

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4421
(619) 767-2370



May 24, 2017

Mr. Greg Wade
City Manager
City of Solana Beach
635 South Highway 101
Solana Beach, CA 92075

Re: Certification of City of Solana Beach LCP Land Use Plan Amendment (LCP-6-SOL-16-0020-1)

Dear Mr. Wade,

On May 11, 2017, the California Coastal Commission approved the above referenced amendment to the City of Solana Beach Land Use Plan (LUP). The amendment involves the approval of a shoreline armoring recreation mitigation fee program.

The Commission approved the LCP amendment with suggested modifications. The majority of the adopted modifications to the Solana Beach LUPA are to the new proposed Appendix C (Public Recreation Fee). Appendix C describes how the Public Recreation Fee is calculated and also defines the primary assumptions of the mitigation method. Specifically, adopted modifications affected how the estimated beach area was calculated, wage rate assumptions and various other modifications that include clarification as to how fees should be collected over time, when beach area, beach attendance, and survey numbers should be updated, removal of credit for public benefit offsets, and specifics on how sea cave and notch infill projects should be considered. The City's LUP amendment submittal included their entire Fee Study along with extensive appendices. The City has proposed to incorporate the Fee Study into the LUP by reference. However, rather than modify the City's Fee Study directly to reflect the suggested modifications, the Commission proposes to introduce the following changes to the Appendix C methodology and instead incorporate the City's Fee Study itself as a substantive file document. One change was made at the Commission hearing to require that new beach user travel cost surveys be undertaken within 10 years to reflect current practices or new information. The attached modifications contain the specific changes adopted by the Coastal Commission.

Before the amendment request can become effectively certified, the Executive Director must determine that implementation of the approved amendment will be consistent with the Commission's certification order. This is necessary because the amendment was certified with suggested modifications.

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In order for the Executive Director to make this determination, the local government must formally acknowledge receipt of the Commission's resolution of certification, including any terms or suggested modifications; and take any formal action which is required to satisfy them, such as revised plan policies. This certification must also include production of new LUP text demonstrating that the amendment, as approved by the Commission and accepted by the City, will be incorporated into the City's certified LUP immediately upon concurrence by the Commission of the Executive Director's determination. The local government's action must be completely consistent with the Commission's certification order; if you are considering any change from what is presented in the attached suggested modifications, you should contact this office immediately.

The Commission's certification order remains valid for six months from the date of its action; therefore, it is necessary for the City of Solana Beach to take the necessary steps within six months. If you believe that the City of Solana Beach will need additional time, you may request up to a one-year time extension but such an extension must be granted by the Coastal Commission at a subsequent hearing. As soon as the necessary documentation is received in this office and accepted, the Executive Director will report his/her determination to the Commission at its next regularly scheduled public hearing. If you have any questions about the Commission's action or this final certification procedure, please contact our office. Thank you and the other staff members who worked on this planning effort. We remain available to assist you and your staff in any way possible to continue the successful development of the local coastal program.

Sincerely,

A handwritten signature in black ink, appearing to read 'GB', with a long horizontal flourish extending to the right.

Gabriel Buhr
Coastal Program Manager

SUGGESTED MODIFICATIONS

Suggested modifications to Policy 4.50:

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. These mitigation fees are not intended to be duplicative with fees assessed by other agencies. It is anticipated the fees assessed as required by this LCP will be in conjunction with, and not duplicative of, the mitigation fees typically assessed by the CCC and the CSLC for impacts to coastal resources from shoreline protective devices.

[...]

Public Recreation Fee – ~~Similar to the methodology established by the CCC for the sand mitigation fee, the~~ The City and the CCC are have developed developing a methodology for calculating a statewide public recreation fee Public Recreation Fee for the City of Solana Beach. To assist in the effort, the City has shared the results of their draft study with the CCC to support their development of a uniform statewide Public Recreation / Land Lease Fee. Until such time as an approved methodology for determining this fee has been established, and the methodology and payment program has been incorporated into the LCP through an LCP amendment, the City will collect a \$1,000 per linear foot interim fee deposit. In the interim period, CCC will evaluate each project on a site-specific basis to determine impacts to public access and recreation, and additional mitigation may be required. The City shall complete its public recreation/land lease fee study within 18 months of effective certification of the LUP. To mitigate for impacts to public access and recreation resulting from loss of beach area, for all development involving construction of a Public Access and Recreation Fee shall be collected by the City which shall be deposited in an interest-bearing account designated by the City Manager of Solana Beach in-lieu of providing beach area to replace the public access and coastal recreation benefits that would be lost due to the impacts of any proposed protective structure. The method used to determine the appropriate mitigation fee has been approved by the CCC and is contained in LUP Appendix C. The funds shall solely be used to implement projects which augment and enhance public access and coastal recreation along the shoreline, not to fund other public operations, maintenance or planning studies.

Project applicants have the option of proposing a public recreation/access project in lieu of payment of Public Recreation Fees ~~(or interim deposits)~~ to the City. At the City's discretion, these projects may be accepted if it can be demonstrated that they would provide a directly-related recreation and/or access benefit to the general public.

Public Recreation Fees must be expended for public access and public recreation improvements as a first priority and for sand replenishment and retention as secondary priorities where an analysis done by the City determines that there are no near-term, priority public recreation or public access CIP identified by the City where the money could be allocated. The Public Recreation funds shall be released for secondary priorities

only upon written approval of an appropriate project by the City Council and the Executive Director of the Coastal Commission.

Suggested modifications to the last paragraph on Page 15 and the first Paragraph on Page 16 of Chapter 4 of the LUP:

~~*In April 2010, the City completed a draft fee study and conducted a public hearing on the fee study to determine the amount of fees that maybe appropriately assessed as mitigation for the potential adverse effects on public recreation and public lands resulting from placing a bluff retention device on a public beach. The City received a substantial number of comments on the fee study from local stakeholders including property owners, surfers and CCC staff and the fee study remains a draft. Because this is a statewide issue, the City will provide this draft study and the data developed by the City to the CCC. The City will coordinate with the CCC and other state regulatory entities in developing a uniform statewide Public Recreation / Land Lease Fee.*~~

Based on the October 2010 MHTL survey, the land on which bluff retention devices are proposed to be located may include public lands owned by the State of California, the City of Solana Beach or both. In addition, the location of the MHTL is constantly changing. For all development involving construction of a bluff retention device, a Public Recreation Fee shall be collected by the City which shall be deposited in an interest-bearing account designated by the City Manager of Solana Beach in lieu of providing beach area to replace the public access and coastal recreation benefits that would be lost due to the impacts of any proposed protective structure. The method used to determine the appropriate mitigation fee has been approved by the CCC and is contained in LUP Appendix C. Mitigation for impacts to ecological and other relevant coastal resource impacts that result from the construction of bluff retention devices are not included in this public recreation fee and the City's LUP shall be updated once an accepted approach on how to calculate these fees has been developed by the Commission. The City is collecting a \$1,000 per linear foot fee deposit to be applied towards a future Public Recreation/Land Lease Fee. Therefore, until such time as a final Public Recreation / Land Lease Fee is adopted by the City following Coastal Commission approval of such a payment and certification of an LUP amendment adding to the City's LCP, the City will continue to impose an interim fee deposit in the amount of \$1,000 per linear foot to be applied as a credit toward the Public Recreation / Land Lease Fee. The City shall complete its Public Recreation/Land Lease fee study within 18 months of effective certification of the LUP. In association with approval of any bluff retention device located landward of the MHTL and on public land, the City shall also require an encroachment/removal agreement to be renewed at least every 20 years. Additional mitigation for impacts to public access and recreation may also be required through site-specific review and approval of the coastal development permit.

PUBLIC RECREATION IMPACT MITIGATION FEE (APPENDIX C)

In conformance with the Certified City of Solana Beach Local Coastal Program (LCP) Land Use Plan (LUP) Policy 4.50, Bluff Property Owners who construct Bluff Retention Devices shall pay the City a Public Recreation Impact Fee (may also be referred to as Public Recreation Fee) consistent with this appendix. The Public Recreation Fee is separate and independent of the Sand Mitigation Fee detailed in Appendix A.

These mitigation fees are not intended to be duplicative with fees assessed by other agencies. It is anticipated the fees in this appendix would be assessed as required by this LCP and shall be in conjunction with the mitigation fees typically assessed by the CCC and the CSLC for impacts to coastal recreation from Bluff Retention Devices.

The Public Recreation Fee shall be calculated on a project-specific basis to ensure the mitigation fees are proportional to the impact being mitigated. Variables to be considered in determining the fee imposed shall depend on the impact to the beach area based upon (1) the specific physical configuration and footprint of the proposed Bluff Retention Device and (2) the presence of a seacave or notch of any depth that would be fronted by a Bluff Retention Device. The entire area of a seacave or notch located landward of the proposed Bluff Retention Device shall be considered imminently subject to failure and be included in the mitigation calculation. In addition, the area of any seacaves or notches that have been previously infilled with erodible concrete, located landward of the proposed bluff retention device, which are no longer allowed to erode as originally approved, shall be included in the mitigation calculation.

The Public Recreation Fee addresses impacts to the loss of recreation based upon the loss of beach area described below as (1) Initial Area and (2) theoretical 20-year Bluff Retreat Area. Table 1 identifies separate rates, to ensure proportionality between the impact and the mitigation fee to be applied to the Initial Area and Bluff Retreat Area. The fees address the impacts to public recreation for a 20-year period, consistent with the requirements of LUP Policies 4.49 and 4.53. At the end of each 20-year period, the bluff retention device shall either be removed or new fees shall be assessed. The use values in Table 1 were determined as follows:

- The proxy recreational use value per beach visitor per day (Day Use Value) for Solana Beach is \$35.56 in the summer months and \$21.00 in the non-summer months. The City shall conduct new beach user Travel Cost surveys within 10 years to update the day use value to reflect current practices or new information as an amendment to Appendix C of the LUP.
- The City's useable beach area includes the area from the toe of the coastal bluff to mean sea level existing between the northern and southern City limits. Based on 19 LiDAR datasets collected between 1998 and 2015, the useable beach area in Solana Beach is presently calculated at 15.2 acres. The City shall determine if the beach area has changed every ten years and incorporate any changes as an amendment to the LUP.
- The average annual beach attendance in Solana Beach is estimated to be 134,817 adults per year. Children are not included in the attendance data because of the assumption that consumer surplus of children is captured in the adult consumer surplus use values. The attendance estimate is based on attendance counts undertaken by the City between July

2008 and July 2009 and expansion factors to account for the likelihood that some user groups were underrepresented in the original attendance counts due to the time of day that the original population counts were conducted. Every ten years, the City shall adjust the attendance based on available population growth estimates or through an updated attendance survey. The City shall incorporate any changes to the attendance as an amendment to the LUP.

- The annual use value of the beach within the City is \$4,010,581 and is obtained by multiplying the Day Use Value by the number of adults that visit the beach annually and adding the value of the Junior Lifeguard Program, which is \$269,501. The City shall update the annual use value of the beach every ten years if there are changes to the beach area or attendance estimates and shall incorporate the change as an LUP amendment.
- The use value of one sq. ft. of beach was calculated to be \$6.06 in 2016 and is obtained by dividing the annual use value of the beach by the size of the beach.
- The Initial Area Rate in Table 1 represents the use value of one sq. ft. of beach area over a 20-year period and this use value is multiplied by the total area of encroachment of a Bluff Retention Device (Initial Area) to determine the fee. The use value is increased each year to reflect an estimated 2% Consumer Price Index (CPI). The use value is also subject to a 2% Present Value (PV), which offsets the CPI over the 20 year mitigation period. Table 1 shall be updated every ten years and any changes shall be incorporated as an amendment to the LUP.
- The Bluff Retreat Rate (Per Linear Ft.) in Table 1 is equal to one linear ft. (Bluff Retreat Length) multiplied by 20 years of estimated erosion multiplied by the use value of one sq. ft. of beach. It represents the use value of the expected beach area that would otherwise be available for public use through passive erosion if the Bluff Retention Device was not constructed. An erosion rate of 0.4 ft. per year is assumed between 2016 and 2025 and an erosion rate of 0.673 is assumed between the years 2026 and 2046. Any change to the estimated erosion rate will require an amendment to the certified LUP. The use value increases each year to reflect an estimated 2% CPI.

The Public Recreation Fee shall be imposed as a condition of approval on any Coastal Development Permit for a Bluff Retention Device, which does not propose comparable or greater project specific in-kind mitigation. The decision making entity (Coastal Commission or City of Solana Beach) for the Coastal Development Permit shall calculate the Public Recreation Fee on a project-specific basis during the Coastal Development Permit approval process. The entire fee shall be submitted to the City prior to issuance of the Coastal Development Permit and shall be assessed in 20-year increments starting on the building permit completion certification date.

Seacave/notch infills that consist entirely of erodible concrete (see LUP Appendix B, Figure 1A) are exempt from both the Public Recreation Impact Fee and the Sand Mitigation Fee as allowed by the LUP, provided that the infills erode with the natural bluff and are maintained to do so and provided that a Bluff Retention Device is not constructed seaward of the infills. If monitoring of the infills reveals evidence that the back of the beach has been fixed, the Permittee shall submit a complete CDP amendment application to address the impacts from these changed circumstances. At such time, sand supply mitigation and public access and recreation mitigation shall be required.

LUP Policy 4.50 requires that Public Recreation Fees shall be expended for public beach access and public recreation as a first priority, and may be expended for sand replenishment and retention if the City determines that a near-term priority public recreation or public access project is not identified. All projects funded by the Public Recreation Fees shall be located directly along the coast and projects shall result in direct improvements to coastal recreation or beach access. As an alternative allowed by LUP Policy 4.50, project applicants have the option of proposing an in-kind public coastal recreation or beach access project in lieu of payment of Public Recreation Impact Fees to the City. At the City's discretion, project specific in-kind mitigation may be accepted if the applicant can demonstrate that the project would provide a comparable or greater coastal recreation or beach access benefit to the general public.

While a reduction or elimination of the required Public Recreation Fees may be considered for Bluff Retention Devices that protect public infrastructure, mitigation offsets or reductions to any required Public Recreation Fees for Bluff Retention Devices whose primary purpose is the protection of private property are prohibited. In addition, retroactive adjustments to Public Recreation Fees (excluding the \$1,000 per linear foot interim fee deposits), in the form of crediting overpayment of mitigation fees or adding underpayment of mitigation fees to future assessments based on observed bluff erosion, is prohibited.

Table 1 - Public Recreation Impact Mitigation Fee Schedule		
Permit Year	Initial Area Rate (Per SF)	Bluff Retreat Rate (Per LF)
2016	\$121	\$600
2017	\$124	\$630
2018	\$126	\$662
2019	\$129	\$698
2020	\$131	\$737
2021	\$134	\$780
2022	\$136	\$825
2023	\$139	\$874
2024	\$142	\$926
2025	\$145	\$982
2026	\$148	\$1,044

The Total Public Recreation Impact Fee (PRF), for a 20-year period, shall equal the Initial Area multiplied by the Initial Area Rate plus the Bluff Retreat Length multiplied by the Bluff Retreat Rate for the Permit Year.

The formula to calculate the Total PRF =

(Initial Area x Initial Area Rate) + (Bluff Retreat Length x Bluff Retreat Rate)

Definitions:

Calculation of the PRF is based on the following terms which are defined / explained below.

Initial Area - The Initial Area shall be that Useable Beach Area that is occupied by a Bluff Retention Device measured as the width of the structure multiplied by the length of the structure plus the entire area of seacaves or notches located landward of a Bluff Retention Device and any area of seacaves or notches previously infilled with erodible concrete (which are no longer allowed to erode as originally approved).

Bluff Retreat Length - The Bluff Retreat Length shall be the length of the Bluff Retention Device measured along the bluff, measured in feet.

Initial Area Rate - The Initial Area Rate shall be the amount identified in Table 1, under the Column titled Initial Area Rate dependent on the Permit Year. The Initial Area Rate is based on the value of one sq. ft. of beach area over a 20-year period.

Bluff Retreat Rate - The Bluff Retreat Rate shall be the amount identified in Table 1, under the Column titled Bluff Retreat Rate dependent on Permit Year. The Bluff Retreat Rate is based on a linear foot of Bluff Retention Device and incorporates the annual area impacted by the Bluff Retention Device estimated by the Erosion Rate over a 20-year period.

Total PRF – Means the Total Public Recreation Impact Fee, for a 20-year period as calculated by the above formula.

Permit Year - The year the wall is considered permitted (building permit completion certification date) as defined in the LCP LUP.

Useable Beach Area – That area of Solana Beach bound by the northern and southern city limits, the average width of the beach based on the distance between Mean Sea Level and the toe of coastal bluff and that may extend landward of the toe of coastal bluff.

Examples Scenarios (Using a 67% wage rate, 2008-2009 Attendance Figures, and a 15.2 Acre Beach):

Example 1: In the year 2016, construction of a typical 2 ft. wide by 50 ft. long seawall with no seacave/notch landward of proposed seawall.

$$\text{Initial Area} = 2' \times 50' = 100 \text{ sq. ft.}$$

$$\text{Initial Area Rate} = 100 \text{ sq. ft.} \times \$121 = \$12,100$$

$$\text{Bluff Retreat Rate} = 50 \text{ ft.} \times \$600 = \$30,000$$

$$\text{PRF} = \$12,100 + \$30,000 = \$42,100$$

$$\text{PRF} = ((2 \text{ ft.} \times 50 \text{ ft.}) \times \$121 \text{ per sq. ft.}) + (50 \text{ ft.} \times \$600 \text{ per linear ft.}) = \$42,100$$

Example 2: In the year 2016, construction of a typical 2 ft. wide by 50 ft. long seawall with a 10 ft. deep by 20 ft. long seacave/notch (which has not been previously infilled) landward of proposed seawall.

$$\text{PRF} = (((2 \text{ ft.} \times 50 \text{ ft.}) + (10 \text{ ft.} \times 20 \text{ ft.})) \times \$121 \text{ per sq. ft.}) + (50 \text{ ft.} \times \$600 \text{ per linear ft.}) = \$66,300$$

Example 3: In the year 2016, construction of a typical 2 ft. wide by 50 ft. long seawall with a 2 ft. deep by 20 ft. long seacave/notch (which has not been previously infilled) landward of proposed seawall.

$$\text{PRF} = (((2 \text{ ft.} \times 50 \text{ ft.}) + (2 \text{ ft.} \times 20 \text{ ft.})) \times \$121 \text{ per sq. ft.}) + (50 \text{ ft.} \times \$600 \text{ per linear ft.}) = \$46,940$$

Example 4: In the year 2016, construction of a typical 2 ft. wide by 50 ft. long seawall with a 2 ft. deep by 20 ft. long seacave/notch that has been previously infilled with erodible concrete landward of proposed seawall.

$$\text{PRF} = (((2 \text{ ft.} \times 50 \text{ ft.}) + (2 \text{ ft.} \times 20 \text{ ft.})) \times \$121 \text{ per sq. ft.}) + (50 \text{ ft.} \times \$600 \text{ per linear ft.}) = \$46,940$$

Example 5: In the year 2016, construction of a 2 ft. deep by 20 ft. long seacave/notch with non-erodible concrete.

$$\text{PRF} = ((2 \text{ ft.} \times 20 \text{ ft.}) \times \$121 \text{ per sq. ft.}) + (20 \text{ ft.} \times \$600 \text{ per linear ft.}) = \$16,840$$

Subsequent Mitigation Periods:

If a geotechnical report finds evidence that a Bluff Retention Device cannot be removed at the end of a 20 year mitigation period, mitigation shall be required for the subsequent 20 year period. As shown in Figure 1, in subsequent mitigation periods, mitigation shall include the direct shoreline protection device encroachment and all beach area that would have otherwise been available to the public through passive erosion had the shoreline armoring not been constructed.

Figure 1

