a DRP pursuant to the SBMC as follows:

- Section 17(B)(1)(d), which requires a DRP for any development or construction that involves the grading of more than 50 cubic yards of soil;
- Section 17.68.040(B)(2), which states that no building permit or grading permit shall be issued relating to a project for which a development review permit is required until a DRP is obtained; and
- Section 17.68.040(B)(1)(i), which requires approval of a DRP because the project proposes development on a coastal bluff-top property, on the face, or
the toe of a bluff for which the California Coastal Commission requires a coastal development permit.

The following is a list of the development review criteria topics:

1. Relationship with Adjacent Land Uses
2. Building and Structure Placement
3. Landscaping
4. Roads, Pedestrian Walkways, Parking and Storage Areas
5. Grading
6. Lighting
7. Usable Open Space

The Council may approve or conditionally approve a DRP only if all of the findings listed below can be made. The Resolution (Attachment 3) provides the full discussion of the findings.

1. The proposed development is consistent with the general plan and all applicable requirements of the zoning ordinance including special regulations, overlay zones, and specific plans.

2. The proposed development complies with the development review criteria.

3. All required permits and approvals have been obtained prior to or concurrently with the development review permit.

If the above findings cannot be made, the Council shall deny the development review permit. The following is a discussion of the applicable development review criteria as they relate to the proposed project.

General Plan Consistency:
The proposed Project, as conditioned, is consistent with the City’s General Plan land use designation of High-Density Residential, which allows the development of multiple-family development at a density of 13-20 dwelling units per acre. The density of the existing development, which was constructed in 1970 prior to the City’s incorporation, is 17.3 dwelling units per acre. No changes in density or expansion of the Seascape 1 Condominium development are proposed. The proposed Project, as conditioned, is consistent with the objectives of the General Plan as it encourages the development and maintenance of healthy residential neighborhoods, the stability of transitional neighborhoods, and the rehabilitation of deteriorated neighborhoods. The Project could be found to be consistent with these criteria because the scope includes the continued use of the property as a multiple-family development and includes components intended to maintain the development.

Zoning Ordinance Consistency:
The proposed Project, as conditioned, is consistent with the City’s High Residential zoning designation, which allows the development of multiple-family development at a density of 13-20 dwelling units per acre. The density of the existing development, which was constructed in 1970 prior to the City’s incorporation, is 17.3 dwelling units per acre. No
changes in density or expansion of the Seascape 1 Condominium development are
proposed.

The Project, as conditioned, does not propose any development changes that would affect
existing yard dimensions, maximum FAR, and parking regulations. No increases to the
existing height or existing setbacks would occur with Project implementation. A portion
of the property is located within the HOZ, at the west end of Seascape 1 along the coastal
bluff. SBMC Section 17.48.020 states the purpose of the HOZ regulations is to: restrict
grading of natural slopes with an inclination of 25 percent of greater, in order to
preserve the natural topography and scenic qualities of the City; protect native coastal
sage/chaparral and grassland habitat; preserve existing watersheds; and reduce the
potential for environmental hazards. Proposed Components 1 and 5 do not involve
construction on slopes with an inclination of 25 percent or greater. Components 2, 3,
and 4 request approval of in-kind repair and replacement of various sections of the
existing beach access stairs. Although the work proposed for Components 2 and 3
would occur on HOZ slopes in excess of 25 percent, it would not require grading or soil
disturbance. In addition, that slope exists in an unnatural condition due to previous
grading and installation of structural supports when the beach access stairs were
originally constructed. Component 4 did involve a minor amount of soil disturbance to
replace existing posts. The geotechnical addendum report observes that the
improvements are unlikely to have resulted in any decreased stability, because that
portion of the stairway appears to have been replaced in like kind—which is, in the same
location and alignment and occupying the same general footprint.

Maximum Building Height:
The Project does not involve any change to the height of any existing building on-site.
No new chimneys or appurtenances are proposed.

Fences, Walls and Retaining Walls:
Component 1 includes the request for a 42-inch high safety railing adjacent to the west
edge of the relocated sidewalk, which would replace the existing rope-and-pole railing.
The replacement railing, which is proposed to be constructed of galvanized pipe and a
stainless steel tension cable system, would be located on the seaward side of the
relocated sidewalk, a minimum of five feet from the edge of the bluff. The Applicant
also requests approval for the construction of a retaining wall adjacent to the bluff-edge
sidewalk that is proposed to be relocated. As designed, the retaining wall would not
exceed the maximum allowable height of 42 inches. Although new fences, walls, or
retaining walls that are constructed of concrete or brick must be set back 15 feet from
the edge of the bluff pursuant to Section 17.20.030(E)(3), the site is constrained by
existing development and a fill slope, which makes it impossible to move the sidewalk
and retaining wall farther inland. As a result of ongoing discussions with Coastal
Commission staff regarding alternatives and their agreement that Component 1 is the
preferred alternative, the Coastal Commission agreed to waive its setback requirements
for the sidewalk, railing, and retaining wall. Section 17.16.110 of the SBMC allows
replacement, repair, reinforcement, augmentation, or strengthening of existing structural
components where necessary to repair damage from various natural causes or to
support building safety code improvements. As the proposed retaining wall is
necessary in order to relocate the existing sidewalk away from the edge of the bluff for safety reasons related to bluff erosion and to make reasonable accommodations for ADA access, the request for the retaining wall could be found to be in compliance with SBMC Section 17.16.110.

Landscaping:
Component 1 proposes removal of approximately 2,500 square feet of existing vegetation; therefore, per SBMC 17.56.040, the proposed development is subject to the City's Water Efficient Landscape Regulations. The preliminary landscape plan indicates that the landscaped area will be planted with drought tolerant, salt-tolerant, non-invasive native species. The Applicant will be required to submit a landscape documentation package to show compliance with all applicable landscape provisions and the landscape design manual. A condition of project approval has been added to the Resolution to require drought-tolerant, salt-tolerant, fire-resistant, and non-invasive natives plant materials, and to preclude the use of permanent irrigation systems within 100 feet of the edge of the coastal bluff consistent with the City’s draft LUP.

Roads, Pedestrian Walkways, Parking, and Storage Areas:
The Project proposes the relocation of an existing sidewalk that is directly adjacent to the edge of the coastal bluff. Relocation of the bluff-top sidewalk is proposed for safety reasons, to mitigate ongoing erosion of the bluff, and to maintain pedestrian access from the subterranean parking garage without requiring the use of stairs. No changes to roads, other pedestrian walkways, parking, or storage areas are proposed.

Grading:
Component 1 proposes grading or earthmoving in the amount of 51 cubic yards, including 28 cubic yards of cut, 23 cubic yards of undercut, and 12 cubic yards of fill, with 16 cubic yards proposed to be exported off-site.

Per the proposed plans and recommended conditions of approval, precautions will be taken to prevent added stress to the bluff when the existing concrete sidewalk is removed and grading is conducted. Grading and earthmoving are not required for proposed Components 2 and 3 (proposed stairway repair) and heavy equipment will not be used on the bluff face. Component 4, which was constructed without permits, required approximately 7.5 cubic yards of grading or earthmoving to replace the posts in the upper two levels of the wooden beach access stairs.

Lighting:
The Project does not involve exterior lighting improvements; however, in the event these improvements do occur, the Project is conditioned for consistency with the City's Exterior Lighting Regulations in that all new exterior lighting fixtures shall be in conformance with the Citywide Lighting Regulations of the Zoning Ordinance (SBMC 17.60.060).
Usable Open Space:
As the Project does not propose increases in square footage to any existing units or the overall development, the usable open space that was required when the Seascape 1 Condominiums were approved and constructed is still applicable.

Relevant Draft LCP Land Use Plan (LUP) Policies:
Policy 2.58: Erosion of the bluffs should be minimized by constructing and maintaining additional barriers to discourage any access to bluff faces and on private developments including condominium projects (with enforcement on private lands to be self-policing) by the use of barriers such as low fences or railings which should be sensitively designed to discourage foot traffic onto the bluff face without obscuring views and vistas. In addition, no new public or private walking paths shall be permitted on the coastal bluff face.

The Applicant is proposing to relocate an existing sidewalk a minimum of five feet away from the bluff edge. Additional proposed work includes installation of a curb and drainage infrastructure that will redirect run-off away from the bluff edge. The request also includes installation of railings along the west edge of the sidewalk. The railings are intended to discourage foot traffic onto the bluff face. (See discussion of Component 1 for more detail.)

Policy 2.60: No new private beach stairways shall be constructed. Existing permitted or private beach stairways constructed prior to the Coastal Act may be maintained in good condition with a CDP, but shall not be expanded in size or function. Routine repair and maintenance shall not include the replacement of the stairway or any significant portion of the stairway.

The Applicant’s request for approval of Components 2, 3, and 4 are to maintain Seascape 1 Condominiums’ existing private beach access stairs in good condition. However, repair and maintenance that involves replacement of the stairway which approaches or exceeds 50 percent may indicate that the work is significant. Components 2 and 3 are proposed, while Component 4 was done without permits and the Applicant is requesting approval of a DRP to remediate the work and bring it into conformance with City and Coastal Commission requirements. No new stairs are proposed and the existing stairs would not be expanded in size or function. Staff notes that the word “significant” is not defined in the draft LUP. Per Staff’s request, the Applicant has submitted a letter documenting the estimate of the amount of routine repair and maintenance to the beach access stairs proposed by Components 2–4. The Applicant indicated that approximately 31 percent of the total stair system would be repaired/replaced.

Policy 3.43: Grading or earthmoving exceeding .50 cubic yards shall require a Development Review Permit from the City. Grading plans shall meet the requirements of the LCP with respect to maximum quantities, maximum cuts and fills, remedial grading, grading for safety purposes, and maximum heights of cut or fill. Grading proposed in or adjacent to an environmentally sensitive habitat area shall be minimized to the maximum extent feasible.
Component 1 would involve a total of 51 cubic yards grading, including 28 cubic yards of cut, 23 cubic yards of undercut, 12 cubic yards of fill, and 16 cubic yards exported from the site. Components 2, 3, and 5 do not propose any grading. Component 4 included disturbance of approximately 7.5 cubic yards of earth. Grading is not proposed adjacent to environmentally sensitive habitats.

Policy 3.83: Design and manage development to avoid or minimize increases in stormwater run-off volume and peak run-off rate, and to avoid detrimental water quality impacts caused by excessive erosion or sedimentation.

If approved, construction of Component 1 will reconfigure the existing sidewalk and add drainage infrastructure to avoid or minimize existing stormwater run-off that currently flows unchecked down the face of the bluff during periods of heavy rainfall.

Policy 3.93: Beach-front development shall incorporate best management practices (BMPs) designed to minimize or prevent polluted run-off to the beach and ocean waters.

The proposed plans identify that BMPs will be developed and implemented during construction. In addition, a condition of approval requires incorporation of BMPs.

Policy 4.5: Any projects that propose building within the HOZ, on bluff properties, or inland bluff projects must include a geologic reconnaissance report to determine the geologic stability of the area. When additional information is needed to assess stability, a preliminary engineering geology report must also be prepared identifying the results of subsurface investigation regarding the nature and magnitude of unstable conditions, as well as mitigation measures needed to reduce or avoid such conditions.

The Applicant submitted a geotechnical report, an addendum report, and hydrology calculations that show the site is stable enough to support the development within the proposed bluff edge setback and that it will neither be subject to nor contribute to significant bluff instability for 70 years. The reports were reviewed by third-party consultants and were found to meet all applicable requirements of the SBMC and the City's draft LCP and are considered approved from a geotechnical standpoint.

Policy 4.28: With respect to bluff properties only, the City will require the removal or capping of any permanent irrigation system within 100 feet of the bluff edge in connection with issuance of discretionary permits for new development, redevelopment, or shoreline protection, or bluff erosion, unless the bluff property owner demonstrates to the satisfaction of the Public Works Director that such irrigation has no material impact on bluff erosion (e.g., watering hanging plants over hardscape which drains to the street).

The preliminary landscape plan acknowledges that no permanent irrigation is allowed within 100 feet of the bluff edge and permanent irrigation is not proposed. A condition of project approval has been added to preclude the use of permanent irrigation systems within 100 feet of the edge of the coastal bluff.
Policy 4.29: Require all bluff property landscaping for new development to consist of native, non-invasive, drought-tolerant, fire-resistant, and salt-tolerant species.

Component 1 proposes to re-landscape an existing landscaped area between the bluff-top sidewalk and Units 1 and 2 and a new area that would be created between the edge of the bluff and the relocated sidewalk. The preliminary landscape plan indicates that the landscaped areas will be planted with drought tolerant, salt-tolerant, non-invasive native species. A condition of project approval has been added to the Resolution to require drought-tolerant, salt-tolerant, fire-resistant, and non-invasive natives plant materials. In addition, conditions are included to support the landscaping policies in City’s draft LCP.

A draft Resolution of Approval has been prepared by Staff for the consideration of the Council and the public (Attachment 3). The draft Resolution is based upon the information provided in this Report and Staff’s analysis of the proposed Project. It provides the applicable SBMC sections in italicized text. The Council may direct Staff to modify the Resolution to reflect the findings and conditions it deems appropriate as a part of the public hearing process. If the Council determines the project is to be denied, Staff will prepare a Resolution of Denial for an action to be taken at a subsequent Council meeting. If the Council determines that some, but not all, of the individual components of the Project are to be approved, Staff will prepare a Resolution of Approval for those components for which the Council makes findings for approval and will prepare a Resolution of Denial for the components for which the Council cannot make findings of approval; these Resolutions will be returned to Council for an action at a subsequent Council meeting.

Notices of the Council public hearing for the project were mailed to property owners and occupants within 300 feet of the proposed project site more than 10 days prior to the planned public hearing date of December 14, 2011. As of the date of preparation of this Staff Report, Staff has not received any letters, phone calls, or e-mails from neighbors or interested parties in support of, or in opposition to, the proposed project.

Conditions from the Planning, Engineering and Fire Departments have been incorporated into the Resolution of Approval (Attachment 3). In conclusion, the proposed project as conditioned could be found to be consistent with the General Plan, to meet the requirements for the zoning regulations, and to meet the findings required to approve a DRP.

CEQA COMPLIANCE STATEMENT:
This project is exempt from the California Environmental Quality Act (CEQA) pursuant to the 2011 State CEQA Guidelines Section 15301 for Existing Facilities.

FISCAL IMPACT: N/A

WORKPLAN: N/A
OPTIONS:
1. Approve Staff recommendation adopting the attached Resolution 2011-142, which approves the Project in its entirety, including all five components.
2. Approve Staff recommendation subject to additional specific conditions necessary for the Council to make all required findings for the approval of a DRP.
3. Approve some, but not all, of the components of the Project and deny the remaining components.
4. Approve some, but not all, of the components of the Project subject to additional specific conditions necessary for the Council to make all required findings for the approval of a DRP and deny the remaining components.
5. Deny the Project in its entirety if all required findings for the DRP cannot be made.

DEPARTMENT RECOMMENDATION:
The proposed Project meets the minimum objective requirements under the SBMC, is consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this Report to approve a DRP and administratively issue a SDP. Therefore, Staff recommends that the Council:

1. Conduct the Public hearing: Open the Public Hearing; Report Council disclosures; Receive Public Testimony; Close the Public Hearing;

2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and

3. If the Council makes the requisite findings and approves the Project, adopt Resolution 2011-142 conditionally approving a DRP for in-kind relocation of an existing bluff-top sidewalk away from the bluff edge with related drainage improvements, construction of a short retaining wall, and installation of LUP compliant landscaping; in-kind repair and replacement of existing beach access stairs; and installation of new windows at 675 South Sierra Avenue.

CITY MANAGER'S RECOMMENDATION:
Approve Department Recommendation.

David Ott, City Manager

Attachments:
1. Site Plan Showing Components of the Project
2. Project Plans
3. Resolution 2011-142
4. Photographs
5. Notice of Violation, Notice to Cease All Construction, and Citation
6. Stop Work Notice
7. Citation
8. Chart of Possible DRP Findings for Individual Components
RESOLUTION 2011-142

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, CONDITIONALLY APPROVING A DEVELOPMENT REVIEW PERMIT FOR IN-KIND RELOCATION OF AN EXISTING BLUFF-TOP SIDEWALK, CONSTRUCTION OF ASSOCIATED CURB, DRAINAGE IMPROVEMENTS, A RETAINING WALL, AND INSTALLATION OF LANDSCAPING; IN-KIND REPAIR AND REPLACEMENT OF EXISTING BEACH ACCESS STAIRS; AND INSTALLATION OF NEW WINDOWS AT THE SEASCAPES 1 CONDOMINIUMS AT 675 SOUTH SIERRA AVENUE

APPLICANT: Seascape 1 Condominium Homeowners Association

CASE NO.: 17-09-28 DRP

WHEREAS, the Seascape 1 Condominium Homeowners Association (hereinafter referred to as "Applicant") has submitted an application pursuant to Title 17 Zoning, of the Solana Beach Municipal Code (SBMC), to request approval of a development review permit to allow in-kind relocation of an existing bluff-top sidewalk, construction of associated curb, drainage improvements, a retaining wall, and installation of landscaping; in-kind repair and replacement of existing beach access stairs; and installation of new windows to the property at 675 South Sierra Avenue (Project); and

WHEREAS, the Project includes the following five components:
1) Proposed in-kind relocation of an existing bluff-top sidewalk approximately five feet inland, in-kind replacement of a railing, construction of associated curb, drainage improvements to redirect drainage away from the edge of the bluff, and a retaining wall, and replacement of landscaping;
2) Proposed in-kind repair and replacement for maintenance purposes of a wooden section of existing beach access stairs;
3) Proposed in-kind repair and replacement for maintenance purposes of a concrete section of existing beach access stairs;
4) Remediation of in-kind repair and replacement for maintenance purposes of wooden sections of existing beach access stairs constructed without permits; and
5) Remediation of the installation of windows in four units constructed without permits, including related structural modifications, and

WHEREAS, construction was conducted at Seascape 1 Condominiums without the required building permits for Components 4 and 5 as described above and the proposed Project would allow the Applicant to remedy code enforcement violations at the property; and

WHEREAS, on December 14, 2011, the City Council held a duly noticed public hearing to consider the permit request; and

ATTACHMENT 2
WHEREAS, at the hearing the City Council received and considered evidence concerning the proposed application; and

WHEREAS, the public hearing was conducted pursuant to the provisions of SBMC Section 17.72.030 of the Solana Beach Zoning Ordinance; and

WHEREAS, the City Council of the City of Solana Beach found the application request exempt from the California Environmental Quality Act (CEQA) and the 2009 State CEQA Guidelines pursuant to §15301 of the 2009 State CEQA Guidelines; and

WHEREAS, this decision is based upon the evidence presented at the hearing, and any information the City Council gathered by viewing the site and the area as disclosed at the hearing.

NOW THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the foregoing recitations are true and correct.

2. That the Project is exempt from the California Environmental Quality Act pursuant to Section 15301 of the State CEQA Guidelines.

3. That the request for a Development Review Permit submitted to the City on December 30, 2009, and on file with the Community Development Department, is conditionally approved based upon the following Findings and subject to the following Conditions:

4. FINDINGS

A. In accordance with Section 17.68.040 (Development Review Permit) of the City of Solana Beach Municipal Code, the City Council finds the following:

1. The proposed project is consistent with the General Plan and all applicable requirements of SBMC Title 17 (Zoning Ordinance), including special regulations, overlay zones and specific plans.

   General Plan Consistency: The proposed Project, as conditioned, is consistent with the City’s General Plan land use designation of High-Density Residential, which allows the development of multiple-family development at a density of 13-20 dwelling units per acre. The density of the existing development, which was constructed in 1970 prior to the City’s incorporation, is 17.3 dwelling units per acre. No changes in density...
or expansion of the Seascape 1 Condominium development are proposed. The proposed Project, as conditioned, is consistent with the objectives of the General Plan as it encourages the development and maintenance of healthy residential neighborhoods, the stability of transitional neighborhoods, and the rehabilitation of deteriorated neighborhoods. The Project could be found to be consistent with these criteria because the scope includes the continued use of the property as a multiple-family development and includes components intended to maintain the development.

**Zoning Ordinance Consistency:** The proposed Project, as conditioned, is consistent with the City's High Residential zoning designation, which allows the development of multiple-family development at a density of 13-20 dwelling units per acre. The density of the existing development, which was constructed in 1970 prior to the City's incorporation, is 17.3 dwelling units per acre. No changes in density or expansion of the Seascape 1 Condominium development are proposed.

The Project, as conditioned, does not propose any development changes that would affect existing yard dimensions, maximum FAR, and parking regulations. No increases to the existing height or existing setbacks would occur with Project implementation. Component 1 includes the request for a 42-inch high safety railing adjacent to the west edge of the relocated sidewalk, which would replace the existing rope-and-pole railing, consistent with SBMC Section 17.20.030(E)(3). The replacement railing, which is proposed to be constructed of galvanized pipe and a stainless steel tension cable system, would be located on the seaward side of the relocated sidewalk, a minimum of five feet from the edge of the bluff. The Applicant also requests approval for the construction of a retaining wall adjacent to the east side of the bluff-edge sidewalk that is proposed to be relocated. As designed, the retaining wall would not exceed the maximum allowable height of 42 inches. Although new fences, walls, or retaining walls that are constructed of concrete or brick must be set back 15 feet from the edge of the bluff pursuant to Section 17.20.030(E)(3), the site is constrained by existing development and a fill slope, which makes it impossible to move the sidewalk and retaining wall farther inland. As a result of ongoing discussions with Coastal Commission staff regarding alternatives and their agreement that Component 1 is the preferred alternative, the Coastal Commission agreed to waive its setback requirements for the sidewalk, railing, and retaining wall. Section 17.16.110 of the SBMC allows replacement, repair, reinforcement, augmentation, or strengthening of existing structural components.
where necessary to repair damage from various natural causes or to support building safety code improvements. As the proposed retaining wall is necessary in order to relocate the existing sidewalk away from the edge of the bluff for safety reasons related to bluff erosion and to make reasonable accommodations for ADA access, the request for the retaining wall could be found to be in compliance with SBMC Section 17.16.110.

A portion of the property is located within the Hillside Overlay District (HOZ), at the west end of Seascape 1 along the coastal bluff. SBMC Section 17.48.020 states the purpose of the HOZ regulations is to: restrict grading of natural slopes with an inclination of 25 percent or greater, in order to preserve the natural topography and scenic qualities of the City; protect native coastal sage/chaparral and grassland habitat; preserve existing watersheds; and reduce the potential for environmental hazards. Proposed Components 1 and 5 do not involve construction on slopes with an inclination of 25 percent or greater. Components 2, 3, and 4 request approval of in-kind repair and replacement of various sections of the existing beach access stairs. Although the work proposed for Components 2 and 3 would occur on HOZ slopes in excess of 25 percent, it would not require grading or soil disturbance. In addition, that slope exists in an unnatural condition due to previous grading and installation of structural supports when the beach access stairs were originally constructed. Component 4 did involve a minor amount of soil disturbance to replace existing posts. The geotechnical addendum reports observes that the improvements are unlikely to have resulted in any decreased stability, because that portion of the stairway appears to have been replaced in like kind—that is, in the same location and alignment and occupying the same general footprint. The proposed project could be found to be consistent with the HOZ.

II. The proposed development complies with the following development review criteria set forth in Solana Beach Municipal Code Section 17.68.040.F:

a. Relationship with Adjacent Land Uses: The development shall be designed in a manner compatible with and where feasible, complimentary to existing and potential development in the immediate vicinity of the Project site. Site planning on the perimeter of the development shall give consideration to the protection of surrounding areas from potential adverse effects, as well as protection of the property from adverse surrounding influences.
The Project is a request for approval of a development review permit to allow in-kind relocation of an existing bluff-top sidewalk, curb, related drainage improvements, construction of a retaining wall, and landscaping; in-kind repair and replacement of existing beach access stairs; and installation of new windows to four existing dwelling units. No adverse effects upon neighboring properties have been identified or are anticipated to occur from Project implementation. As conditioned, the Project gives consideration to the protection of surrounding areas from potential adverse effects and provides protection of the property from adverse surrounding influences such as negative impacts of light, air, and noise.

b. Building and Structure Placement: Buildings and structures shall be sited and designed in a manner which visually and functionally enhances their intended use.

The Project does not involve construction of new buildings or any additional square footage to the existing Seascape 1 Condominiums. The design of the proposed Project, as conditioned, visually and functionally enhances its intended use as a part of a multiple-family residential development and is consistent with the design and orientation of developments within the HR zone.

c. Landscaping: The removal of significant native vegetation shall be minimized. Replacement vegetation and landscaping shall be compatible with the vegetation of the surrounding area. Trees and other large plantings shall not obstruct significant views when installed or at maturity.

Component 1 of the Project proposes disturbance to approximately 2,500 square feet of existing non-native vegetation to relocate the existing sidewalk. Therefore, per SBMC 17.56.040, the proposed development is subject to the City’s Water Efficient Landscape Regulations. The preliminary landscape plan indicates that the landscaped area will be planted with drought tolerant, salt-tolerant, non-invasive, native species. The Applicants will be required to submit a landscape documentation package to show compliance with all applicable landscape provisions and the landscape design manual. Conditions of approval require drought-tolerant, salt-tolerant, fire-resistant, and non-invasive native plant materials, and
preclude the use of permanent irrigation systems within 100 feet of the edge of the coastal bluff. In addition, conditions are included to support the landscaping policies in the City's draft Local Coastal Plan. Component 4 involved disturbance to approximately 198 square feet of vegetation as a result of replacement of the posts. Based on a site inspection, it appears that revegetation in the areas around the posts is naturally occurring.

d. Roads, Pedestrian Walkways, Parking and Storage Areas: Any development involving more than one building or structure shall provide common access roads and pedestrian walkways. Parking and outside storage areas, where permitted, shall be screened from view, to the extent feasible, by existing topography, by the placement of buildings and structures, or by landscaping and plantings.

The Project proposes the relocation of an existing sidewalk that is directly adjacent to the edge of the coastal bluff. Relocation of the bluff-top sidewalk is proposed for safety reasons, to mitigate ongoing erosion of the bluff, and provide ADA-compliant pedestrian access from the subterranean parking garage. No changes to roads, other pedestrian walkways, parking, or storage areas are proposed. As the Project does not propose increases in square footage to any existing units or the overall development, the roads, pedestrian walkways, parking, and storage that were required when the Seascape 1 Condominiums were approved and constructed are still applicable and no new facilities are required.

e. Grading: To the extent feasible, natural topography and scenic features of the site shall be retained and incorporated into the proposed development. Any grading or earth-moving operations in connection with the proposed development shall be planned and executed so as to blend with the existing terrain both on and adjacent to the site. Existing exposed or disturbed slopes shall be landscaped with native or naturalized non-native vegetation and existing erosion problems shall be corrected.

The Project involves grading or earthmoving for proposed Component 1 in the amount of 51 cubic yards, including 28 cubic yards of cut, 23 cubic yards of undercuts, 12 cubic yards of fill, and 16 cubic yards to be exported off site. Per the proposed plans and recommended conditions of approval, precautions will be taken to prevent added stress to the bluff when the existing concrete
sidewalk is removed and grading is carried out. The slope that would be disturbed east of the proposed retaining wall would be landscaped in accordance with the SBMC as per Finding II.c. above. Grading and earthmoving are not required for proposed Components 2 and 3 (proposed stairway repair) and heavy equipment will not be used on the bluff face. Component 4, which was constructed without permits, required approximately 7.5 cubic yards of grading or earthmoving to replace the posts in the upper two levels of the wooden beach access stairs. The geotechnical addendum report observes that the improvements are unlikely to have resulted in any decreased stability, because that portion of the stairway appears to have been replaced in like kind—that is, in the same location and alignment and occupying the same general footprint.

f. Lighting: Light fixtures for walkways, parking areas, driveways, and other facilities shall be provided in sufficient number and at proper locations to assure safe and convenient nighttime use. All light fixtures shall be appropriately shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities as to be detrimental to the surrounding area. All exterior lighting, including lighting in designated “dark sky” areas, shall be in conformance with SBMC 17.60.060 (Exterior Lighting Regulations).

The Project does not involve exterior lighting improvements; however, in the event these improvements do occur, the Project is conditioned for consistency with the City’s Exterior Lighting Regulations in that all new exterior lighting fixtures shall be in conformance with the Citywide Lighting Regulations of the Zoning Ordinance (SBMC 17.60.060). Further, all light fixtures shall be appropriately shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities that render them detrimental to the surrounding area. The Project site is not located within the Dark Sky Overlay Zone; therefore, regulations established by SBMC Section 17.60.060.C (Dark Sky Areas) do not apply.

g. Usable Open Space: Recreational facilities proposed within required usable open space shall be located and designed to maintain essential open space values.

As the Project does not propose increases in square footage to any existing units or the overall development, the usable open space that was required when the Seascape 1 Condominiums were
approved and constructed is still applicable and no new recreational facilities are required or proposed.

III. All required permits and approvals including variances, conditional use permits, comprehensive sign plans, and coastal development permits have been obtained prior to or concurrently with the development review permit.

Portions of this Project (Components 4 and 5) were constructed without building permits or approval of the California Coastal Commission. Approval of a DRP is required in order for the Applicant to remediate the unpermitted work. As a condition of approval, the Applicant shall pay investigation fees for the applicable mechanical, plumbing, electrical, and/or building permits as a result of the stop work order issued for work done without a permit pursuant to SBMC.

As a condition of approval, the Applicant will also be required to obtain approval from the California Coastal Commission prior to issuance of building permits.

The Applicant is required to submit the final site and building plans to the California Coastal Commission once approved by the City of Solana Beach. These plans shall substantially conform to the plans on file with the Community Development Department dated October 17, 2011 and as conditioned below.

B. In addition to the requirements of the SBMC, the Project must also comply with relevant policies contained in the City’s adopted Draft July 2014 Local Coastal Program (LCP) Land Use Plan (LUP) and meet the required findings of the policies listed below, which are restated in their entirety:

Policy 2.58: Erosion of the bluffs should be minimized by constructing and maintaining additional barriers to discourage any access to bluff faces and on private developments including condominium projects (with enforcement on private lands to be self-policing) by the use of barriers such as low fences or railings which should be sensitively designed to discourage foot traffic onto the bluff face without obscuring views and vistas. In addition, no new public or private walking paths shall be permitted on the coastal bluff face.

The Applicant is proposing to relocate an existing sidewalk a minimum of five feet away from the bluff edge. Additional proposed work includes installation of a curb and drainage infrastructure that will redirect run-off
away from the bluff edge. The request also includes installation of railings along the west edge of the sidewalk. The railings are intended to discourage foot traffic onto the bluff face. (See discussion of Component 1 for more detail.)

Policy 2.60: No new private beach stairways shall be constructed. Existing permitted or private beach stairways constructed prior to the Coastal Act may be maintained in good condition with a CDP, but shall not be expanded in size or function. Routine repair and maintenance shall not include the replacement of the stairway or any significant portion of the stairway.

The Applicant's request for approval of Components 2, 3, and 4 are to maintain Seascape 1 Condominiums' existing private beach access stairs in good condition. However, repair and maintenance that involves replacement of the stairway which approaches or exceeds 50 percent may indicate that the work is significant. Components 2 and 3 are proposed, while Component 4 was done without permits and the Applicant is requesting approval of a DRP to remediate the work and bring it into conformance with City and Coastal Commission requirements. No new stairs are proposed and the existing stairs would not be expanded in size or function. Staff notes that the word "significant" is not defined in the draft LUP. Per Staff's request, the Applicant has submitted a letter documenting their estimate of the amount of routine repair and maintenance to the beach access stairs proposed by Components 2-4. The Applicant indicates that approximately 31 percent of the total stair system would be repaired/replaced.

Policy 3.43: Grading or earthmoving exceeding 50 cubic yards shall require a Development Review Permit from the City. Grading plans shall meet the requirements of the LCP with respect to maximum quantities, maximum cuts and fills, remedial grading, grading for safety purposes, and maximum heights of cut or fill. Grading proposed in or adjacent to an environmentally sensitive habitat area shall be minimized to the maximum extent feasible.

Component 1 would involve a total of 51 cubic yards, including 28 cubic yards of cut, 23 cubic yards of undercuts, 12 cubic yards of fill, and 16 cubic yards exported from the site. Components 2, 3, and 5 do not propose any grading. Component 4 included disturbance of approximately 7.5 cubic yards of earth. Grading is not proposed adjacent to environmentally sensitive habitats.

Policy 3.83: Design and manage development to avoid or minimize increases in stormwater runoff volume and peak runoff rate, and to avoid
detrimental water quality impacts caused by excessive erosion or sedimentation.

If approved, construction of Component 1 will reconfigure the existing sidewalk and add drainage infrastructure to avoid or minimize existing stormwater runoff that currently flows unchecked down the face of the bluff during periods of heavy rainfall.

Policy 3.93: Beach-front development shall incorporate best management practices (BMPs) designed to minimize or prevent polluted runoff to the beach and ocean waters.

The proposed plans identify that BMPs will be developed and implemented during construction. In addition, a condition of approval requires incorporation of BMPs.

Policy 4.5: Any projects that propose building within the HOZ, on bluff properties, or inland bluff projects must include a geologic reconnaissance report to determine the geologic stability of the area. When additional information is needed to assess stability, a preliminary engineering geology report must also be prepared identifying the results of subsurface investigation regarding the nature and magnitude of unstable conditions, as well as mitigation measures needed to reduce or avoid such conditions.

The Applicant submitted a geotechnical report, an addendum report, and hydrology calculations that show the site is stable enough to support the development within the proposed bluff edge setback and that it will neither be subject to nor contribute to significant bluff instability for 70 years. The reports were reviewed by third-party consultants and were found to meet all applicable requirements of the SBMC and the City's draft LCP and are considered approved from a geotechnical standpoint.

Policy 4.28: With respect to bluff properties only, the City will require the removal or capping of any permanent irrigation system within 100 feet of the bluff edge in connection with issuance of discretionary permits for new development, redevelopment, or shoreline protection, or bluff erosion, unless the bluff property owner demonstrates to the satisfaction of the Public Works Director that such irrigation has no material impact on bluff erosion (e.g., watering hanging plants over hardscape which drains to the street).

The preliminary landscape plan acknowledges that no permanent irrigation is allowed within 100 feet of the bluff edge and permanent irrigation is not
proposed. A condition of project approval has been added to preclude the use of permanent irrigation systems within 100 feet of the edge of the coastal bluff.

*Policy 4.29: Require all bluff property landscaping for new development to consist of native, non-invasive, drought-tolerant, fire-resistant, and salt-tolerant species.*

Component 1 proposes to re-landscape an existing landscaped area between the bluff-top sidewalk and Units 1 and 2 and between the edge of the bluff and the relocated sidewalk. The preliminary landscape plan indicates that the landscaped area will be planted with drought tolerant, salt-tolerant, non-invasive native species. A condition of project approval has been added to the Resolution to require drought-tolerant, salt-tolerant, fire-resistant, and non-invasive natives plant materials. In addition, conditions are included to support the landscaping policies in City’s draft LCP.

5. **CONDITIONS:**

Prior to use of the property in reliance on this permit, the Applicant shall provide for and adhere to the following conditions:

A. **Community Development Department Conditions:**

i. The Applicant shall pay required Public Facilities Fees; as established by SBMC Section 17.72.020 and Resolution 1997-36.

ii. All onsite fences and walls shall comply with applicable regulations of Solana Beach Municipal Code Section 17.60.70 (Fences and Walls).

iii. The Applicant shall comply with the applicable sections of the Water Efficient Landscape Regulations adopted by Ordinance 430 at building permit submittal. No building permit shall be issued until the City reviews and approves the landscape documentation package if applicable.

iv. Native, non-invasive, drought-tolerant, salt-tolerant, and fire-resistant plant materials and water conserving irrigation systems shall be incorporated into all landscaping plans to the maximum extent practicable. No new permanent irrigation within 100 feet of the bluff edge shall be allowed and any existing permanent irrigation within 100 feet of the bluff edge shall be capped or removed. All landscaping shall conform to applicable regulations of SBMC Section 17.56 (Landscaping Regulations) and the
V. Any new exterior lighting fixtures shall be in conformance with the City-Wide Lighting Regulations of SBMC Section 17.60.060.

VI. All light fixtures shall be appropriately shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities that render them detrimental to the surrounding area.

VII. The existing concrete shall be saw-cut and removed as necessary and jackhammers shall be prohibited for breaking existing sidewalk. No equipment larger than a small grading tractor (bobcat) shall be used in the construction/grading area.

VIII. The Applicant shall demonstrate compliance with all applicable policies of the City's draft LCP to the satisfaction of the Community Development Director prior to the issuance of any building permits.

IX. The project shall be designed and shall provide appropriate data to confirm compliance with Title 24 of the California Building Standards Code regarding physical access for the proposed relocated sidewalk.

X. The Applicant acknowledges and agrees that by acceptance of this permit an assumption of risk and waiver of liability (i) that the site is subject to hazards from bluff collapse and erosion; (ii) to assume the risks to the Applicant and the property that is subject of this permit of injury and damage from such hazards in connection with this permitted Project; (iii) to unconditionally waive any claim of damage or liability against the City of Solana Beach, its officers, agents, and employees with respect to the City Council'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. Prior to the issuance of the building permit, the Applicant shall submit to the Community Development Director, in a form approved by the City Attorney, an executed and recorded document with the County Recorder's Office reflecting this condition.
XI. The Applicant agrees to ensure that Developer/Contractor shall:

   a. Maintain construction equipment per manufacturing specifications;

   b. Use diesel engines that meet, at a minimum, 1996 CARB or U.S. EPA certified standards for off-road equipment that has a rating of more than 100 horsepower;

   c. Install diesel oxidation catalysts, catalyzed diesel particulate filter or other emission reduction retrofit devices approved and recommended by SDAPCD; and substitute small electric-powered equipment for diesel- and gasoline-powered construction equipment where feasible.

XII. Per Section 2485 of Chapter 10 - Mobile Source Operational Controls, Article 1 - Motor Vehicles, Division 3, Air Resources Board, Title 13, California Code of Regulations, the Developer/Contractor shall limit on-road haul truck idling to five (5) minutes or less by the conspicuous posting of signs near the fill area(s) as applicable.

XIII. The Applicant agrees to make certain that Developer/Contractor shall ensure heavy-duty diesel trucks and other mobile equipment are properly tuned and maintained to manufacturers’ specifications to ensure minimum emissions under normal operations.

XIV. Building Permit plans must be in substantial conformance with the plans presented to the City Council on December 14, 2011 (located in the project file with a submittal date of December 10, 2009, date stamped October 17, 2011) and reflect all required conditions of approval.

XV. Applicant shall pay investigation fees for the applicable mechanical, plumbing, electrical, and building permits as a result of the stop work issued for work done without a permit pursuant to SBMC 15.04.040.

B. Engineering Department Conditions:

I. Prior to obtaining any building or grading permits pursuant to this project, the Applicant shall:

   a. Prepare, execute and record a declaration of restrictions on real property approved by the City Attorney whereby the Applicant or the Applicant's successors in interest to the property will construct and
maintain, in perpetuity, the private beach access stairway in accordance with these Conditions of Approval.

b. Execute a waiver of all claims against the City of Solana Beach for future liability or damage resulting from permission to build as granted under this permit. Said waiver shall be acknowledged and recorded in the Office of the County Recorder.

c. Obtain required California Coastal Commission Permits prior to the issuance of any structure and grading permits or present evidence that an emergency waiver has been granted.

d. Obtain any other permits or emergency waivers, which may be required from State and Federal agencies including the State Lands Commission and the U.S. Army Corps of Engineers.

e. The Project shall be designed and shall provide appropriate data to confirm the submitted design to the satisfaction of the City Engineer. This shall include, but is not limited to, a geotechnical report.

f. The property owner shall post securities to guarantee proper care and use of the Fletcher Cove Beach access ramp. No construction materials shall be off-loaded on the ramp or at the end of the ramp. No washing of equipment shall occur unless a containment system is properly utilized.

g. For all projects on which equipment is driven on the Fletcher Cove Beach Access Ramp, the access ramp and adjacent parking lot must be swept daily to remove sand that has been tracked onto the ramp and parking lot. At least once a week, the access ramp and parking lot must be swept with a street sweeper that is capable of cleaning the streets and parking lots of paper, glass, dirt, silt, sand, rocks, litter and miscellaneous debris. The street sweeper shall be equipped with dual gutter brooms, and vacuum equipment may be used. If any sand is tracked outside the parking lot, these areas (including City streets) must also be cleaned weekly with a street sweeper.

h. The Applicant shall pay all inspection and plan check fees as required by the City.

i. Plans and specifications for the Project shall be approved by the City Engineer in addition to approvals from the Community Development
Director as may be required, and shall substantially conform to the plans submitted by the Applicant.

j. A grading/drainage plan shall be prepared by a registered civil engineer in accordance with the current Grading Ordinance and be submitted to the City Engineer for approval and permit issuance.

k. The Applicant shall post with the City a Performance Bond equal to the full amount of the work to be completed to guarantee that once started, construction will be completed per approved plans.

l. The Applicant shall submit a Certificate of Insurance naming the City of Solana Beach as an additional insured in the amount of $1,000,000 on a policy of general liability insurance issued by an insurance company licensed to do business in California, and meeting the requirements established by City Council resolution for insurance companies doing business with the City, covering injuries to persons and property during the construction period.

m. The Applicant shall obtain a Special Use (Marine Safety) Permit specifying the conditions governing use of vehicles, use of the boat access ramp, and entry upon and use of areas of the public beach for construction equipment and vehicles. Evidence of permit issuance shall be submitted to the City Engineer before issuance of the permit for the Project.

n. The Applicant shall have on file evidence from the Captain of Marine Safety and City Engineer, City of Solana Beach, that arrangements have been made to satisfy the following criteria:

   i. Prior to usage of the Solana Beach Fletcher Cove Beach access ramp or parking lot, a cash deposit, bond or other secured agreement to cover the following impact charges shall be deposited:

   a) A five-dollar and thirty-cents ($5.30) per round trip vehicle charge for all construction related vehicles using the ramp.

   b) A two-dollar and seventy cents ($2.70) per ton fee, or less if approved by the City Council, based on the estimated weight of the vehicle and load for all vehicles in excess of ¾ ton capacity, excluding any vehicles solely transporting beach grade replenishment sand.
c) A twenty-seven dollar ($27) per day charge for the first 30 days escalating to fifty-three dollars ($53) per day for the 31st and subsequent days. Charge shall be collected to encourage a timely completion of all projects, unless otherwise modified for good cause by the City Council or City Manager.

d) Any damage caused to the Solana Beach Fletcher Cove Beach access ramp and parking lot.

ii. At least one City of Solana Beach Lifeguard shall be contracted, at the Applicant's expense, through the Captain of Marine Safety to monitor all activities in order to ensure full compliance with the conditions of this permit. The lifeguard(s) shall be on duty at all times when any construction activity takes place. Additional lifeguards may be required at the discretion of the Captain of Marine Safety. In addition to the lifeguard staffing cost, the Applicant shall also pay an equipment use fee of four-dollar and sixty-four cents ($4.64) per hour, based on the number of hours the lifeguards are contracted for the project.

iii. If construction access is from Fletcher Cove Park, precautions shall be taken to avoid damage to the beach access ramp during construction and repairs. If damage to the ramp occurs, it shall be repaired to a condition equivalent to the condition at the start of construction activity to the satisfaction of the City of Solana Beach City Engineer. All City owned work areas including Fletcher Cove Park and access ramp shall be videotaped prior to the commencement of the project. The videotape shall establish the "as-is" condition. In any areas missed by the videotape, the City Engineer will determine "as-is" condition.

iv. If access is from the State Park at the north end of Solana Beach, precautions shall be taken to avoid damage to the hard layer of fossiliferous sandstone that forms the beach surface at the north end of the coastal bluffs. Such access may necessitate State approval. Proof of such access shall be provided to the City Engineer before construction begins.

v. The Applicant and/or contractor shall obtain a haul route permit from the City Engineering Department.
o. Beach quality sand from the excavation for the proposed project shall be deposited and spread on the beach in front of this site unless unique and/or inappropriate conditions are encountered. The Applicant should reference this condition to other permitting agencies.

p. An encroachment permit from the Engineering Department is required if a crane, construction materials, etc. are envisioned to be stationed in the public right of way. The City does not guarantee that an encroachment permit will be approved.

q. A qualified, licensed and insured contractor shall perform all required work as outlined by certified/registered engineering geologist or Registered Civil Engineer on the construction plans. Special and general notes on said plans shall be followed to the satisfaction of the City Engineer or his designee.

r. Lateral pedestrian and Marine Safety vehicular access through the construction area shall be provided past the site at all times, subject to high tides and safety issues. A 30-foot wide safety/construction work zone shall be provided during work hours to separate the work zone from the open public beach.

s. No construction activities that require access to the site from the beach may occur during the busier recreational season, which is defined as the period between Memorial Day and Labor Day. The contractor shall obtain approval from the City of Solana Beach Engineering and Marine Safety Departments regarding the use and timing of the Fletcher Cove parking lot and beach access ramp for all construction related access, staging and parking issues if such use becomes required.

t. Prior to Final Inspection of the project, the Applicant shall:

i. Submit certification to the City Engineer from the Geotechnical Engineer and the Civil Engineer of Record for the project that they have inspected the project and certify that it was constructed per the approved plan, specifying the date of the plan.

ii. The Applicant and/or contractor shall repair any damage caused to the Solana Beach property and facilities, including but not limited to, Fletcher Cove ramp and parking lot to the satisfaction of the City Engineer.
II. The Applicant shall provide for and adhere to the following Conditions:

a. All development on the site shall substantially conform to the final development review permit approved by the City Council.

b. The property owner shall be responsible to immediately remove, in perpetuity, any graffiti or other markings should they appear on the concrete beach access stairway.

c. If requested by the City Manager or his designee, the property owner or their successor in interest shall install and maintain signage about unstable bluffs fronting their property.

d. The Applicant shall provide "As-Built" plans and all certifications required to the City, before the City will release the performance bond as indicated in Condition C.XI.

III. All construction demolition materials shall be recycled according to the City's Construction and Demolition recycling program and an approved Waste Management Plan shall be submitted.

IV. Pursuant to SBMC Section 7.34.100, Construction hours are limited to 7:00 a.m. to 7:00 p.m., Monday through Friday, and 8:00 a.m. to 7:00 p.m. on Saturday. No work is allowed on Sunday or holidays unless specifically approved pursuant to SBMC Section 7.34.100.B. Engines shall not be started, no construction-related materials shall be moved, or any other construction-related activities occur outside these hours. Work is not permitted on the beach on Saturdays without the written approval of the City Manager.

V. GRADING:

a. Obtain a grading permit in accordance with Chapter 15.40 of the Solana Beach Municipal Code. Conditions prior to the issuance of a grading permit shall include, but not be limited to the following:

   i) The grading plan shall be prepared by a registered engineer and approved by the City Engineer. On-site grading design and construction shall be in accordance with Chapter 15.40 of the Solana Beach Municipal Code.
ii) A soils report shall be prepared by a registered Soils Engineer and approved by the City Engineer. All necessary measures shall be taken and implemented to assure slope stability, erosion control and soil integrity. The grading plan shall incorporate all recommendations contained in the soils report.

iii) A hydrology and hydraulic report shall be prepared by a registered Civil Engineer and approved by the City Engineer. The grading plan shall incorporate all recommendations contained in the hydrology and hydraulic report.

iv) All retaining walls and drainage structures shall be shown. Retaining walls shown on the grading plan shall conform to the San Diego Regional Standards or be designed by a licensed Civil Engineer. Engineering calculations for all designed walls with a surcharge and nonstandard walls shall be submitted at grading plan check. Retaining walls may not exceed the allowable height within the property line setback as determined by the City of Solana Beach Municipal Code. Contact the Community Development Department for further information.

v) If grading and/or retaining walls are proposed within three feet of a property line, the Applicant shall provide written permission from the adjoining property owner for incidental grading that may occur on their property; or the Applicant shall provide competent justification that grading impacts or encroachment onto adjacent properties will not occur.

vi) Pay grading/engineering plan check fee in accordance with the current Engineering Fee Schedule at initial grading plan submittal. Inspection fees shall be paid prior to issuance of the grading/engineering permit.

vii) Obtain and submit grading/engineering security in a form prescribed by the City of Solana Beach Municipal Code grading ordinance.

viii) Obtain haul permit for import / export of soil. Dispose of all excavated material at a legal dump site.

ix) Submit certification from the Engineer of Record and the Soils Engineer that all public or private drainage facilities and
finished grades are functioning and are installed in accordance with the approved plans. This shall be accomplished by the Engineer of Record incorporating as-built conditions on the Mylar grading plans and obtaining signatures of the Engineer of Record and the Soils Engineer certifying the as-built conditions.

VI. DRAINAGE:

a. An Erosion Control Plan shall be prepared. Best management practices shall be developed and implemented to manage storm water and non-storm water discharges from the site at all times during excavation and grading activities. Erosion prevention shall be emphasized as the most important measure for keeping sediment on site during excavation and grading activities. Sediment controls shall be used as a supplement to erosion prevention for keeping sediment on site.

b. The Applicant shall submit a storm water management plan to demonstrate to the satisfaction of the City Engineer that the Project does not increase storm water runoff or peak discharge from the existing condition, and that the requirements of SBMC 13.10 Storm Water Management and the RWQCB Final Order R9-2007-0001 are met. The existing conditions are those conditions that existed prior to grading permit SBGR-148.

c. No increased crosslot drainage or drainage over the coastal bluff on the west side of the property shall be allowed.

d. Floor drains or area drains shall not be installed in the garage. Water from the garage area shall not be allowed to enter into the storm drain line that is proposed to run under the concrete in the garage.

e. The Applicant shall enter into an encroachment maintenance removal agreement with the City for the existing D-25 outlet drain in the public right-of-way. Standard encroachment fees shall be paid.

VII. Conditions prior to approval of final inspection, the Applicant shall:

a. Submit certification from a registered Civil Engineer that all public or private drainage facilities and finished grades are functioning and are installed in accordance with the approved plans.
b. Comply with all applicable sections of the City of Solana Beach Municipal Code and Engineering Standards.

6. ENFORCEMENT: Pursuant to SBMC 17.72.120(B) failure to satisfy any and all of the above-mentioned conditions of approval is subject to the imposition of penalties as set forth in SBMC Chapters 1.16 and 1.18 in addition to any applicable revocation proceedings.

7. EXPIRATION: The Development Review Permit for the Project will expire on December 14, 2013, unless the Applicant has obtained building permits and has commenced construction prior to that date, and diligently pursued construction to completion. Any extension of the application may be granted by the City Council.

8. INDEMNIFICATION AGREEMENT: The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify the Applicant of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, the Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant shall not be required to pay or perform any settlement unless such settlement is approved by Applicant.

9. NOTICE REGARDING JUDICIAL REVIEW: The City Council decision is final unless a petition for a writ of mandate is timely filed. The time within which judicial review of this decision must be sought is governed by the Code of Civil Procedure, Section 1094.6, which has been made applicable in the City of Solana Beach by the Solana Beach Municipal Code, Chapter 2.36. Any petition or other papers seeking judicial review must be filed in the appropriate court not later than the ninetieth (90th) day following the date on which this decision becomes final. A written request for preparation of the record of proceedings shall be made and filed with the Solana Beach City Clerk. This decision is final upon the adoption of this resolution.
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Solana Beach, California, held on the 14th day of December 2011, by the following vote:

AYES: Councilmembers — Kellejian, Roberts, Nichols, Campbell, Heebner
NOES: Councilmembers — None
ABSENT: Councilmembers — None
ABSTAIN: Councilmembers — None

APPROVED AS TO FORM:

JOHANNA N. CANLAS, City Attorney

JOE G. KELLEJIAN, Mayor

ATTEST:

ANGELA IVEY, City Clerk
CERTIFICATION

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO SS.
CITY OF SOLANA BEACH)

I, ANGELA IVEY, City Clerk of the City of Solana Beach, California, DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution 2011-142 conditionally approving Development Review Permit 17-09-28 for the Seascape 1 Condominium Homeowners Association, as duly passed and adopted at a Regular Solana Beach City Council meeting held on the 14th day of December 2011 and the original is on file in the City Clerk's Office.

[Signature]
ANGELA IVEY, CITY CLERK

Date of this Certification: 12-30-2011
STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Council Members
FROM: David Ott, City Manager
MEETING DATE: August 27, 2014
ORIGINATING DEPT: Community Development Department
SUBJECT: DRP Time Extension Request for 675 South Sierra Avenue
(Case No. 17-09-28; Applicant: Seascape 1 Condominiums Homeowners Association)

BACKGROUND:
The Applicant, Seascape 1 Condominiums Homeowners Association, is requesting a 12-month extension of a Development Review Permit (DRP), originally approved on December 14, 2011, to allow:

1) Proposed in-kind relocation of an existing bluff-top sidewalk approximately five feet inland, in-kind replacement of a railing, construction of associated curb, drainage improvements to redirect drainage away from the edge of the bluff, a retaining wall, and replacement of landscaping;
2) Proposed in-kind repair and replacement for maintenance purposes of a wooden section of existing beach access stairs;
3) Proposed in-kind repair and replacement for maintenance purposes of a concrete section of existing beach access stairs;
4) Remediation of in-kind repair and replacement for maintenance purposes of wooden sections of existing beach access stairs constructed without permits; and
5) Remediation of the installation of windows in four units constructed without permits, including related structural modifications.

The issue before the Council is whether to approve or deny the Applicant's request for a 12-month time extension.

DISCUSSION:
The Applicant received Council approval for DRP Case No. 17-09-28 on December 14, 2011, with a vote of 5-0. The history of the project is detailed in the attached Staff Report (Attachment 1) and signed Resolution No. 2011-142 (Attachment 2).

COUNCIL ACTION:

ATTACHMENT 3
This project approval was set to expire December 14, 2013, unless the Applicant received building permits and started construction prior to that date. Solana Beach Municipal Code (SBMC) Section 17.72.110 (Lapse of Approval and Extensions) allows the Council to grant one or more extensions not exceeding a cumulative total of 24 months after the date the original approval expires. SBMC 17.72.110 also requires that “All applications for extensions shall be filed with the director at least 60 days prior to the expiration date of the approval.” On September 30, 2013, the Applicant submitted an application (Attachment 3) requesting a 12-month time extension of the approved project. The application was properly filed at least 60 days prior to the expiration date of the approval and is considered on hold until the City Council makes a decision on the time extension request.

SBMC 17.72.110 establishes that Council action is required to review and act on a request for an extension of a DRP when Council was the original approving body. The Council may extend the approval of a project if they are able to make the seven required findings, which are as follows:

1. The applicant has presented facts which establish that the applicant has timely and diligently pursued issuance of a building permit during the 24 month period following the issuance of the original approval for the project (or the different period set forth as a condition of approval of the project) or during the then current extension period;

2. Circumstances beyond the applicant’s control have intervened and prevented the applicant from obtaining the issuance of a building permit for the project prior to expiration of the 24 month period (or the expiration date established as a condition of the approval) or during the then current extension period;

3. The application for the extension sets forth a reasonable and substantial factual basis for issuance of the extension;

4. There is a substantial factual basis to determine that the applicant will be able to perform the actions necessary to obtain issuance of a building permit prior to expiration of the requested extension;

5. The duration of the extension requested by the applicant is not longer than is reasonably necessary to perform the actions necessary to obtain the issuance of a building permit;

6. There have not been any significant changes in the general plan, applicable specific plan, if any, zoning, or character of the area within which the project is located that would cause the approved project to become inconsistent, incompatible, or nonconforming therewith; and
7. The granting of an extension shall not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

The application for the time extension requires the Applicant to provide a detailed factual description and explanation of the reasons why a building permit was not issued and construction did not commence prior to the expiration of the original approval. The project requires approval of a Coastal Development Permit (CDP) from the California Coastal Commission (CCC) prior to the issuance of building permits. The Applicant cites protracted negotiations with the CCC regarding both reconstruction of various portions of the beach access stairs and relocation of the bluff-top sidewalk as a significant contributing factor for the delay. The Applicant received a Notice of Intent to Issue the CDP on August 8, 2013, but was required to resubmit plans to the CCC and gain approval of the revised plans prior to issuance of the CDP by the Coastal Commission. When the Applicant submitted the application for the time extension, they had just resubmitted those plans. Since they were not sure whether the CCC would require additional revisions that might make the project out of compliance with the City-approved DRP, the time extension remained on hold until they were able to determine whether substantial revisions ultimately would be necessary. During this time they also continued to pursue completion of the CCC's and the City's conditions of approval.

The Applicant is in the process of finalizing the remaining conditions, one of which is the requirement to amend the HOA's CC&R's; this process requires notarized signatures from all property owners and lenders and has proven to be more time-consuming than anticipated. Staff has confirmed with the CCC that they expect to issue the CDP soon and that the CCC has not required substantive changes to the project as it was approved by the Council.

The original project was reviewed pursuant to the draft Local Coastal Plan (LCP) Land Use Plan (LUP) policies. After the original approval of DRP for this project, the City's LCP/LUP was adopted by the Council on February 27, 2013. The Land Use Plan Amendment (LUPA) was subsequently adopted by the Council on June 11, 2014 and certified by the CCC on August 13, 2014. Staff has compared the draft LCP/LUP policies under which the project was originally considered with the adopted LUP. Updates are shown via underline for additions and strike-out for deletions; if no changes have occurred, that has been noted as well. The following section discusses how the project, if the proposed time extension is approved, could be found to be in conformance with the LUP.

Policy 2.58: Erosion of the bluffs should be minimized by constructing and maintaining additional barriers to discourage any access to bluff faces and on private developments including condominium projects (with enforcement on private lands to be self-policing) by the use of barriers such as low fences or railings which should be sensitively designed to discourage foot traffic onto the bluff face without obscuring views and vistas. In addition, no new public or private walking paths shall be permitted on the coastal bluff face. (No change.)
The Applicant received approval to relocate an existing sidewalk a minimum of five feet away from the bluff edge. Additional proposed work includes installation of a curb and drainage infrastructure that will redirect run-off away from the bluff edge. The project also includes installation of railings along the west edge of the sidewalk. The railings are intended to discourage foot traffic onto the bluff face.

Policy 2.60: No new private beach stairways shall be constructed, and private beach stairways shall be phased out at the end of the economic life of the stairways. Existing permitted or private beach stairways constructed prior to the Coastal Act may be maintained in good condition with a CDP, where required, but shall not be expanded in size or function. Routine repair and maintenance shall not include the replacement of the stairway or any significant portion of greater than 50% of the stairway cumulatively over time from the date of LUP certification.

The Applicant indicated that the purpose of Components 2, 3, and 4 is to maintain Seascape 1 Condominiums’ existing private beach access stairs in good condition. Components 2 and 3 are proposed, while Component 4 was constructed without permits. The DRP allows the Applicant to remediate the work that was done without permits and bring it into conformance with City and Coastal Commission requirements. No new stairs were proposed and the existing stairs will not be expanded in size or function. Staff notes that the word “significant” was not defined in the draft LUP; however, at the time of original approval of the DRP, the CCC considered repair and maintenance that involved replacement approaching or exceeding 50 percent to be potentially significant. As shown above, the policy was subsequently revised and now clarifies both the percentage and the timeframe. As a part of the original DRP request, the Applicant submitted a letter documenting the estimate of the amount of routine repair and maintenance to the beach access stairs proposed by Components 2–4, which indicated that approximately 31 percent of the total stair system would be repaired/replaced.

Policy 3.431: Grading or earthmoving exceeding 50 cubic yards shall require a Development Review Permit from the City. Grading plans shall meet the requirements of the LCP LUP with respect to maximum quantities, maximum cuts and fills, remedial grading, grading for safety purposes, and maximum heights of cut or fill. Grading proposed in or adjacent to an environmentally sensitive habitat area shall be minimized to the maximum extent feasible.

Component 1 will involve a total of 51 cubic yards grading, including 28 cubic yards of cut, 23 cubic yards of undercut, 12 cubic yards of fill, and 16 cubic yards exported from the site. Components 2, 3, and 5 do not propose any grading. Component 4 included disturbance of approximately 7.5 cubic yards of earth. Grading is not proposed adjacent to environmentally sensitive habitats.
Policy 3.831: Design and manage development to avoid or minimize increases in stormwater run-off volume and peak run-off rate, and to avoid detrimental water quality impacts caused by excessive erosion or sedimentation. (Only the policy number changed.)

Construction of Component 1 will reconfigure the existing sidewalk and add drainage infrastructure to avoid or minimize existing stormwater run-off that currently flows unchecked down the face of the bluff during periods of heavy rainfall.

Policy 3.931: Beach-front development shall incorporate best management practices (BMPs) designed to minimize or prevent polluted run-off to the beach and ocean waters. (Only the policy number changed.)

The plans identify that BMPs will be developed and implemented during construction. In addition, a condition of approval requires incorporation of BMPs.

Policy 4.54: Any projects that propose building within the HOZ, on bluff properties, or inland bluff projects must include a geologic reconnaissance report to determine the geologic stability of the area. When additional information is needed to assess stability, a preliminary engineering geology report must also be prepared identifying the results of subsurface investigation regarding the nature and magnitude of unstable conditions, as well as mitigation measures needed to reduce or avoid such conditions. (HOZ applies to areas with steep slopes greater than 25% as shown in Exhibit 5-2.)

The Applicant submitted a geotechnical report, an addendum report, and hydrology calculations that show the site is stable enough to support the development within the proposed bluff edge setback and that it will neither be subject to nor contribute to significant bluff instability for 70 years. The reports were reviewed by third-party consultants and were found to meet all applicable requirements.

Policy 4.286: With respect to bluff properties only, the City will require the removal or capping of any permanent irrigation system within 100 feet of the bluff edge in connection with issuance of discretionary permits for new development, redevelopment, or shoreline protection, or bluff erosion, unless the bluff property owner demonstrates to the satisfaction of the Public Works Director, or the CCC if the project is appealed, that such irrigation has no material impact on bluff erosion (e.g., watering hanging plants over hardscape which drains to the street).

The preliminary landscape plan acknowledged that no permanent irrigation is allowed within 100 feet of the bluff edge and permanent irrigation is not proposed. Resolution 2011-142 includes a condition that precludes permanent irrigation systems within 100 feet of the edge of the coastal bluff and requires the
capping or removal of any existing permanent irrigation within 100 feet of the bluff edge.

Policy 4.207: Require all bluff property landscaping for new development to consist of native, non-invasive, drought-tolerant, fire-resistant, and salt-tolerant species. (Only the policy number changed.)

Component 1 includes re-landscaping of an existing landscaped area between the bluff-top sidewalk and Units 1 and 2 and a new area that would be created between the edge of the bluff and the relocated sidewalk. The preliminary landscape plan indicates that the landscaped areas will be planted with drought tolerant, salt-tolerant, non-invasive native species. Resolution 2011-142 includes a condition of project approval that requires drought-tolerant, salt-tolerant, fire-resistant, and non-invasive natives plant materials.

As described above, the project could be found in conformance with the LUP as amended by the Council on June 11, 2014. Additionally, there is also no indication that the project would be detrimental to the public health, safety or welfare of the properties within the surrounding area.

If the Council can make the required findings to approve a 12-month time extension, the Applicant will be required to comply with the original conditions of approval, and obtain building permits for and begin construction of all components of the project prior to the new expiration date of December 14, 2014. Should the request for an extension of the DRP be denied, a new application would then be required for project.

A draft Resolution of Approval (Resolution 2014-105) has been prepared by Staff for the consideration of the Council (Attachment 4). The draft Resolution is based upon the information provided in this report. The Council may direct Staff to modify Resolution 2014-105 to reflect the findings and conditions it deems appropriate as a part of the public hearing process. Alternatively, if Council determines the request is to be denied, Staff will prepare a Resolution of Denial for an action to be taken at a subsequent Council meeting.

Notices of a public hearing for this project were mailed to property owners and occupants within 300 feet of the project site more than 10 days prior to the Council date. As of the date of preparation of this Staff Report, no phone calls, letters, or emails have been received by Staff in regard to the extension request.

**CEQA COMPLIANCE STATEMENT:**
Time Extensions are not a project as defined by CEQA. The original project was found exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301, Exiting Facilities.

**FISCAL IMPACT:** N/A
WORKPLAN: N/A

OPTIONS:

• Approve the request for a 12 month extension for the DRP (Case No. 17-09-28) setting an expiration date of December 14, 2014.
• Deny the request for a time extension.
• Provide direction to Staff.

DEPARTMENT RECOMMENDATION:
Staff recommends that the City Council:


2. Adopt Resolution 2014-105, approving the request for a 12-month extension for a DRP for Case No. 17-09-28, and setting the expiration date as December 14, 2014.

CITY MANAGER’S RECOMMENDATION:
Approve Department Recommendation

David Ott, City Manager

Attachments:
1. December 14, 2011 Staff Report
2. Original Signed Resolution 2011-142
3. Project Time Extension Application
4. Resolution 2014-105
RESOLUTION 2014-105

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, APPROVING A TIME EXTENSION OF A DEVELOPMENT REVIEW PERMIT FOR IN-KIND RELOCATION OF AN EXISTING BLUFF-TOP SIDEWALK, CONSTRUCTION OF ASSOCIATED CURB, DRAINAGE IMPROVEMENTS, A RETAINING WALL, AND INSTALLATION OF LANDSCAPING; IN-KIND REPAIR AND REPLACEMENT OF EXISTING BEACH ACCESS STAIRS; AND INSTALLATION OF NEW WINDOWS AT THE SEASCAPE 1 CONDOMINIUMS AT 675 S. SIERRA AVENUE, SOLANA BEACH

APPLICANT: Seascape 1 Condominium Homeowners Association

CASE NO.: 17-09-28 DRP Time Extension

WHEREAS, Seascape 1 Condominium Homeowners Association (hereinafter referred to as “Applicant”) submitted an application pursuant to Chapter 17, Zoning, of the Solana Beach Municipal Code (SBMC) to request a Time Extension of the approved project on property at 675 S. Sierra Avenue; and

WHEREAS, on August 27, 2014, the City Council held a duly noticed public hearing to consider the Time Extension request; and

WHEREAS, the public hearing was conducted pursuant to the provisions of SBMC Section 17.72.030 of the Solana Beach Zoning Ordinance; and

WHEREAS, at the public hearing, the City Council received and considered evidence concerning the proposed application; and

WHEREAS, the California Coastal Commission issued a Notice of Intent to Issue Permit in August of 2013 but has not yet approved a Coastal Development Permit and the Applicant is still in the process of completing the Coastal Commission’s and the City’s conditions of approval; and

WHEREAS, the City Council of the City of Solana Beach has determined that Time Extensions are not a project as defined by CEQA; and

WHEREAS, the City Council of the City of Solana Beach found the Applicant’s original request for a DRP exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines; and

WHEREAS, this decision is based upon the evidence presented at the hearing, and any information the City Council gathered by viewing the site and the area as disclosed at the hearing.

NOW THEREFORE, the City Council of the City of Solana Beach, California, does
resolve as follows:

1. That the foregoing recitations are true and correct.

2. That the request for a Time Extension of the Development Review Permit, submitted September 30, 2013, and on file with the Community Development Department, is approved based upon the following Findings, and all terms and conditions of Resolution 2011-142 are in effect along with the Time Extension:

3. FINDINGS

   A. In accordance with Section 17.72.110 (Lapse of Approval and Extensions) of the City of Solana Beach Municipal Code, the City Council finds the following:

      I. The Applicant has presented facts which establish that the Applicant has timely and diligently pursued issuance of a building permit during the current extension period;

      II. Circumstances beyond the Applicant’s control has intervened and prevented the Applicant from obtaining the issuance of a building permit for the project prior to expiration of the current extension period;

      III. The application for the extension sets forth a reasonable and substantial factual basis for issuance of the second extension;

      IV. There is a substantial factual basis to determine that the Applicant will be able to perform the actions necessary to obtain issuance of a building permit prior to expiration of the requested extension;

      V. The duration of the extension requested by the Applicant is not longer than is reasonably necessary to perform the actions necessary to obtain the issuance of a building permit;

      VI. There have not been any significant changes in the general plan, applicable specific plan, if any, zoning, or character of the area within which the project is located that would cause the approved project to become inconsistent, incompatible, or nonconforming therewith; and

      VII. The granting of an extension shall not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

4. EXPIRATION: The Time Extension for the Development Review Permit will expire on December 14, 2014, unless the Applicant has obtained building permits and has commenced construction prior to that date, and diligently pursues
5. **INDEMNIFICATION AGREEMENT:** The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Applicant of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant shall not be required to pay or perform any settlement unless such settlement is approved by Applicant.

6. **NOTICE TO APPLICANTS:** Pursuant to Government Code Section 66020, you are hereby notified that the 90-day period to protest the imposition of the fees, dedications, reservations or other exactions described in this resolution commences on the effective date of this resolution. To protest the imposition of any fee, dedications, reservations or other exactions described in this resolution you must comply with the provisions of Government Code Section 66020. Generally the resolution is effective upon expiration of the tenth day following the date of adoption of this resolution, unless the resolution is appealed or called for review as provided in the Solana Beach Zoning Ordinance.

**PASSED AND ADOPTED** this 27th day of August, 2014, at a regular meeting of the City Council of the City of Solana Beach, California by the following vote:

**AYES:** Councilmembers – Campbell, Heebner, Zito, Zahn, Nichols  
**NOES:** Councilmembers – None  
**ABSENT:** Councilmembers – None  
**ABSTAIN:** Councilmembers – None

THOMAS M. CAMPBELL, Mayor

APPROVED AS TO FORM:  
JOHANNA N. CANLAS, City Attorney  

ATTEST:  
ANGELA IVEY, City Clerk
CERTIFICATION

STATE OF CALIFORNIA)  
COUNTY OF SAN DIEGO)  
CITY OF SOLANA BEACH)  
SS.

I, ANGELA IVEY, City Clerk of the City of Solana Beach, California, DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution 2014-105 approving a time extension of a Development Review Permit at 675 S. Sierra Ave., Case No. 17-09-28, Applicant: Seascape 1 Condominium Homeowners Association as duly passed and adopted at a Regular Solana Beach City Council meeting held on the 27th day of August 2014 and the original is on file in the City Clerk's Office.

ANGELA IVEY, CITY CLERK

Date of this Certification: 9-9-2014
CITY OF SOLANA BEACH
635 SOUTH HIGHWAY 101 • SOLANA BEACH • CALIFORNIA 92075 • (858) 720-2400 • FAX (858) 765-1782
PROJECT EXTENSION APPLICATION

(Extension applying for: Conditional Use □, Variance □, Minor Exception □,
Development Review Permit □, Director's Use Permit □, Structure Development Permit □)
(✓ one or more that apply)

A. APPLICANT INFORMATION:

1. Project Address: 675 South Sierra Ave, Solana Beach, CA, 92075

2. Applicant's Name: Seascape Condominiums HOA, c/o Robert Heidtmann, President
   (Last, First & Middle Initial or Company Name)

3. Applicant's Address: 675 South Sierra Ave., Solana Beach, CA 92075
   (Street, City, State & ZIP Code)

4. Applicant's Telephone: 858-792-0415
   Fax:

5. Applicant's Email Address: tcunningham@cunninghamlawyers.com
   Cell Phone:

B. PLEASE COMPLETE THE FOLLOWING:

1. Provide a detailed factual description and explanation of the reasons why a building permit was not
   issued prior to the expiration of the original approval or preceding extension and the specific
   reason(s) the extension is necessary; the applicant's request for a specific time period for the
   extension.

   As the Engineer for Seascape, TerraCosta Consulting Group has coordinated with California Coastal Commission
   and City Staff to have an approved set of plans, which accomplished several things: 1) rehabilitation of the lower
   concrete beach access stairway; 2) reconstruction of the wooden stairway located above the concrete stair; 3)
   documentation of a portion of the upper stairway that was repaired/maintained without a permit; 4)
   documentation of unpermitted framing and window installation in four units on the property; and 5) relocation of
   the upper bluff sidewalk landward of the current sidewalk due to undermining and drainage issues. These various
   components had been submitted to both the Coastal Commission and the City as a package for their review and
   approval.

   On August 26, 2014, in meeting with City Staff, it was decided that the plans must be separated into individual
   components and each permitted separately. It was discovered that one portion of the stairway that had been
   repaired/maintained without a permit was not addressed in any of the plans. Additionally, it was noted that the
   landscaping plan had not been created by a licensed landscape architect and did not meet the criteria for coastal
   bluff planting.

   The plans have been separated into components, and four of the six are in the review process with the City. The
   sidewalk relocation plan, which requires grading permit review, is currently on hold until the new landscape plan
   is approved by the HOA and then included in the grading plan set. The one stairway section that required plans is
   in the process of being completed by the engineer.

RECEIVED

OCT 14 2014
Planning-Comm Dev Dept
City of Solana

ATTACHMENT 5
2. A detailed description of the actions that will be taken during the specific requested extension period that justify the requested time period of the extension and that will result in the timely issuance of a building permit for the project before the extension expires.

This request for extension will allow for the completion of the upper beach access stairway portion and the landscape plan to be completed, and the remaining two sets of plans to be submitted to the City for permitting.

3. A detailed timeline for the actions that will be taken during the requested extension period.

   October /November 2014 -
   1) Finalize building permits currently in process with the City; and
   2) Submittal of building permit for portion of stairway and submittal of grading plans to City.

   October 2014 - Begin construction of lower stairway.

   December 2014/January 2015 - Begin construction on upper bluff sidewalk.

(Please attach any additional relevant information supporting the extension)

Applicant Signature: [Signature]

Date: 10/14/14

[Signature]
17.72.110 Lapse of approval and extensions.

A. Lapse of Approvals. Unless otherwise specified in this title, approvals for development review permits, structure development permits, conditional use permits, variances, and minor exceptions shall lapse (i.e., expire) and become void 24 months after the date of the approval, unless a different expiration date is specifically established as a condition of the approval or unless the following action occurs:

1. A building permit is issued in accordance with the approval.

B. Extensions. An extension may be issued prior to the lapse (i.e., expiration) of any approval described in subsection A of this section. There is not an absolute right to receive an extension. Approvals originally granted by the director of community development (the “director”) may be extended by the director. Approvals granted by the view assessment committee may only be extended by the city council. Approvals by the city council may only be extended by the city council.

1. One or more (but not more than a total of four) extensions may be granted not exceeding a cumulative total of 24 months after the date the original approval of the project expires. The duration of an extension shall be in increments of 30 days. The minimum duration of an extension shall be six months. The maximum duration of an extension shall not be more than 12 months. The duration of an extension shall be determined at the discretion of the issuing authority.

2. All applications for extensions shall be filed with the director at least 60 days prior to the expiration date of the approval. Concurrent with the filing of an application for an extension, the applicant shall submit payment of applicable fees and deliver to the director the documents and information required from time-to-time by the city to provide notice of the application to the owners of all properties within a 300 foot radius from the project. An additional 15 days may be provided by the director for supporting documents and information as needed to deem the application complete.

3. An application for an extension shall include the following information and other information reasonably requested by the director or city council:

a. A detailed factual description and explanation of the reasons why a building permit was not issued prior to the expiration of the original approval or preceding extension and the specific reason(s) the extension is necessary; the applicant’s request for a specific time period for the extension;

b. A detailed description of the actions that will be taken during the specific requested extension period that justify the requested time period of the extension and that will result in the timely issuance of a building permit for the project before the extension expires; and

c. A detailed timeline for the actions that will be taken during the requested extension period.

C. The director or city council may issue an extension of the approval of a project in their discretion if they make all of the following findings:

1. The applicant has presented facts which establish that the applicant has timely and diligently pursued issuance of a building permit during the 24-month period following the issuance of the original approval for the project (or the different period set forth as a condition of approval of the project) or during the then current extension period;

2. Circumstances beyond the applicant’s control have intervened and prevented the applicant from obtaining the issuance of a building permit for the project prior to expiration of the 24-month period (or the expiration date established as a condition of the approval) or during the then current extension period;

3. The application for the extension sets forth a reasonable and substantial factual basis for issuance of the extension;

4. There is a substantial factual basis to determine that the applicant will be able to perform the actions necessary to obtain issuance of a building permit prior to expiration of the requested extension;

5. The duration of the extension requested by the applicant is not longer than is reasonably necessary to perform the actions necessary to obtain the issuance of a building permit;

6. There have been any significant changes in the general plan, applicable specific plan, if any, zoning, or character of the area within which the project is located that would cause the approved project to become inconsistent, incompatible, or nonconforming therewith; and

7. The granting of an extension shall not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
RESOLUTION 2015-004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, APPROVING A SECOND TIME EXTENSION OF A DEVELOPMENT REVIEW PERMIT FOR IN-KIND RELOCATION OF AN EXISTING BLUFF-TOP SIDEWALK, CONSTRUCTION OF ASSOCIATED CURB, DRAINAGE IMPROVEMENTS, A RETAINING WALL, AND INSTALLATION OF LANDSCAPING; IN-KIND REPAIR AND REPLACEMENT OF EXISTING BEACH ACCESS STAIRS; AND INSTALLATION OF NEW WINDOWS AT THE SEASCAPE 1 CONDOMINIUMS AT 675 S. SIERRA AVENUE, SOLANA BEACH

APPLICANT: Seascape 1 Condominium Homeowners Association

CASE NO.: 17-09-28 (DRP Second Time Extension)

WHEREAS, on December 14, 2011, Seascape 1 Condominium Homeowners Association (hereinafter referred to as “Applicant”) received approval from the City Council for approval of a Development Review Permit (DRP) for in-kind relocation of an existing bluff-top sidewalk, construction of associated curb, drainage improvements, a retaining wall, and installation of landscaping; in-kind repair and replacement of existing beach access stairs; and installation of new windows at the property located at 675 South Sierra Avenue (Project); and

WHEREAS, on September 30, 2013, the Applicant submitted an application pursuant to Chapter 17, Zoning, of the Solana Beach Municipal Code (SBMC) to request an extension of the approved project on property at 675 S. Sierra Avenue; and

WHEREAS, on August 27, 2014, the City Council approved an extension of the approved project until December 14, 2014; and

WHEREAS, the Applicant has been diligently attempting to obtain building permits for all components of the Project but has been unable to obtain all the requisite building permits prior to the expiration of the first Time Extension; and

WHEREAS, on October 14, 2014, the Applicant submitted an application pursuant to Chapter 17, Zoning, of the Solana Beach Municipal Code (SBMC) to request a second Time Extension of the approved project on property at 675 S. Sierra Avenue; and

WHEREAS, on January 14, 2015, the City Council held a duly noticed public hearing to consider a second Time Extension request; and

WHEREAS, the public hearing was conducted pursuant to the provisions of SBMC Section 17.72.030 of the Solana Beach Zoning Ordinance; and
WHEREAS, at the public hearing, the City Council received and considered evidence concerning the proposed application; and

WHEREAS, the City Council of the City of Solana Beach found the Applicant's original request for a DRP exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines; and

WHEREAS, the City Council of the City of Solana Beach has determined that Time Extensions are not a project as defined by CEQA; and

WHEREAS, this decision is based upon the evidence presented at the hearing, and any information the City Council gathered by viewing the site and the area as disclosed at the hearing.

NOW THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the foregoing recitations are true and correct.

2. That the request for a Time Extension of the Development Review Permit, submitted on October 14, 2014, and on file with the Community Development Department, is approved based upon the following Findings, and all terms and conditions of Resolution 2011-142 are in effect along with the Time Extension:

3. FINDINGS

A. In accordance with Section 17.72.110 (Lapse of Approval and Extensions) of the City of Solana Beach Municipal Code, the City Council finds the following:

   I. The Applicant has presented facts which establish that the Applicant has timely and diligently pursued issuance of a building permit during the current extension period;

   II. Circumstances beyond the Applicant's control has intervened and prevented the Applicant from obtaining the issuance of a building permit for the project prior to expiration of the current extension period;

   III. The application for the extension sets forth a reasonable and substantial factual basis for issuance of the second extension;

   IV. There is a substantial factual basis to determine that the Applicant will be able to perform the actions necessary to obtain issuance of a building permit prior to expiration of the requested extension;
V. The duration of the extension requested by the Applicant is not longer than is reasonably necessary to perform the actions necessary to obtain the issuance of a building permit;

VI. There have not been any significant changes in the general plan, applicable specific plan, if any, zoning, or character of the area within which the project is located that would cause the approved project to become inconsistent, incompatible, or nonconforming therewith; and

VII. The granting of an extension shall not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

4. EXPIRATION: The Time Extension for the Development Review Permit will expire on December 14, 2015, unless the Applicant has obtained building permits and has commenced construction prior to that date, and diligently pursues construction to completion.

5. INDEMNIFICATION AGREEMENT: The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney’s fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Applicant of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney’s fees and costs. In the event of a disagreement between the City and Applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant shall not be required to pay or perform any settlement unless such settlement is approved by Applicant.

6. NOTICE TO APPLICANTS: Pursuant to Government Code Section 66020, you are hereby notified that the 90-day period to protest the imposition of the fees, dedications, reservations or other exactions described in this resolution commences on the effective date of this resolution. To protest the imposition of any fee, dedications, reservations or other exactions described in this resolution you must comply with the provisions of Government Code Section 66020. Generally the resolution is effective upon expiration of the tenth day following the date of adoption of this resolution, unless the resolution is appealed or called for review as provided in the Solana Beach Zoning Ordinance.
PASSED AND ADOPTED this 14th day of January, 2015, at a regular meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSTAIN: Councilmembers –
ABSENT: Councilmembers –

______________________________
LESA HEEBNER, Mayor

APPROVED AS TO FORM:

______________________________
JOHANNA N. CANLAS, City Attorney

ATTEST:

______________________________
ANGELA IVEY, City Clerk