

**CALIFORNIA COASTAL COMMISSION**

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49th Day: December 27, 2011  
180th Day: May 6, 2012  
Staff: Liliana Roman-LB  
Staff Report: December 22, 2011  
Hearing Date: January 11-13, 2012  
Commission Action:

# Item W7c

## **STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NUMBER:** 5-11-274

**APPLICANT:** City of San Clemente,  
Attn: Ben Parker, Community Development

**PROJECT LOCATION:** Max Berg Plaza Park, Calle Puente, Avenida Aragon, El Prado and Avenida del Poniente, San Clemente, Orange County

**PROJECT DESCRIPTION:** Construction of new 8' wide sidewalks, curb ramps, bike lanes, bollards, pedestrian lighting, pavement striping, traffic signs and elimination of right turn lanes around Max Berg Plaza Park; new passenger loading zone in front of the Las Palmas Elementary School

**LOCAL APPROVALS RECEIVED** City of San Clemente Planning Division Approval-in-Concept dated 11/4/11; Initial Study Mitigated Negative Declaration, Las Palmas Elementary School Safe Route to School/Sidewalk Improvement Plans, July 2011

**SUBSTANTIVE FILE DOCUMENTS:** City of San Clemente Certified Land Use Plan (LUP)

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### **SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending **APPROVAL** of the proposed project with two (2) special conditions which 1) requires compliance with construction-related best management practices (BMPs), and 2) requires conformance with post-construction related water quality measures. The primary issues associated with this development are water quality and public access.

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### **LIST OF EXHIBITS:**

1. Location Map
2. Assessors Parcel Map
3. Coastal Access Points Map
4. Project Plans

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

**STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:**

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

**RESOLUTION:**

**I.            APPROVAL WITH CONDITIONS**

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:**

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

### III. SPECIAL CONDITIONS:

#### 1. Construction Responsibilities and Debris Removal

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 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.

#### 2. Post Construction Best Management Practices

The applicant shall implement structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater and nuisance flow leaving the municipal park. These source control measures may include, but are not limited to, 1) routine inspection and cleaning; 2) disposal of wash water through the sewer system; and 3) frequent trash removal. These measures shall be carried out at

frequencies sufficient to effectively minimize the accumulation of pollution which could be washed into coastal waters.

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

The Commission hereby finds and declares:

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

###### Location and Description

The subject site is Max Berg Plaza Park, a municipal park located at 1100 Calle Puente in the City of San Clemente, Orange County (Exhibit 1). The Park is approximately 3.5 acres. The City of San Clemente Land Use Plan (LUP) designates the site as Public Parks and Publicly Owned Open Space (OS1). The project is located within an existing urban residential area; the Park is surrounded by residential (medium density) uses and fronts Las Palmas Elementary School. The nearest public access to the beach is available at the Dije Court access point, approximately 200 yards northwest of the subject site (Exhibit 4).

The proposed project consists of construction of an 8 foot wide sidewalk around Max Berg Plaza Park perimeter (approximately 1320 linear feet) to provide a safe pedestrian access route to the Las Palmas Elementary School and improvements (striping and signage) to an existing passenger loading zone on Calle Puente in front of Las Palmas Elementary School (across the street from the Park). The sidewalk will adjoin the existing back of curb and be located inside the Park and new curb ramps to meet ADA requirements are proposed. Fourteen new pedestrian light poles are also proposed along the new sidewalk. Construction of the new sidewalk will require removal of sod; no trees will be removed. Existing traffic medians will be reconstructed in the same size, shape and location with an increased median nose radius to facilitate right turns by motorists and increase pedestrian safety. Existing right-turn lanes around the Park will be closed with use of bollards. In the existing street right turn lanes, a short segment of sidewalk will connect the traffic medians to the sidewalk at the Park perimeter. New bike lanes will be striped on the road. All work is proposed within public right-of-way or within public property. Minimal re-landscaping (i.e., re-seeding or re-sodding) of areas disturbed during construction is proposed. The proposed new paved area (non-permeable concrete sidewalk) will not result in a significant increase in storm water runoff. Project plans are included as Exhibit 4. During and post construction, the applicant proposes and will be required to implement best management practices (BMPs) designed to minimize erosion and prevent debris from entering the storm drain system leading to the ocean.

Max Berg Plaza Park was assigned California Historical Resource Status in 2006. It is therefore eligible for listing in the National Register of Historic Places as a contributor to a National Register-eligible district. The proposed project is in conformance with the Secretary of the Interior Standards for the Treatment of Historic Properties and would result in a less than significant historical resources impact under CEQA.

The Park is a low-cost, visitor-serving facility which provides passive recreation opportunities. Development on a public park is therefore subject to scrutiny as to whether the development would affect the public's recreational interest. In this case, the proposed new sidewalk (non-exempt, new development) improvements would enhance pedestrian safety and would enhance public access to a coastal recreation area. Access to the Park will remain open and available to visitors during sidewalk construction to the maximum extent practicable.

**B. Public Access**

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

**C. Water Quality**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

**D. Local Coastal Program**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000.

The proposed development is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

**E. Consistency With The California Environmental Quality Act (Ceqa)**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, 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.

The proposed project has been conditioned in order to be found consistent with the water quality and public access policies of the Coastal Act. Mitigation measures, in the form of special

conditions, require 1) Construction Responsibilities and Debris Removal and 2) Post Construction Best Management Practices.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.