

**CALIFORNIA COASTAL COMMISSION**

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# Th6c

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Staff:	A. Dobson-LB
Staff Report:	1/28/14
Hearing Date:	2/13/14

## STAFF REPORT: CONSENT CALENDAR

**APPLICATION NUMBER:** 5-13-1290

**APPLICANT:** City of Santa Monica

**PROJECT LOCATION:** Santa Monica State Beach, off Ocean Front Walk near Ashland Ave, City of Santa Monica

**PROJECT DESCRIPTION:** Construction of one 12 foot wide, 300 foot long walkway extension from the existing public beach pathway located off Ocean Front Walk near South Beach Park. The walkway extension will allow users with physical limitations easier access across the sand to be closer to the water. The walkway extension will be made from recycled tires and anchored into the sand using stainless steel bolts.

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission approve coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all permits included on the consent calendar. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

### Resolution:

*The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3. Approval of the permit 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 alternative that would substantially lessen any significant adverse impacts of the development on the environment.*

## I. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

1. **Beach Grooming.** By acceptance of this permit, the applicant, City of Santa Monica, acknowledges and agrees that with the extension of the beach walkway as approved by this permit, the use of beach grooming machinery shall be prohibited below the High Tide Line (as generally depicted in Exhibit No. 2).
2. **Construction Responsibilities and Debris Removal.** Applicant shall not allow discharge of silt or debris into coastal waters as a result of this project. By acceptance of this permit, the applicant agrees that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs:
  - A. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
  - B. Staging and storage of construction machinery and storage of debris shall not take place on the beach.
  - C. Any and all debris resulting from construction activities shall be removed from the beach area on a daily basis and disposed of at an appropriate location.
  - D. Machinery or construction materials are prohibited at all times in the subtidal or intertidal zones.
  - E. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during project staging, demolition and construction. BMPs shall include a pre-construction meeting to review procedural and BMP guidelines.
  - F. The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
  - G. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the beach or in the water, and that the project has not created any hazard to navigation.
3. **Assumption of Risk, Waiver of Liability and Indemnity Agreement Applicable to Applicant**
  - A. By acceptance of this permit, the applicant, City of Santa Monica, acknowledges and agrees (i) that the site may be subject to hazards from wave and tidal action; (ii) to assume the risks to the applicant, City of Santa Monica, 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; (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; and (v) to include a provision in any subsequent lease of such property requiring the lessee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the terms of subsection A of this condition.

**B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the City of Santa Monica, as applicant, shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

#### **4. No Future Shoreline Protective Device**

**A.** By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-13-1290, and any other future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

**B.** By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the applicant shall remove the development authorized by this Permit, due to destruction or damage that leaves the walkway unusable or makes it hazardous to the public. In the event that portions of the development break off or separates, the applicant shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

### **IV. FINDINGS AND DECLARATIONS**

#### **A. PROJECT DESCRIPTION AND LOCATION**

The City of Santa Monica proposes to construct one 12 foot wide, 300 foot long accessible walkway extension from the existing beach walkway located off Ocean Front Walk near Ashland Ave. (see **Exhibits No. 1**). The proposed extension will extend the walkway 300 feet closer to the water. The proposed walkway extension will be made from recycled tires and anchored into the sand using stainless steel bolts.

The proposed project is located on the public beach in the South Beach area (south of Santa Monica Municipal Pier) in the City of Santa Monica. The proposed 300 foot long walkway extension will be located at the western end of Ashland Ave. adjacent to a public parking lot, situated between South Beach Park and Ocean View Park. The existing U-shaped concrete pad extending from Ocean Front Walk (see **Exhibits No. 3**) would connect the proposed walkway to the public restrooms and to Ocean Front Walk. There is an existing portable lifeguard tower on the

beach that is situated approximately 5 feet from the High Tide Line (HTL). The proposed 300 foot long walkway will end approximately 30-50 feet from HTL and will allow for beach grooming machinery to stay on dry sand and not encroach beyond the HTL.

The purpose of the walkway is to improve accessibility to the water across the sandy beach for people using wheelchairs, or others that are less mobile, including the elderly and small children. The project is being funded through a Cal Recycle Tire Derived Product (TDP) Grant. The program provides funding for tire-derived products made from 100 percent California generated waste tires. The City of Santa Monica Resource Recovery and Recycling Division applied for the grant following numerous requests from the City's Disabilities Commission to add more accessible beach walkways.

The City installed similar beach walkway extensions using recycled tires on the north side of the pier in 2012 (CDP no. 5-12-090), and on the south side of the pier in 2013 (CDP no. 5-13-027).

## **B. ENVIRONMENTALLY SENSITIVE HABITAT AND MARINE RESOURCES**

Sections 30230 and 30231 of the Coastal Act mandate that marine resources and coastal water quality shall be maintained and where feasible restored, protection shall be given to areas and species of special significance, and that uses of the marine environment shall be carried out in a manner that will sustain biological productivity of coastal waters.

The proposed construction activity will occur in a location where there is a potential for discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, or debris, in a location where it could be carried into coastal waters could impact water quality. The City is requiring that the contractors implement Best Management Practices (BMPs) during construction. To ensure that BMPs are incorporated to reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes **Special Condition No. 2** requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going BMPs following construction; and requires monitoring and maintenance of the system. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act.

One species of concern along the beaches of Santa Monica is the California grunion (*Leuresthes tenuis*), a small fish that spawns on the sandy beaches in the project vicinity immediately following high tides from March to August. Project activities within the intertidal zone may disturb adult grunion during the run period and/or may bury incubating grunion eggs. The City of Santa Monica routinely grooms the public beach with heavy machinery. Because of the location of the proposed walkway near the high tide line (HTL), there is the potential to impact the *Leuresthes tenuis* if grooming activity extends beyond the HTL. The construction of the walkways will terminate 30-50 feet above the HTL providing adequate room for the grooming machinery to stay on the dry sand, between the walkway and the lifeguard tower, and not encroach beyond the HTL. Therefore, the location of the new walkway will not adversely impact grunion habitat. **Special Condition No. 1** is necessary to ensure that the City is on notice that the

extension of the walkways will not cause existing beach grooming machinery to extend below the HTL. As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(a) (b) of the Coastal Act.

### C. ACCESS

The proposed project will improve public beach access by extending the accessible walkway along the wide, sandy beach providing easier access to the water for segments of the public with mobility limitations such as individuals in wheelchairs, the elderly, children and others. Construction activity on the beach for the installation of the walkway could affect the public's ability to gain access to, and/or make use of, the coast and nearby recreational facilities. However, according to the City the proposed construction will be completed during the non-peak summer period to minimize impacts to public access, beginning in early spring and will take approximately two weeks to construct. During construction, public access along the existing walkway will continue up to the construction area where the extension will be added. Public access will then be diverted around the construction area where the public can continue to access the surrounding sandy beach area and water. As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

### D. HAZARDS

Section 30253 of the Coastal Act states that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard, and assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. Development adjacent to the ocean is inherently hazardous. Since the proposed development is near the water in an area that is subject to wave uprush, the Commission is imposing its standard waiver of liability special condition (**Special Condition No. 3**) to ensure that the applicant is aware of the hazards and restrictions on the subject property, is aware that the project site is in an area that is potentially subject to wave action and flooding which could damage the proposed structures, and is aware that the Commission is not liable for such damage as a result of approving the permit for development. In addition, the condition insures that future lessees of the property will be informed of the risks, and the Commission's immunity from liability.

To further ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes **Special Condition No. 4** which would prohibit the applicant from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among

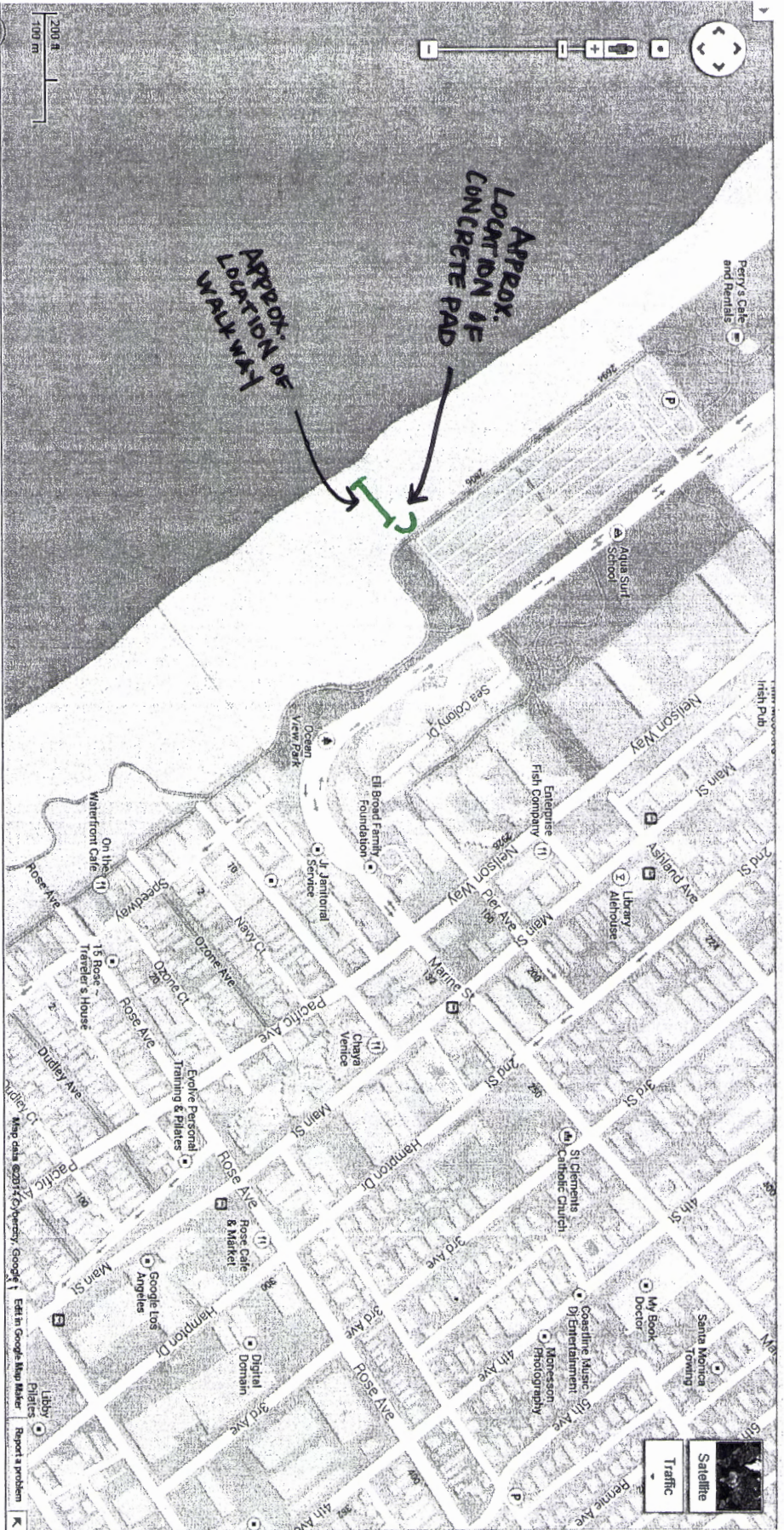
other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the high tide line; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30251 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

#### **E. LOCAL COASTAL PROGRAM**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District). On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. The proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the Coastal Act.

#### **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

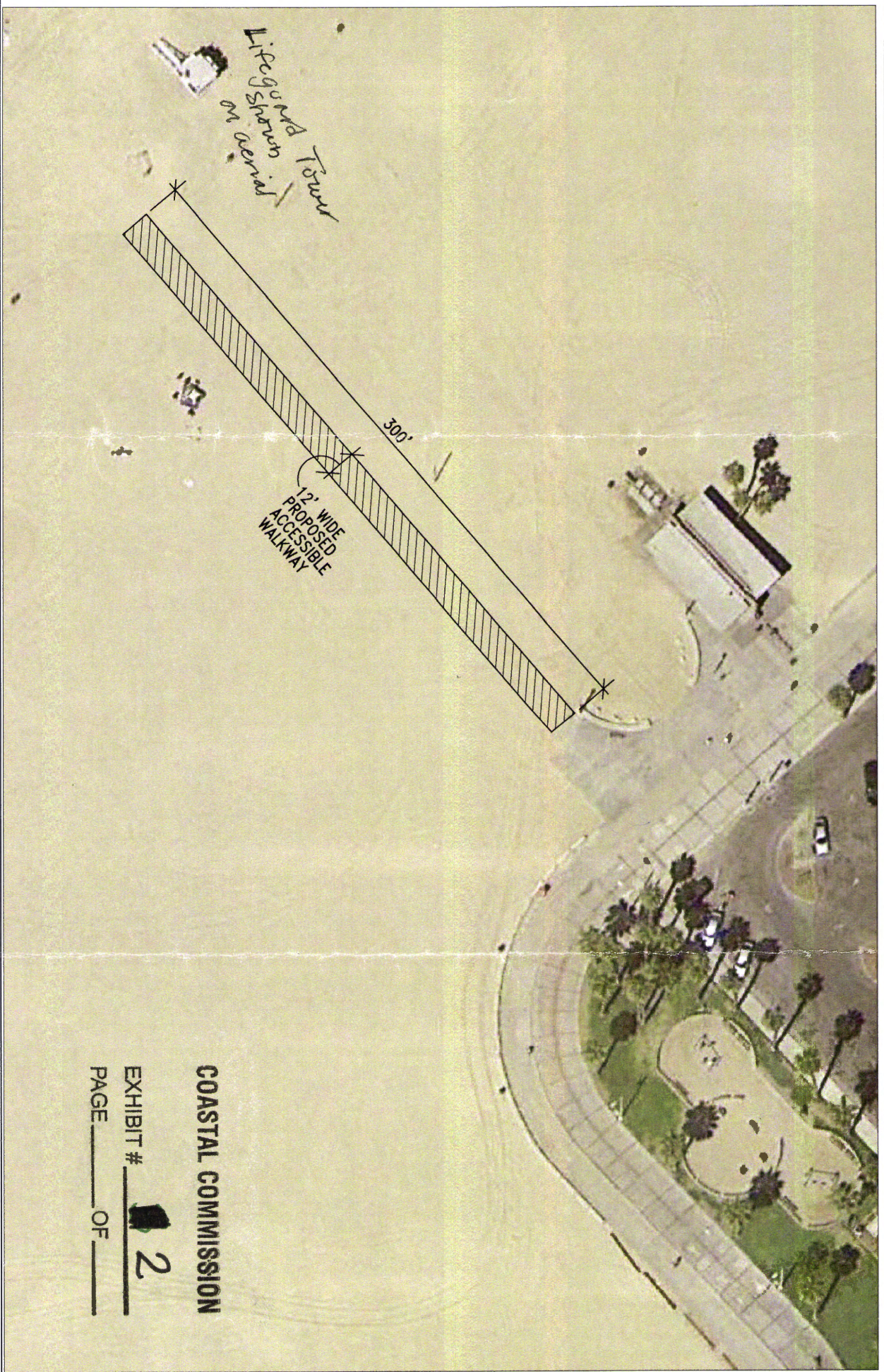
As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



**COASTAL COMMISSION**

EXHIBIT # 1  
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Lifeguard Tower  
on arrival

300'

12' WIDE  
PROPOSED  
ACCESSIBLE  
WALKWAY

COASTAL COMMISSION

EXHIBIT # 2

PAGE \_\_\_\_\_ OF \_\_\_\_\_