

The Beach & Bluff Conservancy (BBC)

Solana Beach, California

Mr. Thomas Campbell, Mayor
Ms. Marcia Smerican, Deputy Mayor
Mr. Thomas Golich, Councilmember
Mr. Joe Kellejian, Councilmember
Mr. Douglas Sheres, Councilmember
Mr. Steve Apple, Planning Director
cc. Members of the BBC

Tuesday, July 31, 2001

Subject: BBC Input Regarding the Draft Local Coastal Program (LCP) and the Coastal Commissions' Recommendations in re. the LCP Dated July 25, 2001

Dear Members of the City Council & Staff:

Thank you very much for Steve Apple's "Notice of Public Meeting on the Draft Local Coastal Program" and upcoming meeting to discuss the Coastal Commission's recommendations in re. the LCP on September 11, 2001. Please note that the content of this letter is in three distinct parts. Part One deals with the creation, goals and vision of the Beach & Bluff Conservancy and our recommendations to the City. Part Two deals with the recommendations issued by the Coastal Commission. And, finally, Part Three summarizes our position, rationale and message to the City including an insight into the horrible outcome, to which, planned bluff retreat will doom us.

Part One

The Beach & Bluff Conservancy:

As some of you already know, we are in the process of creating an organization of voting, property owners here in Solana Beach. The name of our organization is the Beach & Bluff Conservancy (BBC), and is currently supported by approximately 2,000 residents. We are in the process of incorporating as a non-profit organization and expect to grow our number to 3,000 in the near future. There appears to be a lot of enthusiasm from our community for our new group as a lot of people feel they have not been represented. It is our intention to form an organization that will represent the voting interests of a significant number of these residents and put forward our positions regarding the beach and bluff issues. Our mission statement is:

Our mission is to restore, rebuild, maintain and preserve the safety, beauty, joy and access of our beaches and bluffs for the benefit of everyone.

First of all, I would like to say that it is our perception that the city council has been generally reasonable, rational and sensible in the formation of policies pertaining to the beaches and bluffs, specifically sea walls, emergency permits and representation of our interests to the Coastal

Commission. For that, we thank you. Also, we would like to articulate that it is our sincere intention to work with the city council and become an asset to the city, so that we can work harmoniously and productively within our community, together as partners.

We are concerned, however, that the interests of our voting membership have not been effectively represented to city council. Therefore, it is our intention to provide that representation for our members and use our votes to support and/or elect city council members who appropriately represent those interests. For example, it is our impression, that the agendas of small groups like “Calbeach Advocates” have received undue consideration from the city council. It is of serious concern to us that a group of essentially three people can have such negative impact on the policy formation process in Solana Beach, not to mention the Coastal Commission, especially when their arguments are not founded on facts. It seems to us that the voting interests of two to three thousand residents would carry more weight with the city council than the voices of three.

The BBC’s Strategic Vision:

We believe that the only way to create a successful, long term, winning outcome for our beaches and bluffs is to have a clear vision of what that means. We must have great clarity as to our goals in order to reach them. It is our intention to create a beach and bluff environment in Solana Beach, that assures safety, expanded beaches and beach access, protection for the sand on the beaches and protection for the bluffs and the people who use the beaches. We believe this will result in a healthy, growing and successful community and local economy. We envision wide and expansive safe beaches with some of the best surfing and skin diving in the county, which will make Solana Beach the true gem of San Diego County beaches.

We believe that the City of Solana Beach should develop, embrace and facilitate the funding of the restoration, rebuilding and protection of our bluffs and beaches. We feel that the city should establish this long term goal and use all of the advanced technologies available to us from across the world. The idea is to protect the entire Solana Beach beach and bluff system and maintain its beauty before it becomes the tragic mess we see in Encinitas. We feel that the city should participate in the raising of funding at the state and federal levels to achieve this goal. We expect to support the City in these efforts.

We recommend the use of the following means to create this vision:

1) Build an artificial reef off of Solana Beach to protect the beaches and bluffs:

While we are all thankful that the city and other groups have gotten SANDAG to replenish some sand to our beaches this summer, we all know that this is only treating a symptom and not addressing the root cause. *We believe that one of the most effective things to do is to build an artificial reef offshore to protect the beaches and bluffs from the pounding waves. This would have many positive and immediate benefits.*

First of all, it would immediately reduce the ocean forces working to destroy our bluffs. This would slow the need for seawalls and protect the property of homeowners on the bluff. Contrary to popular opinion in the press, we believe that the city has a fiduciary responsibility

to protect the rights of property owners on the bluffs. We believe that these rights include state & federal constitutional rights, as well as, specific protection provided by the Coastal Act.

An artificial reef would help reduce the littoral cell action and the impact of severe storms, which notoriously remove sand from our beaches. This would mean that actions like SANDAG's sand replenishment would have a better chance of staying on our beaches for the benefit and access of everyone in our community and for our tourist industry. With broader and more expansive sand beaches, the community would enjoy increased beach access and would help promote tourism, which is an important aspect of our local economy.

An artificial reef system would also provide for safer beaches by slowing the erosion process of the bluff. I doubt that any of us will forget the poor young woman who was crushed to death by a collapsing bluff in Encinitas. That is a most unfortunate event that none of us wants to see happen in Solana Beach. But it will happen here and soon, unless we take preventative action. Frankly, I am surprised that that family never sued the City of Encinitas for negligence regarding that death. I think there is a case. It will happen here in Solana Beach. Will the City of Solana Beach be found negligent when it happens here? Aren't we all fully aware of the eminent danger? Where is the moral imperative?

Finally, the artificial reef will actually create better surfing and scuba/skin diving. I am personally both a surfer and a scuba diver. I have visited many resorts where various types of artificial reefs have been purposely erected to enhance the habitats of local fish to create a coral reef like environment for exciting viewing for scuba/skin diving. This reef will help enhance the scuba/skin diving at Solana Beach. An artificial reef, just like the natural reef off Tide Water Park, will also increase the wave quality along the entire Solana Beach line. This should please the surfers, as they will have a much broader range of and a much better quality and size of waves due to the existence of a long artificial reef... This too will contribute to the local economy.

2) Uniform, safe & aesthetically pleasing seawalls for all Solana Beach bluffs:

We believe that the bluffs of Solana Beach need to be saved before they collapse into the mess we see in Encinitas or worse. We contend that the City of Solana Beach should support and facilitate the building of safe, aesthetically pleasing, natural looking seawalls along the entire beach where bluffs exist today. The bluffs are beautiful and we want to keep them that way. We also have a moral responsibility to protect beach goers from the obvious dangers of collapsing bluffs. And, finally, the City has a fiduciary responsibility to protect the property rights of homeowners.

There are many misconceptions regarding seawalls and a lot of disinformation being purposely spread by groups like the CalBeach Advocates. We at the BBC are very frustrated by the way these interest groups abandon facts and tell untruths regarding seawalls and their effects on beaches. It is so pervasive that we have actually been shocked to hear the Coastal Commission actually quote these CalBeach Advocates myths, assuming the validity without a shred of evidence or effort to verify the real facts. Our disappointing perception of the Coastal Commission's actions and behaviors is a topic we will discuss later in this document.

Regarding seawalls, we have interviewed a number of expert witnesses at institutions including our own Scripps Institution of Oceanography and the University of California, Berkeley that have a lot of hard evidence that *seawalls do not cause beach erosion nor do they contribute to the disappearance of sand off our beaches*. The idea that seawalls accelerate sand erosion is a vicious and self serving myth. These scientists and experts all tell us that the hard factual evidence says that the coming and going of sand on our beaches is directly related to the storms and littoral cell action of the ocean and that the long term studies of beaches like Torrey Pines, La Jolla at Scripps Institution of Oceanography and Mission Beach, where seawalls have existed for 25 to 50 years, prove that the sand activity is completely independent of the fact a seawall exists.

While we are not including any scientific papers or expert testimonies from these local and statewide scientists in this letter, we are prepared to provide that information to the City of Solana Beach to aid in the clarification of facts and the evidence resulting from real scientific study.

Clearly, many of the homes in Solana Beach located on the bluffs are in immediate danger or soon will be. And historically, a number of homeowners have erected permitted seawalls so that it is not possible to design one consistent and uniform seawall system. Therefore, when we suggest a uniform and consistent aesthetically pleasing and natural looking seawall be built, this would be for bluffs that have not already been armored or seawalls which may be in need of repair. The intent would be to make the seawalls look as natural as possible for as much of the bluff area as possible and blend them in with other seawalls. We feel that new technology can make seawalls look almost as attractive as natural bluffs. (We agree that a lot of older seawalls are not natural looking and we would suggest avoiding these older types of seawalls.)

However, it is encouraging that the seawalls which are currently being built, are becoming more and more aesthetically pleasing and less intrusive to the natural look of the bluffs. It is absurd to think that the homeowners have any less interest in the natural beauty of the bluffs and beaches than the Coastal Commission or CalBeach Advocates. That's why we made our homes there and invested our life savings there. I can assure you that no one appreciates or reveres the beauty of our beaches and bluffs more than the homeowners. That's why we want to see natural looking and safe seawalls built along all of Solana Beaches bluffs. We want to protect the beauty and safety!

3) Use Advanced Technological Developments:

While we are proposing the immediate building of an artificial reef and seawalls for the entire Solana Beach beach & bluff system, we understand that there are many other effective processes including groins, jetties, rock formations and other armoring systems being used around the world today. For example, for some new seawalls in Solana Beach there is a new process which impregnates the sand layer and avoids a heavy armoring of that part of the bluff which is much less intrusive and more natural looking than previous seawalls. We suggest that together we research and update ourselves on new technologies that would help us effectively

achieve our goals and create our vision of beautiful, safe, wide expansive beaches and safe bluffs.

4) Funding and Financing:

Clearly, funding of these projects is challenging if not daunting. We are not so naive as to think that the City of Solana Beach has the funds or means to pay for these projects. However, as Mayor Campbell has eloquently pointed out on several occasions, it is not just the residents of Solana Beach who use and benefit from our beach. The beaches are the playgrounds of all of the cities in San Diego County, as well as, many from Los Angeles and Orange Counties. It is also the vacation destination for a lot of tourists, especially from Arizona. Therefore, the City of Solana Beach must first set the intention to accomplish this vision and then work to create the process in which we can get funding from the appropriate governmental and/or philanthropic bodies. Frankly, tourism in California is big business. We must find a way to connect these interest and resources for the highest good of all concerned. We can only accomplish this with the right and clear vision. Let us come together and create it.

5) The Short Term Plan:

In the mean time, we continue to have severe bluff failures on the bluff top properties. *We believe that the city should actively continue to approve and expedite permits for seawalls and armoring.* We must protect our bluffs, we must protect property rights and we must maintain the safety of beach goers using the beaches until a uniform long term solution is achieved.

In addition to fast and effective approvals of seawalls for emergency situations, *we believe that the City should expand the use of seawalls, as a preventative measure, earlier in the process.* Right now seawalls are only permitted in emergency situations. This, by definition, means that properties which have a reasonable amount of bluff between their buildings and the bluff are denied seawall permits. This assures the collapse and loss of this valuable asset, until it becomes an emergency situation. This is insane. We believe that this is counterproductive and contrary to our vision of protecting and rebuilding our bluffs and beaches. We believe that all of the bluffs, even those that are not “defined” as an “emergency threat to properties”, should be saved and immediately use seawalls and/or protective devices to save them. After all, the land is property just as much as the buildings. We must take immediate and preventative measures.

We feel the Coastal Commission’s definition of emergency is absurd. The Coastal Act says we have the right to protect our properties. The Coastal Commission’s definition of property is apparently only structures. We believe that all of the land making up the bluff is “ real property” also, and should come under the emergency definition of property loss. Apparently, the Coastal Commission not only independently legislates (which is illegal) but they also invent legal concepts.

Ironically, seawalls are some of the safer places on the beach. The current state of the bluffs is one of eminent danger. Significant incidents are increasing at a worrisome rate. Someone is

going to die sitting under a non sea walled section of bluff here in Solana Beach, it is just a matter of time... If fact, we feel that sitting under a seawall is safer than sitting under the areas which are not walled.

6) We feel that the City should work hard to immediately eliminate sand mitigation fees and actively lobby the Coastal Commission to do the same. We also want the City to dramatically reduce all fees related to the permitting, construction and beach access for building seawalls.

According to the Coastal Commission, sand mitigation fees are designed to get homeowners to pay for lost sand replenishment (from the bluff) when they install seawalls. They go on to tell us that these fees will be used to replenish sand on the beach. This is also insane and not based in fact.

We have numerous expert witnesses, scientists and studies that prove that this is not true. The long term studies and facts prove that seawalls *do not* accelerate or contribute to sand erosion on the beaches. They prove that sand erosion is caused by other factors, not seawalls. They also prove that bluffs failures account for less than 2 to 3% of the sand on the beaches in North County. The studies indicate that the littoral cell action and severe storms govern the ebb and flow of sand on the beaches. So, where is the logic of sand mitigation fees? Why do the people who are trying to save the beaches using their personal funds to build seawalls receive a penalty for something that isn't occurring in the first place? On top of it, when SANDAG did decide to bring sand to our beaches, the beaches in front of the homes for the people who have recently paid between \$200,000 and \$300,000 in sand mitigation fees did not get any of the sand at their locations. (Although we understand Joe Kellejian & SANDAG are working to change this condition in part by eventually trucking sand stock piled in Fletcher Cove to Tide Park on a road constructed of sand in front of the homes between the two beaches.) Sand mitigation fees are a rip off, clear and simple, and this appears to be consistent with the Coastal Commission's agenda to illegally enact the CalBeach Advocate's planned retreat agenda. Sand mitigation fees penalize property owners for constructively protecting the bluff. This must be stopped.

The Coastal Commission has said to me personally, at a Coastal Commission meeting here in San Diego, that seawalls cause sand erosion and bluff failures, that there is no positive effect of seawalls and that the Commission certainly does not appreciate the investment homeowners make to build seawalls to protect their properties. This was said to me by the commissioner in response to my commenting that I feel that my paying for and building of a seawall to protect the bluff in front of my home is actually a positive contribution for Solana Beach and the people using the beach, in terms of safety and protection of a valuable community asset. We believe this is a horrible position for the Coastal Commission to take and it illustrates their disregard for the public interest and property rights, and illustrates their failure to research the real facts. *We believe the City should dramatically reduce all fees related to the permitting, construction and beach access for building seawalls because seawalls are a positive contribution to protecting the public interest.*

7) Immediate Full Time Access to Beaches for the Construction of Seawalls:

We believe that the City must start actively supporting the protection of our bluffs and the building of seawalls as described above. ***To this end, we believe that the City must open up beach access for the immediate full time building of seawalls. This means ending the ban on access to the beaches for building seawalls in these summer months.*** The bluff failures do not take a vacation during the summer months. Certainly, the summer months are when people want beach access the most, but safe beach access is exactly the point. We must save our bluffs and protect beach goers from the danger of collapsing bluffs. If we want long term safety and beach access we must act immediately, not wait for the Fall (no pun intended). The City must act on this. Yes, construction on the beach in summer months is an issue, but the City must cooperate with the property owners building seawalls during the summer so that we can save the bluffs for the long term. Perhaps small sections of beach can be closed for safety reasons. This is imperative and necessary because we want to save the beaches and bluffs for the long term. A short term, small section of beach closure, is not too much to pay if it contributes to the ultimate goal of safe beaches and bluffs.

Part Two

In Re. The Coastal Commission's "Draconian" Recommendations, Dated July 25, 2001:

Well, I have to tell you, the Coastal Commission never ceases to amaze and disappoint me. I have never personally been exposed to such an unprofessional, self serving and ill informed agency in all my life. And the biggest shock is that literally every Californian I meet feels exactly the same way. It is hard to imagine an agency that has such disregard for the rights and values of the general public. The commissioner herself said that they are a "schizophrenic" organization and I for one agree with her. It is time we spoke up and demanded that this agency be required to make policy based upon the truth by researching real facts. It is time for us to go to our representatives and demand fairness for the real public interest. Where are our representatives? Why aren't they protecting our rights? ***We feel it is incumbent upon the city of Solana Beach to resist and refuse these Coastal Commission recommendations. We feel that the city must work to get the Coastal Commission to start acting rationally and in a way that is representative of the public interest.***

There is literally nothing in the Coastal Commission's letter dated July 25, 2001 to Steve Apple that has any merit. In fact we see it as an insidious attempt to enact (i.e. illegally legislate) the CalBeach Advocate's planned retreat agenda. We at the BBC are unequivocally and adamantly opposed to 1) planned or managed retreat, 2) the creation of an officially designed hazard overlay zone, and 3) the waiver of any rights to build seawalls. This is the voice of between 2,000 and 3,000 voting residents versus the voice of three.

Planned Bluff Retreat is an insane and self serving idea. There is absolutely nothing that makes any sense in this irresponsible concept. Think about it. Planned retreat means letting Solana Beach's bluffs collapse into the ocean taking homes, lives and infrastructures with it.

This means 50 to 75 years of no beach access and truly dangerous bluffs. This means hundreds of millions in property and infrastructure loss. This means 50 to 75 years of the biggest mess you can imagine, a mess that will make Encinitas's bluffs look like a thing of beauty. It will also send the local economy into a downward tailspin!

Frankly, if I did not know better, I would say that Scott Williams of CalBeach Advocates wrote the Coastal Commission letter. Clearly, they used his words and concepts verbatim. You know in your heart this is true. CalBeach has done an excellent job at getting the Coastal Commission to mimic the voices of three people. Shame on us. I guess Scott Williams intends to soon have a home on the bluff when the homes across the street collapse with planned retreat. Does he suggest planned retreat stop at his house?

Planned retreat is literally the process of giving up under the guise of attaining natural beauty. Planned retreat is a lie. There is no beauty in the process of losing the bluffs or collapsing infrastructures. Our goal is to rebuild the beaches and bluffs and with our modern technology and resources, it is something we can and must do. We don't have to lose the beauty we have. We don't have give up homes. And, we don't have to let the few violate our most basic rights. I say we embrace our creative abilities and protect and preserve what we have. Planned retreat will make Solana Beach the worst tourist spot in California which will have a devastating impact on the local economy and make us the laughing stock of Southern California. Is that what we want?

We have a creative choice, let's make it. Rebuilding and reinforcing our beaches and bluffs is not out of the question. If we set our minds to it, we will accomplish it. I vote for creation.

The City of Solana Beach's Behavior:

We believe that the City of Solana Beach City Council and Staff have proved that they act responsibly and interact and communicate in a proactive way with the Coastal Commission. We feel that the City has always taken an enlightened and reasonable position on these issues. We resent the Draconian mandate that the Coastal Commission is unilaterally directing towards our community and pledge to fight this with every legal tool available. We are very serious about this.

Rebuttal to the Coastal Commissions' Recommendations by Point: *(Coastal Commission points in italics...)*

1) The city should consider establishing the bluff and shoreline area as a hazard overlay zone, etc...

The City should not even begin to consider the creation of a hazard overlay zone. This is merely a ploy to implement the CalBeach planned retreat policy and will directly devalue and hurt not only the property owners but the City in general. Clearly, the creation of this zone will precipitate the immediate crash of property values in the effected zone, which will force us into planned retreat. This is in direct violation of the Coastal Act entitling homeowners to protect their property rights and is blatantly unconstitutional. The property owners on the bluffs have

invested their life savings in their homes. When they made those investments they believed in and relied upon the basics rights of individuals to own property and make sound investments, literally, the “American Way”. The creation of the hazard overlay zone will immediately and directly destroy those rights and values.

Again, think about it for a moment. Many of the people who live on the bluffs purchased their homes years ago. Many risked their life savings to live there because they so deeply loved the beach and bluffs of Solana Beach. Now, because of the collapse of the bluffs, they are being forced to leave their homes because they can’t afford to pay for the seawalls necessary to protect their dreams. And now the Coastal Commission wants to make dead sure that we all lose everything. This is a sad state of affairs. I find it embarrassing that our government has allowed this to happen. Uniform seawalls and an artificial reef system would protect all of these properties and the community.

By the way, how does the City feel about losing the property taxes on these homes? How does the City plan to pay for all of the infrastructure failure that will result from planned retreat? Will the Coastal Commission help us pay for that? How many tourists will visit our beaches when they are closed for planned collapse and long term destruction? Do we want to send our economy into a downward tail spin? Is this any way to treat our voting citizens? Should the irrational concepts of three radicals destroy our hopes and dreams? I assure you we take this all very seriously. That’s why we are organizing...

2) The LUP should contain specific policies which address existing nonconforming structures and, specifically, the extent of redevelopment that can occur which increases the value and economic life of an existing structure in a nonconforming location, i.e. with insufficient geological setback. Etc...

Most of the homes on the bluffs were built long ago and conformed to all of the rules and regulations required at that time. The people who built them relied on the information and permit processes of local and state government agencies and geologists to make investments in properties which literally made up their dreams. They followed all the rules and invested their life savings. It is a basic constitutional right to own property in the United States. The only exception is eminent domain and that concept does not apply here. That is why we call it a democracy and capitalism and not communism or socialism. Property rights are also protected in the Coastal Act that theoretically governs the behavior of the Coastal Commission. But this section 2 of the Coastal Commission recommendations directly attacks those rights and works to destroy them.

When an individual purchases property in the United States, he or she is constitutionally assured that they have the right to own a property and benefit from that investment. It is not limited to some short term arbitrary whim of some governmental agency nor does it have a time limit. This means that a key aspect of property rights is the ability to renovate and update a property for the express purpose of increasing its value, enjoyment and economic life. In the United States, it is constitutionally reasonable for a property owner to rely upon this concept as an important part of their property rights. The Coastal Commission’s recommendation point 2

is a direct violation of that right and works to take that inherent right away from the property owner.

As for nonconforming development, we agree that the only nonconforming aspects of a property which should be allowed are those that existed and were legally permitted at the time of their construction. But these should never be taken away. We do also agree that completely new structures should be fully conforming, but for properties that now fall into the nonconforming category, but were legally conforming at the time of their construction, the requirement of conformity should be permanently waived. These properties should enjoy the concept of “grand fathering”, in that since the properties were built with full conformity, property owners should maintain the full rights to renovate those properties for the increased value, enjoyment and extension of economic life. Any limitation to this would expressly violate their basic property rights. As we point out above, when we save the beach and bluffs with an artificial reef and a uniform seawall system these issues will become moot. Again our basic philosophy is one of creation and protection versus planned destruction.

3) Policy guidance should assure new development will not need shoreline protection of its economic life. Etc...

We strongly and directly disagree that new structures should be guided not to need shore line protection as it is the very essence of our position that all shorelines do, by definition, need shoreline protection because this is the intelligent and right thing to do. That’s our point. We need to save all of the bluffs and beaches with seawalls and artificial reefs which automatically protects all structures new and old. We do agree, however, that all new structures should indeed conform to all City setbacks and requirements provided those regulations protect the basic property rights discussed herein.

4) Policies should acknowledge that the presence of permitted shoreline protective devices indicate an unstable and hazardous condition which should be taken into consideration in any proposal for new development or redevelopment of the subject property. Etc...

Again we agree that new structures should conform to new regulations provided they do not interfere with the basic property rights. Again we disagree that redevelopment of existing properties should require new conformance. And again, it is the very essence of our position that all shorelines do, by definition, need shoreline protection because this is the intelligent and right thing to do. We strongly defend the right of existing property owners to renovate and extend the economic life of their properties with the grand fathered rights defined above. The purpose of uniform seawalls and artificial reefs is to permanently protect the beaches and bluffs by stabilizing the bluffs and reduce the negative impact of the ocean on the bluffs. The direct result will be large and expansive sand beaches that dramatically extend the life of the bluffs with aesthetically pleasing seawalls. The Coastal Commission does not have this creation perspective and therefore has only recommended these short sighted and myopic concepts.

5) The LUP policies should provide that approval of new development on a bluff top parcel shall include as a condition of approval, a waiver of any right to future shoreline protection, as the new development should be designed to not require such protection.

Again, we adamantly oppose that the approval of new development on a bluff parcel shall include as a condition of approval, a waiver of any right to future shoreline protection, as the new development should be designed to not require such protection. We must never allow the Coastal Commission, or any other group, to take away our rights to shoreline protection. We are by definition arguing that all bluff top properties benefit from the intelligent use of uniform seawalls and artificial reefs that permanently protect these and other properties... This again is a taking away of basic property rights which is both unconstitutional and a direct violation of the Coastal Act. Again this speaks to the Coastal Commission's attempt to illegally enact the Cal Beach Advocate's agenda of planned bluff retreat.

6) There should be specific policies which address accessory structures that do not conform to geologic stability standards, and require such structures be brought into conformance with the standards of the certified LCP when any redevelopment or shoreline protection is approved.

Again, we adamantly oppose that there should be specific policies which address accessory structures that do not conform to geologic stability standards, and require such structures be brought into conformance with the standards of the certified LCP when any redevelopment or shoreline protection is approved. As for nonconforming development, we agree that the only nonconforming aspects of a property which should be allowed are those that existed and were legally permitted at the time of their construction. But these should never be taken away. We do also agree that completely new structures should be fully conforming, but for properties that now fall into the nonconforming category, but were legally conforming at the time of their construction, the requirement of conformity should be permanently waived. These properties should enjoy the concept of "grand fathering", in that since the properties were built with full conformity, property owners should maintain the full rights to renovate those properties for the increased value, enjoyment and extension of economic life. Any limitation to this would expressly violate their basic rights. As we point out above, when we save the beach and bluffs with an artificial reef and uniform seawalls these issues will become moot. Again our basic philosophy is one of creation and protection versus planned destruction.

We are by definition arguing that all bluff top properties benefit from the intelligent use of uniform seawalls and artificial reefs that permanently protect these and other properties... This again is a taking away of basic property rights which is both unconstitutional and a direct violation of the Coastal Act. Again this speaks to the Coastal Commission's attempt to illegally enact the Cal Beach Advocates agenda of planned bluff retreat.

7) The policies should encourage the relocation of threatened structures, rather than constructing shoreline protective devices, by waiving permit filing fees for applications to relocate structures.

We adamantly oppose the implication that structures should be encouraged to relocate as this is not the business of the Coastal Commission or the City. Several of the homeowners in the past

two years have already had to pay for ridiculous studies proving that moving their structures was not feasible. We live in a free market society and the Coastal Commission should not presume to usurp or mandate our natural markets and basic economic rights. This smacks of a police state is not consistent with our constitutional rights. However, we are not opposed to waiving permit filing fees for applications to relocate structures.

8) The City should consider a policy which prohibits upper bluff retaining walls which alter natural landforms and contribute to geologic instability on the public bluffs.

We strongly believe that the City should **not** consider a policy which prohibits upper bluff retaining walls which alter natural landforms and contribute to geologic instability on the public bluffs. We are by definition arguing that all bluff top properties benefit from the intelligent use of uniform seawalls and artificial reefs that permanently protect these and other properties... This again is a taking away of basic property rights which is both unconstitutional and a direct violation of the Coastal Act. Again this speaks to the Coastal Commission's attempt to illegally enact the Cal Beach Advocate's agenda of planned bluff retreat. It would also keep the bluffs in a much more dangerous condition in terms of public safety.

9) The LUP could contain policies that encourage voluntary consolidation or purchase of property, or development of a transfer of development credit program as a means to reduce the development potential of the City's bluff top property and, thus, the potential for additional shoreline protection measures.

Planned retreat is an insidious plan to destroy the property values on the bluffs that will have a devastating long term negative impact on the valuation of all properties in the vicinity and will have a long term negative impact on the community of Solana Beach and its local economy. The basic premise of all of the recommendations in this ill conceived letter is the irresponsible destruction and devaluation of properties and the community. Everything about these recommendations points back directly to the planned retreat agenda of the CalBeach Advocates and we consider the Coastal Commission's blind acceptance of this insane concept to be illegal, uniformed, not representative of the public interest and intentionally biased. Of course we do not agree with recommendation 9, along with all of the other recommendations that we strongly believe that the City of Solana Beach should steadfastly refuse to consider or incorporate into our LCP.

Part Three

Summary:

What Does Planned Bluff Retreat Really Mean?

Planned bluff retreat is an insidious plan that will literally destroy our community. If the CalBeach Advocates and the Coastal Commission have their way, we will be forced to let our bluffs, properties and dreams of a healthy community literally fall into the ocean. If we take a moment to walk through the logical progressions of this insane plan we will see a steep and downward spiral of devastating proportions and a horrific outcome.

Planned bluff retreat has three major concepts that are manifested in the Coastal Commission's recommendations letter. They are 1) planned bluff retreat, 2) the creation of an officially designed hazard overlay zone, and 3) the waiver of any rights to build seawalls. These three concepts are actually aspects of the same idea.

The first thing that will happen is the Coastal Commission will outlaw seawalls, the process of bluff failures will progress unchecked and these failures will accelerate because the bluff failures by definition spread and create other bluff failures in a chain reaction. This will mean that the danger of bluff failures to beach goers and homeowners will increase dramatically.

The Coastal Commission will force us to declare the bluff tops an "officially designed hazard overlay zone" which will immediately not only destroy property values of bluff top properties but will also devastate the property values of the homes in the immediate and surrounding neighborhoods (all homes and condos west of Hwy 101). The devaluation of home values will affect literally thousands of homeowners in Solana Beach. Think about it, who wants to buy a home where the seaward properties are falling into the ocean and creating a horrible eye sore of abandoned and falling down structures dominating the whole west side of the neighborhood? (Not to mention all the noisy and dirty construction traffic charging through our quiet streets hauling off the debris of condemned homes.) It will make Encinitas' bluffs look like a Rembrandt. Remember, real estate values are based on "location, location, location..." and planned bluff retreat's intention is to destroy the most valuable aspect of our neighborhood. Remember we are a "beach" community. So, if you live near the beach in Solana Beach, (anywhere West of Hwy 101), most of you will be kissing the equity in your homes goodbye and many will lose hundreds of thousands of dollars and some millions when their properties become completely worthless.

Then people will die. Just like the woman who was killed last year in Encinitas, someone will die under a bluff failure in Solana Beach. With accelerating bluff failures other people will die and be hurt and/or the beaches will be permanently closed because at least one of those deaths will precipitate personal injury and wrongful death lawsuits against the City. And, unfortunately, closing the beaches will be the right thing to do, because the beaches will be "truly dangerous". We all know that beach goers, as we speak, sit under non walled areas under the bluffs. I have seen them sitting literally on the rocks of active failures. When I am on the beach I ask people not to sit under the bluffs because of the danger. Some are fully aware of the danger and choose to disregard it and some are unaware and never thought about it. Either way, someone will die as a direct result of planned bluff retreat, mark my words. And when they do ***the responsibility for those deaths will fall directly on the shoulders of both the Coastal Commission and the CalBeach Advocates who created this insane idea in the first place...*** Frankly, I would not be surprised if some of those lawsuits are brought directly against the CalBeach Advocates, their leadership personally (which I will vote for) and the Coastal Commission because they ***will be*** directly responsible for those lives.

(By the way, the City might want to consider asking the lifeguards to ask people to choose sitting spots under sea walled areas because we believe they are indeed safer than non walled areas.)

As the bluffs continue to fail, the City's infrastructure in and near the bluff will be exposed and the City will be forced to relocate it at great expense. These horrendous costs will not be in the City budget and will have a hugely negative impact on the City's ability to fund other important programs. This will put tremendous pressure on our City's limited resources and the ability of our Mayor and City Council, (who will all be new because there will be political consequences related to planned bluff retreat and the economic devastation of our community), to manage our community's business. This means we will be raising funds to finance the destruction of our community. That sounds insane to me.

At the same time, the homes on the bluffs will start literally falling into the ocean and hanging out into mid air just like some of the homes do now in Encinitas. The options for the homeowners will be few and will include 1) selling the homes (no one will buy them), 2) getting the City or State to reimburse them for their losses (quite unlikely), 3) relocating the homes, (several costly studies by homeowners have proved this is not feasible or economically viable), 4) suing the city and state for failure to fulfill their fiduciary responsibility to its citizens by protecting their property rights (time consuming a protracted), and 5) giving up and losing everything they have worked for... As these homes become abandoned, the city will be burdened with the cost of removing and/or relocated properties that once were valuable only to become worthless. I am sure we will all enjoy the noise, dust and inconvenience of all the very heavy construction traffic required to remove the debris of this economic disaster. That should really help the property values out. Also, don't forget that the city will lose the property tax money on the lost properties...

When the beaches are closed and the City and others are locked in litigation, the tourists will go elsewhere and that will hurt our local economy. Local business owners will lose tourist traffic, as well as, local patrons, because they will be forced to move away. With this severe loss of tourism the local business owners will start to fail and struggle to maintain their viability. (Restaurants, Surf Shops and Retail Stores will fail first.) This too will create added complications for our City government. We are now understanding phase two and three of the negative long term impact of planned retreat. Make no mistake about it, planned retreat will create this downward spiral. Don't forget, the economy is much more fragile than most people understand. Just look at the misconceptions regarding the stock market in recent years. Solana Beach could become an economic blackhole.

Now think about the time period we will be heading into. Planned retreat bases its theory in the idea that the bluffs are only natural when they are falling down and this will replenish the sand and ultimately make our beaches beautiful again (note: we have proof that bluffs failures only replenish between 2-3% of sand on beaches). But the fact is, that planned retreat will take years and years, so don't be surprised if the beaches are closed for as many as 50 to 75 years. Where is the win in that? While, planned retreat may quickly destroy our homes and property values, it will take forever get back to beautiful. And where does it stop, do we let planned retreat have a never ending progress inland? Do we year after year pay for the loss of more and more of our land and the devaluation of more and more properties? Do we really want to stick our heads in the sand and guarantee the destruction of Solana Beach?

It is time to wake up from this nightmare. It is time to be afraid because planned retreat is an insidious, ill conceived, economic disaster. We must let the people of Solana Beach know how frightening planned retreat is. They must understand how it will hurt us all. We must get the word out to all homeowners and all local business people. Be afraid, planned retreat is your enemy. We implore the City of Solana Beach to stand up against the Coastal Commission and do the right thing, kill planned retreat.

Best Regards,

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The Beach & Bluff Conservancy

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