



October 10, 2022

Delivered via email

To: Greg Wade, City Manager, City of Solana Beach

Re: Item B3, DRP22-022, Seascape Condos, 675 S Sierra Ave

Dear Mr. Wade,

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 mid-bluff development project. We object to this permit application for the following reasons:

- No permits or other evidence have been submitted to demonstrate that this private staircase or landing should be considered 'legal nonconforming'.
- Photographic evidence shows that the private staircase in its current form did not exist before 1977 so cannot be considered 'existing'.
- Structures such as this are not permissible under the provisions of the California Coastal Act, the City's current coastal bluff protection regulations outlined in the Solana Beach Municipal Code (SBMC) Chapter 17.62, or the City's certified Local Coastal Program (LCP) Land Use Plan (LUP).
- Per the city's LCP policy 2.60, private beach stairways shall be phased out at the end of the economic life of the stairways.
- If the city feels compelled to approve such development at this site, they must require the stairs and landing be converted to public use per the city's LUP policy 2.60.5.

We object to the conclusion made in the staff report that this mid-bluff landing should be considered 'existing legal nonconforming':

The mid-bluff overlook is supported by a 25-foot-long timber pole wall with five horizontal walers that are restrained by a total of 16 steel "deadman" anchors embedded into the bluff. The 50-year-old wall is currently leaning and rotating on its timber supports due to the failure of the deadman anchors.

A new Bluff Retention Device (BRD) similar to the existing timber wall would

not be permissible under the provisions of the California Coastal Act, the City's current coastal bluff protection regulations outlined in the Solana Beach Municipal Code (SBMC) Chapter 17.62, or the City's certified Local Coastal Program (LCP) Land Use Plan (LUP) as BRD's are not intended to protect private accessory structures such as the overlook. Therefore, the private overlook is considered existing legal nonconforming. (page 2)

No permit history of this private staircase or mid-bluff landing is included in the staff report. Until this permit history is provided, there is no basis to conclude that this should be considered a 'legal' development. Without documentation to demonstrate this staircase and landing were legally permitted, no finding can be made to support this project. New and reconstructed mid-bluff shoreline defense structures that would protect private accessory structures are prohibited under current coastal bluff regulations.

There is significant evidence that the private stairway as it exists along with the seawall used to protect the private stairway and deck were constructed after 1977. The image below from the California Coastal Records Project¹ was taken in 1979 and shows no lower seawall and the stairway in a vastly different configuration.



Coastal Records Project - 1979 (Seascape outlined in red)

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<https://www.californiacoastline.org/cgi-bin/image.cgi?image=7955027&mode=big&lastmode=sequential&flags=0&year=1979>

Zooming in to the location of the project, it is clear that in 1979 the stairway and bluff were in a completely different state.



Detail of 1979 shoreline image - stairs outlined in red

Compare the picture above from 1979 with the picture below from the staff report page 2. Clearly the stairway and landing from 1979 are not the same as those that exist today. Therefore, the stairway and lower seawall are not existing development as of 1977 so cannot be considered existing legal nonconforming structures.



Current image of staircase and landing from staff report

This is the sad legacy of bad development practices in the city's history. We recognize that most of the current residents of Seascape were probably not involved in potentially unpermitted or illegal activities that previously took place, but at some point we need to confront this history and right the wrongs of the past.

Beyond failing to demonstrate that this landing is legally permitted, the lack of any permit history of this staircase and landing also makes it impossible to determine how much cumulative work has been done on this structure over time. The City's LUP states the following:

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.

Policy 4.30: Limit buildings and structures on the sloped face and toe of the bluff to lifeguard towers, subsurface public utility drainage pipes or lines, bluff retention devices, public stairs and related public infrastructure which satisfy

the criteria established in the LCP. No other permanent structures shall be permitted on a bluff face. Such structures shall be maintained so that they do not contribute to further erosion of the bluff face and are to be visually compatible with the surrounding area to the maximum extent feasible.

While the applicant does calculate what percentage change this current project would cause, without a full permit history, it is not possible to determine what cumulative percentage change has occurred over time. The city's LCP policies state that private staircases should be phased out, and that structures on the sloped face of the bluff should be limited. Currently no finding can be made that this project would not result in less than 50% replacement of the structure so no permits should be granted until this determination can be made.

In addition, the stairway is clearly protected by the lower seawall. The lower seawall was built after 1979. Per the Coastal Act, new development should not rely on a seawall.

If the city feels compelled to approve such development at this site, they must require the stairs and landing be converted to public use per the city's Land Use Plan:

Policy 2.60.5: Upon application for a coastal development permit for the replacement of a private beach stairway or replacement of greater than 50% thereof, private beach accessways shall be converted to public accessways where feasible and where public access can reasonably be provided...

We understand the potential loss of a private beach access is upsetting to those who consider it an important part of their condo community. However, as the beaches in California are public, we should take every opportunity to equitably provide access to this important public recreational activity. It is for this reason that we push for the removal of private stairs, or their conversion for public access. We are not trying to take access away from anyone but are trying to provide equitable access to everyone.

In summary, the lack of permit history information makes it impossible for the city to make the necessary findings that the structure is 'existing legal non-conforming' or that there will be less than 50% cumulative replacement of the structure over time. The city should not grant any permits for this project until the necessary information has been provided, or require the conversion of the private staircase for public use if it cannot be demonstrated that the stairs are 'existing legal non-conforming'.

Sincerely,

Kristin Brinner & Jim Jaffee

Residents of Solana Beach
Co-Leads of the Beach Preservation Committee
San Diego County Chapter, Surfrider Foundation

Mitch Silverstein
Policy Manager
San Diego County Chapter, Surfrider Foundation