

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

767-2370

**Mon 10b**

Staff: LRO-SD
Staff Report: 8/20/02
Hearing Date: 9/10-14/02

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-29-A

RECORD PACKET COPY

Applicant: City of San Diego

Original

Description: Expansion of the existing Ocean Front Walk boardwalk by 12 feet to the east, including a 3-foot wide landscaped buffer, with an irrigation system, on the inland side of the boardwalk.

Proposed

Amendment: Amend Special Condition #1 to extend the allowable construction period deadline of the summer restriction up to June 28, 2002 as a follow-up to an emergency permit.

Site: Ocean Front Walk from Santa Clara Place north to Santa Rita Place, Mission Beach, San Diego, San Diego County.

Substantive File Documents: Certified Mission Beach Precise Plan and Planned District Ordinance; Certified City of San Diego LCP Implementing Ordinances; CDP#s 6-99-90, 6-99-145, 6-00-01, 6-00-123, 6-01-29; Emergency Permit #6-02-083-G; Final EIR SCH No. 97011080 - 5/11/98.

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed amendment. This amendment is a follow-up to an emergency permit and the work has already been completed. The project will increase public access and recreational opportunities in Mission Beach without the need to encroach onto sandy beach. As proposed and conditioned, no adverse impacts to coastal access are anticipated.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit Amendment No. 6-01-29-A1 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

1. Special Condition #1 of CDP #6-01-29 shall be replaced with the following:

1. Storage and Staging Areas/Timing of Construction. The applicant shall comply with the following conditions as proposed on the project plans submitted on February 6, 2001 by the City of San Diego:

- a. The existing boardwalk shall remain open to two-way traffic throughout the boardwalk construction.
- b. No overnight storage of equipment or materials shall occur on public parking spaces with the exception of a 2,500 sq. ft. area (10 parking spaces maximum) located in the southeast corner of the Belmont Park south parking lot, which may be used only by the City of San Diego. The

staging site shall be removed and/or restored immediately following completion of the development.

- c. The City shall not perform any of the boardwalk construction work between Memorial Day and Labor Day of any year. However, work may occur from Memorial Day, 2002 up to June 28, 2002.

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 required.

2. Prior Conditions of Approval. All special conditions adopted by the Coastal Commission as part of the original permit action or any subsequent amendments, except as specifically modified herein, shall remain in full force and effect.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History/Amendment Description. On April 11, 2001, the Commission approved a Coastal Development Permit for the expansion of the existing Ocean Front Walk boardwalk by 12 feet to the east, including a 3-foot wide irrigated landscaped buffer on the inland side of the boardwalk from Santa Rita Place south to Santa Barbara Place in the Mission Beach community of the City of San Diego. The project also included the relocation of existing streetlights, installation of flashing beacons, and traffic warning signs to better ensure public safety.

To minimize impacts on Public Access, Special Condition #1 of the original permit requires that the City not perform any work on the boardwalk between Memorial Day weekend and Labor Day of any year. Since the permit was approved, the City satisfied the Special Conditions and the permit was released. However, due to a number of reasons, the development was delayed and only began in May of 2002. Prior to the Memorial Day deadline, the City contacted Commission staff regarding the project. At that time it was explained that a portion of the project, from Santa Rita Place to Santa Clara Place, had already been cleared of encroachments, the walkway had been formed, and concrete pouring begun. However, the City was concerned that stopping the project before Memorial Day would result in serious public safety and access impacts due to the need for continued use of the unfinished walkway throughout the busy summer months.

Therefore, the Executive Director issued an emergency permit on May 28, 2002 allowing the completion of work currently in progress up to June 28, 2002 (Exhibit 3). The work has been completed on this portion of the project and the subject permit is the follow-up to the Emergency Permit.

The Ocean Front Walk boardwalk was originally constructed in 1928, and runs along the western side of Mission Beach from the South Mission Beach Jetty north, approximately 2.36 miles, to Thomas Avenue in the community of Pacific Beach. The existing concrete walkway east of the project location is approximately 11 feet wide, with a seawall/bulkhead on the seaward side, and the 12-foot wide right-of-way easement inland of the walkway. Sandy beach lies west of the boardwalk.

Historically, there have been a variety of privately maintained fences, walls, decks, landscaping, and patio improvements located within the 12-foot wide public easement. However, in August 1999, the Commission approved a permit for the City of San Diego to remove the private encroachments in the right-of-way at the project site from Ventura Place to Santa Barbara Place (#6-99-90) and in October, 2000 a permit to also remove the private encroachments in the right-of-way from Santa Barbara Place north to Pacific Beach Drive (#6-00-23). In January of 1999, removal of the encroachments pursuant to CDP #6-99-90 began. In February of 1999, the Commission approved a permit for the reconstruction of private improvements such as walls and patios east of the right-of-way on private property (#6-99-145). In January 2000, the Commission approved a permit for the widening of the boardwalk between Ventura Place and Santa Barbara Place (#6-00-1).

The boardwalk is located in an area of the Commission's original jurisdiction; therefore, Chapter 3 of the Coastal Act is the standard of review.

2. Public Access/Recreation. 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 30212 of the Act states, in part:

(a) 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 access way 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 access way....

Section 30221 states:

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

Section 30222 states:

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

The boardwalk is a heavily used recreational facility frequented by pedestrians, bicyclists, skaters, skateboarders, runners, and persons in wheelchairs. The walkway is accessible from the east/west streets off of Mission Boulevard, and provides access to the sandy beach at stairways located at various points along the seawall. The City has contemplated expansion of the boardwalk for many years, and in January 2000, began removing the private encroachments in the right-of-way in preparation for a future expansion of the boardwalk.

In reviewing development of properties and construction of structures adjacent to the boardwalk, the Commission has also required that development not preclude or impede a future inland expansion of the boardwalk, as such was proposed in the original project. The permitted boardwalk expansion improves public access to the shoreline without the need to encroach on sandy beach, consistent with the public access and resource policies of the Coastal Act. The separation of wheeled and pedestrian traffic is expected to help alleviate real or perceived safety problems on the boardwalk, thereby increasing access opportunities for those persons who may have avoided the boardwalk in its current configuration. The expansion also improves a significant coastal, low-cost visitor-serving recreational facility, consistent with the public recreation policies of Chapter 3.

As proposed, the City will maintain two-way access on the boardwalk at all times during construction. In addition, the City has proposed using up to approximately 2,500 sq. ft. in the southeast corner of the Belmont Park parking lot for staging and storage of equipment. This staging area would impact 10 public parking spaces in a beach area with a severe parking shortage; under the original permit, the City was required to limit all work that it performed to outside the peak summer season (Memorial Day to Labor Day). However, the proposed amendment would allow the City to continue boardwalk construction past the previous deadline of May 28, 2002, as well as continue to use staging areas near Belmont Park until June 28, 2002. In this particular case, the

Commission finds that not permitting the completion of construction that has already begun will result in public safety and access concerns.

In addition, because the City proposes to undertake construction while maintaining access to the boardwalk at all times, the proposed amendment to the project will not significantly interfere with the public's use of this recreational facility. Therefore, as proposed, approval of the amendment will not have significant adverse impacts on public access or recreation, consistent with those policies of the Coastal Act.

3. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority. The subject permit amendment would improve public access and recreational opportunities consistent with the policies of the certified Mission Beach Planned District Ordinance. The project is consistent with the certified Mission Beach Precise Plan and all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development will not prejudice the ability of the City of San Diego to implement its certified LCP for the Mission Beach community.

4. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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 proposed amendment is consistent with the public access and recreational policies of the Coastal Act. Mitigation measures incorporated in the original permit, including conditions requiring that the boardwalk remain open to traffic, and submittal of final landscape plans utilizing native/drought-tolerant non-invasive plant species, will minimize all adverse environmental impacts. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed amendment is the least environmentally damaging feasible alternative, and is consistent with the requirements of the Coastal Act relative to CEQA.

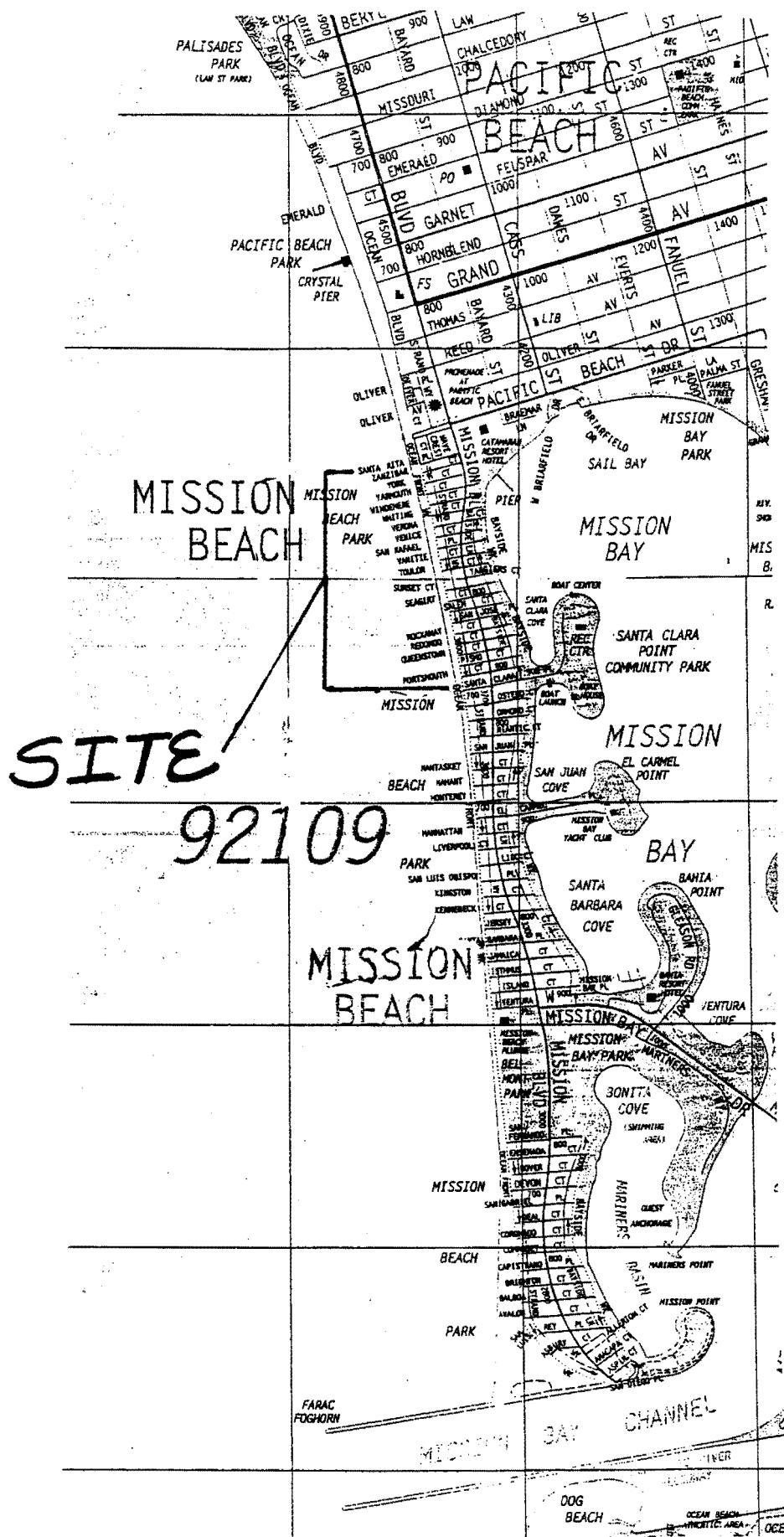
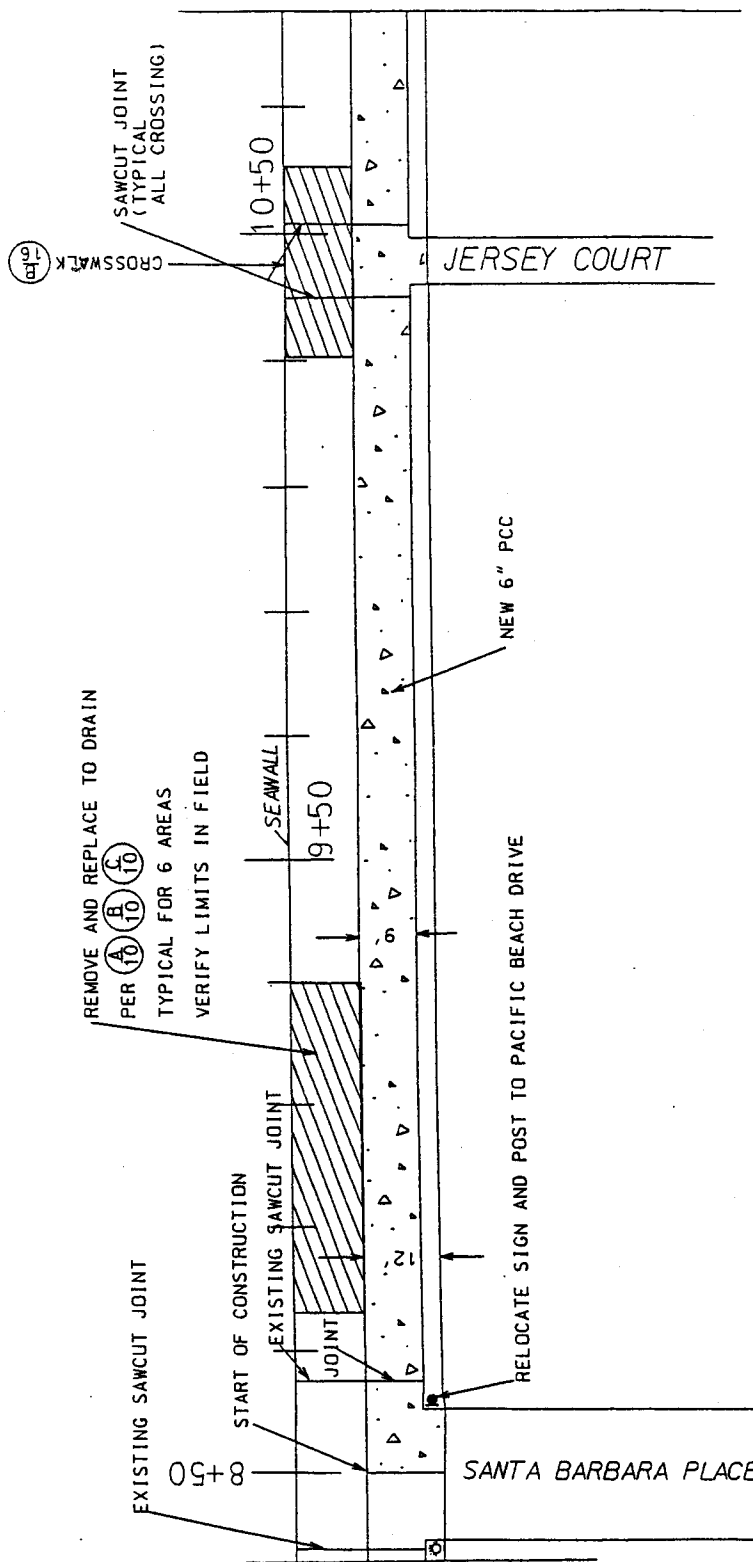


EXHIBIT NO. 1
APPLICATION NO.
6-01-29-A1
Location Map

MATCH LINE STA 10 + 90.00 SEE BELO



CROSSWALK 16 B

SSWALK 16 B

MATCH LINE STA 8 + 35.00

SEE PLAN

"MISSION BEACH BOARDWALK WIDNING PH 1A " (29970-D)
FOR VENTURA PLACE TO SANTA BARBARA PLACE

EXHIBIT NO. 2
APPLICATION NO.
6-01-29-A1

Typical Site Plan
Boardwalk Widening

California Coastal Commission

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



EMERGENCY PERMIT

FILE COPY

Applicants: City of San Diego
1010 Second Avenue, Suite 1200
San Diego, CA 92101-4904

Date: May 28, 2002

Agent: Patti Boekamp

Emergency Permit No. 6-02-83-G

LOCATION OF EMERGENCY WORK: Ocean Front Walk from Santa Rita Place to
Santa Clara Place, Mission Beach, San Diego, San Diego County.

WORK PROPOSED: Completion of work currently in progress to widen public boardwalk from Santa Rita Place to Santa Clara Place after the Memorial Day weekend deadline (established in CDP #6-01-29) by June 28, 2002 at the latest. Completion of work includes pouring of concrete, relocation of street lights and removal of all construction equipment and barriers to public beach access.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurrence in the form of construction delays and the need to complete partially constructed improvements within public right-of-way to remove public safety hazards prior to peak beach season requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director of the Coastal Commission hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of this permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows;
- (c) As conditioned, the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the conditions listed on the attached page.

Sincerely,

PETER M. DOUGLAS
Executive Director

By: DEBORAH LEE
Deputy Director

EXHIBIT NO. 3
APPLICATION NO.
6-01-29-A1
6-02-83-G

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Date: 5/28/02

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the PROPERTY OWNER and returned to our office within 15 days.
2. Only that work specifically described in this permit and for the specific area listed above is authorized. **The work authorized by this permit must be completed in the shortest time period possible and by June 15, 2002, unless extended for good cause by the Executive Director. Any work beyond June 15, 2002 requires separate authorization from the Executive Director. No work shall be authorized beyond June 28, 2002.** If during construction, site conditions warrant changes to the approved plans, the San Diego District office of the Coastal Commission shall be contacted immediately prior to any changes to the project in the field.
3. The emergency work carried out under this permit is considered to be TEMPORARY work done in an emergency situation. In order to have the emergency work authorized permanently, an amendment to CDP #6-01-29 must be obtained. Within 30 days of the date of this permit (i.e., by June 27, 2002), the permittee shall apply for an amendment to CDP #6-01-29 to have the emergency work authorized permanently.
4. In exercising this permit, the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
5. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.
6. In order to minimize impacts on public access, the construction window shall be compressed to the maximum extent feasible (i.e., various phases of construction shall overlap to cut down construction time). **No work shall occur on weekends or holidays.** At the end of each work week, equipment and materials shall be removed from public boardwalk area and construction barriers shall be relocated such that maximum public access is maintained and available on the weekends.

If you have any questions about the provisions of this emergency permit, please contact **Lee McEachern** at the Commission's San Diego Coast Area Office at the address and telephone number listed on the first page.

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APPLICATION NO.
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