



February 7, 2022

Delivered via email

To: Mayor Lesa Heebner
Deputy Mayor Kelly Harless
Councilmembers, Kristi Becker, Jewel Edson, David Zito,
Cc: City Manager Greg Wade
City of Solana Beach

Re: Item B1. Request for a Conditional Use Permit for the Construction of a Bluff Retention Device at 135 S. Sierra Avenue, Solana Beach. Case No: CUP 17-17-27; Applicant: Las Brisas Homeowners Association Resolution 2022-013.

Honorable Mayor, Deputy Mayor and Councilmembers,

The Surfrider Foundation is a nonprofit grassroots organization dedicated to the protection and enjoyment of our world's ocean, waves, and beaches through a powerful network. Thank you for the opportunity to comment on this project. In summary, mitigation fees must be assessed for this proposed mid and upper bluff retention device per the conditions of the permit for the original 2005 seawall at this location. We object to the staff report's recommendation that no sand mitigation or public recreation impact mitigation fees be charged for this proposed project. The staff report correctly sites numerous portions of the city's certified Land Use Plan (LUP) concerning mitigation fees:

Policy 4.39: Provide for reasonable and feasible mitigation for the impacts of all bluff retention devices which consists of the payment of Sand Mitigation Fees and Public Recreation Fees to the City or other assessing agency.

*Policy 4.49: Coastal structures shall be approved by the City only if all the following applicable findings can be made and the stated criteria satisfied...
(c) Mitigation for the impacts to shoreline and sand supply, public access and recreation and any other relevant coastal resource impacted by the coastal structure is required and shall be assessed in 20-year increments, starting with the building permit completion certification date.*

Policy 4.50: The bluff property owner shall pay for the cost of the coastal structure or Infill and pay a Sand Mitigation Fee and a Public Recreation Fee per LUP Policy 4.39

Despite these policies, the staff report incorrectly states that no mitigation fees are required:

“As a condition of their 2005 Coastal Development Permit (CDP) to construct the existing seawall below the Las Brisas Condominiums, the Applicant was required to pay a fee of \$309,000 for, “the loss of sandy beach area and thus the loss of public recreational impacts” as well as “\$22,977.36 for the loss of sand.” The proposed lateral return wall would be constructed to retain the beach sands behind the existing seawall for which mitigation fees were already paid, therefore, no additional mitigation fees are required with this permit.” (page 9 of 11 of staff report)

Given that the staff report discusses one condition of Coastal Development Permit (CDP) 6-05-72¹, it is surprising that the staff report then ignores the specifics of Special Condition 2 of this permit which was granted in 2005 to construct the original seawall:

*“Mitigation for Impacts to Public Recreational Use and Sand Supply...The required in-lieu fee mitigation covers impacts only through the identified 22-year design life of the seawall. No later than 21 years after the issuance of this permit, the permittees or their successor in interest shall apply for and obtain an amendment to this permit that either requires the removal of the seawall within its initial design life or requires mitigation for the effects of the seawall on shoreline sand supply, and thus public recreational use, for the expected life of the seawall beyond the initial 22 year design life. **If within the initial design life of the seawall the permittees or their successor in interest obtain a coastal development permit or an amendment to this permit to enlarge or reconstruct the seawall or perform repair work that extends the expected life of the seawall, the permittee shall provide mitigation for the effects of the additional size of the seawall or the extended effects of the existing seawall on shoreline sand supply and public recreational use for the expected life of the seawall beyond the initial 22 year design life.**” (emphasis added)*

The TerraCosta geotechnical report submitted by the applicants states that this new bluff retention device is required to protect the 2005 seawall:

“...it is our recommendation that Las Brisas initiate the required permitting

¹ <https://documents.coastal.ca.gov/reports/2005/10/W8e-10-2005.pdf>

*actions to construct a caisson/grade beam/tieback lateral wall that would extend from the southern terminus of the existing permitted seawall to the top-of-bluff. The engineering design we are submitting for your review would be sufficient to return a minimum 1.5 factor of safety to the threatened public access areas and to the existing residential structure on the Las Brisas property. **Further, it will protect the existing, permitted lower coastal bluff seawall from being flanked** and will prevent further loss of the mid to upper coastal bluff at Las Brisas.” (page 2, TerraCosta Coastal Bluff Evaluation/Project Recommendations, page 101 of agenda packet, emphasis added)*

Special condition 2 of the 2005 CDP should therefore be enforced here: the 2005 seawall is essentially being enlarged and its expected life is being extended by the proposed protection device. We respectfully request that per the 2005 CPD 6-05-72, new mitigation fees be calculated and collected as a condition of granting this new permit.

Sincerely,

Kristin Brinner & Jim Jaffee
Residents of Solana Beach
Co-Leads of the Beach Preservation Committee
San Diego County Chapter, Surfrider Foundation