

CALIFORNIA COASTAL COMMISSION

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W12b



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**STAFF REPORT
REGULAR CALENDAR**

APPLICATION NUMBER: 3-96-116

APPLICANT: CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

PROJECT LOCATION: West end of Pier Avenue in Oceano, San Luis Obispo County

PROJECT DESCRIPTION: Continuation of grading of accumulations of windblown sand on the surface of an existing sand ramp which provides vehicular access to the beach at Oceano Dunes State Vehicular Recreation Area. Excess sand will be returned to the inter-tidal zone of the beach.

LOCAL APPROVALS RECEIVED: San Luis Obispo County is currently processing a coastal development permit for the portion of the grading in the County's permit jurisdiction area.

SUBSTANTIVE FILE DOCUMENTS: CDP 4-82-300 (for construction of a kiosk at entrance to beach), and CDP 4-91-58 (previous 5-yr. sand ramp permit)

SUMMARY OF STAFF RECOMMENDATION

The proposed project is a continuation of work approved under permit 4-91-58. That permit was for a five year period and was conditioned to require a new permit upon expiration. That previous permit has now expired and the applicant wishes to continue the maintenance of the sand ramp. Staff recommends approval of the proposed project with special conditions providing for review of the permit at the end of five years and requiring the applicant to limit the days and hours of sand removal.

I. STAFF RECOMMENDATION

Staff recommends that the Commission adopt the following resolution:

Approval with Conditions

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Initial Duration:** This permit is for the removal of beach sand from the existing vehicle access ramp and the disposal of the removed sand into the intertidal zone, to maintain the existing sand ramp. This permit is initially valid for the period of time commencing March 1997 and ending on February 28, 2002. This permit covers only that portion of the sand ramp that is located in the Commission's permit jurisdiction area; work landward of the Commission's permit jurisdiction area is subject to the terms and conditions of a coastal development permit issued by San Luis Obispo County.
 2. **Continuance of Sand Removal and Disposal Beyond Initial Duration:** At the end of the initial time period the permit will be reviewed by the Executive Director, who will recommend to the Commission whether or not the sand removal and disposal activities should continue for an additional period of time not to exceed five years and if the activity should be modified in any other aspect. The review of the permit is to be initiated by the Department of Parks and Recreation submitting a letter to the Executive Director no later than November 15, 2001 requesting such review. Failure to initiate the review will result in this permit becoming null and void. The letter shall include or be accompanied by sufficient information to allow the Executive Director to determine the nature and extent of the ramp maintenance activities for the preceding permit period. The information shall include, but not necessarily be limited to, frequency of sand removal and amount of sand moved per year and status of other regulatory agency permits (e.g., US Army Corps of Engineers and San Luis Obispo County).
 3. **Hours of Sand Removal:** The hours allowed for sand removal and disposal shall be no earlier than 8:00 A.M. and no later than 5:00 P.M. on weekdays. No sand removal or disposal shall take place on weekends. In the event of an emergency situation or condition, as determined by the District Superintendent, sand removal and disposal may be done without hourly or daily constraints until the emergency situation or condition ends.
 4. **State Lands Commission Review: PRIOR TO ISSUANCE OF THE PERMIT,** the applicant shall submit to the Executive Director a written determination from the State Lands Commission that:
 - a) No state lands are involved in the development; or
 - b) State lands are involved in the development, and all permits required by the State Lands Commission have been obtained; or
 - c) State lands may be involved in the development, but pending a final determination of state lands involvement, an agreement has been made by the applicant with the State Lands Commission for the project to proceed without prejudice to the determination.
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IV. FINDINGS AND DECLARATIONS

1. **Project Description and Location:** The California Department of Parks and Recreation proposes to continue with the maintenance of a baserock and sand ramp leading southwest from the end of Pier Avenue, in the unincorporated community of Oceano in southwestern San Luis Obispo County. This is to facilitate vehicle ingress and egress from Oceano Dunes State Vehicular Recreation Area. A maximum of 2000 cubic yards of cut and 50 cubic yards of fill is to be relocated to maintain the sand ramp and will take place throughout the year because the sand ramp will deteriorate over time if not maintained properly. A larger amount of material is relocated during the March through September period because beach erosional processes are greatly diminished during this time; i.e., sand accumulates on the beach during the spring and summer months. The reverse is true during the winter months because of greater littoral cell energy, meaning that there is a net southerly movement of sediment and less local deposition of sand. Disposal of the sand takes place in the inter-tidal zone, between the low tide line and the high tide line at least partly on public tidelands..

Oceano Dunes State Vehicular Recreation Area (ODSVRA) is a unique unit of the State Park System. Its hard sand surface supports vehicle use and it is the unit of the State Park System where vehicles may be driven on the beach. Additionally, the dunes provide off-road vehicle users with opportunities for a variety of popular recreational uses such as dune tours, competition events and primitive camping.

The Nipomo Dunes, upon which most of the vehicular area is located, extends from Pismo Beach south to Point Sal in Santa Barbara County. The Pier Avenue entrance is the main entrance to ODSVRA and is open to street-legal vehicles, off-highway vehicles, pedestrians, and equestrians. This stretch of beach is also shared by vehicles, pedestrians, and equestrians for six miles to the south.

The entrance to ODSVRA is flanked by mixed residential and commercial development to the east. Public parking and vertical access to the beach is provided at the extreme western end of Pier Avenue. During the summer months and over holiday weekends, the beach is heavily used by local residents as well as non-local visitors.

2. **Background:** The first wooden vehicle access ramp at Pier Avenue was constructed in the 1920s. It has always been necessary to remove sand from the bottom of the wooden ramp to allow for vehicle access. Originally, local merchants supported this operation. Then San Luis Obispo County contracted for sand removal and, later, the State Department of Parks and Recreation (DPR) assumed responsibility for sand removal. This situation remained until the severe storms of 1982 and 1983. During this period storms destroyed both the wooden ramp and the unmaintained sand ramp, which was created by the unauthorized ingress and egress of all-terrain vehicles. This occurred just south of the old wood ramp. In the aftermath of the storms, DPR decided to maintain only the sand ramp in place of the wooden ramp. In 1983 a kiosk was constructed at the end of Pier Avenue pursuant to coastal development permit number 4-82-300, prior to certification of San Luis Obispo County's Local Coastal Program (LCP). In 1988, the County's LCP was certified and permit authority for projects landward of the mean high tide line was assumed by the County.

In early 1992, the Commission approved coastal development permit 4-91-58, an after-the-fact permit authorizing DPR to remove and excavate beach sand to create and maintain the sand

ramp. That permit was conditioned to, among other things, be valid for a period of five years. DPR, if it so chose, could reapply for a coastal development permit as the five year period ended. The permit also required submittal of approval, or evidence that no approval was needed, from the US Army Corps of Engineers and the State Lands Commission and an engineering report describing any mitigation measures to protect nearby structures and property from storm waves generated by storms of the magnitude of those of 1982-83. The engineering report was required since the sand ramp had the potential to funnel storm waves directly toward the existing residential and commercial structures.

The Corps of Engineers has issued a permit for routine maintenance including excavating sand and "...discharging the material along the foreshore between the high tide line (+6.8 feet MLLW) and +4.1 feet MLLW...." State Lands has determined that no approval from that agency is necessary for the ramp itself (however, the State Lands Commission apparently did not address the disposal site in the inter-tidal zone). An engineering report was prepared and submitted indicating that the area around Pier Avenue is in a relatively low risk area for potential damage to private and public property when compared to most State beaches. The report stated that "The small amount of sand relocated down coast to allow for safe passage of vehicles from Pier Avenue to the hard wet beach sand will increase the damage from a series of 1982-83 type storms less than 5% without any protection efforts during emergencies. The low area at the Pier Avenue access and parking area has potential for wave overtopping...whether the ramp is in place or removed." The report went on to describe emergency provisions including placement of berms. All of the conditions of approval were met and the maintenance has occurred on a routine basis over the last five years.

3. Coastal Resource Issues:

a. **Public Access:** Section 30211 of the Coastal Act requires that development not interfere with public access to and along the shoreline:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

The grading activities have the potential to affect public access to and along the shore. However, under normal conditions, the work takes about an hour to complete on days that it is done and this interference is minimal. In addition, since the sand ramp facilitates pedestrian, vehicular, and equestrian access to the beach area, the ramp provides additional recreational opportunities for the public. Special Condition number 1 establishes a five year period allowing the Commission to review this method of vehicle, equestrian, and pedestrian access in the future as needed. Special Condition number 2 requires that the permittee initiate review of the permit by the Executive Director who will recommend to the Commission whether or not the work should be reauthorized for an additional period of time. If the permittee does not initiate review of the permit, it will become void. Special Condition number 3 limits grading activities to regular work hours on weekdays, with a provision for emergency work if the District Superintendent determines an emergency exists. Since the grading is of relatively short duration and will not occur on weekends when visitation is heaviest, the project, as conditioned, conforms with the provisions of Coastal Act section 30211.

b. Coastal Hazards: Coastal Act section 30253 requires that development :

1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The project site, as per Panel 729 of the National Flood Insurance Program map, is located in an area subject to 100 year floods. The base flood elevation for this area has not been determined. The area located just landward of the mean high water datum is an area that varies between limits of the 100 year flood and 500-year flood or may be subject to 100-year flooding with average depths of less than one foot. The Land Use element of San Luis Obispo County also lists this area as a flood hazard area. Because of the inherently dynamic nature of the shoreline, there is the potential for damage to the project, Pier Avenue, the entrance kiosk, as well as nearby buildings and properties because the sand ramp is just above sea level. Since the design of the present structure is to allow seawater to seep into the ramp during high tide periods in order to compact the sand, the ramp potentially could be a convenient conduit of seawater if a major storm during high tides should ever occur.

Permit 4-91-58 was conditioned to, among other things, require that the Department of Parks and Recreation (DPR) submit a site plan and cross section showing the high tide line, elevation of the ramp above sea level, and the width and length of the ramp. That was done. Additionally, DPR was required to submit a report by a qualified professional engineer describing measures, if any, that would offer nearby buildings and property reasonable protection if 1982-83 magnitude storms should ever occur. Such a report was completed and submitted. As discussed above under Finding No. 2, Background, it reported that the relocation of sand to maintain the ramp would result in less than a 5 percent increase in damage from a storm of the magnitude of those of 1982-83. Emergency measures to reduce wave impacts were discussed in the report. Further, the report stated that the westerly end of Pier Avenue has the potential for overtopping by storm waves regardless of the existence or location of the ramp.

The conditions of permit 4-91-58 were satisfied and maintenance has proceeded under the terms of that permit. The ramp remains where it was and there have been no significant changes in the manner or method of the approved work.

For permit 4-91-58, the Commission found that the conditions were "...necessary to ensure that development is carried out and maintained in a manner consistent with the provisions of PRC Section 30252." The provisions cited include minimizing risks to life and property in areas of high flood hazard and not creating nor contributing significantly to erosion or destruction of the site or surrounding areas. The information supplied in response to the conditions of permit 4-91-58 indicates that the work is and will continue to be carried out in a manner consistent with the provisions of section 30252

c. Marine Resources: Section 30230 of the Coastal Act states the following:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states the following:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams

The issue in this instance is the possibility that automotive pollution (such as dripping crankcase oil) could adversely affect this portion of the beach when the sand accumulations on the ramp are pushed back into the inter-tidal zone. At low tide, the sand dries and, over time, is gradually blown back onto the ramp. Vehicles do pass over the sand but they do not park on it. According to the US Army Corps of Engineers, "Testing of the material was not required...since the discharge site is adjacent to the extraction site and is subject to the same sources of contaminants (if present), and the sediment composition of the two sites are considered similar." The sand from the ramp is not considered to be a carrier of contaminants because the sand is found in an area of high wave energy and it does not come into contact with any roadways or parking lots prior to relocation into the inter-tidal zone. Therefore, the project is consistent with Coastal Act sections 30230 and 30231.

d. Development on Public Tidelands: It is generally accepted that the dividing line between public tidelands and private upland or tidal boundary in California is the mean high water datum (MHW). From an engineering point of view a water boundary determined by tidal definition is not a fixed mark on the ground, such as a roadway or a fence; rather it represents a condition at the water's edge during a particular instant of the tidal cycle. The line where that datum intersects the shoreline will vary seasonally. Reference points such as Mean Sea Level and Mean High Water data, are calculated and reflect the average height of the tide levels over a period of time.

The Pier Avenue sand ramp is located on State Park lands, with most, if not all of the ramp located within the County of San Luis Obispo's Coastal Development Permit jurisdiction. The State Lands Commission has stated that "...it appears that the ramp is located landward of the mean high tide line known to us at this time. Accordingly, the establishment and use of the ramp does not appear to be under the ownership jurisdiction of the State Lands Commission (SLC), and a permit was therefore not required from this agency for that activity." However, it appears that no determination was made as to the involvement of the State Lands Commission with the disposal of sand into the inter-tidal zone. Even if the ramp itself is not on public tidelands, disposal of sand removed from the ramp into the intertidal zone would occur on public tidelands. Therefore,

Special Condition number 4 is required to ensure coordination with the requirements of the State Lands Commission.

e. Consistency with the County Local Coastal Program (LCP) and the California Environmental Quality Act (CEQA): At least part of the project (sand disposal site and possibly the seaward extremity of the ramp) lies below the mean high water datum and thus falls within the Commission's area of retained original permit jurisdiction. The Commission has certified a Local Coastal Program for the County which contains policies for the Oceano area, including that portion of the sand ramp landward of Coastal Commission jurisdiction. The certified LCP specifically designates this as a beach access point for vehicles and, as conditioned, the project will not impair the County's ability to apply its relevant LCP policies.

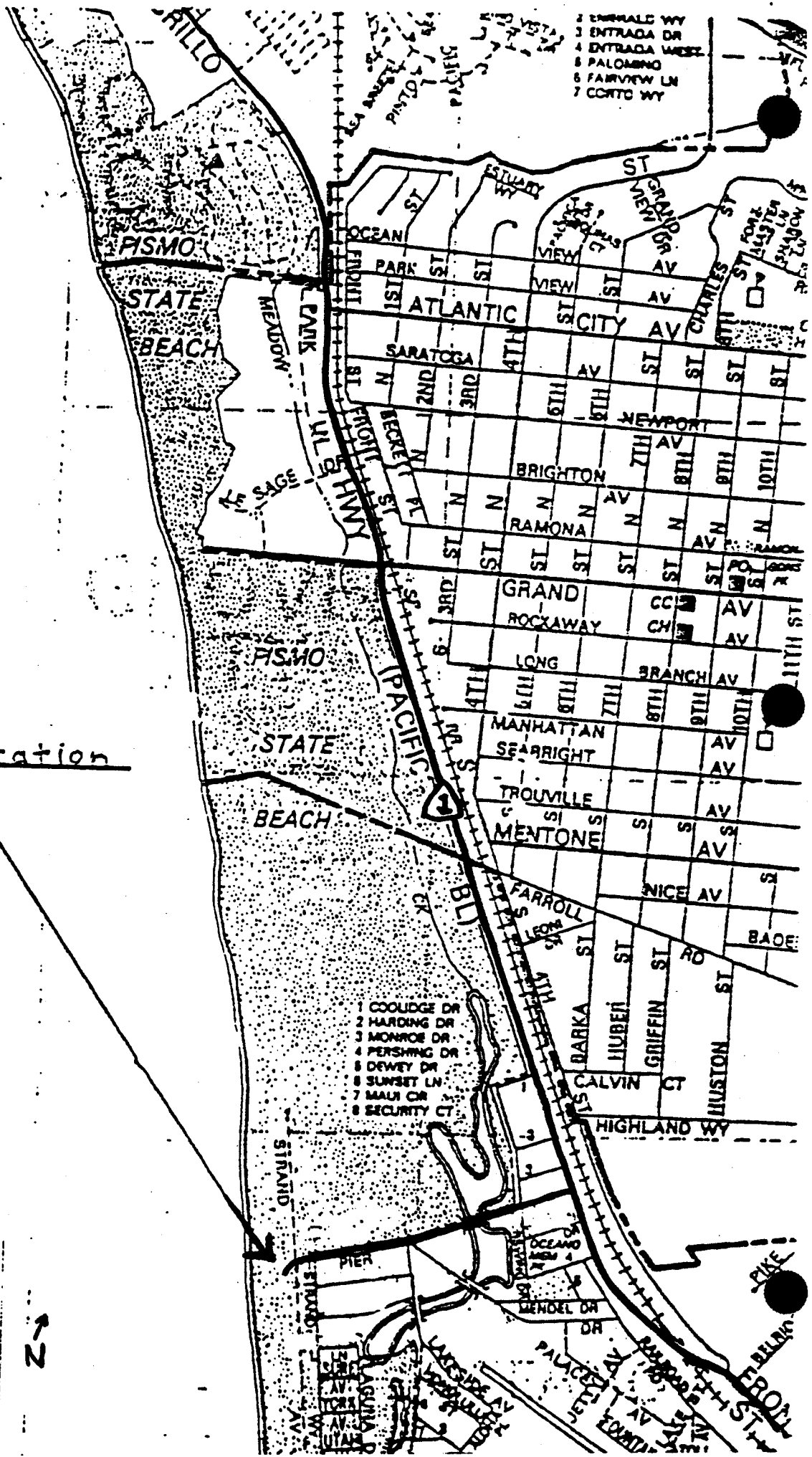
Finally, the Coastal Commission's permit process is the functional equivalent of the environmental review process under CEQA. Accordingly, the proposed project as conditioned is consistent with the California Coastal Act and will not create any significant adverse environmental impacts within the meaning of CEQA.

PACIFIC

Site Location

OCEAN

EXHIBIT NO.	B
APPLICATION NO.	3-96-116
SITE LOCATION	



- 1 ENTRADA WY
- 2 ENTRADA DR
- 3 ENTRADA WY
- 4 ENTRADA WY
- 5 PALOMINO
- 6 FAIRVIEW LN
- 7 CORTO WY

- 1 COOLIDGE DR
- 2 HARDING DR
- 3 MONROE DR
- 4 PERSHING DR
- 5 DEWEY DR
- 6 SUNSET LN
- 7 MAUI DR
- 8 SECURITY CT

← 2

EXHIBIT NO. D
APPLICATION NO. 3-96-116
RAMP CONFIGURATION

TO →
HUY ONE

PIER AVE.

STRAND AVE.
NOT EXISTING

MULTIPLE RES.

KIOSK

15

12

12

14

12

10

← B E A C H →

EXISTING SAND
RAMP

