

CALIFORNIA COASTAL COMMISSION

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W27c

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-05-227

APPLICANT: City of Seal Beach, Attn: Mark Vukojevic

AGENT: Moffatt & Nichol Engineers; Attn: Russ Boudreau

PROJECT LOCATION: Adjacent to Seal Beach Pier, Seal Beach, Orange County

PROJECT DESCRIPTION: The applicant proposes to repair and reinforce the existing damaged beach erosion control structure (groin) by installing 252 linear feet of new concrete sheet piles on the east side of the groin and 45 linear feet of new concrete sheet piles on the west side of the groin. Concrete shall be poured-in-place to fill the voids between new sheet pile segments and the existing groin. 350 linear feet of new concrete cap will be cast-in-place and the remaining concrete cap will be repaired. The proposed project also involves removing the un-permitted temporary steel sheet piles and any remnant pieces of the collapsed groin and demolishing 350 linear feet of existing concrete cap.

SUBSTANTIVE FILE DOCUMENTS:

1. *Groin Rehabilitation Study Seal Beach, California*, August, 2004, by Moffatt & Nichol.
2. *Initial Study/Negative Declaration Groin Rehabilitation Project At Seal Beach Pier Seal Beach, California*, June, 2005, by Chambers Group, Inc.
3. *Marine Biological Assessment For The Groin Rehabilitation Project Seal Beach, California*, December 13, 2004, by Coastal Resources Management.
4. *Coastal Development Permit No. 5-03-521*
5. *Coastal Development Permit No. 5-00-096*

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission **APPROVE** a coastal development permit for the proposed development with eleven (11) special conditions, which require 1) groin maintenance ; 2) annual submittal of groin monitoring plan; 3) submittal of final plans that conform with preliminary plans; 4) use of construction best management practices (BMPs); 5) identification of debris disposal site location; 6) timing of construction and public access;

7) timing of construction to avoid impacting grunion; 8) submittal of a construction staging area plan; 9) evidence of approval by the Regional Water Quality Control Board (RWQCB); 10) a determination by the State Lands Commission prior to permit issuance; and 11) an assumption of risk due to hazards.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-05-227 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

I. Resolution: Approval with Conditions

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Groin Maintenance

If any debris, rock, or material becomes dislodged from the groin after completion of the repairs, the permittee shall either redeposit this material within the as-built footprint or remove and dispose of this material at an approved disposal site as soon as possible after such displacement occurs. The permittee shall contact the Coastal Commission District Office immediately to determine whether such activities require a coastal development permit.

2. Groin Monitoring Plan

By May 1 of each year, for the life of the structure, the permittee shall submit a monitoring report that has been prepared by City public works staff, or by a licensed civil engineer. Each monitoring report shall provide the following:

- a) As-built plans, showing the permitted structure in relation to the existing topography and showing measurement points that will be used yearly to measure the footprint of the structure (only necessary in the first submitted report).
- b) An evaluation of the condition and performance of the approved shoreline protection device. Special attention should be paid to the concrete cap and grade beam, noting any cracks, changes in gapping distance, spalling or exposure of reinforcing material.
- c) On five-year intervals, undertake a thorough visual inspection of the groin, by means of diver surveys, ROV or other similar efforts and check for groin permeability, foundation scour or settlement and pile corrosion.
- d) Recommendations for repair, maintenance, modifications or other work to the device.

In many cases, the report can be a short letter, signed by the person who undertook the monitoring and noting whether there are any changes in the condition of the shoreline protection device from the previous year. If a monitoring report contains recommendations for repair, maintenance or other work, the permittee shall contact the Coastal Commission District Office to determine whether such work requires a coastal development permit.

3. Final Plans

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval of the Executive Director:

1) Final plans for the repair of the groin that substantially conform with the plans submitted to the Commission, titled *Groin Repair Project* dated June 13, 2005.

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 legally required.

4. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

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

- (a) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
- (c) Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction related materials, sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.
- (d) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal

waters. Debris shall be disposed at a debris disposal site outside the coastal zone, pursuant to Special Condition No. 5.

5. Location of Debris Disposal Site

The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

6. Timing of Construction and Public Access

By acceptance of this permit, the applicant agrees to minimize adverse impacts to public use of the pier, adjacent beaches, or public parking lots resulting from construction activities as required below:

- A. No construction shall occur during the “peak use” beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year. The applicant shall schedule the project and make allowances for project suspension such that complete restoration of public access to the pier, beaches and public parking lots occurs during the “peak use” beach season.
- B. Pedestrian access to the pier shall be made available whenever possible during construction, except for periods of closure during the non-peak use beach season upon the portion of the pier within the immediate vicinity of the proposed construction.
- C. To minimize the cumulative period of pier closure, to the extent feasible, the applicant shall coordinate the proposed work with the additions to the Ruby’s Restaurant located at the end of the pier authorized pursuant to Coastal Development Permit 5-03-521.

7. Timing of Construction

To avoid adverse impacts on grunion, construction shall not occur between the months of March and August of any year.

8. Staging Area For Construction

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit a plan for the review and approval of the Executive Director, which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts upon public access at the beach and the public beach parking lots.

- (1) The plan shall demonstrate that:
 - (a) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition; and
 - (b) Construction equipment, materials, or activity shall not be placed in any location which would result in impacts upon public access at the beach and the public beach parking lots, other than as allowed under Special Condition 6; and
 - (c) Construction equipment, materials, or activity shall not be placed on the sandy beach outside of the immediate construction zone; and
 - (d) The construction staging area will gradually be reduced as less materials and equipment are necessary.
 - (e) During construction, the project shall not occupy more than the approximately 6,000 square feet of public beach parking area (approximately 15 parking spaces) required for equipment and material staging.
- (2) The plan shall include, at a minimum, the following components:
 - (a) A site plan that depicts:
 1. limits of the staging area(s);
 2. construction corridor(s);
 3. construction site;
 4. location of construction fencing and temporary job trailers with respect to the Seal Beach Municipal Pier, the beach and the public beach parking lots.

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.

9. Regional Water Quality Control Board Approval

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, written evidence from the Regional Water Quality Control Board demonstrating that the

Regional Water Quality Control Board has approved the proposed groin repair and reinforcement. If the Regional Water Quality Control Board requires any substantial changes to the project, as approved by the Commission, the changes shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any changes that require an amendment shall not occur without an amendment to this permit.

10. State Lands Commission Review

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall obtain a written determination from the State Lands Commission that:

- (a) No state lands are involved in the development; or
- (b) State lands may be involved in the development and all permits, leases or other approvals required by the State Lands Commission have been obtained (copies of said authorizations shall be supplied to the Executive Director by the applicant); or
- (c) State lands may be involved in the development, but pending a final determination of state lands involvement, an agreement has been made by the applicant with the State Lands Commission for the project to proceed without prejudice to that determination.

11. 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 waves, storm waves, and erosion; (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 shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment

of that property (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant’s entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

- 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.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The project site is located adjacent to the Seal Beach Municipal Pier in the City of Seal Beach (see Exhibits #1-2), between the City of Long Beach and the Seal Beach Naval Weapons Station (SBNWS). Approximately 1 mile of coastline lies along the southwest City boundary. The City’s beaches serve as major local and regional attractions and provide low cost visitor and recreational facilities. In addition to the recreational benefit, a sandy beach provides natural protection for the adjacent public and private property against coastal flooding and storm wave damage.

Surrounding the groin are the following: to the North and South is the public beach and ocean; to the West is the Pacific Ocean; and to the East are the remaining length of the Seal Beach Municipal Pier extending toward land, the 8th and 10th Street Beach Parking Lots that flank the pier and Main Street. The area is zoned by the City’s uncertified planning documents as Public Land Use/ Recreation (PLU/R).

The applicant proposes to repair and reinforce the existing 750 foot long damaged beach erosion control structure (groin) by installing 252 linear feet of new concrete sheet piles on the east side of the groin and 45 linear feet of new concrete sheet piles on the west side of the groin. Concrete shall be poured-in-place to fill the voids between new sheet pile segments and the existing groin. 350 linear feet of new concrete cap shall be cast-in-place and the remaining concrete cap shall be repaired (see Exhibit #4).

The City previously applied for an emergency permit (5-01-258-G) on July 3, 2001 involving the placement of the steel sheet piles, wales, clamping bolts and fill material (see Exhibit #3), but the application was rejected because the materials submitted did not substantiate that an emergency existed and it was not demonstrated that the proposed emergency work was the minimum amount of temporary work necessary to stabilize the situation. The City submitted a regular coastal development permit application (5-01-303) for this work on July 31, 2001, but that application was deemed incomplete pending receipt of additional information on August 30, 2001.

The proposed project also involves removing these un-permitted temporary steel sheet piles and any remnant pieces of the collapsed groin and demolishing 350 linear feet of existing concrete cap. The groin is 750 feet long, with top elevation ranging from +13 feet above the mean lower low water (MLLW) at the near shore end to +5 feet MLLW at the offshore end. The finished groin would resemble the original structure in appearance, but would add approximately 198 square feet to the footprint (approximately 20%) as a result of the new sheet piles.

Construction is anticipated to take approximately 2 months to complete and would require complete closure of the pier during this time. Construction is scheduled to take place during the winter months and not during the "peak use" beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year. During construction, the project would occupy approximately 6,000 square feet of public beach parking area (approximately 15 parking spaces) for equipment and material staging.

A concrete sheet pile groin was constructed by the U.S. Army Corps of Engineers in 1959, as part of a beach erosion control project. The groin is now over 45 years old and deteriorated. A portion of the groin failed in March of 2001, resulting in a large gap between sheet piles, which presented a transport path for sand eroded from East Beach, a point of undermining of adjacent sheet piles, and a very significant hazard to swimmers and surfers. It was temporarily repaired by installing steel sheet piles on each side of the breach. The structure remains in its temporarily repaired condition today and has deteriorated enough to potentially collapse, which would cause rapid and catastrophic losses of sand on both East Beach and consequent loss of public beach and damage to coastal properties. Such failure would also pose public safety issues considering the popular swimming and surfing activities on the beach immediately adjacent to the groin. Repair and reinforcement is necessary to extend the service life of the structure (approximately 50 years), stabilize the shoreline at East Beach and mitigate future hazards.

The City of Seal Beach recently entered a Beach Erosion Control Construction Agreement with the State of California Department of Boating and Waterways (DBAW) for repair or replacement of the groin. The City's consultants (Moffatt & Nichol) prepared a feasibility study for the groin repair which established through a benefit cost analysis that the repair was warranted.

B. Marine Resources

Sections 30230, 30231 and 30235 of the Coastal Act address the protection and management of marine resources.

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 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

As described previously, the project involves the repair and reinforcement of an existing groin. The purpose of the existing groin is to reduce the sand loss at East Beach caused by the construction of adjacent Federal navigation structures (jetties). The beach also provides protection from wave uprush for the existing coastal properties.

The applicant evaluated 7 repair or replacement alternatives to the proposed project as well as the no project alternative, which would remove the structure. The alternatives included 1) complete replacement of the entire groin; 2) replacing the seaward portion of the groin; 3) replacing the damaged sheets in-place; 4) installing new sheet piles on each side of the seaward portion of the groin with full cap replacement; 5) installing new sheet piles on each side of the seaward portion of the groin with partial cap replacement; 6)

installing new sheet piles on each side of the damaged sheets; and 7) installing 252' of new sheet piles on one side and 45' of new sheet piles on the other side at damaged sheets.

The City's consultants (Moffatt & Nichol) prepared a Groin Rehabilitation Study with the intent of identifying the alternative that best met the long term goals of the City, is consistent with local, state and federal environmental quality guidelines and can be fully implemented within the project budget. The alternative that best met all of these objectives is the proposed project, described in the project description section on page 8. The Commission's Coastal Engineer has reviewed the submitted materials, visited the project site and has found that the proposed project is an acceptable way to repair the groin and minimize additional cover of the surfzone and nearshore area.

Section 30235 of the Coastal Act allows groins to be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Analyses carried out by the City's consultants, Moffatt & Nichol, indicates that the existing groin is now experiencing severe deterioration and could potentially collapse, which would cause rapid and catastrophic losses of sand on both East Beach and consequent loss of public beach and damage to coastal properties.

The groin was originally constructed in 1959 by the U.S. Army Corps of Engineers as part of a beach erosion control project. The purpose of the project was to mitigate the impacts of the construction of the Seal Beach Naval Weapons Station (SBNWS) navigation structures at Anaheim Bay on beach erosion (see Exhibit #2). The groin has deteriorated since it was constructed and is in need of repair and reinforcement. Consequently, without the groin, the shoreline at East Beach would retreat significantly and place public and private property at risk. Reduced beach widths will increase erosion, subject existing development to increase wave damage, and reduce public recreation opportunities as a direct result of a smaller beach area. Therefore, the project is allowable under Section 30235 of the Coastal Act.

Section 30231 of the Coastal Act requires maintenance and restoration of the biological productivity of coastal waters. The project site is located within open coastal waters. Storage or placement of construction materials, debris, or waste in a location subject to wave erosion and dispersion 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. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged to coastal waters may cause turbidity, which can shade and reduce the productivity of the area and foraging avian and marine species ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, Special Condition No. 4 outlines construction-related requirements to provide

for the safe storage of construction materials and the safe disposal of construction debris. Special Condition No. 5 requires that the applicant dispose of all demolition and construction debris at an appropriate location outside of the coastal zone and informs the applicant that use of a disposal site within the coastal zone will require an amendment or new coastal development permit. Special Condition No. 1 requires that the applicant minimize the effects from any future material displacement by either repositioning the material within the as-built footprint or disposing of it in at an approved disposal site.

The project will adopt all necessary steps to protect biological resources and sensitive species known to inhabit the area. To mitigate potential disruption to spawning behavior of the California grunion, which is typically between the months of March and August, the Commission has imposed Special Condition No. 7, which restricts the construction schedule to the winter months and that construction cannot occur between the months of March and August of any year. This schedule is also favorable to the California least tern, which forages in the nearshore waters from April through September. In addition, no structural repair will be performed on the sandy beach where grunions spawn. Because no construction activity will take place on the beach, the snowy plover will also not be impacted. Temporary loss of roosting opportunities during construction may be considered a less than significant impact to the California brown pelican and the double-crested cormorant. Ochre sea stars that currently inhabit the structure's construction area will be relocated to other areas of the groin, adjacent pier pilings or the Anaheim Bay Jetty.

In order to ensure that the repairs and reinforcements to the groin are consistent with what's been described and analyzed in this staff report, the Commission has imposed Special Condition No. 3, which requires the applicant to submit final plans that substantially conform with the plans submitted to the Commission, titled *Groin Repair Project* dated June 13, 2005 (see Exhibit #4).

The groin is located on a State Tidelands lease (PRC 3792.9), which was recorded on August 17, 1967. This lease covers premises that shall be used for beaches, marine parks, marinas, small boat harbors, bulkheads, piers, marine transportation facilities, public utilities, earthfills, buildings, structures, recreational facilities, landscaping, parking lots, streets and roadways for public access to the leased premises, and related facilities for the benefit of the people of the State, as opposed to a purely local benefit, and for the furtherance of the public trust purposes of commerce, navigation and fisheries. In order to ensure that the City has permission from State Lands for the repair and reinforcement of the groin, the Commission has imposed Special Condition No. 10, which requires that the applicant obtain a written determination from the State Lands Commission that either no State lands are involved in the development or that all permits, leases or other approvals have been obtained or that an agreement has been made by the applicant with the State Lands Commission for the project to proceed without prejudice to that determination.

Finally, since the proposed project has the potential to affect water quality, the development requires approval by the Regional Water Quality Control Board (RWQCB). The applicant has applied for a permit from the RWQCB. Consequently, the proposed

repair to the groin has yet to be found in conformance with current water quality standards by the RWQCB. To ensure that the project will not adversely affect water quality, Special Condition No. 9 requires that the applicant provide written evidence of RWQCB approval for the groin repair work prior to issuance of a coastal development permit. If the RWQCB approval results in changes to the currently proposed project, the applicant may be required to obtain an amendment to the CDP.

Only as conditioned for appropriate storage of construction materials and equipment, location of an appropriate debris disposal site, and RWQCB approval, does the Commission find that the proposed development is consistent with Sections 30230, 30231 and 30235 of the Coastal Act.

C. Public Access

The project site lies within the water seaward of the first public road. Therefore, a finding must be made that the development is consistent with the public access and recreation policies of Chapter 3 of the Coastal Act.

Section 30210 of the Coastal Act states, in pertinent part:

...maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs...

Section 30213 of the Coastal Act states, in pertinent part:

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

As discussed previously, the proposed project involves the repair and reinforcement of an existing groin. If the existing groin were to be removed instead of repaired and reinforced, it is anticipated that East Beach would retreat significantly, placing both public and private property at risk. Specifically, without a groin structure at the subject site, the beach will be subject to significant erosion due to wave action exposing development along the beach to surge uprush. Therefore, the proposed repaired and reinforced groin project is designed to replicate the function of the existing structure, which has been in place since 1959, and currently controls littoral sand transport. As such, the proposed project will restore and protect a public beach, thereby enhancing public access and recreation at the subject site.

As stated earlier, construction is anticipated to take approximately 2 months to complete and would require complete closure of the pier during this time. Closure is required since the crane with outriggers will occupy the full width of the pier, eliminating public access to the seaward portion of the pier. Public safety concerns preclude access on the landward side of the construction due to the ingress/egress of heavy equipment and material. Full

closure of the pier will allow for more efficient construction operations and reduced construction time, thereby minimizing access impacts.

Construction is scheduled to take place during the winter months and not during the “peak use” beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year. Construction is also planned to somewhat coincide with the Ruby’s Diner expansion project at the end of the pier. The Ruby’s expansion is planned to occur between the months of November 2005 and January 2006. During construction, the project would occupy approximately 6,000 square feet of public beach parking area (approximately 15 parking spaces) for equipment and material staging. This is in addition to the parking losses resulting from the construction at Ruby’s. However, Ruby’s will only require 3 spaces for their project. The total parking impact of both projects would be minor (the 8th and 10th Street Beach Parking lots that flank the landward end of the pier contain 462 parking spaces).

In order to mitigate the temporary impacts to public access on the pier, beach and public beach parking lots, the Commission has imposed Special Condition No. 6, which requires that construction take place during the winter months and not during the “peak use” beach season and that access to the pier be made available whenever possible during construction. In addition, the Commission has imposed Special Condition No. 8, which requires the applicant to submit a plan for review, which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts upon public access at the Seal Beach Municipal Pier, the beach and the public beach parking lots. It also ensures that construction equipment, materials, or activity shall not be placed on the sandy beach outside of the immediate construction zone and that the construction staging area will gradually be reduced as less materials and equipment are necessary.

As conditioned by this permit the groin repair and reinforcement will not have a significant adverse impact to public access. In fact the repair work to the groin will stabilize the shoreline at East Beach and public access. Therefore, for the reasons stated above, the proposed project, as conditioned, is consistent with Sections 30210 and 30213 of the Coastal Act.

D. Hazards

Section 30253 of the Coastal Act states in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Section 30253 of the Coastal Act states in part that new development shall minimize risks to life and property and shall assure stability and structural integrity. According to the applicant's consultants, the structural section of the new repaired and reinforced groin will be significantly stiffer than the original groin and should result in a much longer service life than the original structure.

Since the proposed development is located perpendicular to the beach, it will be exposed to several hazards in the area, such as storm waves, wave and debris loadings, foundational scour and erosion. The project repairs have been designed to consider the range of wave and current conditions that can be expected to occur at this location. However, due to the inherently variable nature of coastal processes there remains the possibility that the structural integrity of the structure can be threatened. Although the repaired groin is designed to be stable to reduce adverse impacts due from wave damage, there will continue to be the threat. Special Condition No. 2 requires the applicant to undertake a monitoring program to insure that the groin remains in good condition and continues to provide erosion protection for the adjacent public recreational beach. To ensure that the applicant, and any future property owner is aware of the hazards, the applicant shall be required to indemnify and hold harmless the Coastal Commission from any claims related to the proposed development. The Commission, therefore, finds that only as conditioned, will the proposed development be consistent with Section 30253 of the Coastal Act.

E. Local Coastal Program

Section 30604 (a) of the Coastal Act states:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

As conditioned, to address shoreline erosion, water quality, and public access, approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program in conformity with Chapter 3 of the Coastal Act. The Commission, therefore, finds that the proposed project, as conditioned, is consistent with the provisions of Section 30604 (a) of the Coastal Act.

F. California Environmental Quality Act

Section 13096 of the California Code of Regulations requires Commission approval of a CDP application 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 that the activity may have on the environment.

Mitigation measures, in the form of special conditions, require maintenance and monitoring of the groin, submittal of final plans that conform with preliminary plans, use of construction best management practices (BMPs), identification of the debris disposal site location, timing of construction and public access, timing of construction to avoid impacting grunion, submittal of a construction staging area plan, evidence of approval by the Regional Water Quality Control Board (RWQCB), a determination by the States Lands Commission prior to permit issuance, and an assumption of risk due to hazards. No further alternatives, or mitigation measures, beyond those imposed by this permit, would substantially lessen any significant adverse impacts which the development would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of the Coastal Act to conform to CEQA.