

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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**W15a**

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original staff report

**ADDENDUM**

September 3, 2015

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO CDP NO. 5-14-1211 (City of Newport Beach) FOR THE COMMISSION MEETING OF WEDNESDAY, SEPTEMBER 9, 2015.**

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**CHANGES TO STAFF REPORT**

Commission staff recommends clarifications to the staff report dated 8/20/15 as follows (language to be added to the findings and conditions is shown in underlined text, and language to be deleted is identified by ~~strike-out~~.)

**1. Section I. Motion and Resolution., Motion, make the following edits on Page 4:**

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

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the permits included on the ~~consent~~ regular calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

**2. Section III. Special Conditions, Special Condition No. 3. Landscape, Page 6, add the following subsection:**

- iii. A maintenance plan for the landscaped area that shall describe the herbicide, pesticide, fertilizer practices as well as list the chemical pesticides and fertilizers that will be employed on site. Said chemicals shall not be toxic to fish or wildlife or persistent in the environment. Herbicides and pesticides, if used at all, shall be applied by hand application or by other means that will prevent leakage, percolation, or aerial drift into the beach sand and ocean water.

**3. Summary of Staff Recommendation, fourth paragraph, fourth sentence, make the following edits on Page 2:**

Additionally, the applicant is proposing landscaping; therefore, the Commission imposes **Special Condition 3** which implements the installation of drought-tolerant vegetation and

water conservative irrigation systems, and the use of only non-toxic herbicides and pesticides.

**4. Section IV. Findings and Declarations, Sub-Section D.2. Post-Construction Impacts to Water Quality, Page 15, make the following edits starting at the end of the third paragraph:**

To ensure the proposed project incorporates and implements these measures, the Commission imposes **Special Condition 3** implementing the installation of drought-tolerant vegetation and water conservative irrigation systems.

The proposed development will not result in a decrease of pervious surface. Therefore, with water conservative irrigation, there is less potential for runoff to leave the site resulting from excess irrigation. In addition, onsite stormwater runoff will percolate into the proposed grass playfield.

The proposed project site, however, is on the beach; therefore, the proposed project post-construction has the potential to impact the marine environment with the use of pollutants associated with landscaping such as fertilizers, herbicides, and pesticides. These potential pollutants can degrade the marine environment and reduce the biological productivity of coastal waters containing sensitive marine organisms. Therefore, **Special Condition 3** also requires that if herbicides and pesticides are used at all, the chemicals shall not be toxic to fish or wildlife, and shall be applied by hand application or by other means that will prevent leakage, percolation, or aerial drift into the beach sand and ocean water.

~~To ensure the proposed project incorporated and implements these measures~~ To ensure the protection of marine resources, the Commission imposes **Special Condition 3**, which implements the installation of drought-tolerant vegetation, ~~and water conservative irrigation systems, and the use of only non-toxic herbicides and pesticides.~~ As conditioned, the Commission finds the proposed project is consistent with Sections 30230, 30231, and 30232 of the Coastal Act.

**5. Section IV. Findings and Declarations, Sub-Section G. California Environmental Quality Act (CEQA), second paragraph, fifth sentence, make the following edits on Page 20:**

The **Special Conditions** address the following issues: **1)** proper signage to ensure maximum public access; **2)** revised final plans showing what is described herein as the proposed project; **3)** final landscape plans to include the installation of drought-tolerant plant species and water conservative irrigation systems, and the use of only non-toxic herbicides and pesticides;...

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# W15a

Filed:	12/18/2014
270th Day:	09/13/2015
Staff:	M. Alvarado-LB
Staff Report:	08/20/2015
Hearing Date:	09/09/2015

## STAFF REPORT: REGULAR CALENDAR

<b>Application No.:</b>	<b>5-14-1211</b>
<b>Applicant:</b>	<b>City of Newport Beach</b>
<b>Agent:</b>	Patrick J. Alford
<b>Location:</b>	1327 W. Balboa Blvd., Newport Beach, Orange County (APN: 047-290-03, 047-300-03)
<b>Project Description:</b>	Level and expand, by 0.2 acres, the existing 0.8 acre grass playfield seaward of Newport Beach Elementary within a City leased beach parcel. The project includes the removal of the existing and the installation of new drought-tolerant sod and irrigation system.
<b>Staff Recommendation:</b>	Approval with conditions

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### SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to re-grade an existing approximately 0.8 acre (approximately 292 feet by 125 feet) grass playfield and expand it seaward by approximately 0.2 acres (approximately 292 feet by 48 feet) onto an existing asphalt paved play area. The proposed finished elevation of the sloping grass field will range approximately from 3 to 5 feet above the promenade. In addition, the project includes the removal of the existing and the installation of new drought-tolerant sod and of a new irrigation system.

The subject site is a grass and asphalt playground located on a beach parcel seaward (south) of Newport Beach Elementary School between the first public road and the sea. The property is owned by the City of Newport Beach and is leased to the Newport-Mesa Unified School District (NMUSD) for use by the school during school hours. The playfield and adjacent playground are available to the public after school hours and during the weekend.

The current topographic grade of the grass playfield is not flat and varies from an elevation of 10 feet Mean Sea Level (MSL) to a maximum of 16 feet MSL. The adjacent Oceanfront boardwalk has an elevation of 10 feet MSL and is located landward of the playfield. The elevation of the existing paved playground located seaward of the grass playfield ranges from 14 to 15 feet MSL, or 4 to 5 feet above the adjacent Oceanfront Boardwalk. Therefore, the applicant is proposing to re-grade and level the turf area to create a uniform, gradually sloping playfield. The proposed finished elevations will range approximately from 13 to 15 feet MSL.

The proposed project raises issues regarding impacts to public access, impacts to visual coastal resources, and hazards concerning beachfront development. The Commission imposes **Special Condition 1** to require appropriate signage to better inform the public that the playground/park area is available for use during non-school operational hours, and to not deter public access. Non-school operation hours include the weekdays (before and after school), weekends, and school holidays. The project has been modified to no longer include the construction of a perimeter wall and fence; therefore, **Special Condition 2** requires the submittal of final revised plans showing what is described herein as the proposed project. Additionally, the applicant is proposing landscaping; therefore, the Commission imposes **Special Condition 3** which implements the installation of drought-tolerant vegetation and water conservative irrigation systems. Given that the applicant has chosen to implement the project on a beach parcel despite risks from wave attack, erosion, sea level rise, and storm flooding, the applicant must assume the risks and agree to no future shoreline protective devices. Therefore, the Commission imposes **Special Conditions 4, 5, and 6**, which would require for an assumption of risk and a no future shoreline protective device written agreement with the applicant. In addition, because the project site is on a beach parcel and in proximity to coastal waters, the Commission recommends construction-related requirements and best management practices under **Special Condition 7** to prevent pollution of coastal waters.

Staff is recommending **APPROVAL** of the proposed coastal development permit with **seven (7) Special Conditions**.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

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## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** the 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 of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution:

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the 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 alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. 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 of 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:**

This permit is granted subject to the following special conditions:

#### **1. Signage.**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a signage plan showing the size, wording and location of signs to inform the public of the availability of the park consistent, at a minimum, with the terms of this condition. The size of the signs shall be consistent with the City's sign requirements for public recreational areas.

No signs shall be posted on the site subject to this permit which (a) explicitly or implicitly indicate that the subject site (Assessor's Parcel Number 047-290-03) or existing structure is for private use only or (b) contain similar messages that attempt to prohibit public use of this portion of the beach parcel. In no instance shall signs be posted which read "*NO TRESPASSING*" that conveys the park is not available to the public. In order to effectuate the above prohibitions, the permittee/landowner is required to submit to the Executive Director, for review and approval, a signage plan.

Signage shall be placed at the proposed grass playground/park identifying that the park is available to the public during non-school hours, including weekdays (before and after school), weekends, and school holidays. The signage plan shall include location, text and timing of installations of signs and identification and removal of any existing signs that do not comply with the requirements of this condition. The signs shall be no larger than 12 inches by 18 inches (12" x 18"), and shall be conspicuously placed where the signs and the text are legible from the Ocean Front walkway and other access points to the project site. The signage plan shall be reviewed and approved by the City prior to submittal to the Coastal Commission.

- B. The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### **2. Revised Final Plans.**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, two (2) full-sized copies of all Revised Final Plans. The project has been modified to no longer include the construction of a perimeter wall and fence; therefore, the submittal of final revised plans must be consistent with the project description as described in this staff report.

- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

### **3. Landscape.**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and written approval of the Executive Director, two (2) full size sets of revised landscaping plans prepared by a qualified licensed professional. The plan shall include the following:
  - i. Vegetated landscaped areas shall consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>)
  - ii. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, the project shall include weather-based irrigation controller and other water conservation measures, such as water-conserving emitters and drip irrigation.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

### **4. Assumption of Risk, Waiver of Liability and Indemnity.**

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (ii) to assume the risks to the applicant 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.



- B. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the applicant and landowner(s) shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection (a) of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
- C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the 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.

**5. No Future Shoreline Protective Device.**

- A. By acceptance of this permit, the applicant(s) agrees, on behalf of himself and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-14-1211 including, but not limited to, the wall/fence, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural hazards in the future. By acceptance of this permit, the applicant(s) and landowner(s) hereby waives, on behalf of himself 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(s) further agrees, on behalf of himself and all successors and assigns that the landowners shall remove the development authorized by this permit, including the wall/fence, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner(s) 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.

- 6. Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-14-1211. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-14-1211. Accordingly, any future improvements to the wall/fence and grass field authorized by this Coastal Development Permit No. 5-14-1211, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-14-1211 from the Commission or shall require an additional

coastal development permit from the Commission or from the applicable certified local government.

**7. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

The permittee shall comply with the following construction-related requirements:

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant(s) shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related

petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.

- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.

- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

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

##### **A. PROJECT DESCRIPTION & LOCATION**

The applicant is proposing to: 1) re-grade and level an existing approximately 0.8 acre (approximately 292 feet by 125 feet) grass playfield and expand it seaward by approximately 0.2 acres (approximately 292 feet by 48 feet) onto an existing asphalt-paved play area; 2) install new drought-tolerant sod; 2) replace irrigation system (**Exhibits 5, 6, & 7**).

The proposed project includes the re-grading and leveling of the playfield, and the extension of the field seaward; the re-grading and enlargement will result in an approximately 0.2 acre addition to the landscaped area and approximately 501 cubic yards of cut and 491 cubic yards of fill needed to level the field. The current ground surface elevation of the grass field varies from about 10 to a maximum of 16 feet Mean Sea Level (MSL) at various points, and the ground surface elevation of the boardwalk is about 10 feet MSL. The applicant is proposing to re-grade and level the turf area to create a uniform, gradually sloping playfield. The proposed finished elevations will generally range approximately from 13 to 15 feet MSL. Seaward of the Oceanfront boardwalk edge abutting the grass playfield, there will be an upward incline forming an approximately 292-foot by 11-foot grassy slope, changing in elevation from approximately 10 MSL to 13 MSL. The proposed finished elevation of the rest of the grass playfield, not including the narrow slope, will range from approximately 13 to 15 feet MSL, or 3 to 5 feet above the boardwalk, and will gradually slope upward as the playfield extends seaward (**Exhibits 5 and 6**).

Following the leveling and re-grading of the existing grass field, the applicant is proposing to install *Paspalum vaginatum* (Seashore Paspalum), a drought-tolerant turf grass. The applicant has indicated the landscape plan will comply with the water efficient landscape ordinance and City of Newport Beach standards.

In addition, the applicant proposes to remove the existing irrigation system and install a new irrigation system with water conserving emitters and other water conservative technology such as irrigation controllers adjusting irrigation schedules using evapotranspiration data, drip irrigation, and moisture sensing device. All landscape areas will be irrigated with a low-flow drip system. The applicant has indicated that the proposed irrigation will comply with the local and statewide applicable water conservation measures standards.

The subject site is located on a beach parcel seaward (south) of 1327 W. Balboa Boulevard, on the Balboa Peninsula within the City of Newport Beach between the first public road and the sea

**(Exhibit 1 and 2).** The subject site is the recreational area for the Newport Elementary School and is available to the public during non-school hours, which include weekdays (before and after school), weekends, and school holidays.

Newport Elementary School was constructed in 1933. The school grounds are surrounded by residential development on the northerly, easterly, and westerly sides, and by the beach on the southerly seaward side. The property is owned by the City of Newport Beach and is leased to the Newport-Mesa Unified School District (NMUSD). As a result of limited sites to locate a recreational area for the school, the NMUSD leased the beach area abutting the school and seaward of the Oceanfront public accessway in 1960 for a 50-year lease. The lease allows the School District to construct, install and maintain school playground facilities, including the paved areas for basketball, other hard court games, and playground equipment. In addition, effective February 2015, NMUSD's current lease agreement with the City of Newport Beach extends the lease term to an additional 50 years.

## **B. PUBLIC ACCESS**

Section 30210 of the Coastal Act states:

*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 of the Coastal Act states:

*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) of the Coastal Act states:

*Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

The grass playfield is located on an approximately 400-foot wide beach, located seaward (or southerly) of Newport Elementary School, and is used as part of the recreational area by the school. The field is adjacent to and on the seaward side of a 12-foot wide Oceanfront boardwalk, or the lateral public walkway/bike path, which runs the length of the Balboa Peninsula and the beach **(Exhibit 1 and 2)**. The paved boardwalk separates the main school facility, located on the landward side of the boardwalk, and the recreational areas for the school, located on the seaward side of the boardwalk. The grass field is bounded by the public walkway on the landward side, a black top playground on the seaward side, paved basketball courts on the east side and a sandy

children's play area with playground equipment on the west side. Therefore, an approximately 100-foot wide sandy beach occurs seaward of the black top playground. In addition, approximately-400 foot wide sandy beach areas flank the recreational areas to the east and west sides.

Presently, this recreational area is limited to use by elementary school children during school hours, which are 8 a.m. – 3 p.m., Monday-Friday. When the area is not in use by the school, the public can use the recreational area, including weekends and holiday pursuant to the lease agreement. The site currently has signage placed on poles, possibly 6-8 feet high, along the perimeter of the grass field to inform the public of the field availability to the public. However, the language of the current signs with large typed lettering emphasizes “NO TRESPASSING” or “CLOSED PARK AREA” with much smaller typed lettering stating public availability (**Exhibit 4**). The existing design discourages public use during non-school operational hours when the park is open to the public, especially from a distant. To ensure public access to the City owned beach property is enhanced and encouraged, **Special Condition 1** requires the applicant to submit plans to include signage that would better inform the public that the playground/park area is available for use during non-school operational hours, including weekdays (before and after school), weekends, and school holidays.

The subject turf site is to be re-graded, leveled, and slightly enlarged by expanding it 0.2 acres seaward onto a portion of the presently paved area to create a uniform sloping playfield. The proposed finished elevations will generally range from approximately 13 to 15 feet MSL to provide a more level surface, in contrast to the existing ground surface elevation of the field which currently varies from about 10 feet MSL to 16 feet MSL. The existing ground surface of the sloping field consists of multiple elevated turf mounds rising at different grades with no uniformity. Consequently, the existing field is neither conducive to play nor safe for elementary school children and the public. Therefore, the proposed project will benefit the public's ability to use the grass field by providing a more level playing surface for school recreation and for public use during non-school hours.

It should also be noted that there is a paved vertical accessway, approximately 70 feet west of the grass field which extends from the end of 14<sup>th</sup> Street onto the wide sandy beach. This vertical accessway provides another method for the public to access the most seaward areas of the wide sandy beach in this area.

The proposed leveling and expansion of the existing grass playfield will not restrict access to the field. As conditioned to improve signage and public use of the site, the Commission finds that the proposed development will not obstruct access to the beach, will provide and enhance public recreational opportunities, and is consistent with Section 30210, 30211, and 30212 of the Coastal Act.

## C. VISUAL RESOURCES

Section 30251 of the Coastal Act states, in relevant part:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of*

*natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...*

Furthermore, the Newport Beach Land Use Plan includes the following Visual Resources Policies: Policy 4.4.1-1 states:

*Protect and, where feasible, enhance the scenic and visual qualities of the coastal zone, including public views to and along the ocean, bay, and harbor and to coastal bluffs and other scenic coastal areas.*

Policy 4.4.1-2 states:

*Design and site new development, including landscaping, so as to minimize impacts to public coastal views.*

Policy 4.4.1-5 states:

*Where feasible, require new development to restore and enhance the visual quality in visually degraded areas.*

Policy 4.4.1-11 states:

*Restrict development on sandy beach areas to those structures directly supportive of visitor-serving and recreational uses, such as lifeguard towers, recreational equipment, restrooms, and showers. Design and site such structures to minimize impacts to public coastal views.*

Presently within the leased area, there are partially obstructed views to and along the shoreline available from the Ocean Front walkway and from the sandy beach. These views include the sandy beach, ocean, Newport Pier to the north and Balboa Pier to the south, as well as distant views of the bluffs along Corona Del Mar. Obstructions include the recreational equipment such as basketball backboards, chain link baseball backstops, and playground equipment.

Topographic grades are not currently flat in this area. For instance, between the Oceanfront walkway and the ocean, the grade of the grass field and sandy beach rises gradually to a crest that is approximately 5 feet above the grade of the walkway. The ground surface elevation of the field currently varies from about 10 feet Mean Sea Level (MSL) to about 15 feet MSL with the seaward paved playground elevation ranging from 14 to 15 feet MSL. Presently, with this change in topography, views of the ocean are obstructed by the grassy crest and sand berms situated on the south side of the turf field. Therefore, the applicant is proposing to re-grade and level the turf area to create a uniform, gradually sloping playfield. The proposed finished elevations will range approximately from 13 to 15 feet MSL. A view analysis shows that once leveled, the proposed grade will enhance coastal views by opening a visual corridor and restoring the blue water vista as seen from the boardwalk.

The Commission finds that leveling the grassy field will enhance public ocean views and will maintain and enhance recreation opportunities by allowing the grass field to remain usable by the Elementary School during and the public after school hours.

The South Coast District office received one letter from the Central Newport Beach Community Association, dated May 11, 2015 concerning the installation of a chain linked fence above a proposed concrete masonry unit (CMU) wall (**Exhibit 8**). The letter raised issues that concerned the visual and aesthetic impacts of the chain linked fence as a result of the imminent rusting. The project, however, has been amended to no longer include the installation of a perimeter fence and the construction of the wall; therefore, the issues concerning the visual impact of the fence have been addressed. Furthermore, the applicant originally proposed to widen the existing public boardwalk by four feet to create a staging area for playground users and to reduce conflicts between the bicyclists and pedestrians along the Ocean Front boardwalk. However, the project has been modified to remove the walkway expansion as part of the proposal. With the removal of the wall, the applicant has indicated there is no need for a staging area. Therefore, **Special Condition 2** requires the submittal of final revised plans showing what is described herein as the proposed project.

As conditioned, the Commission finds the proposed project will not have a significant impact on visual resources and is consistent with the relevant policies of the Newport Beach Land Use Plan and with Section 30251 of the Coastal Act.

#### **D. WATER QUALITY/BIOLOGICAL ASSESSMENT**

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

*The 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 of the Coastal Act states:

*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.*

Section 30230 of the Coastal Act requires that marine resources be maintained, enhanced, and where feasible, restored and further requires that uses of the marine environment shall sustain the biological productivity of coastal waters. Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters be maintained, and where feasible, restored through measures aimed at reducing water resource impacts from proposed development. Section 30232 of the Coastal Act requires protection against the spillage of crude oil, gas, petroleum products, or hazardous materials in relation to any development.

### **1. Construction Impacts to Water Quality**

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can reduce foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 7**, which outlines construction best management practices, construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and placed as far away from a storm drain inlet and receiving waters as possible.

### **2. Post-Construction Impacts to Water Quality**

The applicant has stated that landscaping is proposed and plans have been submitted. The placement of any vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org/>) and California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)) in their publications. Furthermore, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Orange County). The term drought tolerant is equivalent to the term 'low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).

Following the re-grading and expansion of the existing grass field, the applicant is proposing to lay *Paspalum vaginatum* (Seashore Paspalum), a drought-tolerant turf grass. The applicant has indicated the landscape plan will comply with the water efficient landscape ordinance and City of Newport Beach standards.

The applicant is also proposing to remove the existing irrigation system and install a new irrigation system, and has also indicated that the proposed irrigation will comply with the City of Newport Beach's applicable water conservation measures standards. In response to the Governor's Executive



Order B-29-15 declaring a State Emergency due to the drought, the Newport Beach City Council is currently implementing a Level Three Mandatory Water-Conservation Requirement concerning irrigation systems (Section 14.16.080 of the Newport Beach Municipal Code; see **Exhibit 9**); it is important to note that the Newport Beach School District is not exempt from water conservation measures. Therefore, the applicant proposes a new irrigation system with water conserving emitters and other water conservative technology such as irrigation controllers adjusting irrigation schedules using evapotranspiration data, drip irrigation, and moisture sensing device. All landscape areas will be irrigated with a low-flow drip system.

To ensure the proposed project incorporates and implements these measures, the Commission imposes **Special Condition 3**, which implements the installation of drought-tolerant vegetation and water conservative irrigation systems.

## **E. HAZARDS**

Section 30210 of the Coastal Act states:

*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 of the Coastal Act states:

*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 30253 of the Coastal Act states, in relevant part:

*New development shall:*

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

*(b) 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.*

Section 30251 of the Coastal Act states that:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in*

*visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

## **1. Wave Uprush and Flooding Hazards**

The subject site is located on a beach parcel, on the Balboa Peninsula between the Newport Pier and the Balboa Pier. Presently, there is a wide sandy beach between the subject development and the ocean. The mean high tide line is approximately 300 feet from the seaward edge of the existing grass recreational field. This wide sandy beach currently provides homes and other structures in the area some protection against wave uprush and flooding hazards. However, similar to other nearby beach fronting communities such as those at Surfside in Seal Beach (north of the subject site) the wide sandy beach is the only protection from wave uprush hazards.

Even though wide sandy beaches afford protection of development from wave and flooding hazards, development in such areas is not immune to hazards. For example, in 1983, severe winter storms caused heavy damage to beachfront property in Surfside. Heavy storm events such as those in 1994 and 1998, caused flooding of the Surfside community. More recently, Hurricane Marie, located offshore of Baja California, resulted in large swells in Newport Beach and coastal flooding in Seal Beach in August 2014. Furthermore, the hurricane (50-mph sustained winds and 100-mph gusts) also resulted in strong storm surge along the south facing beaches of Orange County, including Newport Beach. As a result, the Commission has required assumption-of-risk deed restrictions for new development on beachfront lots in Surfside and other similar communities.

Section 30253 (1) states that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. Based on historic information and current conditions at the subject site, the proposed development is not considered to be sited in a hazardous area. The grass field currently extends approximately 125 feet seaward onto the beach and is at elevations ranging from 10 to 15 feet MSL. In addition, the existing blacktop pavement (elevation: 14 to 15 feet MSL), which pre-dates the Coastal Act, extends 200 feet seaward of the existing turf playground. This existing development was not adversely effected by the severe storm activity which occurred in 1983, 1994, 1998, and 2014. Since the proposed development is landward of existing development which has escaped storm damage during severe storm events and is elevated 10 to 16 feet MSL, the proposed development is not anticipated to be subject to wave hazard related damage. Additionally, due to the proposed elevation of the site (13 to 15 feet MSL), the development is not anticipated to be inundated by sea level rise. Furthermore, the project is not proposing appurtenant structures extending beyond the existing asphalt and, therefore, will not increase erosion hazards. Therefore, the proposed project minimizes risks to life and property.

However, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect beach processes, including sand regimes. The mechanisms of sand replenishment are complex and may change over time, especially as beach process altering structures, such as jetties, are modified, either through damage or deliberate design. Therefore, the presence of a wide sandy beach at this time does not preclude wave uprush damage and flooding from occurring at the subject site in the future. The width of the beach may change, perhaps in

combination with a strong storm event like those which occurred in 1983, 1994 and 1998, resulting in future wave and flood damage to the proposed development.

Given that the applicant has chosen to implement the project despite risks from wave attack, erosion, sea level rise, or flooding, the applicant must assume the risks. Therefore, the Commission imposes **Special Condition 4** for an assumption-of-risk agreement. In this way, the applicant is notified of the potential hazards and that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. The assumption-of-risk condition is consistent with prior Commission actions for development along the beach. For instance, the Executive Director issued the Coastal Development Permit #5-99-289 (NMUSD) with an assumption-of-risk agreement for improvements to the same turf playground site of Newport Beach Elementary School. In addition, the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

## 2. Future Shoreline Protective Devices

Section 30253 requires that new development does not require the construction of shoreline protective devices. In the case of the current project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. However, as previously discussed, nearby beachfront communities have experienced flooding and erosion during severe storm events, such as El Nino storms. It is not possible to completely predict what conditions the proposed structure may be subject to in the future. Consequently, it is conceivable the proposed structure may be subject to wave uprush hazards.

The Coastal Act limits construction of protective devices because they have a variety of negative impacts on coastal resources including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. In addition, the construction of a shoreline protective device to protect new development would conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including beaches which would be subject to increased erosion from such a device.

As briefly noted, above, shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, shoreline protective devices can cause changes in the shoreline profile, particularly changes in the slope of the profile resulting from a reduced beach berm width. This may alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on public property, inconsistent with sections 30210 and 30211 of the Coastal Act.

The second effect of a shoreline protective device on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available

to nourish the beach. A loss of area between the mean high water line and the actual water is a significant adverse impact on public access to the beach, inconsistent with sections 30210 and 30211 of the Coastal Act.

Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches, inconsistent with sections 30210 and 30211 of the Coastal Act. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. As set forth in earlier discussion, this portion of Newport Beach is currently characterized as having a wide sandy beach. However, the width of the beach can vary, as demonstrated by severe storm events. The Commission notes that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists.

Fourth, if not sited in a landward location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season, inconsistent with sections 30210 and 30211 of the Coastal Act.

In addition, the construction of a shoreline protective device to protect new development would also conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from shoreline protective devices. The applicant is not currently proposing a seawall and does not anticipate the need for one in the future. The coastal processes and physical conditions are such at this site that the project is not expected to engender the need for a seawall to protect the proposed development. There is a wide sandy beach in front of the proposed development that provides substantial protection from wave activity. Also, the proposed sod and irrigation system is an appurtenant structure and does not represent a significant investment. Therefore, in the event the proposed development was subject to wave attack, erosion, sea level rise, or flooding, the development could be removed to avoid the hazard. Therefore, since the sod and the irrigation system is not a significant investment, protection, such as a shoreline protective device, would not be required to protect the sod and irrigation system in the event that the grass playfield were subject to wave attack, erosion, sea level rise, or flooding due to storms. Rather, removal of the sod and irrigation system would likely be the feasible alternative that would minimize impacts on coastal resources. The appurtenant and removable nature of the structure minimizes any hazard associated with the presence of the sod and irrigation system in an area where wave attack, erosion, or flooding could occur.

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 Conditions 5 and 6** prohibiting the applicant, or future land owner, from constructing a shoreline protective device. With the acceptance of the

permit, the applicant agrees to no future shoreline protective devices for the purpose of protecting any of the development proposed as part of this application. This condition is necessary because it is impossible to completely predict what conditions the proposed structure may be subject to in the future. Consequently, as conditioned, the development can be approved subject to Section 30251 and 30253.

By imposing the “No Future Shoreline Protective Device” special condition, the Commission requires that no shoreline protective devices shall ever be constructed to protect the development approved by this permit in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. The Commission also requires that the applicant remove the structure if any government agency has ordered that the structure be removed due to wave uprush and flooding hazards. In addition, in the event that portions of the development are destroyed on the beach before they are removed, the landowner 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. Finally, by accepting the permit the applicant also agrees on behalf of itself and all successors and assigns to remove the development authorized by this permit if the beach erodes to within 10 feet of the structure. Optionally, instead of simply removing the structure if the beach erodes to within 10 feet of it, the condition gives the permittee the ability to conduct an investigation as to whether the approved structure is threatened. If only a portion of the structure is threatened, only the threatened portion must be removed.

### **3. Conclusion**

Therefore, to 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, **Special Conditions 4, 5, and 6** require for an Assumption-of-Risk and No Future Shoreline Protective Devices written agreement with the applicant. As conditioned, the Commission finds that the proposed project is consistent with Coastal Act Sections 30251 and 30253.

## **F. LOCAL COASTAL PROGRAM (LCP)**

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. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 2005. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

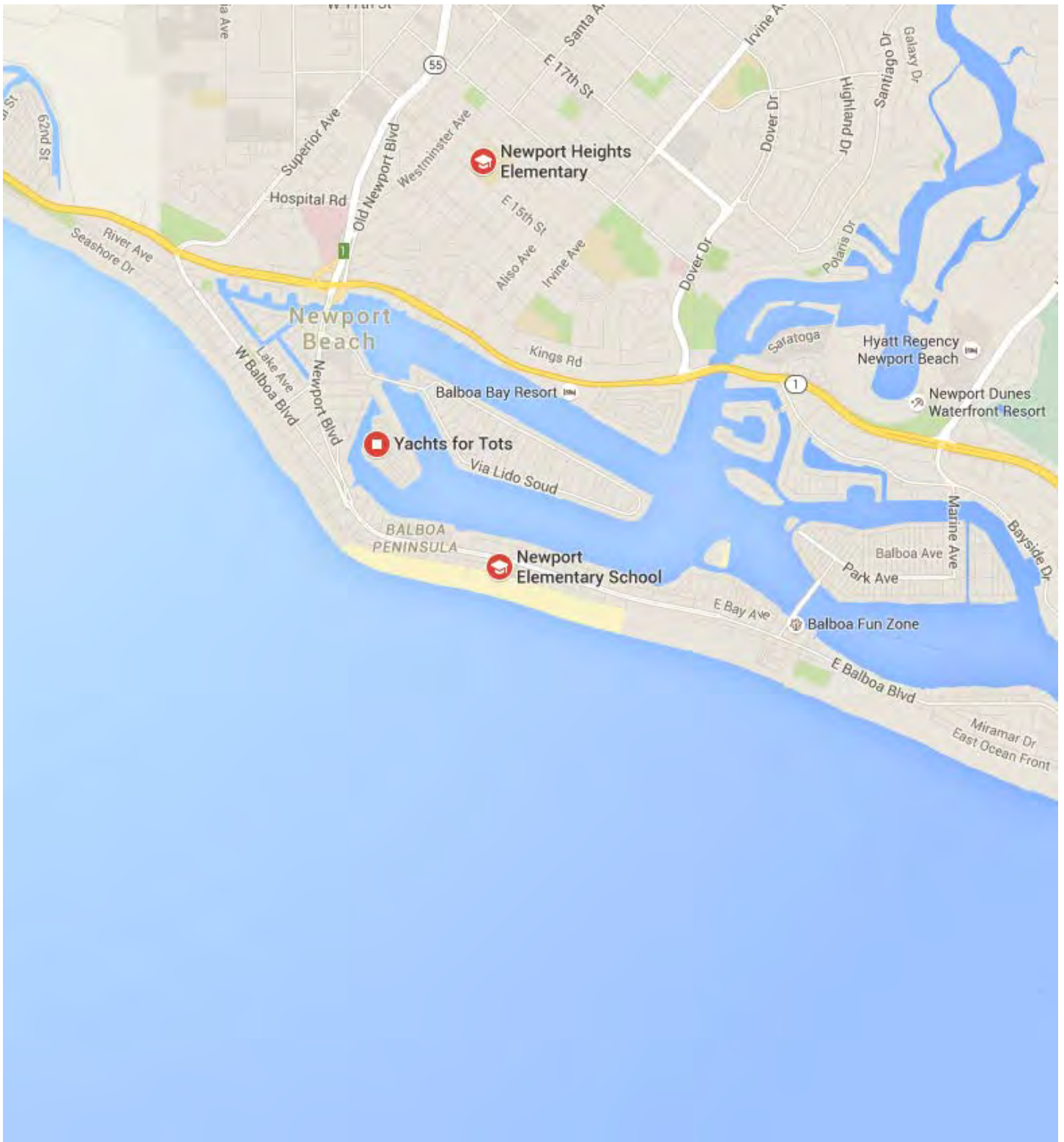
## **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the Commission's regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (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 project is located in an urbanized area. Development already exists on the subject site and the proposal will not encroach beyond the foot print of the existing development. The development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. **Special Conditions** imposed are intended to mitigate adverse impacts to coastal resources and public access. The **Special Conditions** address the following issues: 1) proper signage to ensure maximum public access; 2) revised final plans showing what is described herein as the proposed project; 3) final landscape plans to include the installation of drought-tolerant plant species and water conservative irrigation systems; 4) an assumption of risk agreement to acknowledge inherent coastal hazards adjacent to the project; 5) no future shoreline protective device to mitigate for potential adverse impacts to shoreline sand supply, access, and recreation; 6) future development condition to ensure the applicant is aware of future obligations to apply for a permit if any further development is proposed; and 7) storage of construction materials, mechanized equipment and removal of construction debris to protect coastal water quality from pollutant discharges. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

## **Appendix A - Substantive File Documents**

- City of Newport Beach certified Land Use Plan
- *Newport Beach Coastal Hazards Analysis, Newport Elementary School Playground Improvements, Ocean Front and 14<sup>th</sup> Street, Newport Beach, California* prepared by American Geotechnical, Inc. dated 10/15/2014
- Coastal Development Permit Application No. 5-14-1211
- Coastal Development Permit Application No. 5-99-289



## COASTAL COMMISSION

EXHIBIT # 1  
PAGE 1 OF 2





## COASTAL COMMISSION

EXHIBIT # 1  
PAGE 2 OF 2



**American  
Geotechnical, Inc.**

22725 Old Canal Road, Yorba Linda, CA 92887  
Phone: (714) 685-3900, Fax: (714) 685-3909

NEWPORT ELEMENTARY SCHOOL  
PLAYFIELD IMPROVEMENT PROJECT  
14th STREET AND OCEAN FRONT  
NEWPORT BEACH, CA

PROJECT SITE MAP

F.N. 33695.01

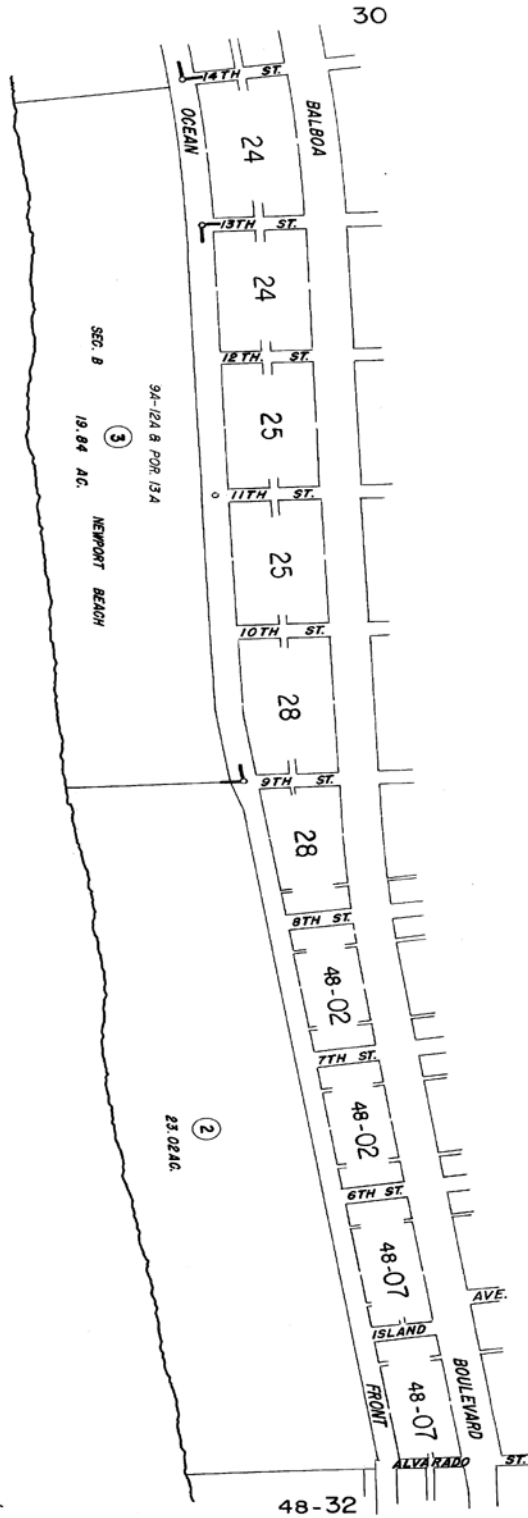
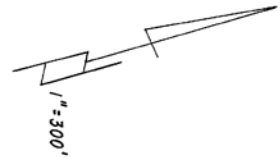
December, 2014

Plate 1

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POR. S1/2, SEC. 34, T6S. R10W.

47-29



MARCH 1949

SEC. 8, NEWPORT BEACH

M.M. 4-27

NOTE - ASSESSOR'S BLOCK 8

PARCEL NUMBERS  
SHOWN IN CIRCLES

ASSESSOR'S MAP  
BOOK 47 PAGE 29  
COUNTY OF ORANGE



COASTAL COMMISSION

EXHIBIT # 2  
PAGE 1 OF 2





# COASTAL COMMISSION

EXHIBIT # 3  
PAGE 1 OF 1



Existing View



Existing View

# COASTAL COMMISSION

EXHIBIT # 4  
PAGE 1 OF 1





SCALE @ 14171 1" = 40'-0"  
SCALE @ 26036 1" = 20'-0"

10	20	40	1
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EXHIBIT # 5  
PAGE 1 OF 2

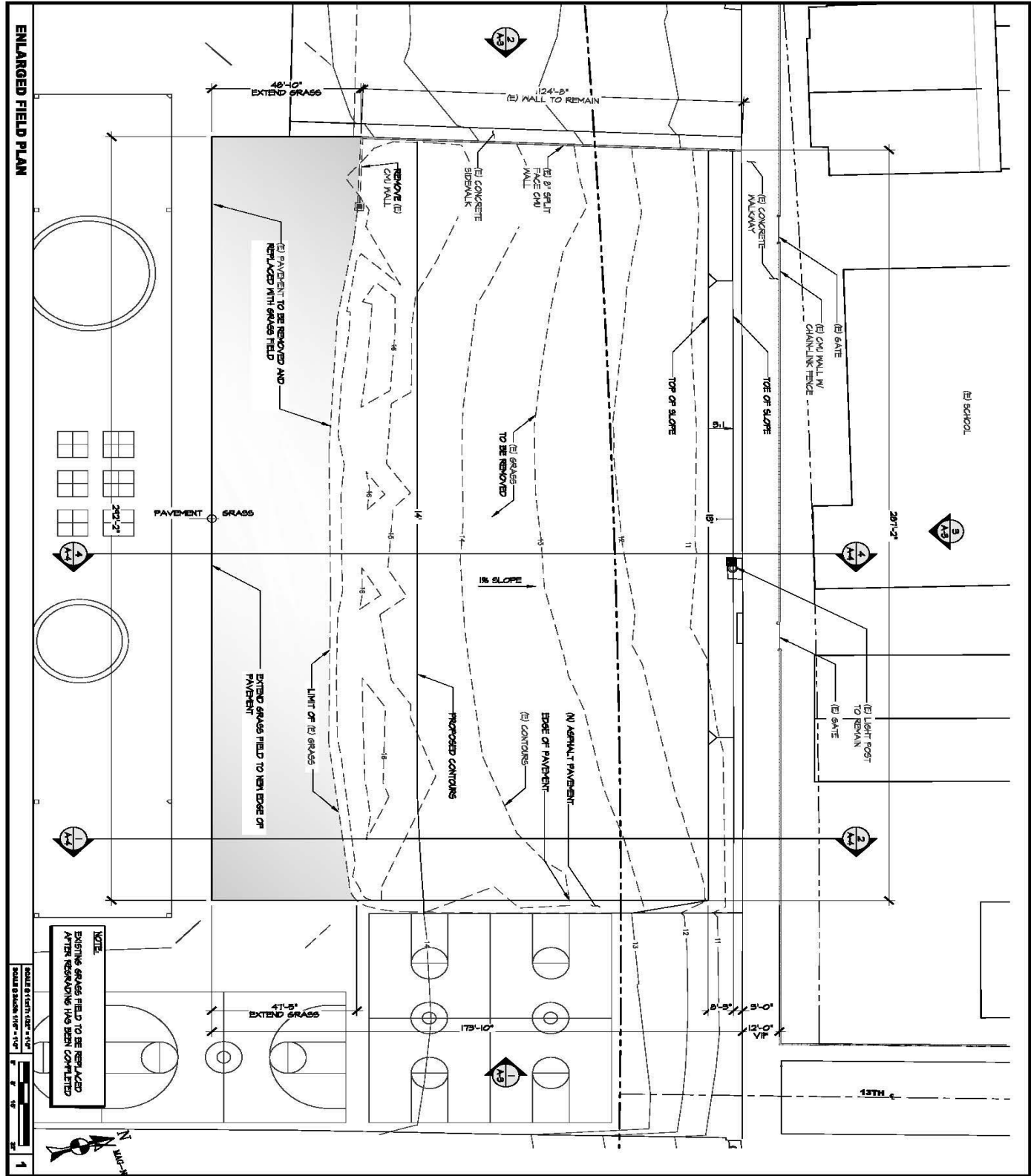
ISSUED FOR: COASTAL COMMISSION  
ISSUE DATE: 08/12/2015  
PROJECT No. FA  
DRAWN BY: SL CHECKED BY: EEF



SEAL

3471 WA. LIDO, SUITE 202  
NEWPORT BEACH, CA 92863  
PHONE: (949) 838-4139

ULSANG  
ARCHITECTURE



**COASTAL COMMISSION**

EXHIBIT # 5

PAGE 2 OF 2

**SUBMITTALS**

REV.	DATE	DESCRIPTION	BY
1	11/14/12	CITY COMMENTS	JM
2	11/16/12	CITY COMMENTS	JM
3	07/08/14	CITY COMMENTS	JM
4	09/28/14	CITY COMMENTS	JM
5	10/23/14	CITY COMMENTS	JM
6	04/22/15	CITY COMMENTS	JM

ISSUED FOR: COASTAL COMMISSION

ISSUE DATE: 08/12/2015

PROJECT No. FA

DRAWN BY: SL CHECKED BY: EF

**FULSANG ARCHITECTURE**

3471 VA. AVE., SUITE 202

HERNDON, VA 22042

PHONE: (703) 438-4178

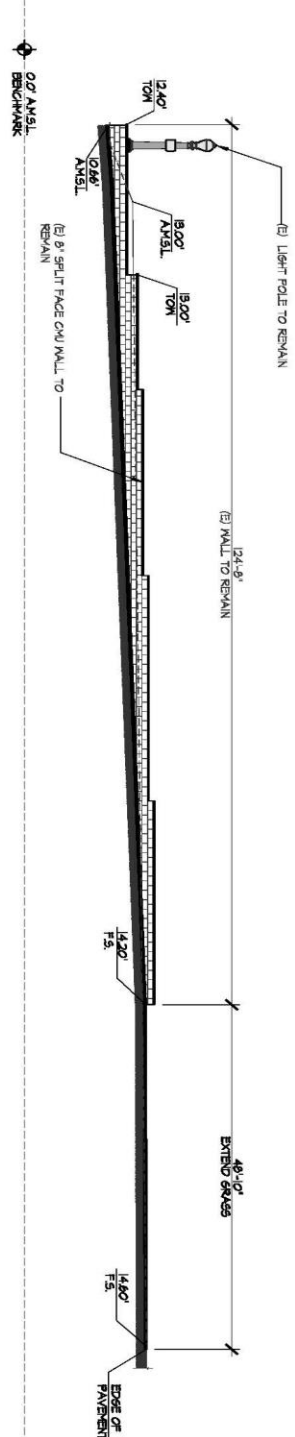
SEAL



**EAST ELEVATION**

SCALE 8 STEETS 1/8" = 1'-0"  
SCALE 8 SLODES 1/8" = 1'-0"

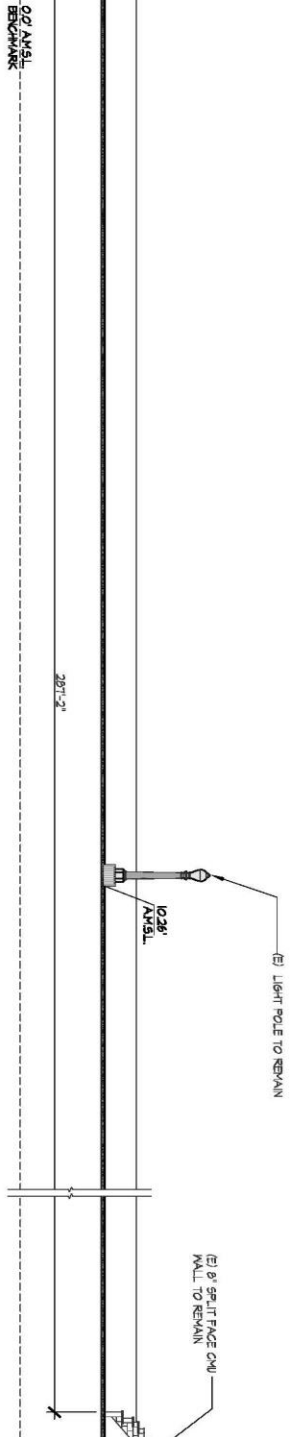
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**WEST ELEVATION**

SCALE 8 STEETS 1/8" = 1'-0"  
SCALE 8 SLODES 1/8" = 1'-0"

2



**NORTH ELEVATION**

SCALE 8 STEETS 1/8" = 1'-0"  
SCALE 8 SLODES 1/8" = 1'-0"

3

**FULSANG**  
ARCHITECTURE  
3071 W. 10TH, SUITE 202  
DENVER, CO 80202  
PHONE: (303) 838-4139



ISSUED FOR: COASTAL COMMISSION  
ISSUE DATE: 08/12/2015  
PROJECT No. FA  
DRAWN BY: SL  
CHECKED BY: EF

REV	DATE	DESCRIPTION	BY
1	11/14/12	CITY COMMENTS	JM
2	11/16/12	CITY COMMENTS	JM
3	07/08/14	CITY COMMENTS	JM
4	09/29/14	CITY COMMENTS	JM
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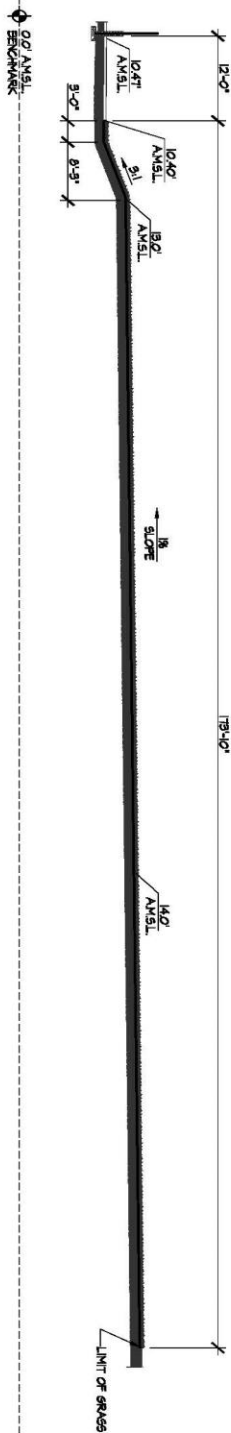
**COASTAL COMMISSION**

EXHIBIT # 6  
PAGE 1 OF 2

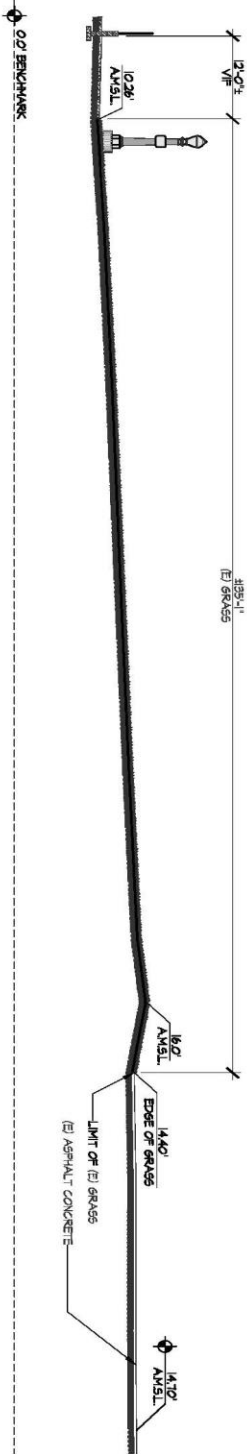




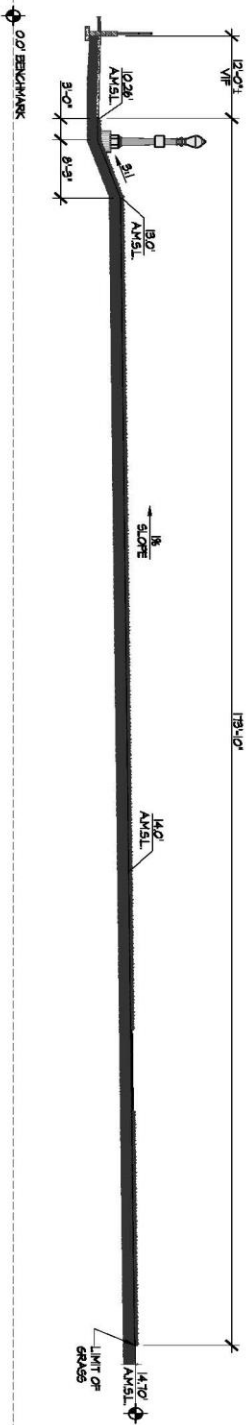
SECTION (EXISTING)



SECTION (PROPOSED)



SECTION @ CENTER OF FIELD (EXISTING)



SECTION @ CENTER OF FIELD (PROPOSED)

FULSANG  
ARCHITECTURE  
3071 W. 100th, Suite 200  
Beverly Hills, CA 90208  
Phone: (310) 888-1139

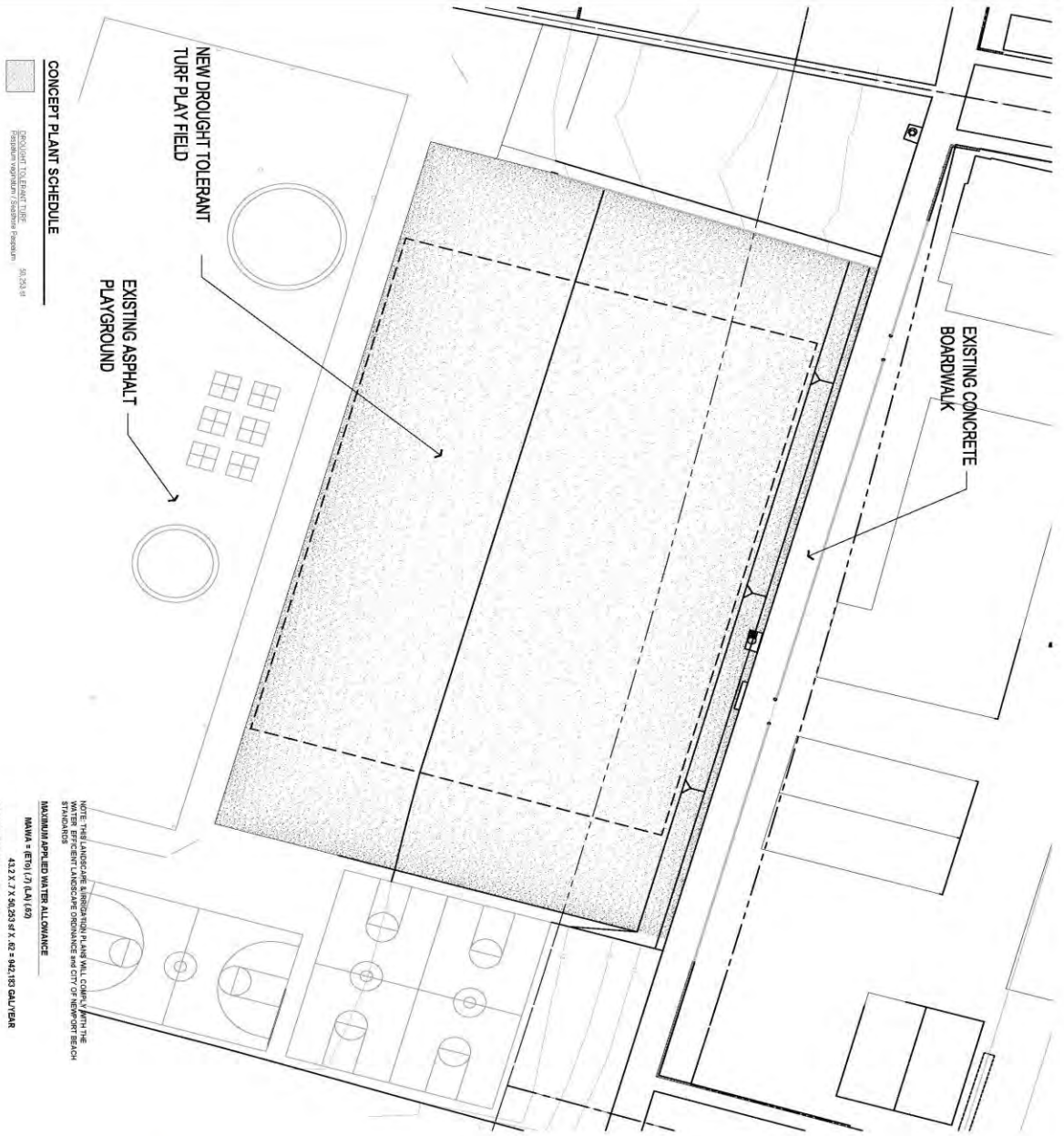


ISSUED FOR: COASTAL COMMISSION  
ISSUE DATE: 08/12/2015  
PROJECT No. FA  
DRAWN BY: SL CHECKED BY: EF

REV	DATE	DESCRIPTION	BY
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2	11/16/12	CLIENT COMMENTS	JM
3	07/08/14	CLIENT COMMENTS	JM
4	09/29/14	QTY COMMENTS	JM
5	10/23/14	QTY COMMENTS	JM
6	04/22/15	QTY COMMENTS	JM
7			
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COASTAL COMMISSION

EXHIBIT # 6  
PAGE 2 OF 2



# CONCEPT PLANT SCHEDULE

PLANT TO BE USED  
 PLANT TO BE USED  
 PLANT TO BE USED

THE PROJECT SHALL INCORPORATE THE LATEST RESOLUTION TECHNOLOGIES OF WATER CONSERVATION SUCH AS THE USE OF SMART IRRIGATION SYSTEMS, DROUGHT TOLERANT PLANTS, AND OTHER WATER SAVING TECHNIQUES. THE PROJECT SHALL ALSO INCORPORATE THE LATEST RESOLUTION TECHNOLOGIES OF WATER CONSERVATION SUCH AS THE USE OF SMART IRRIGATION SYSTEMS, DROUGHT TOLERANT PLANTS, AND OTHER WATER SAVING TECHNIQUES. THE PROJECT SHALL ALSO INCORPORATE THE LATEST RESOLUTION TECHNOLOGIES OF WATER CONSERVATION SUCH AS THE USE OF SMART IRRIGATION SYSTEMS, DROUGHT TOLERANT PLANTS, AND OTHER WATER SAVING TECHNIQUES.

NOTE: THE LANDSCAPE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF NEWPORT BEACH STAFF AND THE WATER EFFICIENT LANDSCAPE ORDINANCE AND CITY OF NEWPORT BEACH STAFF.

MAXIMUM APPLIED WATER ALLOWANCE

ETWU = (ETW) (7) (A) (A)

ESTIMATED TOTAL WATER USE

ETWU = (ETW) (A) (A) (A) (A)

TURF 43.2 X 82.2 X 50.233 ft = 89,718 GAL/YEAR

TOTAL ETWU = 89,718 GAL/YEAR

ALL LANDSCAPE AREAS SHALL BE PERMANENTLY MAINTAINED. ALL LANDSCAPE AREAS TO BE IRRIGATED WITH A LOW-FLUSH SYSTEM. LANDSCAPE PLANTS SHALL COMPLY WITH ALL APPLICABLE CODES OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE.



COASTAL COMMISSION

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NEWPORT ELEMENTARY PLAYFIELD  
 14 ST. and OCEAN FRONT





**Central Newport Beach Community Association**

PO Box 884 • Newport Beach, CA • 92661-0884

[www.CentralNewport.Org](http://www.CentralNewport.Org)

May 11, 2015

Ms. Erin Prahler  
California Coastal Commission  
South Coast District Office  
200 Oceangate  
Long Beach, CA 90802

Re: Application Number 5-14-1211 (Newport Mesa School District)

Dear Erin:

This is to request that an alternative to placement of a chain link fence along the boardwalk between 13<sup>th</sup> and 14<sup>th</sup> Streets in Newport Beach, subject of referenced application, be created for consideration.

The Central Newport Beach Community Association is a voluntary residents association representing those who live or own property between Newport and Balboa piers. The Board of Directors has not had the opportunity to review the plans described in the CCC application but we understand that the proposal is to level the grass playing field and install a 6-foot high fence on the beach at Newport Elementary School, 1327 W. Balboa Blvd., Newport Beach.

We agree that the field needs to be leveled to restore its purpose for school play, for public use and for an ocean view from the adjacent boardwalk. Apparently the proposal also includes a fence along the boardwalk that would be concrete block topped by chain link in order to buttress the grading.

We do object to the use of chain link. The school has existing chain link fencing on the opposite side of the boardwalk but adjacent to the campus. It is rusted and unattractive but it only obscures views of the school. Currently the ocean side of the boardwalk is open to the field and ocean beyond. A similar fence on the ocean side of the boardwalk would create the effect of a slot of rusty chain link for boardwalk users to transit and would create an unfavorable view. The boardwalk is heavily used by visitors who are walking, biking and skating as well as residents. We feel that the quality of the beach experience would be adversely impacted by the use of chain link. We would appreciate any information on this application and upcoming hearings about it.

Sincerely,

Central Newport Beach Community Association

Scott Robinson, President

[Scotttrbsn@aol.com](mailto:Scotttrbsn@aol.com)

949-280-0416

Cc: CNBCA Board

#### **14.16.080 Level Three Mandatory Water Conservation Requirements.**

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On the tenth day after a resolution declaring the existence of a Level Three water supply shortage becomes effective, the following mandatory water conservation requirements shall take effect:

A. No customer shall use potable water to irrigate any lawn, landscape or other vegetated area between the hours of 9:00 a.m. and 5:00 p.m. Pacific time, on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for short periods of irrigation for the exclusive purpose of adjusting or repairing an irrigation system.

B. No customer shall use potable water to irrigate any lawn, landscape or other vegetated area except on the scheduled irrigation days established by City Council resolution. During a Level Three water supply shortage, the schedule established by City Council resolution shall specify for each customer (1) two irrigation days per week during the months of April, May, June, July, August, September, and October and (2) one irrigation day per week during the months of November, December, January, February, and March. Prior to the foregoing restriction becoming effective, the City shall notify the customer of the scheduled irrigation days by mail, which may be done by an indication on the customer's municipal services statement. This restriction does not apply to the following unless the City has determined that recycled water is available and may be lawfully applied to the use:

1. Maintenance of vegetation, including trees and shrubs, that is watered using a hand-held bucket or similar container or hand-held hose equipped with positive self-closing water shut-off nozzle or device, or a very low-flow drip type irrigation system when no emitter produces more than two gallons of water per hour.
2. Irrigation of food crops (including fruit trees and vegetable gardens), provided that such irrigation does not exceed three days per week on a schedule established and posted by the City's Municipal Operations Department.
3. Short periods of irrigation for the exclusive purpose of adjusting or repairing an irrigation system.

C. No customer shall use more water during any billing period than the percentage of the base amount established in the resolution declaring the Level Three water shortage, which percentage shall be in the range from seventy-five (75) percent to sixty (60) percent of the base amount.

D. No person shall permit excessive use, loss or escape of water through breaks, leaks or other malfunctions in the user's plumbing or distribution system for more than twenty-four (24) hours after receiving notice from the City.

E. No customer may use potable water to fill or refill an ornamental lake, pond, or fountain more than once every other week except to the extent needed to sustain aquatic life, provided that such animals were being actively managed within the water feature at the time of the City's declaration of the water supply shortage under this chapter.

**COASTAL COMMISSION**

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