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Staff Report:	10/29/2014
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STAFF REPORT: CDP AMENDMENT

Application Number: 3-11-027-A1

Applicant: Parks and Recreation Department, City of Santa Cruz

Project Location: Cowell and Main Beaches located seaward of the Union Pacific Railroad Trestle, Santa Cruz Beach Boardwalk, Beach Street, Ideal Bar and Grill Restaurant, the Dream Inn, the Sea and Sand Inn, and West Cliff Drive, and roughly between San Lorenzo Point and Collins Cove in the City of Santa Cruz.

Original Project Description: Implement the City's Beach Management Plan at Cowell and Main Beaches for three years, including: general beach area maintenance activities (sand sifting, debris removal, etc.); kelp removal (including as part of a two-year kelp-water quality study with an associated environmental monitoring component); minor beach re-contouring (except along the San Lorenzo River and its lagoon); summer beach concessionaire; public recreation and education activities; seasonal Seaside Company bandstand and picnic deck; special and temporary events; safety facilities and operations, flood control/drainage discharge operations; and a signage program.

Amendment Description: Authorize the City’s Beach Management Plan at Cowell and Main Beaches for an additional five years, including all project components as described above, except remove the requirement for a kelp-water quality and associated environmental monitoring; allow a midnight to 5 am curfew at Cowell Beach; and add two public volleyball courts on Cowell Beach.

Staff Recommendation: Approval with Conditions.

SUMMARY OF STAFF RECOMMENDATION

The City of Santa Cruz is requesting CDP approval to implement its Beach Management Plan (BMP) for Main and Cowell Beaches for the next five years. The BMP regulates use and maintenance operations on Main and Cowell Beaches in a manner intended to protect marine resources, provide for public safety, and enhance the extent and quality of public access and beach recreation opportunities. The City of Santa Cruz has been authorized by the Commission to implement similar beach management plan activities at this location since 1995 (CDP 3-95-043, as amended twice and CDP 3-11-027). In general, the City’s BMP and the Commission’s authorization of it to date have performed as intended and have provided for enhanced coastal access and recreational opportunities without significant negative impacts. The main issues raised by past BMP implementation have been related to special and other events in the beach area, and questions related to kelp removal/beach grooming and the effect of such activities on water quality and the beach environment.

The City has updated the current version of the BMP to address concerns previously raised in this respect. For temporary and special events in the beach area, the current BMP provides greater specificity with respect to the number, duration, and spatial extent of allowed events, and includes Executive Director oversight. With regards to kelp removal and other beach grooming activities proposed by the City, these activities are not expected to significantly diminish the ecological values of Cowell and Main Beaches in the future. The City’s study and the results of both the water quality study and the ecological monitoring support this finding and have helped to develop a better understanding of ecological and water quality changes associated with kelp removal and beach grooming activities (see recommendations further below). Therefore, the project, as conditioned, is consistent with the marine resources policies of the Coastal Act.

The Applicant is proposing authorization for up to five years of a City-approved beach curfew at Cowell Beach which currently operates between midnight and one hour before sunrise. The beach curfew area extends from Collins Cove at Cowell Beach and includes the area located under the Santa Cruz Municipal Wharf. Signage is posted at Cowell Beach to inform the public about the curfew. The adjacent Main Beach is not included in the beach curfew area and will remain open 24 hours a day and 7 days a week. Commission staff finds that the balance struck by the City to date is an attempt to protect public safety and allow for public access consistent with Coastal Act requirements. As conditioned, the proposed amendments to the BMP which includes a 5-year time extension and allows for a limited curfew on Cowell Beach (contingent upon City approval) are expected to provide continuing benefits to public access and recreational

opportunities while protecting coastal resources and remaining consistent with the requirements of the Coastal Act.

Commission and City staff coordinated closely throughout the permit application process to arrive at a mutually agreeable project proposal, including by participating in a number of meetings. Overall, and subject to the recommended conditions, the BMP as amended will continue to protect and enhance public access and recreation and minimize adverse environmental impacts to coastal marine resources. **Therefore, Staff recommends that the Commission approve the CDP amendment for the BMP.** The necessary motion is found below on pages 3 and 4.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1: Location Maps for Cowell and Main Beaches Area

Exhibit 2: Site Photographs

Exhibit 3: Proposed Cowell and Main Beaches Beach Management Plan

Exhibit 4: City of Santa Cruz Resolutions to Adopt Cowell Beach Curfew

Exhibit 5: Special Conditions of CDP 3-11-027, as Amended

Exhibit 6: Correspondence

I. MOTION AND RESOLUTION

Motion:

*Motion: I move that the Commission **approve** the proposed amendment to Coastal Development Permit Number 3-11- 027 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the amendment and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves coastal development permit amendment number 3-11-027-A1 and adopts the findings set forth below on grounds that the development, as amended and subject to conditions, will be in conformity with the Chapter 3 policies of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. SPECIAL CONDITIONS

This permit amendment is granted subject to the following special conditions. All terms and conditions of the original approval of Coastal Development Permit No. 3-11-027-A1 remain in full force and effect, except those that are explicitly replaced or modified in this amendment, as follows (see **Exhibit 5** for a clean copy of the amended conditions):

1. ~~Three~~**Five-Year CDP.** Except for the Cowell Beach Curfew component of the BMP (see Condition 2 below), this coastal development permit shall expire 3 five years from the date of Commission approval (i.e., on June 16, 2014 November 13, 2019).
2. ~~2. Kelp Water Quality Study. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of the Kelp Water Quality Study for Executive Director review and approval. The Study shall be substantially consistent with the study parameters and methodology described in the Permittee's Beach Management Plan, including with respect to study monitoring and reporting (see Exhibit 2). The Permittee shall complete the approved Study and submit the final Study report to the Executive Director prior to expiration of this coastal development permit (i.e., no later than June 16, 2014).~~

Cowell Beach Curfew.

(a) The Cowell Beach curfew component of the BMP shall expire five years from the date of Commission approval (i.e., same as the BMP overall), and shall only remain in effect during that time frame provided that the City Council continues to authorize the curfew during this five-year period. If the City wishes to continue the Cowell Beach curfew in the next iteration of the BMP, the City shall submit as part of its application materials for renewal of the BMP in 2019 a report that evaluates the effect of the curfew on illegal and/or other activities at Cowell Beach that affect bona fide public use (such a report must be based on data collected from police and other like reports, including data on the number of calls for service, numbers of arrests, list of infractions at Cowell Beach during the curfew hours, number of needles found on the beach, etc.) as well as an evaluation of the impact that the curfew has had on public access at Cowell Beach.

(b) In the event that the City Council's authorization of the Cowell Beach curfew lapses, the Cowell Beach curfew will be considered rescinded for the remaining term of the BMP described in **Special Condition 1** above, and signage pertaining to the curfew shall be immediately removed from Cowell Beach.

3. **Special and Temporary Events Notification.** The Permittee shall submit two copies of the Special and Temporary Events Notification for Executive Director review and approval by January 1st of each year that this permit remains valid. The Notification shall be substantially consistent with the special and temporary events notification parameters and methodology described in the Permittee's Beach Management Plan, including with respect to subsequent events notification, signage, and reporting (see Exhibit B 3). Special and temporary events shall only be allowed if the Executive Director first approves them.
4. ~~4. Annual BMP Monitoring Report.~~ ~~The Permittee shall submit two copies of an annual Beach Management Plan Implementation Monitoring Report for Executive Director review and approval each calendar year prior to March 1st of each year that this permit remains valid. Such Report shall provide annual monitoring information relative to beach grooming, kelp removal, and special and temporary events substantially consistent with the annual reporting parameters and methodology described in the Permittee's Beach Management Plan (see Exhibit B).~~ **Assumption of Risk, Waiver of Liability, and Indemnity.** By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to hazards from episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, and the interaction of same; (ii) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
5. **Liability for Costs and Attorneys' Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

III. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

Project Location

The City of Santa Cruz's proposed Beach Management Plan (BMP) applies to all sandy areas of Main and Cowell Beaches in the City of Santa Cruz. These areas are located seaward of the Santa Cruz Beach Boardwalk, Union Pacific Railroad Trestle, Beach Street, Ideal Fish Company, the Dream Inn, the Sea and Sand Inn, and West Cliff Drive, and are located roughly between San Lorenzo Point (downcoast) and Collins Cove (upcoast) along the City's shoreline (see **Exhibit 1: Location Maps** and **Exhibit 2: Site Photographs**).

Cowell Beach is the sandy beach area upcoast of the Santa Cruz Municipal Wharf, and Main Beach is the sandy beach area downcoast of the Wharf. In total, these two beach areas are approximately 1.3 miles long and vary seasonally in width to as little as 100 feet at certain points during the winter months. During the summertime, Main Beach provides extensive sandy beach areas of up to 500 feet wide. The sandy beach areas provide a beach environment with favorable wave and water conditions suitable for many activities including surfing, swimming, volleyball, bodysurfing, and sunbathing. In addition, the Santa Cruz Beach Boardwalk,¹ adjoining commercial establishments, and the City's Municipal Wharf are located on and adjacent to Main and Cowell Beaches. These areas form the most popular beach and general visitor destination in all of Santa Cruz County, and arguably the entire central coast of California, with heavy public use occurring primarily during the period between the Memorial Day weekend and Labor Day. Visitors come from all over the world to recreate along the Boardwalk, the Wharf, Cowell Beach and Main Beach. There are multiple accessways to these beaches from lateral trails extending along most of this shoreline.² The beaches are open to the general public and there are no restrictions on hours of use except for the City's proposed beach curfew on Cowell Beach, which includes the dry sandy beach area located between Collins Cove and the landward property located beneath the Wharf (Main Beach is not included in the proposed beach curfew area). (Refer to **Exhibit 1: Location Maps**).

Project Background

In 1995, the City's original BMP was added to the LCP (LCP Amendment 1-95) to help provide guidance for decisions in the beach area, and the Commission approved its initial implementation of the BMP for a five-year period.³ The Commission then approved two additional amendments authorizing continuing BMP implementation, and in 2006 the authorization period was reduced to three years in light of Commission concerns regarding kelp removal and beach grooming operations.⁴ At that time the Commission was interested in better understanding the balance being struck between facilitating beach recreational use and the effect of such operations on

¹ The Boardwalk is the West Coast's largest seaside amusement park with over 35 rides and one million visitors annually.

² Including direct public access from the publicly available (free of charge) Boardwalk and City pathways along Beach Street, and access from the Dream Inn for Dream Inn guests.

³ CDP 3-95-043 was approved on May 11, 1995.

⁴ CDP amendment (CDPA) 3-95-043-A1 approved on September 14, 2000 for an additional five years, and CDPA 3-95-043-A2 approved on August 10, 2006 for an additional three years.

beach ecology, and whether kelp was or was not resulting in poor water quality on Cowell Beach, and three years was deemed an appropriate interim period to allow the City to look into such issues for the next iteration of the BMP. Since then, the City has been working towards addressing poor water quality that that continues to plague Cowell Beach.

When the City developed a new and updated BMP (CDP 3-11-027), it was designed to further respond more comprehensively to both the problems the City previously identified as affecting beach recreational use and the Commission's concerns last expressed in the 2006 approval of the BMP. Conditions of approval for CDP 3-11-027 included approval of the BMP for a three-year period and a kelp and water quality study, which required annual monitoring and reports submitted for Executive Director review. As a means of furthering the science and informing CDP decisions related to kelp removal and grooming, the City entered into a partnership with the Southern California Coastal Water Research Project (SCCWRP) and researchers from Stanford University to study the impacts of kelp removal on water quality and beach ecology. The research objectives were designed to meet the needs of the City and the Commission and serve to provide valuable information to inform future decisions regarding the protection of coastal environmental and recreational resources in this location. The City also committed to a similar study related to beach grooming as well. The results of the kelp-water quality study were intended to provide, at a minimum, a causal correlation of water quality testing data to kelp removal data, and identify discernable trends or relationships associated with the study data (including for kelp, wildlife, debris, and water quality) as well as make recommendations for adapting kelp removal operations as necessary in the coming years to better protect coastal resources. The City's complementary efforts with respect to grooming operations served the same function. The results of the studies are described below in the findings related to Marine Resources.

Project Description

The existing BMP is multifaceted, and includes provisions for regular maintenance operations (e.g., beach grooming, including litter removal, leveling and contouring of sand for volleyball tournaments, etc.), seasonal debris removal (e.g., of logs and other debris washed down the San Lorenzo River), limited commercial uses (e.g., beach concessionaire rentals), recreational and educational programs (e.g., Junior Lifeguard and beach volleyball programs), the Seaside Company's (Santa Cruz Boardwalk) bandstand, installation of a temporary deck for six months of the year, and handicap ramps and walkways, special and temporary events, flood and drainage discharge operations, and a signage program. The City is requesting that the BMP be authorized for another five years.

The proposed BMP provisions are similar to provisions included in CDP 3-11-027 but have been updated to reflect current information, i.e. the results of the water quality and kelp monitoring study, and proposed project changes that have been identified to date such as after-the-fact approval of the City's curfew at Cowell Beach. Thus, the updated BMP includes the following sections:

Recreational and Educational Programs

The BMP limits use of Main and Cowell Beaches for recreational and educational programs, such as the Junior Lifeguard Program, to no more than 20% of the total beach area and requires that these activities be conducted in a manner that best protects general public beach access,

including requiring that lateral access along the beach not be impacted by these activities. The City also maintains 16 volleyball courts for public use on Main Beach. These courts may be reserved for use via the City Park and Recreation Department's online reservation system. In order to ensure overall beach availability for general public use, certain defined recreational uses that occupy large beach areas, such as the City's beach volleyball courts, are restricted to specifically designated areas.

Special/Temporary Events

Special and temporary events are held regularly at Cowell and Main Beaches throughout the year. Special events, as understood in this BMP, are considered those that occur regularly and usually on an annual basis, such as the Santa Cruz Triathlon. Temporary events, as understood in this BMP, are non-annual events and are scheduled at various times, such as weddings or any reserved use of the City's beach volleyball courts. As outlined in the BMP, the scheduling and noticing to the public for both special and temporary events is to include type of event, date, times, specific location, expected number of participants, and any proposed fees required. By January 1st of each year (and prior to any event occurring for that year), the City will provide to the Commission's Executive Director for review and approval a list of all known special events and any known temporary events pursuant to this BMP (temporary events are noticed immediately to the Executive Director via the City's email distribution list). Only events on the approved list are allowed, and any changes to the approved list must first be submitted to the Executive Director for review and approval subject to the same criteria. All events that are scheduled after the Executive Director's approval of the yearly list are also subject to the Executive Director's approval based on the same methods, where any subsequent event to which the Executive Director has not responded within five days of receiving the event notification package from the City is deemed approved. In addition, special and temporary events are not allowed to restrict more than one-third i.e., 33%, of the total beach area (including the volleyball courts, which occupy about 10% of the beach),⁵ unless in special circumstances, and must be configured in such a way as to avoid stairways to the beach and to otherwise minimize impacts on general public beach use. For any special circumstances, the Executive Director must be noticed and shown that such circumstances: (1) will not adversely impact recreational uses of the beach; and (2) will not adversely impact coastal resources. Finally, all special and temporary events are subject to the Commission's 1993 temporary events guidance.

Cowell Beach Volleyball Courts

The City proposes two public volleyball courts⁶ to be located on Cowell Beach in the upper beach area located adjacent to and in front of the Dream Inn (**Exhibit 1**). This area is not as intensively used as other areas of the Cowell Beach because of its distance away from the shoreline. Both courts will be available for free public use and open year round.

Bandstand, Beach Deck, Walkways, and Main Beach Volleyball Courts

The BMP allows the Santa Cruz Seaside Company (i.e. the "Boardwalk") to construct a temporary approximately 3,800 square-foot deck (which provides approximately 42 picnic tables and seats approximately 476 people) over the sandy beach immediately adjacent to the

⁵ When the volleyball courts are reserved, they count towards this 33% total. Thus, at these times, special and temporary events other than the volleyball courts can only occupy up to a little over 20% of the remaining beach.

⁶ One of these volleyball courts has been in place for a number of years, but was not mentioned in previous iterations of the BMP. The second is a new volleyball court.

Boardwalk Casino building between May 1st and October 31st. In addition to the City's 16 volleyball courts on Main Beach, the Seaside Company also installs two seasonal volleyball courts adjacent to the deck to be used in tandem with deck use (one court is positioned in front of the Casino rotunda, the other is located between the two sets of steps downcoast of the Casino rotunda on the Colonnade promenade) and two walkways (one an ADA access from the grassy knoll along the west side of the Casino out approximately 70 feet toward the water, the other along the beach deck extending approximately 230 feet east to the Colonnade promenade). To ensure that the public has appropriate access to the deck, the City has entered into an agreement with the Seaside Company to regulate public and private use of the deck. This agreement requires the Seaside Company to reserve the deck for public use at least one full midweek day each week that the deck is in place (the day of the week may vary). Of those remaining days, and including weekends, the Seaside Company can reserve the deck for private use for up to 40% of those days (or approximately 72 of the 180 calendar days the deck is on the beach). For the remaining approximately 108 days, the deck must be available for general public use. In April of every year, the Seaside Company provides a list to the City of dates the deck will be reserved for private use, and must notify the City in writing with any cancellations or additions. The City then provides this list to the Executive Director for review and approval. Any changes to the approved list also require approval in the same manner as discussed above.

Kelp Removal and Beach Grooming

The BMP contains similar kelp removal activities as in past BMP permits, which include: removal of kelp above the high tide/wrack line (other than minor amounts of kelp that may be collected incidental to regular maintenance operations) during the summer season between the weekends of Memorial Day and Labor Day of each year, and limited beach grooming (e.g., sand sifting, re-contouring, etc.) during the early morning hours, i.e. before 11 a.m., for debris removal and sand leveling. Additional kelp removal may occur only if insect infestations due to kelp on the beach are negatively impacting beachgoers. For the remainder of the year, kelp will only be removed above the high tide line under limited circumstances such as when the removal is incidental to ordinary grooming or necessary to clear sections of the beach when large kelp deposits prevent public access or create safety issues. Kelp removal activities are limited to mornings before 11 a.m. and may not include any sand area within 100 feet of the San Lorenzo River or its lagoon except to maintain the accessibility of the City's eastern emergency/maintenance vehicle accessway. All kelp removal and beach grooming activities must be undertaken in a manner that limits public recreational use impacts.

The City had been concerned that kelp may be playing a large role in historically poor water quality, especially at Cowell Beach. In an effort to help the City, the Coastal Commission, and other beach managers understand what is causing the poor water quality, especially at Cowell Beach, the City entered into partnership with the Southern California Coastal Water Research Project (SCCWRP) and researchers from Stanford University to conduct a two-year water study to determine the degree to which kelp removal reduces bacterial contamination offshore at Cowell and Main Beaches.

The study results showed that the kelp removal caused increased turbidity and reduced water clarity in coastal waters. Further, the report findings suggest that beach grooming for wrack removal is not justified as a microbial pollution remediation strategy. The study concluded that the bacteria problem was terrestrial rather than marine, i.e. it was not caused by kelp found on

the beach. The study's findings also suggest that there is a consistent human bacterial source to Cowell Beach that has not yet been clearly identified. The City continues its efforts to identify the cause of the bacterial problem.

Previously, the City monitored for the effects of beach grooming on Cowell Beach in combination with the kelp water quality study and submitted the results to the Executive Director in the 2011, 2012 and 2013 annual monitoring reports. The results showed minimal impacts to wildlife and habitat from beach grooming activities, including removal of kelp above the high tide line. Therefore, the City no longer intends to continue monitoring during beach grooming activities.

Specific BMP allowances include (see the City's proposed amended BMP in **Exhibit 3**):

1. The use of mechanized equipment on the beach for:
 - (a) Regular maintenance operations: (1) beach cleaning (e.g., litter removal); (2) leveling for recreational activities such as volleyball or recontouring to clear stairways (e.g., after storms); (3) installing lifeguard towers and handicap ramps; and (4) garbage removal.
 - (b) Beach grooming (i.e., mechanical sand sifting and sand leveling).
 - (c) Seasonal debris removal operations after the last major winter storms or as necessary depending on large debris accumulation.
 - (d) Marine mammal disposal (i.e., for dead or diseased marine mammals).
 - (e) Kelp removal on dry sand areas above the high tide/wrack line between Memorial Day and Labor Day during daily maintenance operations.
 - (f) Safety activities, including use of lifeguard vehicles and other emergency machines.
 - (g) Construction activities covered by separate CDP (e.g., projects at the Boardwalk that require temporary construction equipment or construction activities on the beach).
 - (h) Seasonal installation, removal, and use of the Seaside Company Bandstand, deck, walkways, and volleyball courts.
2. The use of mechanized equipment is subject to the following management provisions:
 - (a) The City Parks and Recreation Department will advise other City Departments and will stipulate in all contracts and agreements with non-City groups that operations or activities that affect the beach area must be undertaken consistent with the BMP. A copy of the BMP or relevant sections of the BMP shall be given to all operators.
 - (b) All mechanized equipment will enter and exit the beach at the Cowell Beach Ramp, the Westbrook Ramp, and/or the Third Street parking lot ramp (which serves as the City's eastern emergency/maintenance vehicle accessway). No equipment will be stored on the sandy beach.
 - (c) No mechanized equipment will operate in the wet sand (below the ordinary high tide

line), except in cases of emergency, when required for safety reasons, and for removal of marine mammals, where such removal is premised on keeping all mechanized equipment on the dry sand as much as possible.

- (d) Re-contouring of the beach along the San Lorenzo River or its sandbar or artificial breaching of the sandbar is prohibited.
 - (e) Maintenance activities will be scheduled to prevent conflict with access and use of the beach by the public.
 - (f) Debris is disposed of at the City landfill. Disposal at other sites within the coastal zone requires a separate CDP.
 - (g) The operation of any equipment will be with safety as the first consideration.
 - (h) Hours of operation are limited to prior to 11 a.m.
3. City Recreational/Educational Programs as follows:
- (a) The City maintains 18 volleyball courts for public use that are available year round: 16 courts in designated areas on Main Beach for general public and reserved group use, and two courts in designated areas on Cowell Beach for general public use.
 - (b) Beach oriented recreational/educational classes, including the Junior Lifeguard Program, with uses limited to no more than 20% of the total beach area at any time.
4. Commercial Uses as follows:
- (a) Concessionaire-operated portable ocean equipment rental trailer, which is dropped off onto the beach and removed daily by a 4 x 4 vehicle (approximately 21' long by 8.5' wide by 10' high).
 - (b) Seaside Company deck for private use approximately 72 days per year.
5. Special and Temporary Events consistent with the Commission's Temporary Event Guidelines, and with uses limited to no more than a third of the total beach area at any time, including the volleyball courts.

Curfew Background and Description

The CDP for the BMP was approved on June 16, 2011 and covers Cowell and Main Beaches. The BMP states that there are no restrictions on hours of use at these beaches. On April 23, 2013, the City Council adopted a resolution that declared that a public nuisance exists at Cowell Beach and implemented a one-year beach curfew (from midnight to one hour before sunrise) at Cowell Beach.⁷ The City states it took this action to address criminal activities (e.g., drug use, late night loitering, etc.) that had been taking place at Cowell Beach during the nighttime hours. The City

⁷ Note that all of the much larger Main Beach area downcoast of the Santa Cruz Municipal Wharf was unaffected by the curfew, and remains available 24 hours a day. Access to the Wharf itself is prohibited between the hours of 2am and 5am for maintenance (per CDP amendment 3-81-041-A5 approved by the Commission in 1991).

implemented the curfew under its public nuisance authorities, and without CDP approval. Commission staff advised the City at that time that the curfew appeared warranted under such public nuisance authority at that time, but that any extension of such a curfew past the initial year period would need to be recognized by a CDP.

The City's Cowell Beach curfew policy prohibited the public's use of the dry sand portion of the beach (the area that extends from Collins Cove to the area located under the Wharf, a shoreline length of approximately 1200 feet) during the hours of midnight to one hour before sunrise, with the provision that the dry sand portion of the beach may be used at all hours to access the wet sand portion of the beach, and that the wet sand portion of the beach would remain open to the public 24 hours a day in accordance with all applicable rules for beach use (e.g., no camping, no alcohol, no smoking, etc.) and for all uses of the public for which the beach may currently be used (e.g., fishing, jogging, kayaking, paddleboard and surf launching and landing, walking, meditating, swimming, sightseeing, nature observation, etc.). In other words, the dry sand portion of the beach was allowed to be used to access the wet sand portion of the beach during the curfew hours, but it could not otherwise be used for any other purpose at that late night time.

On July 22, 2014, the City adopted a new resolution to extend the Cowell Beach curfew for an additional year. In addition, the City Council directed City staff to work with Commission staff to develop a longer term solution if the nuisance conditions at Cowell Beach did not dramatically improve. Because the BMP covers all beach management activities at Cowell Beach, and because the City was in the process of pursuing an amendment to change and renew the BMP and its CDP, the City has included the curfew in this iteration of their CDP application.

B. STANDARD OF REVIEW

All of Main and Cowell Beaches are located within the Commission's original CDP jurisdiction, and thus the Commission retains CDP authority over these areas. Chapter 3 of the Coastal Act is the standard of review, with the City of Santa Cruz certified LCP serving as guidance to the Commission.

C. PUBLIC ACCESS AND RECREATION

Applicable Policies

Coastal Act Sections 30210 through 30214, 30221, and 30223 specifically protect public access and recreation as follows:

Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211: 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.

Section 30212 (a): *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects....*

Section 30213: *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30214(a): *The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case....*

Section 30220: *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221: *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30222: *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Section 30223: *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Analysis

Public Access Background

The Santa Cruz Beach Boardwalk, adjoining commercial establishments, and the City's Municipal Wharf are located on and adjacent to Main and Cowell Beaches. These areas together form the most popular beach and general visitor destination in all of Santa Cruz County, and arguably the entire central coast of California. An estimated one million visitors annually (with most of these visiting during the summer and fall months) from a variety of locations and economic backgrounds, swim, relax, play, and generally enjoy the beaches and other amenities found here. Especially during the summer months, the beach area can be packed with families, blankets, and umbrellas, occupying almost its entire area. As such, and because of this heavy use, these beaches are often not the ones visited by those looking for a quiet, or more pristine natural beachscape, such as those located further north or south outside of the Santa Cruz urban core. However, even with the hustle and bustle associated with such heavy use, the BMP has helped to manage and provide quality public access and recreation opportunities along its approximately one-mile length.

Beach Maintenance/Grooming

The width of Cowell and Main Beaches vary seasonally, from as little as 100 feet or less in some areas during the winter months, and near Cowell's Cove at its western edge, to its typical wider beach profile of over 500 feet during summer. At its far eastern edge, the San Lorenzo River lagoon often forms during the spring, due to natural berming processes, and may extend laterally

along Main Beach in front of the Boardwalk for several hundred feet some years. Yet, given the considerable size of Main Beach, extensive sandy areas remain available for the public, even during times when a sizeable lagoon forms (see beach orientation in **Exhibit 1 Location Maps** and **Exhibit 2 Site Photographs** pages 3-6). By limiting beach maintenance activities to avoid disruptions to the natural functioning of the San Lorenzo River lagoon, the BMP is consistent with the Coastal Act directive to maximize public access and recreation opportunities in a manner that protects natural resources.

During the summer high use season between Memorial Day and Labor Day of each year (Saturday of Memorial Day weekend through Monday of Labor Day weekend), the BMP allows for removal of kelp from the dry, sandy areas above the wrack line (above the high tide line) of the beach as necessary to limit impacts to beachgoers of high fly populations and large beach displacement areas created by the presence of kelp. The City believes that such kelp removal is the most appropriate balance between public access and public recreational benefits afforded to beach goers and the ecological benefits that the kelp provides. The BMP limits kelp removal activities to mornings before 11 a.m. and does not allow kelp removal from any sand areas located within 100 feet of the San Lorenzo River or its lagoon, except to maintain accessibility of the City's eastern emergency/maintenance vehicle accessway. The BMP requires that all such activities be undertaken in a manner that limits public recreational use impacts as much as possible.

Public Recreation

The BMP provides an appropriate balance between public and private use on what are considered historic tidelands of the State of California. The Seaside Company's seasonal deck, for example, can only be used for private use 40% of the days that the deck is installed. This leaves approximately 108 days, or around 3 ½ months (out of six), for the general public to enjoy unhindered free access and use. Further, to ensure the public is aware of the opportunities that the deck provides, a signage program alerts the public when the deck is available for public use. Also to encourage public recreation, the Seaside Company temporarily constructs a beach bandstand (an approximately 2,000 square foot stage) used for a variety of free public events, including but not limited to: magic shows, cheerleading competitions, body building contests, Sunday sunrise services, tanning contests, a clam chowder cook-off, group beach games, music concerts, band review awards, DCARA (Deaf Counseling Advocacy & Referral Agency) Day awards, sand castle contests, as well as the "Summertime, Summer Nights" free public concerts and movie series. City policy prohibits charging for these events. The Seaside Company also installs and maintains (and removes at the end of the summer season), a handicap accessible ramp that extends from the deck toward the water line approximately 70 feet, and which, regardless of whether the temporary deck is reserved for a private function, remains open and accessible at all times for disabled users. The Seaside Company also installs an approximately 230-foot-long lateral walkway along the beach from the deck back to the Boardwalk's Colonnade promenade. City staff monitors all of these uses on a monthly basis to ensure the parameters of allowed use and activities per the BMP (and the City's agreement with the Seaside Company) are being followed and that public use and accessibility of this beach-area resource continues to be provided. Given all the above, the BMP maximizes public access opportunities, consistent with the Coastal Act.

Recreational and Educational Programs

The BMP also provides appropriate limits on the size and scope of recreational and educational activities to ensure that these activities do not impact general public access to the beach, including lateral access. The City runs the Junior Lifeguard program and various recreation classes for the community. To ensure beach availability for general public use, the BMP does not allow more than 20% of the total beach area to be occupied by such activities, and requires that they be confined as much as possible to minimize impacts on general beach recreational use. These programs are a service to the community and generate limited revenue, which is returned to the City's general fund. Given all of the above, the BMP is consistent with the Coastal Act's requirements to maximize public access and protect oceanfront land and coastal areas for recreational uses.

Temporary and Special Events

The BMP's special and temporary event guidelines have been designed to minimize impacts on both the public and natural resources. For example, for such events, the City provides a list at the beginning of the year that includes a narrative description of the event, plans identifying affected beach areas and any associated physical development, and all identifying information (including, but not limited to its duration, expected number of participants, any fees, operating plans, parking plans, signs, etc.) to the Executive Director for review and approval. Special and temporary events are only be allowed if they are sited and designed to minimize impacts on general public recreational use as much as possible (including the requirement that they do not block lateral access along the lower beach area, nor block access to the beach from any and all public access points). Events that restrict more than a third of the total beach area are prohibited unless the Executive Director determines that there are special circumstances and that use of the additional area will not significantly adversely affect general public recreational use. All events that are scheduled after the Executive Director's initial approval of the yearly list referenced above are subject to Executive Director approval based on the same methods above. Any such subsequent event to which the Executive Director has not responded within five days of receiving the event notification package from the City is deemed approved. In addition, a schedule of all special events, land and water, is posted on the City's Parks and Recreation Department website (<http://www.cityofsantacruz.com>) as a service to the public and all interested parties.

CDP 3-11-027 required the Parks and Recreation Department to monitor and maintain records for any negative impacts of special and temporary events on coastal resources, including general public access to Main and Cowell Beaches (**Special Condition 4**). During the last three years there have been no reports of negative impacts related to temporary and special events. Each event restricted less than one-third of the total beach area (including the volleyball courts), consistent with the BMP's requirements. Thus, the special and temporary events are not having a significant adverse impact on general public access to Main and Cowell Beaches because at least two-thirds of these beaches are available for public use. Thus, **Special Condition 4** of 3-11-027 is no longer necessary. To ensure consistency with the special and temporary events notification parameters and methodology described in the BMP (**Exhibit 3**), this approval requires submittal of the Special and Temporary Events Notification for Executive Director review and approval by January 1st of each year (see **Special Condition 3**). Because all events will be reviewed by the Executive Director to ensure that the general beach-going public is not significantly impacted by such events, including in relation to limits on the amount of space that can be occupied by such

events at any one time, in terms of beach access points and primary lateral access along the lower beach shoreline, the proposed BMP sections detailing such programs and events can be found consistent with the Coastal Act's public access and recreation policies.

Cowell Beach Curfew

Cowell Beach is a significant public access resource area that is heavily used by the public for typical beach activities, including use – albeit more limited – at night. Coastal Act 30210 requires “maximum access”, but also explicitly tempers this requirement with the need to be cognizant of public safety needs. Similarly, and although Section 30211 does not allow for interference with public beach access rights, Section 30214 identifies the need to implement the Coastal Act's public access provisions in a way that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances of each case.

In this case, the City has provided evidence that there is a public safety problem associated with certain nighttime activities on Cowell Beach. According to the Santa Cruz Police Department (SCPD) report (dated June 9, 2014), Cowell Beach is a popular place for nighttime illegal activity due to its central location and the fact that it is very dark at night on Cowell Beach, especially at the upcoast portion of the beach at Collins Cove. The police report describes the nature of the nuisance-related criminal activities that take place on the beach (such as drug use, drug sales and public urination and defecation), and provides examples of how the curfew is addressing these problems. The SCPD is supportive of the beach curfew and maintains that it has a positive impact and helped to reduce human health hazards related to drugs and discarded drug paraphernalia, including discarded hypodermic needles, and has led to a reduction in human feces, urine, and garbage on Cowell Beach. In addition, the SCPD reports that there has been a drastic reduction in calls for service to Cowell Beach at night. Although there has been a reduction in criminal activity, there are still incidents that occur on Cowell Beach and under the Wharf that pose a safety hazard for beach visitors, and the SCPD continues to be vigilant in patrolling Cowell Beach during curfew hours. The SCPD indicates that the proposed beach curfew time is the minimal amount of closure time necessary to address some, but not all, of the illegal behaviors taking place at night on Cowell Beach, and states that the curfew has resulted in fewer 911 calls, fewer citations, and a reduction in discarded needles on Cowell Beach. The City has provided substantial evidence that a limited curfew applicable to Cowell Beach from midnight to one hour before sunrise, with provisions to accommodate bona fide access to the immediate shoreline area at the ocean's edge, is appropriate in this case. Evidence submitted points to the fact that there have clearly been a series of unsavory and dangerous activities during night-time hours at Cowell Beach that are leading to problems not only during that night-time period, but during daylight hours as well (e.g., feces, trash, and discarded needles in the sand that adversely affect public access). The City has crafted a limited curfew designed to address these problems in a way that appropriately limits any impact to bona fide access use at Cowells at night. The fact that the adjacent and much larger Main Beach (i.e., Main Beach is significantly wider than Cowell Beach, and significantly longer along the shoreline, extending approximately 3500 feet from the Wharf to San Lorenzo Point at the San Lorenzo River downcoast) will continue to be available 24 hours a day, also serves to appropriately address any potential for the Cowell Beach nighttime curfew to inappropriately and significantly affect bona fide night-time beach access in this area overall. The Commission finds that the proposed curfew is appropriate in this case.

The City is requesting that the curfew be authorized for the same time as the remainder of the provisions on the BMP (i.e., for five years until November 13, 2019). . However, the City’s most recent resolution to allow the curfew will expire on July 22, 2015. The City Council will meet again prior to that date to decide whether the curfew will be extended. This approval is conditioned to allow the curfew to remain in place for the five-year term of this CDP, provided that the City Council approves extensions of the curfew. However, in the event that the City Council does not reauthorize the curfew any time during the five year scope of this CDP, the curfew will be considered rescinded. In addition, if the City intends the curfew to be extended in the next iteration of the BMP in five years, it is appropriate that they provide information at that time regarding the effect of the curfew on both illegal and/or other activities at Cowell Beach that affect bona fide public use, as well as an evaluation of the impact that the curfew has had on public access at Cowell Beach (see revised **Special Condition 2**).

In addition, the Applicant proposes signage to be located at the entrances to Cowell Beach and the Santa Cruz Wharf to announce the beach curfew and beach use rules. All signs are required to be sited in a manner that is protective of the significant public viewshed, and subject to Executive Director approval (see **Exhibit 3**, Section VIII (Signing Program) of BMP on page 20). If the curfew is discontinued, all associated signs must be removed (see **Special Condition 2**).

Conclusion

The City of Santa Cruz along with the Seaside Company, which oversees management of the Santa Cruz Boardwalk and a portion of Main Beach, has served to provide an exceptional visitor experience for the general beach-going public, and has appropriately maximized public recreational access opportunities under the City’s BMP to date. In this same tradition, the amended BMP, as conditioned, ensures protection of public access recreation opportunities as required by Chapter 3 of the Coastal Act by managing access, including promoting public safety, and minimizing public recreational access impacts while allowing for a multitude of uses for those visiting Main and Cowell Beaches. Therefore, as conditioned the BMP is consistent with the above-cited public access and recreational policies of the Coastal Act.

D. MARINE AND BIOLOGICAL RESOURCES

Applicable Policies

Coastal Act Sections 30230, 30231, and 30232 afford protection of marine resources and their associated biological productivity and state:

***Section 30230:** 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:** 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.

Section 30232: Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Analysis

Beach Grooming and Kelp Removal

The BMP approved by the Commission in 2011, like those before it, allowed a variety of sand-manipulating maintenance activities to occur on the beach (often lumped together under the term “grooming”) that can affect marine resources, and which can generally be separated into two categories – kelp removal and beach grooming.⁸ In terms of kelp removal, the 2011 BMP (CDP 3-11-027) allowed the removal of kelp located above the high tide/wrack line between Memorial Day and Labor Day and “only as necessary to limit impacts of high insect populations on beachgoers.” That CDP also allowed the removal of kelp, not subject to location or date restrictions, when Santa Cruz County Environmental Health Services (EHS) determined that excessive kelp on the beach in that location was causing bacterial counts to exceed state safe water quality standards. The 2011 BMP allowed beach grooming to occur during the late fall, winter and early spring months, but primarily and especially during the summer high use season. This proposed CDP amendment allows for continued kelp removal and grooming activities (prior to 11 a.m.) in the dry, sandy areas above the high tide/wrack line between Memorial Day and Labor Day as necessary to limit impacts of high fly populations and to clear piles of kelp that impact and limit areas of sandy beach available for beachgoers (see **Exhibit 3** Section II (D) Kelp Removal page 9 for details).

Prior BMP methods and practices for kelp removal and beach grooming have generally worked as intended to enhance public recreational use of the beach, as described above. As indicated in the previous findings, Main and Cowell Beaches are intensively used by the public and function almost exclusively as recreational beach space, apart from the portion nearest the San Lorenzo River (and where the BMP explicitly does not allow any beach manipulation within 100 feet of the river) (see **Exhibits 1** and **2**). Although beach ecologists generally agree that regular removal of kelp from beaches and beach grooming activities can have negative impacts on birds and other wildlife species that reproduce and forage on the coast (including by disturbing food sources such as insects and their habitat), there is little direct evidence associated with Main and Cowell Beaches to suggest that past or proposed kelp removal and beach grooming has or will lead to adverse biological resource impacts at this location. Again, as previously indicated, these are high use beach areas with generally lower habitat function than more isolated beach areas (such as those on Santa Cruz’s north coast). Based on this context and fact set, the Commission has historically authorized such activities at Cowell and Main Beaches under the BMP (as it has in

⁸ Beach grooming includes debris removal that involves leveling, contouring, smoothing, sifting, and similar sand manipulation using machinery.

other cases statewide),⁹ including because there are no special status species known to inhabit Main and Cowell Beaches,¹⁰ and because ecological impacts have not been deemed significant enough to dictate otherwise.

Cowell and Main Beaches have historically been subject to regular beach grooming activities, with ongoing sand sifting and occasional kelp removal, including incidental removal during other maintenance operations, for decades. While it seems likely that the BMP-proposed removal of kelp from dry sand areas during the summer months and beach grooming activities may have some effect upon the general beach ecology, the fact that these are high public use beaches that have historically been manipulated suggests that it would be a limited effect at these beaches and would appear to present very little potential for any type of significant habitat concern.

Unlike past BMPs, CDP 3-11-027 included a special condition (**Special Condition 4**) that required monitoring related to both kelp removal and beach grooming designed to assess the manner in which these activities affect ecological process. Such information was necessary to help adapt ongoing processes to best protect resources under the BMP, as well as to provide information to the City and the Commission to help inform future BMPs at Cowell and Main Beaches (and, by extension, information that would prove valuable when such activities are considered elsewhere along the coast). The City submitted two monitoring reports both entitled “City of Santa Cruz Beach Management Plan Implementation Monitoring Report,” dated December 27, 2013 and April 23, 2014. According to these reports, beach grooming activities had little impact on wildlife, other than removing a substrate for brine flies and disturbance of a few common species of gulls during beach grooming activities. The reports also note that the low level of wildlife disturbance is most likely due to the frequency and intensity of public recreational activities taking place in the grooming locations and on adjacent beach areas, i.e. the extensive human use of these urbanized beaches limits wildlife use of these beaches. Given the minimal impacts to wildlife at this location from beach grooming and kelp removal activities that take place above the mean high tide line, **Special Condition 4** of CDP 3-11-027 is no longer required.

Water Quality and Kelp Study

The City had been concerned that kelp may be playing a large role in historically poor water quality, especially at Cowell Beach. Despite instituting significant measures to improve water quality in the beach area,¹⁴ advisory postings have continued to plague the area. For example, in

⁹ More than 100 miles of sandy shoreline between Santa Barbara and San Diego are regularly and intensively groomed.

¹⁰ The Commission has historically raised more significant concerns with kelp removal and beach grooming when such species are present, such as limiting beach grooming activities in Southern California on beaches associated with grunion runs (see for example, CDPs 4-05-155 and 4-10-066 for the Santa Barbara Harbor and Waterfront Area, and 4-10-061 for City of Carpinteria).

¹⁴ Including increased street sweeping (including the purchase of a replacement sweeper for the Municipal Wharf); litter control improvements; storm drain stenciling to discourage dumping; cleaning and repair of catch basins and inlets (350 catch basins inspected w/25 cubic yards debris removed on an ongoing basis); inspections and removal of debris at Branciforte Creek storm water conveyance channel; cleaning of pump stations along the San Lorenzo River; conducting inspections and cleaning of storm drain lines, sanitary sewer lines, and pump stations (9 miles of pipeline and 12 vault cleanings on an ongoing basis); the installation of dry weather diversions of storm water from San Lorenzo River pump stations 1, 2, and 1A to the wastewater treatment facility, from Neary Lagoon outlet to the wastewater treatment facility, and along Miramar Drive; and cleaning of Neary Lagoon storm drain lines and discharging bacteria-laden water to the sanitary sewer system.

2009, Cowell and Main Beaches were posted for the entire summer season from May 13th through the end of October. Similar posting activity was evident again during the entire summer of 2010. In May of 2011, Cowell Beach received the worst grade of all beaches in California for its dry weather water quality, according to Heal the Bay's Annual Beach Report Card¹⁵ which lists the top ten most polluted beaches in California. In 2012 and 2013, Cowell Beach was ranked second (Avalon Beach was ranked number one) but in 2014, Cowell Beach was again listed at the top of the most polluted beach list.

Due to these water quality problems, **Special Condition 2** of CDP 3-11-027 required the City to undertake a kelp water quality study to determine if kelp was the underlying cause of high bacterial counts at Cowell Beach. In an effort to help the City, the Coastal Commission, and other beach managers understand what is causing the poor water quality, especially at Cowell Beach, the City entered into partnership with the Southern California Coastal Water Research Project (SCCWRP) and researchers from Stanford University to conduct a two-year water study to determine the degree to which kelp removal reduces bacterial contamination offshore at Cowell and Main Beaches. The research team worked cooperatively with the City's Parks and Recreation Department and Coastal Commission Water Quality staff to design the study with the following research objectives:

1. To investigate how intensive beach grooming to remove wrack impacts microbial water quality;
2. To determine the spatial and temporal patterns of summertime microbial pollution at the beach;
3. To assess contamination levels in potential sources and the associated fluxes to Cowell Beach; and
4. To use human and bird-specific molecular fecal markers to assess the presence of these fecal sources on the beach and in the water.

The primary objective of the study was to understand the transmissive nature of kelp and its bacteria on water quality. The studies were conducted during the summers of 2011 and 2012 and included extensive water sampling. In the first summer of the study, the City engaged in its historical level of kelp removal as outlined in the previous paragraphs above (i.e., dry sandy beach removal as necessary to address beach recreational use impacts, and potential removal otherwise to address identified public health hazards). The first summer (2011) established a water quality and kelp removal baseline associated with typical and normal kelp removal operations of the City. During the second summer (2012), the City engaged in more aggressive kelp removal and applied the typical and normal baseline of kelp removal but also removed all kelp/wrack located between the high tide/wrack line and the low tide line. In other words, whereas normally such kelp at the high tide line and below would only be removed if a public health hazard were specifically identified, kelp/wrack was removed at a similar rate as on dry sand for the purposes of the study. Once the study period was complete at the end of the second summer, the City returned to performing typical kelp removal activities, i.e. removal of kelp only above the high tide line, during the third summer (2013) as the study results were finalized. This

¹⁵ <http://www.healthebay.org/>

operation only occurred on weekdays prior to 11:00 a.m. and no kelp was removed between Labor Day and the start of the Memorial Day weekend (other than incidental removal during the City's ordinary grooming operations).

In tandem with the kelp-water quality study, researchers also observed and monitored the richness and abundance of animals frequently sited near, and supported by, kelp, such as shorebirds, levels of brine flies, and other animals. The researchers developed an environmental monitoring datasheet for this purpose that was designed to quantitatively and qualitatively identify: 1) the location and amount of kelp removed; 2) kelp supported species abundance before and after the removal (such as shorebirds, brine flies, or any other animals observed in the affected area); and 3) other observations and documentation (including but not limited to identification of other kelp borne debris, animal waste, etc.). The researchers completed environmental monitoring datasheets for each removal episode, documented before and after observations (including with photos) and reports were submitted annually along with the required documentation, including identification of spatial trends over larger beach areas related to the removal area as well as cumulative trends both spatially as well as over time (including all before and after photos).

The SCCWRP water quality study was designed to test whether bacteria found in test samples were originating in humans or animals and to look at what role the deteriorating heaps of kelp deposited on the beach had in capturing and holding or increasing/decreasing enteric bacteria densities in near shore water. One of the key variables in the study was the removal of kelp by the City above and below the wrack line in the summer of 2012. During this time period, City staff removed kelp daily from below the wrack line as well as from the dry portions of the beach.

The research objectives of the water quality study were designed to meet the needs of both agencies, i.e. the City and the Commission, and serve to provide valuable information to inform future decisions regarding the protection of coastal environmental and recreational resources in this location. Previous results had shown consistently high levels of bacterial indicators of fecal pollution and led to Cowell Beach being ranked as the most polluted beach in California. High levels of fecal indicator bacteria (FIB), *E. coli* (EC) and Enterococci (ENT) had been measured throughout the summer resulting in beach advisories and public access impacts with the source of FIB unknown. Speculations were made that the kelp wrack accumulating on the beach was the major source of FIB to the surf zone.

During the study, spatial samplings confirmed that the source of FIB to the beach is terrestrial rather than marine, and cross-shore survey results strongly suggest a shoreline source of bacteria rather than a marine source (e.g. marine mammals). In addition, findings suggest that there is a consistent human source to Cowell Beach. (A similar finding was observed previously in a study conducted at a beach with a known sewage contaminated groundwater source.) The gravity main which drains into the beach groundwater table was found to have a high concentration of the human marker and could represent a dominant source of the human fecal pollution to Cowell Beach.

In conclusion, the results of the studies showed that removing kelp from below the mean high tide line caused increased turbidity and reduced water clarity in coastal waters. Further, the report's findings suggest that beach grooming for wrack removal is not justified as a microbial pollution remediation strategy. The study concluded that the bacterial problem has a terrestrial

source rather than a marine source, i.e. it is not caused by kelp found on the beach. The study's findings also suggest that there is likely to be a consistent human source to Cowell Beach pollution that has not yet been identified.

To determine the human source of contamination, the City's Public Works Department conducted a dye study in 2013 in which dye was added to the Neary Lagoon drainage pipes that outlet onto Cowell Beach. The results of the study found that the dye was present in the groundwater underlying Cowell Beach. The dye study results indicated there was a problem with the Neary Lagoon¹¹ drainage infrastructure that could be the source of the water quality problem. Neary Lagoon outflows through two five-foot diameter pipes to Cowell Beach. The pipes exit the large concrete box that is visible from the beach (and near the entrance to the Wharf). During the summer months, the pipes cannot be seen as they are below sea level and covered by sand. The City diverts the Neary Lagoon summer flow to the wastewater treatment facility to prevent it from reaching Cowell Beach as this allows beach use during the summer without impacts to the beach from the Neary Lagoon flow. As a result of the Public Works' study, the City applied for and was granted approval for an amendment to the Neary Lagoon CDP (3-90-031-A2).¹² This amendment allowed for drainage improvements (for the portion of the project that is located in the Commission's original jurisdiction), which included the placement of a temporary steel plate directly in front of the outfall structure at Cowell Beach to prevent kelp and other debris from entering the outfall's opening. Previously, as described above, the two pipes that extend from Neary Lagoon to Cowell Beach were buried by the sand but not capped and sometimes there was a flow that continued to leak into the sand. This flow was contributing some of the bacteria found on Cowell Beach. To improve water quality in this location, the City also approved a CDP (CP13-0106) which included lining or repairing the existing pipes connecting Neary Lagoon to Cowell Beach as well as the installation of an evacuation pump to facilitate cleaning the storm drain during the winter. The combination of these measures will prevent any flow from Neary Lagoon seeping into the two pipes during the summer and will allow for a thorough cleaning of the pipes to be done prior to their use in winter when Neary Lagoon discharge is allowed to flow onto the beach. Thus, the City has continued its efforts to restore and improve water quality at Cowell Beach, and as such has taken the necessary measures towards addressing the water quality problem at this location consistent with the Coastal Act's protection of marine and biological resources.

Given that the above-discussed studies determined that kelp was not causing the water quality problem on these beaches, and that the results of monitoring beach grooming activities showed there were minimal impacts to wildlife and habitat in this highly disturbed beach area, **Special Condition 2 and Special Condition 4** of CDP 3-11-027 are no longer warranted.

Conclusion

As discussed, heavy recreational use of Main and Cowell Beaches limits their beach ecological productivity, and the extent of the kelp removal and other beach grooming activities proposed by

¹¹ Neary Lagoon is a shallow water body fed by Laurel Creek, Bay Creek and local stormwater runoff. It is a very active lagoon, full of vegetation and wildlife and typically has high bacteria levels as a result.

¹² CDP 3-90-031 provided for the construction of Neary Lagoon drainage improvements including a 66-inch storm drain pipeline under Beach Street and an outfall structure at Cowell Beach. CDP 3-90-031-A1 provided for the replacement and minor realignment of a 50-foot section of existing damaged seawall located between the storm drain outlet and the Santa Cruz Municipal Wharf.

the City is not expected to significantly diminish their ecological values in the future. The results of both the water quality study and the ecological monitoring support this finding. These results also demonstrate that kelp on the beach or in the water line is not the cause of high bacterial contamination counts on Cowell and Main Beaches, rather the problem arises from a human source of contamination. Thus, the City's study has helped to develop a better understanding of ecological and water quality changes associated with kelp removal and beach grooming activities and these results can better inform future BMP implementation. Both the water quality study and the ecological monitoring and analysis have been used to inform the City's BMP operations, helping to ensure that all activities are accomplished in a manner that is most protective of marine resources. Thus, for the above reasons stated above, Special Conditions 2 and 4 of CDP 3-11-027 are no longer necessary, and the proposed BMP is consistent with the marine resources policies of the Coastal Act.

E. OTHER

Coastal Act Section 30253 requires the project to assure long-term stability and structural integrity, and to minimize risk to life and property in areas of high geologic, flood, and fire hazard. The Commission recognizes that there is a certain amount of risk involved in development that is located at the shoreline edge and that can be directly subject to erosion, violent storms, large waves, flooding, earthquakes, and other geologic hazards. These risks can be exacerbated by such factors as sea level rise and localized geography that can focus storm energy at particular stretches of coastline. The Commission has sought to limit such risks, but they cannot be eliminated entirely, and this fact must be recognized and liabilities assumed by the Applicant accordingly. Specifically, the Commission's experience in evaluating proposed developments in areas subject to hazards has been that development has continued to occur despite periodic episodes of heavy storm damage and other such occurrences. Development in such dynamic environments is susceptible to damage due to such long-term and episodic processes. Past occurrences statewide have resulted in public costs (through low interest loans, grants, subsidies, direct assistance, etc.) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden for damages onto the people of the State of California, Applicants are regularly required to acknowledge site hazards and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see revised **Special Condition 4**).

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications.¹³ Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes requiring reimbursement for any costs and attorneys' fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this permit (**Special Condition 5**).

¹³ See also California Code of Regulations Title 14 Section 13055(g).

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City, acting as lead CEQA agency, found the BMP to be categorically exempt pursuant to Class 1, Section 15301 of the CEQA guidelines. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

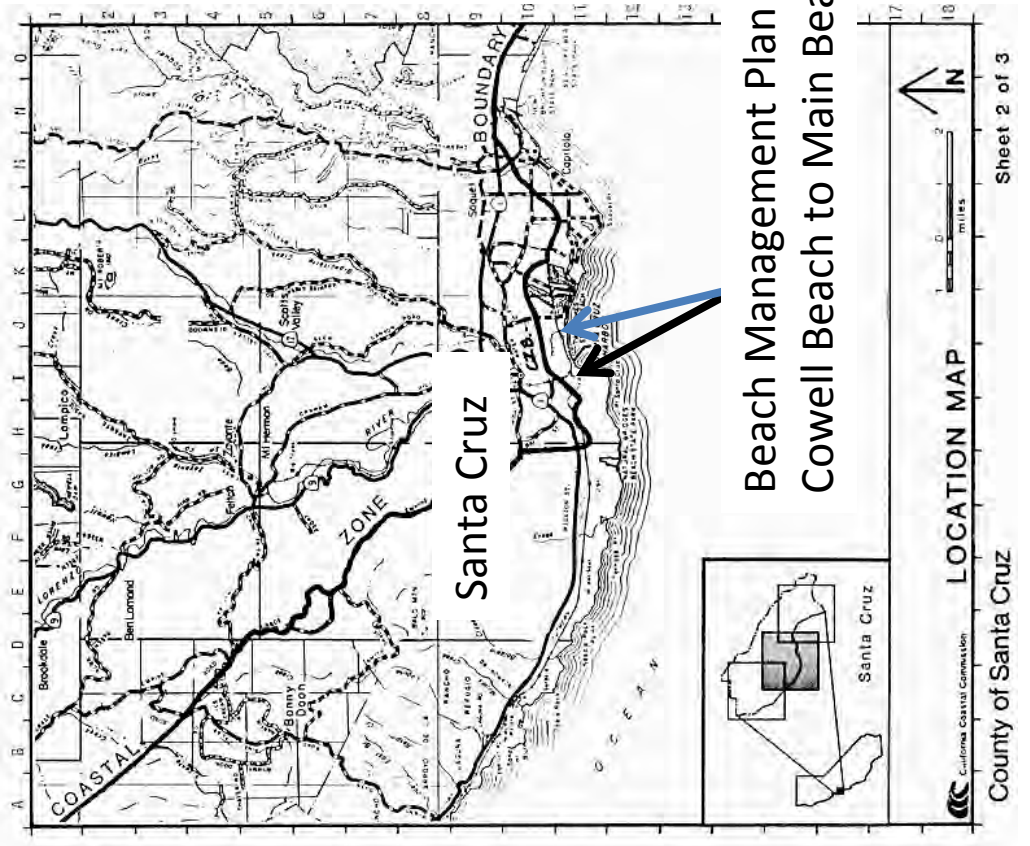
The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives, nor are there feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

Appendix A: Substantive File Documents

- California Coastal Commission coastal development permit (CDP) files 3-11-027; 3-95-043, 3-95-043-A1; 3-95-043-A2 and 3-90-031-A2
- Certified City of Santa Cruz Local Coastal Program (LCP)
- City of Santa Cruz Beach Management Plan (dated May 2011)
- City of Santa Cruz and Seaside Company Beach Maintenance Agreement (2011)
- City of Santa Cruz Resolutions to adopt Cowell Beach curfew, April 23, 2013 and July 22, 2014
- City of Santa Cruz Beach Management Plan Kelp Monitoring and Water Quality Study Final report, February 28, 2014
- City of Santa Cruz LCP Amendment No. 1-95 (June 14, 1995, Beach Management Plan)
- San Lorenzo River Enhancement Plan (City of Santa Cruz, 1989)
- Nearly Lagoon Management Plan (City of Santa Cruz, 1992)
- San Lorenzo Urban River Plan, 2003
- California Coastal Commission Proposed Guidance on Actions Limiting Public Access to Beaches and State Waters (Beach Curfews) June 23, 1994

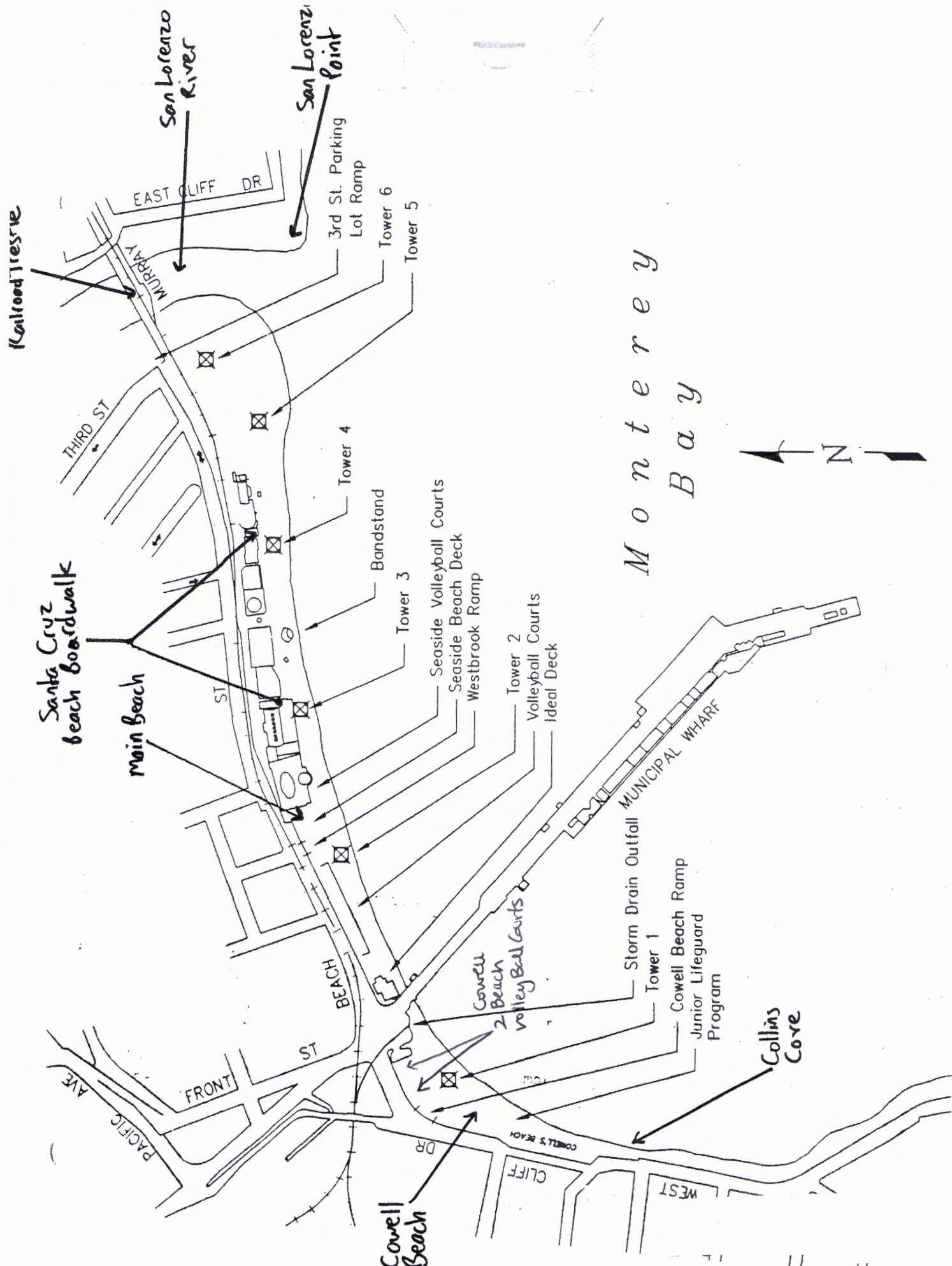
- Santa Cruz Police Department, Cowell's Beach Curfew Recommendation for Support, June 9, 2014

PROJECT LOCATION

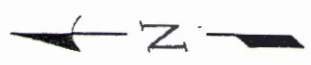


Location Map—Cowell and Main Beaches, Santa Cruz





Monterey





Cowell's Beach Curfew Area

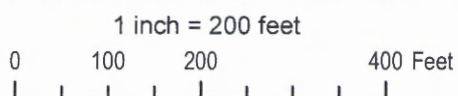


Photo Courtesy of HJW September 2007



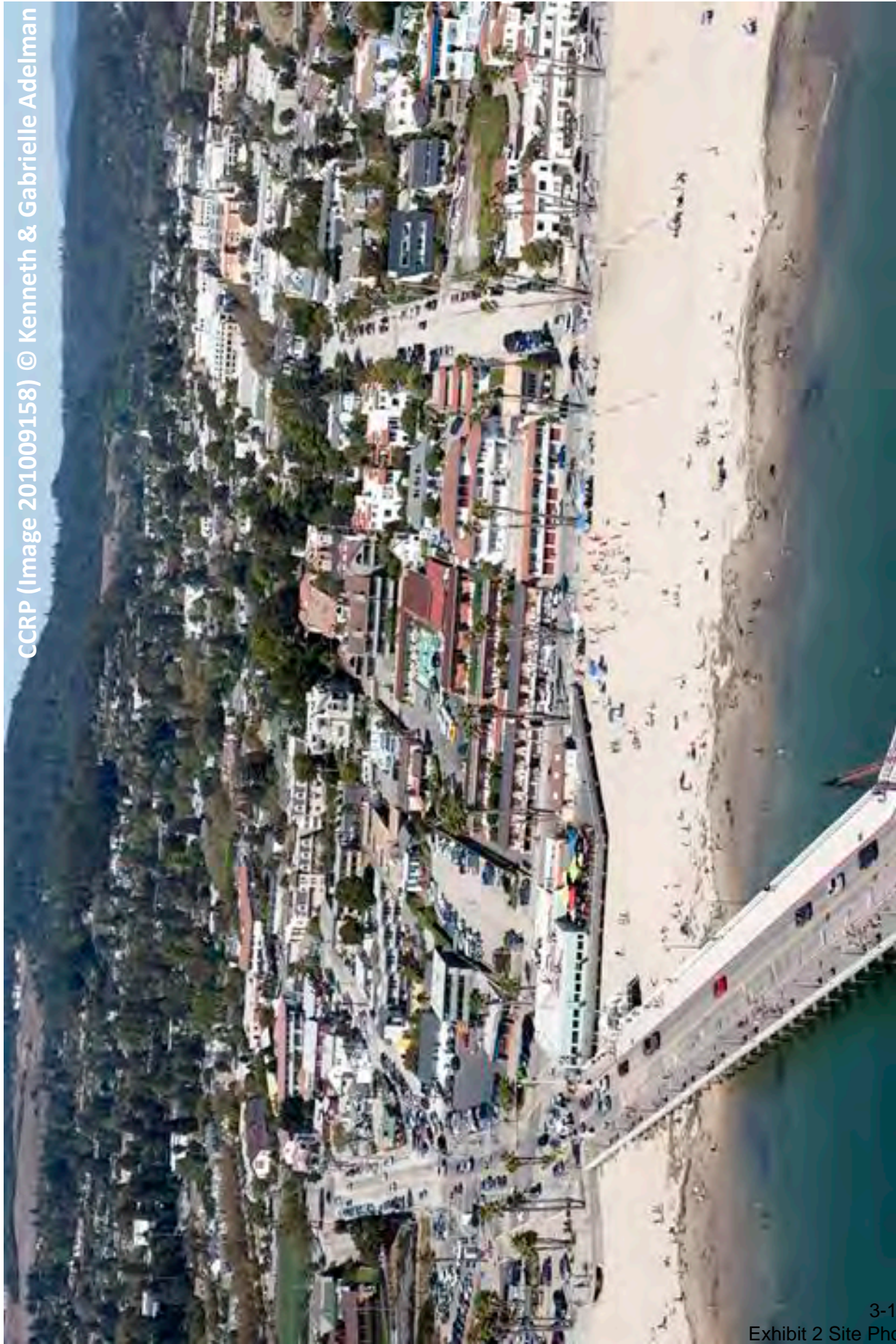
3-11-027-A1



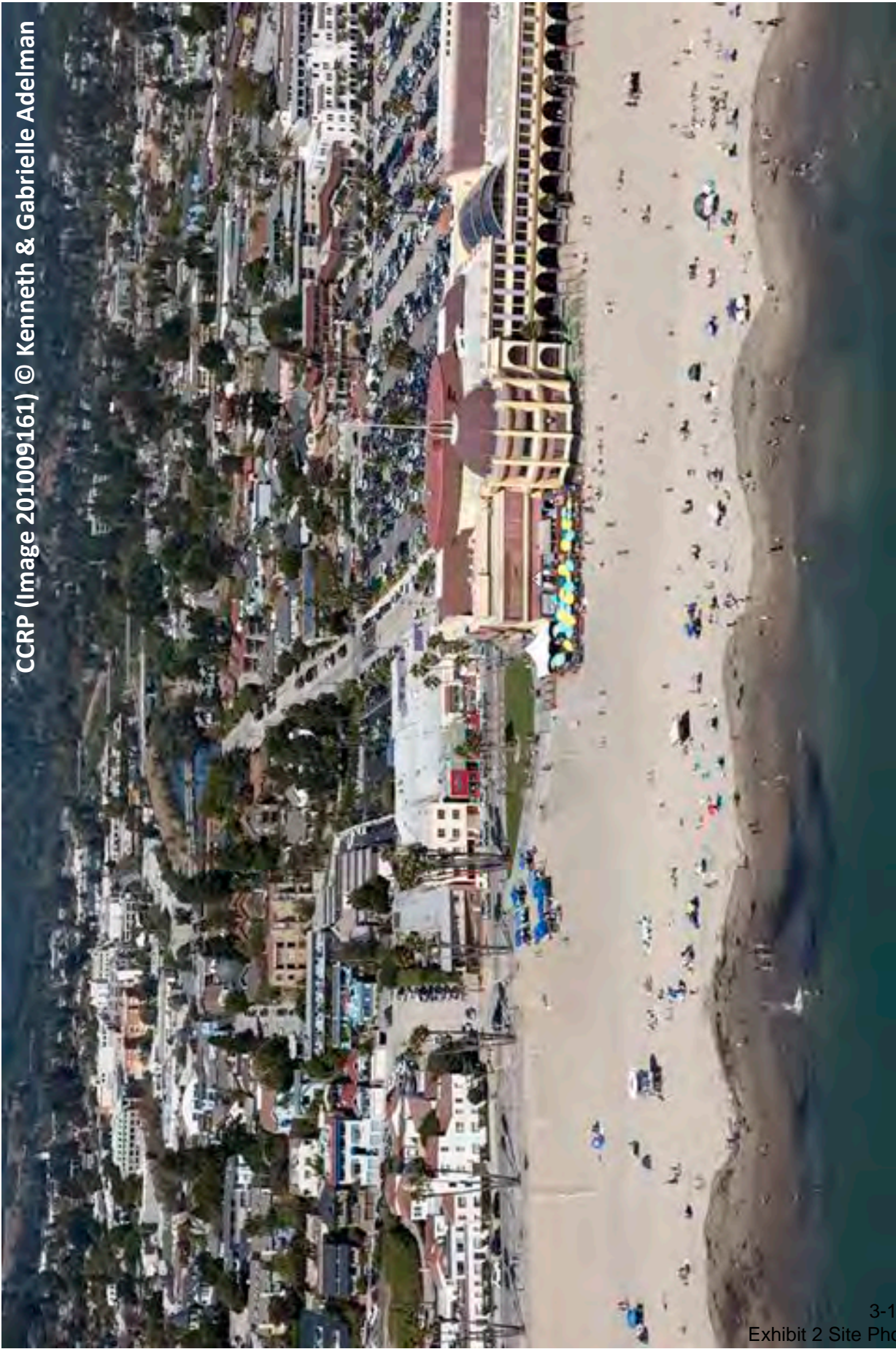
Cowell Beach including Collins Cove



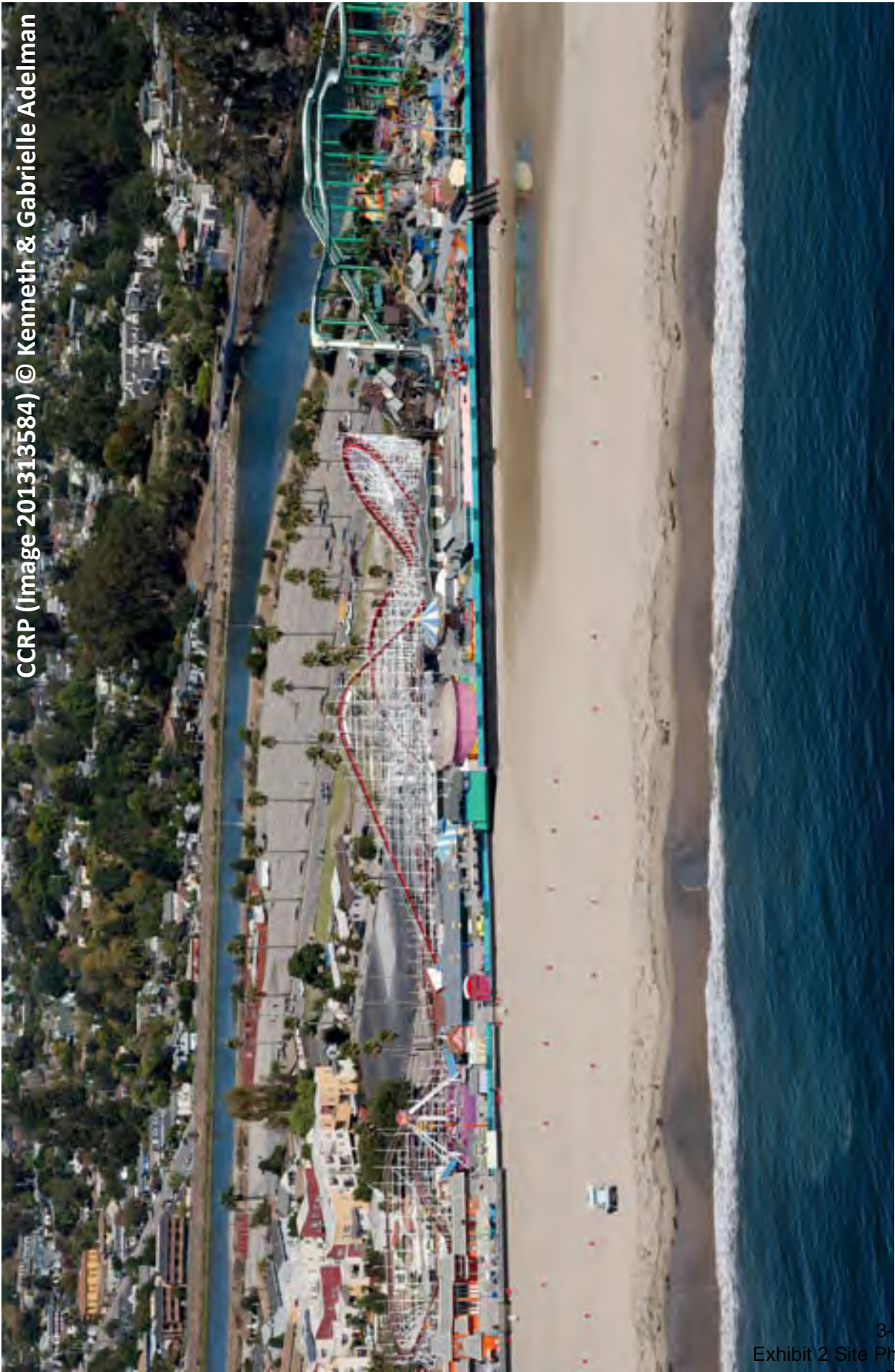
Cowell Beach including entrance to Santa Cruz Wharf



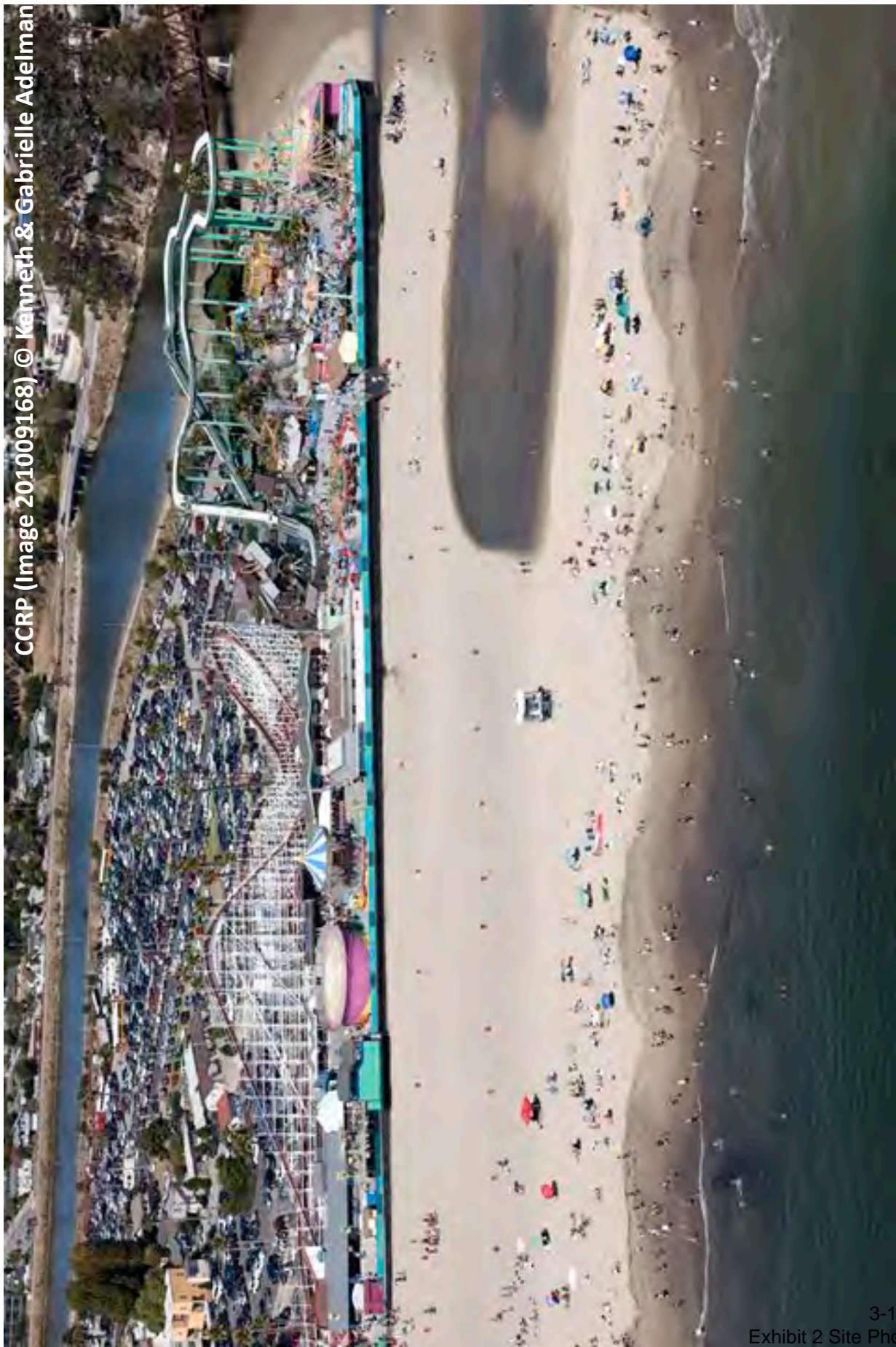
Cowell Beach, entrance to Santa Cruz Wharf and Main Beach



Main Beach including entrance to Santa Cruz Beach Boardwalk



Main Beach including Boardwalk and San Lorenzo River



Main Beach including Boardwalk, San Lorenzo River and Railroad Trestle



BEACH MANAGEMENT PLAN
MAIN AND COWELL BEACHES

November 2014

Prepared by:
City of Santa Cruz
Parks and Recreation Department

California Coastal Commission Permit No. ()
Approval Date ()
Permit Expiration Date ()

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Section I. INTRODUCTION

The City of Santa Cruz is fortunate to have a multitude of natural resources including several miles of coastal beaches. These Santa Cruz beaches, along with the San Lorenzo River and the ocean waters of the Monterey Bay are natural conditions caused by the interaction of river flows, winds, tides, geologic process and sand drifts. These processes build and erode beaches, sandbars and ocean bottom trenches, which exist on and off-shore of the Santa Cruz beaches and the San Lorenzo River mouth. This management plan is intended to guide the activities of persons using the natural environment associated with Cowell and Main Beaches in Santa Cruz and to manage uses and activities to ensure protection of public access opportunities.

Description of Plan Area: For the purposes of this plan, the beach area covered is considered to be the sandy beach areas immediately adjacent to bay waters from the San Lorenzo River/Railroad Trestle to the western portion of Cowell Beach. This area includes the beaches adjacent to the Santa Cruz Seaside Company's Santa Cruz Beach Boardwalk, the Santa Cruz Wharf, and the Dream Inn Hotel. The beach east or down coast of the Santa Cruz Wharf is named Main Beach; the beach west of the Santa Cruz Wharf is named Cowell Beach.

This sandy beach area is approximately 1 mile in length and varies seasonally in width, to as little as 100 feet wide in some areas during the winter months. The sandy beach sustains heavy recreational use. The area is entirely open to the general public with multiple pedestrian vertical access ways and lateral access the full length. ~~There are no restrictions on hours of use.~~ Overall, the entire length of shoreline within the city limits of the City of Santa Cruz has almost 100% of potential maximum physical access open to the public. Access has been greatly increased over the years with the addition of stairwells, pathways and access ramps.

These beaches are located in an urban setting. The population of the City of Santa Cruz is approximately 62,000. Many residents visit the local beaches throughout the year. In addition, the local beaches are inundated with visitors throughout the year, but in particular the summer months. It is estimated that well over a million people visit Main and Cowell Beaches per year. The beach area sustains a heavy recreational use.

Purpose: The purpose of the 2014 Beach Management Plan (BMP) is to guide the activities of public agencies and private property owners in use and operations associated with Main and Cowell Beaches as a means to protect natural resources, provide for public safety, and to maximize the extent and quality of the recreational experience of the residents of and visitors to the City of Santa Cruz.

The Plan describes the existing permanent and temporary facilities and uses, which occur on an ongoing and seasonal basis. It is not a plan for future development or new commercial use of the beaches. It is designed to identify on-going uses and activities which are "development" under the Coastal Act and to allow such uses and activities to be authorized by a California Coastal Commission coastal development permit (CDP). The Plan streamlines interagency processing, reduces redundancy and provides

assurances to applicants. The BMP also provides assurance to the City, Coastal Commission and private interests to provide clear direction and prevent misunderstandings.

The beaches described in the BMP are an integral part of the City's major beach recreation area, which includes the Santa Cruz Beach Boardwalk, the Santa Cruz Wharf, and supporting beach commercial and residential uses located in the nearby vicinity. Thus, this plan is best understood as a part of a comprehensive planning effort envisioned by the City for the beach and its surrounding area together.

Other City planning documents have been adopted for nearby natural resources including Neary Lagoon and the San Lorenzo River. These documents include the ~~San Lorenzo River Enhancement Plan~~ [San Lorenzo Urban River Plan \(Attachment B\)](#) and the Neary Lagoon Management Plan ~~(Attachment C)~~. The BMP references these documents for policies on specific interactions with the beach area, but does not include them as a component of this BMP and does not authorize any development associated with such documents (i.e., they are separate planning documents that are associated with separate CDP processes).

The Plan outlines the most common practices employed by staff in regular maintenance and operations duties. It describes and sets parameters for major and minor facilities, provides for special events, beach related recreational pursuits, support concessions, and educational opportunities. The City also maintains and is committed to improving access to facilities and its interpretive and safety signage programs.

Planning Process: The City of Santa Cruz General Plan/Local Coastal Program 2005, Parks and Recreation Policy 1.7.3, directed the preparation and implementation of a beach management plan for Main and Cowell Beaches including all properties public and private. The intent was to address use and activity in the beach area, including drainage onto the beach, litter control and beach maintenance, lagoon levels at Neary Lagoon, special events coordination, distribution of recreational uses, handicapped access and interpretive signing to ensure safe public access and protection of environmentally sensitive areas. Policy 1.7.3 also provided that future land division of properties, which includes sandy beach area, shall contain use restrictions consistent with the BMP.

The BMP was first approved in 1995 by the California Coastal Commission (CDP 3-95-043) and has been updated multiple times since then, most recently in 2011. On June 16, 2011, the California Coastal Commission conditionally approved a Coastal Development Permit (CDP App. No. 3-11-027) for the implementation of the 2011 BMP for a three year period ending in June 2014. Over the course of the implementation period, the City submitted annual 2011 BMP Implementation Monitoring Reports to the California Coastal Commission to provide information regarding beach grooming, kelp removal, and special temporary events.

The 2014 BMP updates the 2011 BMP and covers the next five year implementation

period.

Jurisdictions: Santa Cruz County Assessor's parcel records indicate four property owners have deeded lands within or directly fronting the BMP area: the City of Santa Cruz, the Santa Cruz Seaside Company, the Santa Cruz Beach Hotel Partners, LLC, and James Gilbert. Most of the Santa Cruz City lands were granted to the City by State Lands pursuant to Chapter 342 of the statutes of 1872. For areas where the State Lands boundary is in dispute, no formal determination has been undertaken by the State Lands Commission and the assessor's parcel maps and deeds cannot be assumed to legally reflect property ownership. The City also has a recreational easement over a large portion of the sandy beach area on parcels, which are shown on Assessor's Parcel Maps as under the fee title ownership of the Santa Cruz Seaside Company.

All of the BMP area is within the Coastal Commission's original CDP jurisdiction. Hence, as currently identified the beach sand areas are public trust lands, and the Coastal Commission retains CDP authority.

Other public entities which do or may have jurisdiction over various development or activities in the BMP area include the State Regional Water Quality Control Board, State Lands Commission, California Department of Fish and Wildlife, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, National Marine Fisheries, and the Monterey Bay National Marine Sanctuary.

Section II. BEACH MAINTENANCE OPERATIONS

The majority of City operations on the City's beaches are maintenance operations performed by the Parks and Recreation Department. The City also maintains an agreement with the Santa Cruz Seaside Company for cooperative beach maintenance. This agreement is reviewed each spring with representatives from each entity. Occasionally, at the request of the Parks and Recreation Department, other departments or private businesses perform limited services on the beaches. ~~A copy of the most current beach maintenance agreement with the Santa Cruz Seaside Company is included as Attachment B.~~

The most common maintenance operations include regular beach and facility cleaning and upkeep and installation of recreational, accessibility and safety equipment. Public facilities include public restrooms which are located at the Cowell Beach parking lot and the east side of the Ideal Bar and Grill Restaurant on Beach Street. They are maintained by the City and are available for public use. The Beach Street restrooms and the Cowell Beach restrooms are open year round.

Access to the beach for visitors with physical limitations is maintained through a combination of access ramps and specialized equipment. A permanent ramp, located at the entrance to Cowell Beach, starts at the parking lot and extends out toward the ocean for approximately 50 feet. A temporary ramp is typically installed at the end of the

permanent ramp from May through October depending on the surf and weather conditions. The ramp extends from the permanent ramp towards the ocean, ending near Lifeguard Tower 1. Specialized "surf chairs" (wheelchairs designed to move on the sand) are located at Lifeguard Towers 1 and Lifeguard Headquarters when personnel are on duty.

The Santa Cruz Seaside Company installs an access ramp as part of their approved development of a public/picnic deck at the west end of the Boardwalk. The west end ramp extends from Beach Street at the grassy area on the west side of the Casino and extends out approximately 70 feet over the sandy beach towards the ocean.

A. Regular Maintenance Operations

City of Santa Cruz: Regular maintenance of the majority of the sandy beach area and facilities is the responsibility of the City. Limited regular maintenance occurs during the late fall, winter and early spring months. Staff is added and maintenance operations increase during the late spring and summer high use season. Most cleaning, general work, and installation of safety and recreational equipment occur in the morning hours before 11 a.m.

The primary duties include:

- Litter removal;
- Small debris removal;
- Restroom cleaning;
- Graffiti removal;
- Sweeping/cleaning walkways;
- Recreational equipment upkeep (Lifeguard towers, volleyball courts);
- Installation and removal of the access ramp at Cowell Beach and at the west end of the Santa Cruz Boardwalk at Main Beach;
- Leveling and contouring of sand for volleyball tournaments and other similar recreational uses where sand is displaced;
- Maintaining planted areas including tree wells, medians and landscaped areas.

Both manual labor and mechanized equipment are used to accomplish the duties. The methods include but are not limited to:

- Hand picking litter;
- Garbage removal by 4x4 vehicle;
- Garbage removal by small tractor trailer/loader;
- Sand sifting machinery;
- Recreational and safety equipment installation and removal by tractor/4x4 vehicle including but not limited to Lifeguard Towers, handicap access ramp, and volleyball courts;
- 4x4 vehicle general maintenance (towing/mechanical services if a vehicle breaks down or becomes stuck);

- Sand leveling/smoothing by loader/sand sifting machinery (in and among volleyball courts, and near the San Lorenzo River but no closer than 100 feet to its banks, except to maintain the accessibility of the City's eastern emergency/maintenance vehicle accessway);
- Leaf blowers;
- Pressure washer.

Santa Cruz Seaside Company: Other maintenance duties are performed by the Santa Cruz Seaside Company. Beach maintenance, performed by the Santa Cruz Seaside Company, extends from the San Lorenzo River to the west end of the Casino Building. This consists of removing trash and other artificial debris from the beach and emptying garbage cans (depending on the time of the year, there can be approximately 80 cans on the beach), sifting the above mentioned area for removal of smaller debris, and removal of sand buildup along the Santa Cruz Boardwalk frontage typically after a period of sustained onshore winds and/or storm activity.

The methods used include but are not limited to:

- Garbage removal by 4x4 vehicle or small tractor trailer;
- Front end loader;
- Sand sifting machinery.

Maintenance, Grooming, and Monitoring: All regular maintenance operations, both those of the City and the Santa Cruz Seaside Company, that involve sand grooming, leveling, contouring, smoothing, sifting, and similar sand manipulation using machinery is limited to mornings before 11 a.m., and shall not include any sand area within 100 feet of the San Lorenzo River or its lagoon, except to maintain the accessibility of the City's eastern emergency/maintenance vehicle accessway. This accessway shall remain cleared at all times and will not impede the natural flow of the river, and vehicles using this accessway are prohibited from entering the river itself. All such operations shall be undertaken in a manner that limits public recreational use impacts as much as possible.

~~In terms of potential beach ecological impacts from grooming the beach, the City intends to document and monitor impacts associated with them. The City will document before and after observations and will submit an annual calendar year report with all documentation for the review and approval of the Coastal Commission's Executive Director by March 1st of each year. Such report shall at a minimum identify trends or relationships associated with the study data (including for kelp, wildlife, debris, and water quality) as well as recommendations for adapting grooming operations as necessary in the future to better protect coastal resources while maintaining maximum opportunities for public access and recreation.~~

B. Seasonal Debris Removal Operations

The San Lorenzo River and up coast watersheds often deposit large quantities of debris

on the beaches after large storms and runoff. While this debris is generally small branches and logs it may also include trees, pilings, construction materials, tires, and other debris. This debris is typically deposited throughout the winter months. The City schedules a yearly beach cleaning, typically in the early spring, after the last major storms pass through but before spring break. Additional major debris removal may be necessary depending on weather conditions.

The debris can pose a potential public safety problem and should be removed prior to the high use season. Whether in the surf line or as an obstacle on the beach, the debris is incompatible in the primary recreation area of the City.

Removal of the debris requires the use of heavy equipment on a seasonal basis. Most commonly, the task is performed by the City's Parks and Recreation and Public Works Departments. If the volume is exceptionally high, the City may opt to contract with outside companies for removal.

Typically, the removal of this debris takes from one to two weeks. At this time contouring of the beach may also occur. Specifically, the beach may be smoothed out to eliminate large berms or gullies which have formed as well as the removal of large deposits of sand which have built up and blocked stairs (e.g., leading from the beach onto the boardwalk) or other permanent structures. Contouring does not include restructuring to control the natural discharge or to breach the sand berm of the San Lorenzo River. The most common pieces of equipment used are:

- Front loaders;
- Tractors;
- Dump trucks;
- Sand sifters;
- Beach rakes.

From time to time, special pieces of equipment such as saws or cranes may be required.

All seasonal debris removal operations and any additional major debris removal necessary throughout the year depending on weather conditions shall be undertaken in a manner that minimizes coastal resource and public recreational use impacts as much as possible. All debris removal operations shall not take place in any area within 100 feet of the San Lorenzo River or its lagoon, except to maintain the accessibility of the City's eastern emergency/maintenance vehicle accessway or to remove large trees, pilings, construction materials, tires, and other debris. No removal of trees shall take place in the river itself.

C. Marine Mammal Removal

Dead or diseased marine mammals frequently wash up on City's beaches. Hurt or diseased animals are referred to Native Animal Rescue or Marine Mammal Rescue. The Parks and Recreation Department is responsible for disposal of dead animals to

maintain the health and safety of the beach area.

D. Kelp Removal

Due to the geography of the area and natural oceanic processes, kelp (*Macrocystis* and *Nereocystis*) tends to wash ashore in significant quantities. Typically, such kelp mounds together in large entangled mats, oftentimes forming a distinct wrack line at the high tide line. Such kelp has historically been removed from the beach area because it detracts from beach recreational use; both in terms of direct displacement of useable beach area as well as degrading recreational use values (e.g., increased brine flies). However kelp has been known to provide habitat and food for an abundance of invertebrate, brine flies, beetles, shorebirds and other animals. Numerous studies on kelp and wrack have shown the importance that it can play in this regard in terms of overall beach ecology. However, the degree to which kelp and wrack contribute to such beach ecologies is complex, dependent on many location specific criteria, and differs from beach to beach. For example, kelp and wrack at more remote beaches with less human presence and manipulation tends to interact favorably with other ecological factors to result in a typically higher ecological value than more urban beaches (including more shorebird activity, etc.). At Main and Cowell Beaches the near continuous presence of visitors recreating in the summer season is perhaps the most significant factor affecting the presence or absence of shorebirds and other animals on these beaches as opposed to the presence of kelp/wrack itself.

~~In addition, recent studies have also shown that deposited kelp could be a growth medium for certain bacteria (e.g. E. coli and Enterococcus) and, with natural tide changes, could have the ability to introduce elevated levels of bacteria back into the surrounding waters. Thus, in addition to beach displacement and other impacts (such as the brine flies which, although not a disease vector and not a known health hazard, are known to be a nuisance to beachgoers), marine water quality appears to be an emerging problem with kelp as well. All of these impacts detract from and negatively impact beach recreational use and users, both of which are extremely important to the livelihood and economic vitality of the surrounding business owners and beachfront areas, and the City as a whole.~~

Therefore, in the summer high use season between the weekends of Memorial Day and Labor Day of each year (Saturday of Memorial Day weekend through Monday of Labor Day weekend), removal of kelp from the dry, sandy areas above the wrack line (above the high tide line) of the beach will be allowed as necessary to limit impacts of high fly populations and large beach displacement areas on beachgoers. The City believes that such kelp removal is the most appropriate balance between the public recreation benefits afforded to beachgoers and the ecological benefits that kelp provides. No kelp will be removed for these reasons between Labor Day and the start of the Memorial Day weekend (other than incidental removal during ordinary grooming as outlined in Section II (A): Regular Maintenance Operations or to clear sections of the beach when large kelp deposits prevent public access or create safety issues). Thus, the City intends to remove kelp to meet these beach recreational use objectives in the dry sandy area (i.e.,

above the high tide line) during the summer high use season where all such kelp removal activities is limited to mornings before 11 a.m., and shall not include any sand area within 100 feet of the San Lorenzo River or its lagoon, except to maintain the accessibility of the City's eastern emergency/maintenance vehicle accessway. All such activities shall be undertaken in a manner that limits public recreational use impacts as much as possible.

~~In addition, kelp may be removed from any beach location (i.e., above and below the wrack/high tide line) at any time of the year if the Santa Cruz County Department of Environmental Health Services (EHS) determines that kelp on the beach at that location is a significant factor to bacterial contamination that is creating a public health hazard and that removing it for these purposes is absolutely necessary. If bacteria counts exceed state safe water quality standards, EHS will also post temporary advisory signs on the beach that warn the public of potential disease causing bacteria in the water, and notify the City. Any such water quality related kelp removal activities shall be subject to all the same provisions that apply to summer high use season removal activities. In addition, for any water quality related kelp removal activities below the wrack/high tide line, removal shall occur only during low tide periods where only the front loader or bucket of any equipment used may extend into the water and where any equipment shall stay on the dry sand portion of the beach as much as possible. Thus, the City intends to remove kelp from the dry sandy beach as necessary during early mornings of the summer months to address beach recreational use impacts, and to remove kelp from any portion of the beach during early mornings whenever absolutely necessary to address identified public health hazards.~~

~~At the same time, the City recognizes that kelp removal has historically raised some concern about its impact on the beach ecology, and the City recognizes that the impact of kelp on coastal water quality is an evolving field. Thus, to help the City, the Coastal Commission, and other beach managers better understand these issues related to kelp on urban beaches, the City also commits to undertaking both a study to help determine the nature to which kelp affects beach area water quality, as well as a monitoring program to help identify beach ecological impacts associated with kelp removal.~~

~~In terms of potential beach ecological impacts, the City intends to document all kelp removal activities and monitor impacts associated with them. The objective of the monitoring is to provide useable data and documentation showing the effect of kelp removal on beach ecology at Main and Cowell Beaches. The City has developed an environmental monitoring datasheet for this purpose that is designed to quantitatively and qualitatively identify: 1) the location and amount of kelp removed; 2) kelp supported species abundance before and after the removal (such as shorebirds, brine flies, or any other animals observed in the affected area); and 3) other observations and documentation (including but not limited to identification of other kelp borne debris, animal waste, etc.). The City will complete datasheets for each removal episode, will document before and after observations (including with photos), and will submit an annual calendar year report with all documentation including identification of trends over larger beach areas related to the removal area as well as cumulative trends both~~

~~spatially as well as over time (including all before and after photos) for the review and approval of the Coastal Commission's Executive Director by March 1st of each year. Each annual report shall also include recommendations for adapting kelp removal operations as necessary in the coming years to better protect coastal resources.~~

~~In terms of the water quality study, the primary objective will be to better understand the transmissive nature of kelp and its bacteria on water quality. The results of the study should help to determine the degree to which kelp removal reduces bacterial contamination offshore at Cowell and Main Beaches. The study will take place during the summers of 2011 and 2012. In the first summer of the study, the City will engage in its historical level of kelp removal as outlined in the previous paragraphs above (i.e., dry sandy beach removal as necessary to address beach recreational use impacts, and potential removal otherwise to address identified public health hazards). The first summer is meant to establish a water quality and kelp removal baseline associated with typical and normal kelp removal operations of the City. During the second summer, the City will engage more aggressive kelp removal which will apply the typical and normal baseline of kelp removal but that will also include removal of all kelp/wrack at the high tide line and below as part of those removal efforts. In other words, whereas normally such kelp at the high tide line and below would only be removed if a public health hazard were specifically identified, here such kelp/wrack would be removed at a similar rate as on dry sand for study purposes. The study would conclude at that point, and the City will return to normal levels of kelp removal as the studies results are finalized.~~

~~The results of the water quality study will be submitted for the review and approval of the Coastal Commission's Executive Director by March 1, 2013, or as soon as the results are presentable, as a component of the annual kelp removal report described above. Such report shall at a minimum provide a causal correlation of water quality testing data to kelp removal data, and shall identify discernable trends or relationships associated with the study data (including for kelp, wildlife, debris, and water quality) as well as recommendations for adapting kelp removal operations as necessary in the coming year to better protect coastal resources.~~

~~Thus, the City commits to developing a better understanding of ecological and water quality changes associated with kelp removal. Both the water quality study and the ecological monitoring and analysis will be used to inform the City's kelp removal operations, thus ensuring all activities are accomplished in a manner that is most protective of marine resources, public recreation, and human health and safety. Minor adjustments to the kelp removal process may be allowed by the Executive Director if such adjustments: 1) are deemed reasonable and necessary; 2) do not significantly impact coastal resources; and 3) are necessary and important for (a) ensuring public health and safety; (b) enhancing beach recreational use; and/or (c) important research purposes of a limited duration.~~

E. Parameters for Ongoing and Seasonal Maintenance Activities:

1. The Parks and Recreation Department shall advise other City Departments and

shall stipulate in all contracts and agreements with non-City groups that operations or activities that affect the beach area as outlined in the BMP must be undertaken consistent with the Plan. A copy of the Plan or relevant sections of the Plan shall be given to operators.

2. All mechanized equipment shall enter and exit the beach at 3 access ramps: the Cowell Beach ramp; the Westbrook ramp; and the 3rd Street Parking Lot ramp (known as the eastern emergency/maintenance vehicle accessway). Except for specific equipment that is explicitly identified to be located on the beach in the BMP, no equipment shall be stored on the sandy beach area.
3. All equipment shall be fueled offsite and shall be inspected prior to entering the beach to assure that there are no fluid leaks present. If fluid leaks are detected, such leaks will be repaired before the equipment may enter the beach area.
4. All beach area equipment operators are required to complete the City's beach safety driving program a minimum of one time per year.
5. Contouring of the beach along the San Lorenzo River or its sandbar or artificial breaching of the sand bar is not a part of this plan and not covered by it. Allowed activities pursuant to the BMP shall not include any area within 100 feet of the San Lorenzo River or its lagoon, except to maintain the accessibility of the City's eastern emergency/maintenance vehicle accessway. The Parks and Recreation Department is not responsible for flood control, breaching or water quality, but coordinates with other departments and agencies to assure protection of the public through signing and beach closure.
6. To the greatest degree possible maintenance activities shall be scheduled to prevent conflict with access and use of the beach by the public.
7. Debris is ordinarily disposed of at the City landfill. Disposal at other sites within the Coastal Zone requires a coastal permit. During the spring months, the City may apply for a burn permit required by the Monterey Bay Air Pollution Control District to burn wood debris left on the beach from winter storms.
6. The operation of any equipment shall be done with safety as a first consideration. Dependent on the piece of equipment, the operator will provide the necessary safety monitors, procedures and equipment to ensure the public safety. In the case of four wheel drive vehicles, the operators will follow guidelines set by the City's Marine Safety Division. The Marine Safety Division will assist with any heavy equipment safety monitoring when requested. Major considerations for safety are: crowd size, weather and environmental conditions, availability of safety monitors, and job urgency.

F. Miscellaneous Activities

The Santa Cruz Seaside Company sometimes removes old and installs new rides and may do construction projects that require equipment access across the beach. Heavy equipment may be used for short periods of time from a few hours to several days. Equipment used sometimes includes, but is not limited to, cranes, front-end loaders, and tractors.

These installation/removal/construction processes are allowed by this BMP. But only in conjunction with projects reviewed and approved by the City and the Coastal Commission (i.e., ~~both the Boardwalk and~~ the beach area are located in the Commission's retained CDP jurisdiction). It is the policy of the City that beach access for equipment shall be reviewed as part of the larger projects and shall follow the parameters of the BMP policies of the LCP. The City permit shall require permittee to be responsible for the implementation of a safety program which provides for the safety of the public and staff while operations are conducted in the area listed in the permit.

Section III. SAFETY FACILITIES AND OPERATIONS

The City of Santa Cruz Marine Safety Division implements regular and seasonal Marine Safety operations along Main and Cowell Beaches, including lifeguard coverage on spring weekends, summer months and fall weekends; off season rescue assistance by the division's Marine Rescue Unit and the Fire Department's Rescue Swimmers; and response to various aquatic emergencies using a combination of Lifeguard vehicles, Fire apparatus for cliff rescue, personal watercraft (PWC's) and other lifesaving equipment.

The central operations for the Marine Safety Division are located in Lifeguard Headquarters, which is the first building on the Santa Cruz Wharf. Most division equipment, vehicles, boat and supplies are stored there. A central lifeguard tower is located upstairs, with communication capability to all Lifeguard Towers, Police, Fire, Harbor Patrol, Boardwalk Security and other related agencies. This building also houses staff locker rooms and offices.

The Marine Safety Division is integral to the safe operation of the beach for the public. By monitoring the areas of rescue and medical aid, the City strives to provide a safe and enjoyable recreational opportunity for all. The division functions with a number of different tools to achieve the City's goals including:

- 4 wheel drive emergency vehicles;
- Lifeguard towers;
- PWCs;
- Safety signage;
- Public address systems;
- Vehicle access ramps and lanes;
- Communication systems.

Five lifeguard towers are positioned along the Main Beach. They are generally installed

each spring and removed in the fall. Tower 1 is stored at the back of the beach next to the Dream Inn Hotel, and Towers 2 through 5 are stored on the sand along the Boardwalk at the back of the beach (see Attachment A). A greater or lesser number of towers may be installed at the discretion of the Fire Captain assigned to the Marine Safety Division. Tower use and placement is driven by public safety needs and beach use patterns.

Service vehicles can access the beach at three points: Cowell Beach, Westbrook ramp and the Third Street parking lot (which serves as the City's eastern emergency/maintenance vehicle accessway), whichever is closest to the area in which work is being conducted. City staff generally works in pairs when operating equipment and when working in vehicles. One employee operates the machinery while the other assists in safety precautions such as spotting for members of the public, marking off areas in which work will take place and monitoring the movement of the equipment. Since each operation varies depending upon the location, beach attendance and beach conditions, the methods used to ensure safety will vary accordingly. However, the City is constantly adjusting to make the beach as safe as possible not only for the public but for employees as well.

Section IV. CITY RECREATIONAL/EDUCATIONAL PROGRAMS

The City runs two recreational/educational programs on ~~the~~ Main and Cowell Beaches: Junior Lifeguards and Recreation classes. To ensure beach availability for general public use, it is City policy that Recreational/Educational Programs will at no time restrict more than 20% of the total beach area and shall be confined as much as possible to minimize impacts on general beach recreational use. These programs are a service to the community and generate limited revenue, which is returned to the City's general fund.

A. Junior Lifeguard Program

The City runs a Junior Lifeguard program for approximately nine weeks in the summer. This program enrolls over 1,000 children ages 6 through 17 years. Classes are scheduled morning and afternoon between 9 a.m. and 4 p.m., Monday through Friday. The Junior Lifeguard Headquarters is located at the edge of the Cowell Beach parking lot, next to the Dream Inn Hotel. Program equipment is stored in the Junior Lifeguard Building, which is located in the Cowell Beach parking lot. The building also serves as a central check-in for lifeguards assigned to the program. Showers are located on the outside of the building and are available to the public throughout the year. The Junior Lifeguard program operates primarily on Cowell Beach.

B. Beach Recreational Classes

The City offers a variety of beach oriented recreational classes to the community, including volleyball, surfing, and kayaking classes. Volleyball classes take place on the public courts on Main Beach while surfing and kayaking classes are taught on Cowell

and Main Beaches. Generally, the classes are scheduled from ~~April~~ March through October and structured so they do not interfere with the public's use of the areas. These classes are conducted by qualified instructors who are independent contractors and have an approved permit as required by the City's Municipal Ordinance Code and commercial liability insurance. This BMP does not govern nor authorize the management of such classes when such activities take place in the ocean.

C. City Volleyball Courts

The City will maintains up to 46 ~~eighteen~~ volleyball courts for public use, sixteen on Main Beach and two on Cowell Beach. The courts may be reserved for private use as all temporary events are scheduled (See Section VI: Special and Temporary Events Coordination). In order to ensure beach availability for general public use, beach volleyball courts are restricted to designated areas on Main and Cowell Beaches. Any reserved private use of these courts counts toward the one-third limit imposed on the City for special and temporary events (See Section VI: Special and Temporary Events Coordination).

Section V. COMMERCIAL USES, PUBLIC AND PRIVATE

The beach area also is the scene of public/private commercial recreation activities. Many of these activities have been recognized by the City, subject to local and state law governing such activities. In particular, in 1933, the City and the Santa Cruz Seaside Company entered into an agreement related to ownership of the beach. At that time a zone was created on City property (roughly 150 feet in width) from the Santa Cruz Seaside Company's property towards the ocean. This Recreational Easement Zone extends from the San Lorenzo River to the beach area at the end of Main Street. The agreement states neither the City nor the Santa Cruz Seaside Company may use this area for commercial purposes, only recreation. Typical events which occur in this zone include free concerts and movies at the seasonal bandstand, volleyball tournaments, company picnics, races, special group events, and recreation programs. These uses are subject to any land title restrictions, property ownership and agreements such as the "1933 Recreation Easement" established on the Main Beach.

The BMP addresses historically permitted and allowed permanent and ongoing seasonal commercial uses. New commercial uses, beyond the scope of the Plan, require the City of Santa Cruz, California Coastal Commission, and state and federal permits or inputs, as appropriate.

A. Concessionaire Ocean Equipment Rental Service

The City has entered into an agreement with a private concessionaire to operate an ocean equipment rental concession. The concession trailer (approximately 21' long by 8.5' wide by 10' high) is dropped off onto the beach and removed daily by a 4x4 vehicle during summer months (i.e., the Saturday of Memorial Day through Labor Day). In addition to wetsuits, fins, and boogie boards, this concession also rents surfboards

and paddle boards. Such concessionaire is allowed to operate as long as the operation is providing significant public benefit.

B. The Seaside Company Bandstand

The original bandstand was erected in 1963 and located on the beach in front of the Hurricane Undertow ride on the Boardwalk. This bandstand was destroyed in the 1989 earthquake; in its place, the Santa Cruz Seaside Company ~~, installed each April and removed in October~~ erects a seasonal bandstand to be used from spring break through October 31st. The bandstand is an approximately 2,000 square foot stage and is located in the same area as the original structure. The bandstand and beach area around the bandstand are used for a variety of events, including but not limited to: magic shows, body building contests, Sunday Sunrise Services, tanning contests, Clam Chowder Cook Off, group beach games, music concerts, Band Review awards, cheerleading competitions, DCARA (Deaf Counseling Advocacy & Referral Agency) Day Awards, sand castle contests, as well as the "Summertime, Summer Nights" free public concert and movie series. City policy prohibits charging for events, which occur in the recreational easement zone. It is the City's policy that the installation and removal of the bandstand be undertaken consistent with the maintenance and safety policies of the BMP.

C. City of Santa Cruz/Santa Cruz Seaside Company Beach Deck and Volleyball Courts

The Santa Cruz Seaside Company constructs a temporary, approximately 3,800 square foot deck over the sandy beach immediately adjacent and due south from the Santa Cruz Boardwalk arcade. The Santa Cruz Seaside Company places approximately 42 picnic tables on the deck, which can seat approximately 476 people. The Seaside Company also installs two sets of volleyball courts adjacent to the deck to be used in tandem with deck use (one court is positioned in front of the rotunda, the other between the two sets of steps on the promenade) and two walkways (one approximately 4 feet by 70 feet from the grassy knoll along the west side of the Casino out toward the water; the other approximately 5 feet by 230 feet extending laterally from the beach deck east to the colonnade). These facilities are set up May 1st prior to spring break and removed by October 31st. The temporary deck is available to the general public at a minimum 60% of the time it is installed.

To ensure that the public has appropriate access to these facilities the City has entered into an agreement with the Santa Cruz Seaside Company (~~See Attachment B~~). In general, this agreement:

- 1) Establishes parameters for the public's ability to use these facilities, and limits the City's liability when they are in use;
- 2) Requires the Santa Cruz Seaside Company to reserve at least 1 full midweek day (may be variable) per week for free general first-come, first-serve use of the deck by

the public only (at least 24 days per season). Of the remaining days (approximately 156 days, including weekend days), the deck shall be open for free general first-come, first-serve public use at least 55 percent of the time (at least 84 days). In return, the Santa Cruz Seaside Company has the right to reserve the deck for private use up to 45 percent of those remaining days (up to 72 days). By April 1st of every year, the Santa Cruz Seaside Company will provide a list of dates reserved for private use to the City, who will then provide this list to the Executive Director of the Coastal Commission for review and approval. Any changes to the approved list shall also be approved in the same manner. City staff monitors the use on a monthly basis;

- 3) Establishes the Seaside Company's responsibility for the design, acquisition, installation, maintenance, removal and storage of a handicap accessible ramp which extends approximately 70 feet from the deck toward the water line, and which, regardless of whether the temporary deck is reserved for a private function shall remain open at all times for disabled users; and an approximately 230-foot lateral walkway along the beach from the deck to the colonnade;
- 4) Requires the implementation of a signage program by Santa Cruz Seaside Company that must be approved by the City and the Executive Director (and submitted as part of the list package described above) that encourages public use, including in terms of the required free general first-come, first-serve public use days. All signage shall be approved at least annually and at the same time and subject to the same approval process as specified for the above-referenced list of dates reserved for private use of the deck;
- 5) Requires the Santa Cruz Seaside Company be responsible for security, collection of garbage, and all other deck and ramp maintenance.

These facilities are only allowed to be installed and used pursuant to these parameters, and shall not be authorized otherwise.

D. The Santa Cruz Wharf/Beach Street Promenade Walkway/Ideal Fish Deck Connection

A Coastal Development Permit was approved by the City and the California Coastal Commission (3-93-47) to develop an approximately 200 foot public walkway/deck from the Santa Cruz Wharf diagonally along the ocean side of the Ideal Bar and Grill Restaurant to the Beach Street Promenade. The approximately 8,600 sq. ft deck surrounds the restaurant and the public restrooms and showers and was designed to improve access to the area by connecting the Santa Cruz Wharf, Wharf intersection, and Beach Street. The deck has public tables to accommodate 30 people along with benches and lighting. Pursuant to the conditions of CDP 3-93-47, the permittee has dedicated a permanent non-exclusive easement to the restaurant deck area to the City and the City provided an operational plan for both the restaurant area and the public area as part of its zoning permit. Approximately 1,800 sq. ft. of the deck immediately

adjacent to the restaurant is reserved for private restaurant use, while the restaurant is in operation. This area can accommodate approximately 60 people and is maintained by the restaurant. The walkway/deck surrounding this area is managed by the Parks and Recreation Department and the right of public access to and use of the promenade is limited in time, place, and manner as the City restricts the use of the City beach which it adjoins.

Section VI. SPECIAL AND TEMPORARY EVENTS COORDINATION

The Main and Cowell Beaches are the sites of many special and temporary events. Special events as they are understood by this BMP are those events that are held regularly, such as beach volleyball tournaments. Temporary events, as they are understood by this BMP, are those events that aren't BMP special events and are scheduled throughout the year, such as weddings or any reserved private use of the City's 16 volleyball courts. Most special and temporary event permits are processed by the City Manager's Office in conjunction with the Parks and Recreation Department and the Fire Department's Marine Safety Division. City permits for events must conform to the City's Municipal Code Chapters 10.64 Commercial Events and 10.65 Non-Commercial Events to ensure conflicts, overlap and impacts are minimized. These codes prevent substantial interference with the community's peace and safety and review the event based on traffic, security, safety, and cleanup and other requirements. In addition to the standards in the Chapters 10.64 and 10.65, special and temporary events are subject to the City's Zoning Ordinance Section 24.08.230.2 V which requires that all special and temporary events in the Coastal Zone be evaluated for exclusion status pursuant to Coastal Commission Guidelines for the Exclusion of Temporary Events from Coastal Commission Permit Requirements. Under these guidelines, special and temporary events must be reviewed for, among other things, significant impacts on general public use of public recreational areas including parking and traffic and fees associated with the event.

By January 1 of each year (and prior to any event occurring for that year), the City shall provide to the Executive Director of the Coastal Commission for review and approval a list of all known special events and any known temporary events pursuant to this BMP. For each event, the list shall include a narrative description of the event, a site plan identifying affected beach areas and any associated physical development (beach area structures shall be accompanied by elevations as well), and all identifying information (including, but not limited to its duration, expected number of participants, any fees, operating plans, parking plans, signs, etc.). A schedule of all special events, land and water, is posted on the City's or Parks and Recreation Department's website (<http://www.cityofsantacruz.com>) as a service to the public and all relevant agencies. Temporary events, which are non-regular and can be scheduled at any time during the year, are noticed immediately to the Coastal Commission via the City's email distribution list.

Special and temporary events shall only be allowed if they are sited and designed to minimize impacts on general public recreational use as much as possible (including the

requirement that they do not block lateral access along the lower beach area, nor block access to the beach from any and all public access points), and events that restrict more than 33% of the total beach area shall be prohibited unless the Executive Director determines that there are special circumstances and that the additional restriction will not significantly adversely affect general public recreational use. Only events on the approved list shall be allowed, and any changes to the approved list shall be submitted to the Executive Director for review and approval subject to the same criteria identified above. All events which are scheduled after the Executive Director's approval of the yearly list referenced above shall be subject to Executive Director approval based on the same methods above. Any such subsequent event to which the Executive Director has not responded within 5 days of receiving the event notification package from the City shall be deemed approved.

The Parks and Recreation Department shall be responsible for monitoring and maintaining records of any negative impacts on coastal resources, and shall provide such records to the Executive Director, along with any irregularities or noncompliance with the permits upon identification of same., ~~as part of the yearly submittal process along with the kelp removal and sand grooming monitoring requirements indicated above.~~

Section VII. RESTRICTIONS ON HOURS OF USE FOR COWELL BEACH AND BENEATH THE SANTA CRUZ WHARF

In recent years, there has been a persistent and ongoing pattern of criminal misconduct on Cowell Beach and the landward property beneath the Santa Cruz Wharf. This criminal activity is prevalent during the nighttime hours and primarily consists of illegal camping, narcotics use, alcohol consumption and abuse, defecation, urination, littering, and drug paraphernalia. The area is difficult to enforce since the majority of the beach cannot be illuminated and there are only two vantage points for law enforcement officers to view the area. The area lends itself to "look-outs" who can alert groups about law enforcement presence and patrols.

The unlawful activity creates a significant public health and safety concern and is a public nuisance. It creates hazards and unsightly conditions for beachgoers and degrades the environment. The City removes litter, human feces, broken glass, and used needles from the beach. There have been severe incidences when a beachgoer has stepped barefoot on a used needle which had been recklessly discarded in the sand.

In response to these conditions and in accordance with State and Federal law, on April 23, 2013 and again on July 22, 2014, the City adopted a one-year Cowell Beach/Wharf Public Access Policy (curfew) to protect the peace, health, and safety of beach users and abate a public nuisance. The curfew restricts the use of the dry sand portions of the beach at Cowell Beach and beneath the Santa Cruz Wharf from midnight until one hour before sunrise. During those times, beachgoers may only use the dry sand portion of the beach as a means to access the wet sand portion of the beach. The wet sand

portion of the beach remains open to the public twenty-four hours a day. As such, the curfew does not inhibit members of the public from enjoying a variety of recreational activities on the wet sand portion of the beach at anytime (e.g. jogging, kayak, paddle board, or surfboard launching, walking, meditating, swimming, sightseeing, nature observation, etc.). The current curfew expires on July 22, 2015.

The curfew has helped the City address some but not all of the illegal behaviors observed during the nighttime hours. The City has received less calls for service and issued fewer citations. However, more time may be needed to constructively address all of the issues. Therefore, the BMP recognizes the City may or may not maintain a curfew as conditions change throughout the five year BMP timeframe. Accordingly, signage will be modified to reflect any changes to the beach use rules.

Main Beach will not have a curfew, and beachgoers may continue to use the dry sand portion of the beach twenty-four hours a day throughout the BMP timeframe.

Section VIII. SIGNING PROGRAM

Enforcement and safety signage has been placed at all access points to the beach. These signs delineate the rules and laws on the beach and basic ocean safety principles. Additional signage for locations of rest rooms, disabled access, specific safety issues and acknowledgement of beach improvement contributions will be placed as needed, subject to Executive Director approval. All signs will be reviewed a minimum of once a year for condition, consistency and appropriateness to the beach area. Signs which restrict public access, except for signs approved subject to this BMP for health and safety reasons/public nuisance or special events, shall be prohibited.

Section IX. FLOOD AND DRAINAGE DISCHARGE OPERATIONS

The City Parks and Recreation Department performs most of the regular operations on the City's beaches, but the City Public Works Department also has an impact through regular operations, which fall under its jurisdiction. These operations range from flood and drainage control to debris removal. Not all functions are performed by the City's Parks and Recreation Department or Public Works Department; the City may also utilize contracted service operations for public works type functions.

Drainage may flow onto Main and Cowell beaches from many points and sources (e.g. from outdoor rinse showers located along the perimeter of the beach area or from power washing the Boardwalk). Management of major drainage flows is generally addressed upstream through plans developed by other public entities and separate from this BMP. The relevant parts of these plans as they relate to the Beach Management Plan area are discussed in A and B below. Private property sourced drainage is addressed in C below.

A. San Lorenzo River.

By far the most significant water flow through the City's beach is the San Lorenzo River. Ranging from high flow events during the rainy season to low flow in the summer months, the river continually affects the beaches. The lagoon which forms behind the sand berm at the river mouth typically has significant natural resource values, but the waters which rise behind the berm in the rainy season can pose a flood hazard. The San Lorenzo ~~Urban River Plan River Enhancement Plan (SLREP)~~ addresses these issues. This BMP does not address the San Lorenzo River or its lagoon, and explicitly doesn't allow activities pursuant to it within 100 feet of these areas, except to maintain the accessibility of the City's eastern emergency/maintenance vehicle accessway.

B. Neary Lagoon.

The second largest flow of water onto the City's Main Beach is the discharge from Neary Lagoon. The 14-acre lagoon is surrounded by an 850-acre urban drainage basin. Neary Lagoon management is regulated by the Neary Lagoon Management Plan (NLMP), a component of the City's General Plan/Local Coastal Program (GP/LCP). The lagoon is managed as a unique natural habitat with important recreational and educational resources for residents and visitors. An important function of the lagoon is the retention of storm water runoff and flood control. The NLMP and the BMP interface in relation to the manner in which Neary Lagoon storm water discharge is managed across Cowell Beach to the Pacific Ocean. During the dry season, the lagoon's discharge is diverted to the treatment plant by way of a by-pass line (that runs only if the water level is high enough in the lagoon). The City may divert lagoon water to the treatment plant during the "wet weather season" if the plant has adequate capacity, including both hydraulic and organic loading. This is done upon occasion to maintain consistent lagoon levels, and to minimize pump operation and discharges to the beach, in addition to treating the water prior to discharge. The dry weather diversion to the plant is important for the receiving water quality because during the spring and summer months the bacterial levels in Neary Lagoon tend to increase primarily due to the reduced freshwater flows into the lagoon and the presence of many birds that utilize the lagoon. Thus, this water is diverted to the treatment plant for treatment in lieu of being discharged to Cowell Beach.

If Neary Lagoon water levels go too high, the City may use pumps for a period of time to re-establish the natural flow of lagoon waters across Cowell Beach. Specifically, when the lagoon reaches the elevation of 5.5 mean sea level (MSL), the City initiates its sequence for opening the storm drain outlet for Neary Lagoon where it meets Cowell Beach just upcoast of the Santa Cruz Wharf. At that time, the City provides e-mail notices to a variety of agencies, interested parties, and City staff. City staff also physically monitors the discharge and delivers warning to persons in the water and on the beach before the pumping operation actually commences. During the wet weather season, the Neary outfall will independently operate as the lagoon reaches its spilling point.

C. Private Property. Three major private property holders (the Santa Cruz Seaside Company, Dream Inn Hotel, and the Ideal Bar and Grill Restaurant) are located directly

along Cowell and Main Beaches. Drainage flows originate at these properties from time to time and from varying activities (e.g., outdoor shower use, washing of decks, and flood abatement).

The Santa Cruz Seaside Company has installed a drainage pipe at the east end of the Boardwalk (and facing the San Lorenzo River) that dewater its basement of river water via a sump pump. The Santa Cruz Seaside Company also has two emergency bypass discharge pipes facing the ocean underneath Neptune's Kingdom and Coconut Grove which are used in high flood situations only. Most of these temporary drainages occur on a seasonal basis and during a heavy flood or high water level period in the San Lorenzo River lagoon.

Other modes of drainage to and across the BMP area are less well known. These include potential flows to the beach from outdoor rinse showers located along the perimeter of Cowell and Main beaches, deck and amusement ride washing from the Seaside Company staff, and from various restaurant and hotel activities. More information, however, is necessary to fully gauge the size and scope of these discharges, and in turn how to reduce or mitigate for them. Ideally, all potential runoff from these private property owners should flow into the City's sewer system for treatment off site. Therefore (and besides what is allowed per the BMP in sections above), absent of further knowledge about these activities, this BMP does not explicitly allow for these types of discharges.

Section X. INTERAGENCY COORDINATION

This section deals primarily with common interactions the City maintains with other public and private businesses. The City encourages cooperation and consultation with internal and external groups to enhance the viability of recreational experiences for visitors and residents alike.

A. Adopt-A-Beach

The City is an original participant in the California Coastal Clean-up and Adopt-A-Beach programs. The programs are effective in assisting the City in maintaining the beach as well as offering the public the opportunity for public service. Historically, the City has donated staff, access to the landfill and has been active in encouraging groups and individuals to participate in the program. The Parks and Recreation Department, acts as the beach manager for the City of Santa Cruz Beaches.

B. Seabright Beach Coordination

Twin Lakes State Beach, also known as Seabright Beach, is located within the city limits but is operated by the California State Department of Parks and Recreation. The City's Lifeguard and maintenance services staff maintain a close working relationship with the State Parks Service on matters of mutual concern. Communication is maintained through the Parks and Recreation Department and the Fire Department's Marine Safety

Division and the State Lifeguard office. These issues may include but are not limited to:

1. San Lorenzo Point Maintenance
2. Mott Street Access Maintenance
3. San Lorenzo River Issues
4. Public Safety Issues

C. Santa Cruz Wharf Coordination

Issues relating to the Santa Cruz Wharf and Beach operations are handled through the in-house staff process. The City follows all guidelines currently established by agencies such as the Coastal Commission relating to both operations. The Marine Safety Division of the Fire Department and the Parks and Recreation Department's Wharf Crew will continue close association with both the Police and Fire Departments for security and public safety.

D. Private/Public Coordination

The City will continue to inform the public of significant projects or impacts and encourages input into the decision making process in a timely matter. This is most commonly handled by the Parks and Recreation Commission through meetings and public hearings or through City Council meetings. The Parks and Recreation Department regularly meets with major beach property holders to cover issues of mutual interest on the beach.

Section XI. REFERENCES

The following appendices are provided here for general reference but are not a part of this BMP for CDP purposes. This BMP does not authorize any development associated with these documents:

San Lorenzo Urban River Plan

Neary Lagoon Management Plan

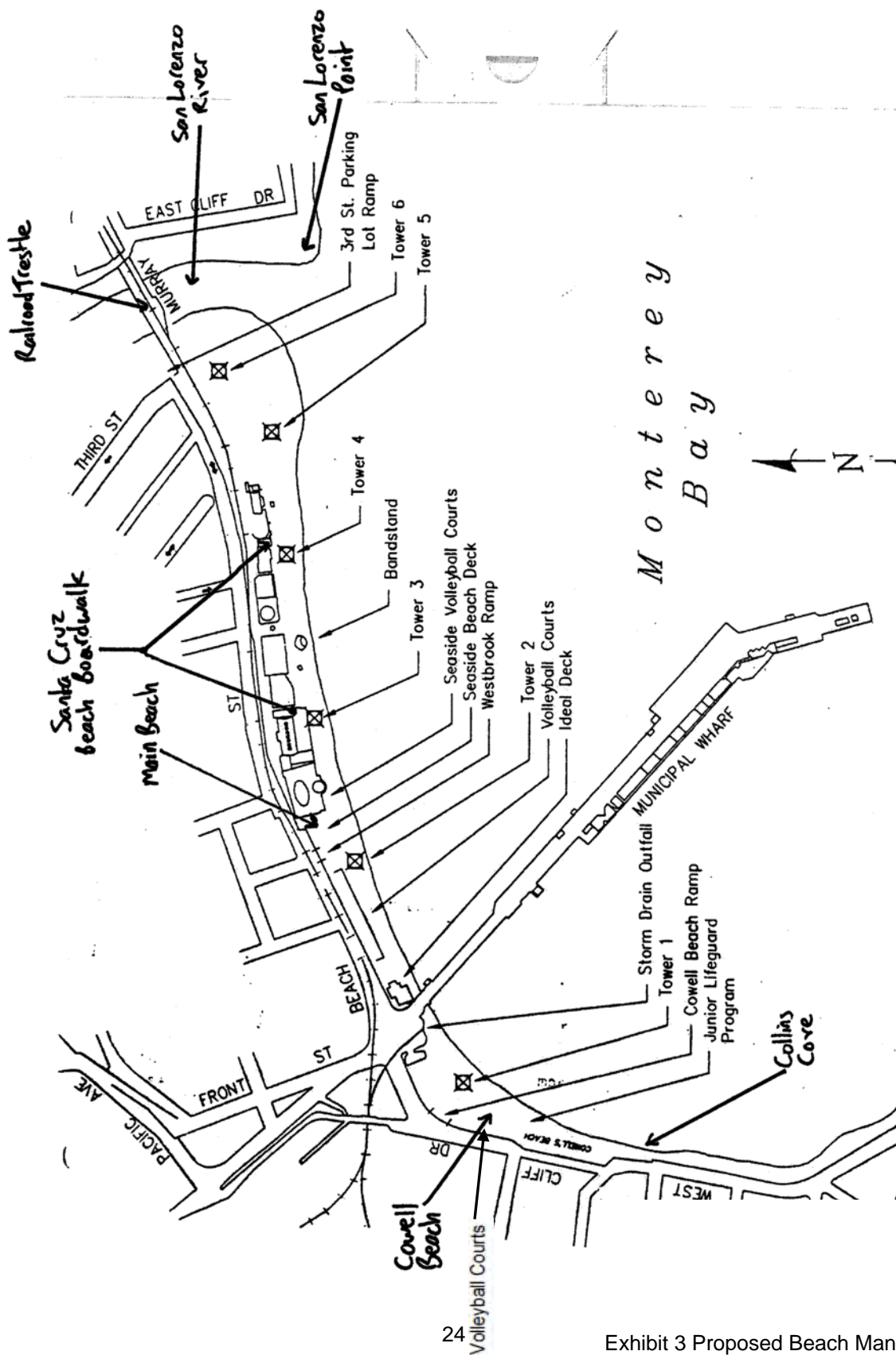
Seaside Company - City of Santa Cruz Beach Maintenance Agreement

Section XII: ATTACHMENT

Cowell and Main Beaches – Area Map

ATTACHMENT A

COWELL AND MAIN BEACHES AREA MAP



RESOLUTION NO. NS-28,640

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ
APPROVING COWELL'S BEACH/MUNICIPAL WHARF PUBLIC ACCESS POLICY

WHEREAS for the reasons stated in the April 23, 2013 Cowell's Beach/Municipal Wharf Public Access agenda report, the Santa Cruz Police Department's "Cowell Beach Criminal Activity and Modified Beach Curfew Recommendation 2013" attached to that agenda report, the written correspondence attached to that agenda report and the written and verbal testimony received by the City Council at the April 23, 2013 City Council meeting on the proposed Cowell Beach Public Access Policy, the City Council hereby determines and finds that

- 1 Substantial evidence exists to establish the presence of a significant public health and safety hazard at Cowell's Beach and on the landward property beneath the Municipal Wharf attributable to a present, persistent, and ongoing pattern of criminal misconduct on the beach and beneath the wharf consisting primarily of illegal camping, narcotics use, alcohol consumption and abuse, defecation, urination, the illegal disposal of trash, alcohol containers and drug paraphernalia, and the theft of electricity. The proposed Cowell Beach Public Access Policy, if implemented, will serve to deter said criminal misconduct and provide law enforcement with a mechanism to address that criminal misconduct which will be significantly more effective than those mechanisms currently in place.
- 2 Substantial evidence also establishes that during nighttime hours it is dark and the beach/wharf area is poorly illuminated and is not capable of being fully or adequately illuminated, the subject beach/wharf area can only be observed from two public vantage points, the Cowell Beach parking lot and the Municipal Wharf, from which it is not possible to observe the majority of the beach/wharf area during the hours when criminal misconduct in that area is prevalent, it is not operationally feasible to deploy regular and frequent law enforcement foot patrols onto said beach/wharf area during the hours when criminal misconduct in that area is prevalent; and the physical configuration of said beach/wharf area lends itself to the posting of "look-outs" by groups of miscreants providing them with the ability to conceal evidence of their criminal activity before they can be observed or contacted by law enforcement officials who might patrol the beach/wharf area during the hours when criminal misconduct in that area is prevalent. In light of these factors, there are no feasible alternatives to the proposed Cowell Beach/Municipal Wharf Public Access Policy which would serve to as meaningfully, constructively and effectively address the public health and safety problems currently being experienced during hours of darkness in the subject beach/wharf area.

RESOLUTION NO NS-28,640

3. The City Council hereby finds and declares that the conditions described in the findings above constitute a public nuisance as defined in California Civil Code Section 3479 and Santa Cruz Municipal Code Section 4 01 010 and an immediate and substantial threat to public health and safety that justifies implementation of the proposed Cowell Beach/Municipal Wharf Public Access Policy, that is authorized by Municipal Code Section 13 04 011, and that may be implemented pursuant to the City's police power authority under the Constitution and laws of the State of California to make and enforce all laws and regulations necessary to protect public health, safety and welfare, and that is further directly authorized by the California Coastal Act pursuant to California Public Resources Code Section 30005(a) and (b)
4. Substantial evidence also establishes that implementation of the proposed Cowell Beach/Municipal Wharf Public Access Policy would only minimally impact the ability of members of the public to access and use the City's beaches. The policy would only apply to the dry sand portion of Cowell Beach and the landward property beneath the Municipal Wharf and would only prohibit access to that portion of Cowell Beach between midnight and one hour before sunrise, amounting to a maximum of four or five hours per day, depending upon the season. The wet sand portion of Cowell Beach would not be affected by the policy and would remain open to members of the public for full access and use twenty-four hours per day, seven days a week, all year. The policy would not additionally restrict the public's access and use of any other beaches within the City's jurisdictional limits including It's Beach, Mitchell's Cove, Seabright Beach and, most significantly, Main Beach. Main Beach is immediately contiguous to Cowell Beach, will remain fully accessible to members of the public twenty four hours a day, is substantially larger than Cowell Beach and offers members of the public recreational opportunities and aesthetic amenities identical or substantially similar to those offered by Cowell Beach.
5. The proposed Cowell Beach/Municipal Wharf Public Access Policy is a project which is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15321, Categorical Exemption Class 21 for Enforcement Actions by Regulatory Agencies, as this action is a regulation appropriately limiting use for public health and safety purposes. As well, the action is exempt by the general rule that CEQA applies only to projects which the potential for causing a significant impact on the environment. In this case limiting use of the dry sand area of the beach at night can be seen with certainty that there is no possibility that this activity will have a significant impact on the environment.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Santa Cruz as follows

RESOLUTION NO NS-28,640

The attached Cowell Beach/Municipal Wharf Public Access Policy is hereby adopted and shall remain in full force and effect until April 24, 2014 unless the Council, pursuant to the procedures prescribed at Section 6 of the Policy, declares that the above-described nuisance conditions have not abated thereby requiring an extension of this Policy or implementation of a modified public access policy

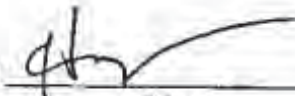
PASSED AND ADOPTED this 23rd day of April, 2013, by the following vote:

AYES Councilmembers Terrazas, Comstock, Lane, Mathews, Posner, Vice Mayor Robinson, Mayor Bryant

NOES. None

ABSENT None

DISQUALIFIED None

APPROVED: 

Mayor

ATTEST 

City Clerk Administrator

COWELL BEACH/MUNICIPAL WHARF PUBLIC ACCESS POLICY

- 1 Except as set forth in Section 3, public access to the dry sand portion of Cowell Beach and the landward property beneath the Municipal Wharf shall be prohibited between the hours of midnight and one hour before sunrise. The dry sand portion of Cowell Beach and landward property beneath the Municipal Wharf shall be accessible to members of the public for all legally permissible uses at all other times.
2. The wet sand portion of Cowell Beach, i.e. that portion of Cowell Beach that is wet as the result of the wash of waves or tidal action, shall remain accessible to members of the public at all times to be used by members of the public for all legally permissible activities.
- 3 Notwithstanding Section 1, the dry sand portion of Cowell Beach shall be accessible to the public at all times for the purpose of accessing the wet sand portion of Cowell Beach. Between midnight and one hour before sunrise the dry sand portion of Cowell Beach may be used for this purpose only.
- 4 Special events which are permitted, approved and regulated by the City may be conducted on Cowell's Beach without reference to the public access restrictions set forth in this policy.
- 5 This policy shall go into effect on April 24, 2013 and shall no longer be effective as of April 24, 2014 unless the Council approves a further extension.
- 6 This policy may not be extended or renewed in its current form or in a modified form absent a prior public hearing of the City Council and a City review of circumstances which are current as of the time of the proposed extension or renewal as well as a City assessment of the efficacy of this policy during its implementation in counteracting the negative public health and safety problems this policy is intended to address. Any renewed or extended policy shall only be implemented in accordance with applicable California Coastal Commission guidelines for the consideration and implementation of such policies.

RESOLUTION NO. NS-28,821

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ
APPROVING COWELL'S BEACH/WHARF PUBLIC ACCESS POLICY

WHEREAS for the reasons stated in the July 22, 2014 Cowell's Beach/Wharf Public Access agenda report, the Santa Cruz Police Department's June 9, 2014 report attached to that agenda report, the written and verbal testimony received by the City Council at the July 22, 2014 City Council meeting on the proposed Cowell Beach Public Access Policy, the City Council hereby determines and finds that:

1. Substantial evidence exists to establish the presence of a significant public health and safety hazard at Cowell's Beach and on the landward property beneath the Municipal Wharf attributable to a present, persistent, and ongoing pattern of criminal misconduct on the beach and beneath the wharf consisting primarily of illegal camping, narcotics use, alcohol consumption and abuse, defecation, urination, the illegal disposal of trash, alcohol containers and drug paraphernalia. The proposed Cowell Beach Public Access Policy, if implemented, will serve to further deter said criminal misconduct and provide law enforcement with a mechanism to address that criminal misconduct which will be significantly more effective than those mechanisms currently in place.
2. Substantial evidence also establishes that during nighttime hours: it is dark and the beach/wharf area is poorly illuminated and is not capable of being fully or adequately illuminated; the subject beach/wharf area can only be observed from two public vantage points, the Cowell Beach parking lot and the Wharf, from which it is not possible to observe the majority of the beach/wharf area during the hours when criminal misconduct in that area is prevalent; it is not operationally feasible to deploy regular and frequent law enforcement foot patrols onto said beach/wharf area during the hours when criminal misconduct in that area is prevalent; and the physical configuration of said beach/wharf area lends itself to the posting of "look-outs" by groups of miscreants providing them with the ability to conceal evidence of their criminal activity before they can be observed or contacted by law enforcement officials who might patrol the beach/wharf area during the hours when criminal misconduct in that area is prevalent. In light of these factors, there are no feasible alternatives to the proposed Cowell Beach/ Wharf Public Access Policy which would serve to as meaningfully, constructively and effectively address the public health and safety problems currently being experienced during hours of darkness in the subject beach/wharf area.
3. The City Council hereby finds and declares that the conditions described in the findings above constitute a public nuisance as defined in California Civil Code Section 3479 and Santa Cruz Municipal Code Section 4.01.010 and an immediate and substantial threat to public health and safety that justifies implementation of the proposed Cowell Beach/Wharf Public Access Policy, that is authorized by Municipal Code Section 13.04.011, and that may be implemented pursuant to the City's police power authority under the Constitution and laws of the State of California to make and enforce all laws and regulations necessary to protect public health, safety and welfare, and that is further directly authorized by the California Coastal Act pursuant to California Public Resources Code Section 30005(a) and (b).

RESOLUTION NO. NS-28,821

4. Substantial evidence also establishes that implementation of the proposed Cowell Beach/Municipal Wharf Public Access Policy would only minimally impact the ability of members of the public to access and use the City's beaches. The policy would only apply to the dry sand portion of Cowell Beach and the landward property beneath the Municipal Wharf and would only prohibit access to that portion of Cowell Beach between midnight and one hour before sunrise, amounting to a maximum of four or five hours per day, depending upon the season. The wet sand portion of Cowell Beach would not be affected by the policy and would remain open to members of the public for full access and use twenty-four hours per day, seven days a week, all year. The policy would not additionally restrict the public's access and use of any other beaches within the City's jurisdictional limits including It's Beach, Mitchell's Cove, Seabright Beach and, most significantly, Main Beach. Main Beach is immediately contiguous to Cowell Beach, will remain fully accessible to members of the public twenty four hours a day, is substantially larger than Cowell Beach and offers members of the public recreational opportunities and aesthetic amenities identical or substantially similar to those offered by Cowell Beach.

5. The proposed Cowell Beach/Wharf Public Access Policy is a project which is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15321, Categorical Exemption Class 21 for Enforcement Actions by Regulatory Agencies, as this action is a regulation appropriately limiting use for public health and safety purposes. As well, the action is exempt by the general rule that CEQA applies only to projects which the potential for causing a significant impact on the environment. In this case, limiting use of the dry sand area of the beach at night can be seen with certainty that there is no possibility that this activity will have a significant impact on the environment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz as follows:

The attached Cowell Beach/ Wharf Public Access Policy is hereby adopted.

PASSED AND ADOPTED this 22nd day of July, 2014, by the following vote:

AYES: Councilmembers Bryant, Terrazas, Comstock, Mathews, Posner, Vice Mayor Lane; Mayor Robinson.

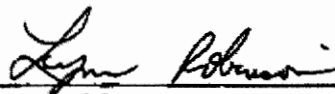
NOES: None.

ABSENT: None.

DISQUALIFIED: None.

ATTEST: 
City Clerk Administrator

APPROVED: _____


Mayor

COWELL BEACH/WHARF PUBLIC ACCESS POLICY

1. Except as set forth in Section 3, public access to the dry sand portion of Cowell Beach and the landward property beneath the Wharf shall be prohibited between the hours of midnight and one hour before sunrise. The dry sand portion of Cowell Beach and landward Wharf property shall be accessible to members of the public for all legally permissible uses at all other times.
2. The wet sand portion of Cowell Beach, i.e. that portion of Cowell Beach that is wet as the result of the wash of waves or tidal action, shall remain accessible to members of the public at all times to be used by members of the public for all legally permissible activities.
3. Notwithstanding Section 1, the dry sand portion of Cowell Beach shall be accessible to the public at all times for the purpose of accessing the wet sand portion of Cowell Beach. Between midnight and one hour before sunrise the dry sand portion of Cowell Beach may be used for this purpose only.
4. Special events which are permitted, approved and regulated by the City may be conducted on Cowell's Beach without reference to the public access restrictions set forth in this policy.
5. This policy shall go into effect on July 22, 2014 and shall no longer be effective as of July 22, 2015.
6. This policy may not be extended or renewed in its current form or in a modified form absent a prior public hearing of the City Council and a City review of circumstances which are current as of the time of the proposed extension or renewal as well as a City assessment of the efficacy of this policy during its implementation in counteracting the negative public health and safety problems this policy is intended to address. Any renewed or extended policy shall only be implemented in accordance with applicable California Coastal Commission guidelines for the consideration and implementation of such policies.

CDP 3-11-027-A1 SPECIAL CONDITIONS (AMENDED)

This permit amendment is granted subject to the following special conditions. All terms and conditions of the original approval of Coastal Development Permit No. 3-11-027-A1 remain in full force and effect, except those that are explicitly replaced or modified in this amendment, as follows (see **Exhibit 5** for a clean copy of the amended conditions):

1. ~~Three~~**Five-Year CDP.** Except for the Cowell Beach Curfew component of the BMP (see Condition 2 below), this coastal development permit shall expire 3 five years from the date of Commission approval (i.e., on June 16, 2014 November 13, 2019).
2. ~~2. Kelp Water Quality Study. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of the Kelp Water Quality Study for Executive Director review and approval. The Study shall be substantially consistent with the study parameters and methodology described in the Permittee's Beach Management Plan, including with respect to study monitoring and reporting (see Exhibit 2). The Permittee shall complete the approved Study and submit the final Study report to the Executive Director prior to expiration of this coastal development permit (i.e., no later than June 16, 2014).~~

Cowell Beach Curfew.

(a) The Cowell Beach curfew component of the BMP shall expire five years from the date of Commission approval (i.e., same as the BMP overall), and shall only remain in effect during that time frame provided that the City Council continues to authorize the curfew during this five-year period. If the City wishes to continue the Cowell Beach curfew in the next iteration of the BMP, the City shall submit as part of its application materials for renewal of the BMP in 2019 a report that evaluates the effect of the curfew on illegal and/or other activities at Cowell Beach that affect bona fide public use (such a report must be based on data collected from police and other like reports, including data on the number of calls for service, numbers of arrests, list of infractions at Cowell Beach during the curfew hours, number of needles found on the beach, etc.) as well as an evaluation of the impact that the curfew has had on public access at Cowell Beach.[you should probably add language requiring removal of signage in the event the curfew expires after 5 years. B) only addresses what happens if approval lapses before this iteration of the BMP expires.

(b) In the event that the City Council's authorization of the Cowell Beach curfew lapses, the Cowell Beach curfew will be considered rescinded for the remaining term of the BMP described in **Special Condition 1** above, and signage pertaining to the curfew shall be immediately removed from Cowell Beach.

3. **Special and Temporary Events Notification.** The Permittee shall submit two copies of the Special and Temporary Events Notification for Executive Director review and approval by January 1st of each year that this permit remains valid. The Notification shall be substantially consistent with the special and temporary events notification parameters and methodology described in the Permittee's Beach Management Plan, including with respect to subsequent events notification, signage, and reporting (see Exhibit ~~B~~ 3). Special and temporary events shall only be allowed if the Executive Director first approves them.

- 4. ~~4. Annual BMP Monitoring Report.~~** ~~The Permittee shall submit two copies of an annual Beach Management Plan Implementation Monitoring Report for Executive Director review and approval each calendar year prior to March 1st of each year that this permit remains valid. Such Report shall provide annual monitoring information relative to beach grooming, kelp removal, and special and temporary events substantially consistent with the annual reporting parameters and methodology described in the Permittee's Beach Management Plan (see Exhibit B).~~ **Assumption of Risk, Waiver of Liability, and Indemnity.** By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to hazards from episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, tidal scour, coastal flooding, and the interaction of same; (ii) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- 5. Liability for Costs and Attorneys' Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.



DC
SC
KG

PARKS AND RECREATION

323 Church Street, Santa Cruz, CA 95060 • 831 420-5270 • Fax: 831 420-5271 • www.santacruzparksandrec.com

September 24, 2014

Dan Carl
Deputy Director
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

Dear Mr Carl,

The City is submitting a revision to the proposed 2014 Cowell and Main Beaches Management Plan (BMP) in response to comments received from Coastal Commission staff during the review process for Coastal Development Permit Application No. 3-11-027-A. I have appreciated Coastal Commission staff's availability and willingness to work with Parks and Recreation to refine the new BMP. Our staff feels comfortable with the document submitted except for Section VII, Restrictions on Hours of Use for Cowell Beach and Beneath the Santa Cruz Wharf.

As you know, City Council adopted a limited curfew for Cowell Beach and the landward property beneath the Santa Cruz Wharf in 2013 and again in 2014 after consultation with the City Attorney and Coastal Commission staff. The limited curfew was adopted to protect the public from a nuisance (discarded needles, human feces, broken glass, etc.).

In reviewing the Coastal Act, it seems clear that no provision shall be a limitation "...on the power of any city or county or city and county to declare, prohibit, and abate nuisances." Additionally, the US Constitution Tenth Amendment grants local government the police power which extends to all appropriate ordinances for the protection of peace, health and safety of the people. That said, we respectfully disagree that the limited curfew requires a Coastal Development Permit or needs to be included in the BMP.

However, in the spirit of continuing cooperation with Coastal Commission staff, and, upon your recommendation, the Parks and Recreation Department included Section VII in the 2014 BMP.

It is our hope that Coastal Commission staff will recommend a 5 year permit for this BMP based on the Parks and Recreation Department's successful continuing efforts to maintain access to our City beaches. It is obvious our two agencies have very similar goals when it comes to Cowell and Main Beaches. I feel the attached BMP reflects both agencies values and the Parks and Recreation Department's continuing commitments to our coastal resources.

RECEIVED

SEP 24 2014

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

A five year permit will ensure continuity of the mutually agreed upon processes that have been working for years.

Thank you for your consideration.

Sincerely,

*Dannette
Shoemaker*
Dannette Shoemaker
Director of Parks and Recreation

Geisler, Karen@Coastal

From: Carl, Dan@Coastal
Sent: Wednesday, July 02, 2014 11:34 AM
To: Geisler, Karen@Coastal
Subject: FW: Curfew at Cowell Beach in Santa Cruz
Attachments: BSC - Needles in Public Spaces Workbook 18.pdf

-----Original Message-----

From: Needle Solutions [<mailto:needlesolutions@gmail.com>]
Sent: Wednesday, July 02, 2014 10:54 AM
To: Cavalieri, Madeline@Coastal; Carl, Dan@Coastal
Cc: Analia Cube
Subject: Curfew at Cowell Beach in Santa Cruz

To: Dan Carl, Deputy Director; Madeline Cavalieri, District Manager, Coastal Commission

Dear Dan and Madeline,

Take Back Santa Cruz's Needles Solutions Team is writing to express its strong support of an extension of the nighttime curfew at Cowell Beach in Santa Cruz. This action is necessary to protect the public from the growing problem of discarded IV drug needles being found at Cowell's. Since the beach's crime and drug abuse problem is mostly occurring at night, it is a reasonable solution to limit access during those hours.

Just this past Father's Day, June 15, 2014, a 59-year-old local man stepped on a needle that was buried in the sand. He is now undergoing blood testing and hepatitis vaccinations. Unfortunately, he is not the first person to suffer a needle stick injury at Cowell's. In May 2013 a 12-year-old boy was stuck with a used needle after he found and played with it. That child had to receive medical treatment as well.

Needle stick injuries can be devastating both financially and emotionally to victims and their families. As you will see in our attached NIPS (Needles in Public Spaces) Log, there have been numerous citizen reports of needles found at Cowell's. City workers are also cleaning up drug needles at Cowell's on a near-daily basis and keep a count in their own log.

We understand the need for public access to our beaches. However, Santa Cruz is in the middle of a public safety crisis, and our citizens' ability to use our beaches safely during the day has been compromised. There are already many parents who will not allow their children to go to Cowell Beach because of the risks involved.

Restricting nighttime access to prevent crime and drug abuse on the beach will actually provide safer, cleaner access during the day, and hopefully those who are currently avoiding this particular beach will one day return.

Sincerely,

Needles Solutions Team
Take Back Santa Cruz

Geisler, Karen@Coastal

From: Carl, Dan@Coastal
Sent: Wednesday, July 02, 2014 11:33 AM
To: 'Needle Solutions'
Cc: Analicia Cube; Cavalieri, Madeline@Coastal; Geisler, Karen@Coastal
Subject: RE: Curfew at Cowell Beach in Santa Cruz

Thank you for sharing your views on the Cowell's curfew question. To be clear, we supported the curfew when it was put in place because of the facts that suggested it was appropriate at that time. As we told the City at that time, given the urgency and need to abate a public nuisance, we did not believe a coastal permit was required for the first year, but it would be required after that. All we have asked of the City at this point is to apply for the permit that is now required. Thus far they have not done so.

Again, thank you for your input and opinion on the issue. If you would like to be kept informed of future coastal permit hearings on the matter, please submit your address to Karen Geisler, copied here, the Coastal Commission's coastal planner for the Santa Cruz area.

Dan

Dan Carl
District Director
Central Coast and North Central Coast Districts California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060
P: 831-427-4863
F: 831-427-4877
dan.carl@coastal.ca.gov
www.coastal.ca.gov

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Needles Solutions Team
Take Back Santa Cruz