

**CALIFORNIA COASTAL COMMISSION**

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# Th13a

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Staff Report: May 21, 2015  
Hearing Date: June 11, 2015

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-14-1211

**Applicant:** City of Newport Beach

**Agent:** Patrick J. Alford

**Location:** 1327 W. Balboa Blvd., Newport Beach, Orange County  
(APN: 047-290-03, 047-300-03)

**Project Description:** Level and expand, by 0.2 acres, the existing 0.8 acre grass area seaward of Newport Beach Elementary within a City leased beach parcel. The project includes the installation of an approximately 2 foot-10 inch high, 318 foot long CMU wall along the promenade and a portion of the down coast (northeast) side of the grass area with a decorative cap and decorative tiles; an approximately 2 foot-2 inch high, 311 foot long post-and-cable fence on top of a 274 feet in length of the proposed CMU wall and onto 13 feet in length of an existing wall, and two 10 foot wide concrete stairs and an Americans with Disabilities Act (ADA) ramp with an 8 to 9 foot wide entryway for access into the grass area from the promenade.

**Staff Recommendation:** Approval with conditions

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### SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing to re-grade an existing approximately 0.8 acre grass playfield and expand it seaward by approximately 0.2 acres onto an existing asphalt paved play area; and construct an approximately 2 foot-10 inch high, 318 foot long concrete masonry unit (CMU) perimeter wall along the landward (north) side, or beside the promenade, and along the down coast (east) side of the existing grass area. The applicant proposes to crown approximately 274 feet of the proposed CMU wall and 13 feet of an existing "sand wall" (approved, CDP # 5-99-289), extending



from the northwest corner of the field, with a 2 foot-2 inch high post-and-cable fence (Exhibit). Both the wall/fence along the up coast (west) and the down coast (east) sides of the field will be perpendicular to and extending from the seaward edge of the Ocean Front lateral boardwalk (walkway/bike path). The wall/fence along the north side of the grass field, which is parallel and adjacent to 287 feet of the beachfront lateral walkway, will have two (2) 10-foot wide concrete stair entryways for access and an ADA ramp with an 8 to 9 foot wide entryway for access into the grass area. The stairs and the ramp are necessary due to the proposed difference in grade elevation between the grass field and the public walkway. The proposed finished elevation of the sloping grass field will range approximately from 3 to 5 feet above the promenade. In addition, the project involves the widening of the public walkway by 4 feet along the length of the north side of the playground area.

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).

The proposed project raises issues regarding impacts to public access, impacts to visual coastal resources, and hazards concerning beachfront development. The proposed perimeter wall and fence will not completely enclose the existing grass field and, therefore, will not adversely impact public access into and through the field. In addition, 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. To address potential visual impacts, the Commission imposes **Special Condition 2**, which requires the applicant to follow earth toned colors for the wall; the appropriate color palette will prevent the wall from becoming a prominent feature on the sand. Moreover, the Commission also imposes **Special Condition 3** requiring the submittal of revise final plans to include an open post-and-cable fence design and with a minimum of 4-inch cable spacing to further reduce visual impacts. 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 the coast.

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.



## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION</b>	4
<b>II. STANDARD CONDITIONS:</b>	4
<b>III. SPECIAL CONDITIONS:</b>	5
<b>IV. FINDINGS AND DECLARATIONS:</b>	9
A. PROJECT DESCRIPTION & LOCATION	9
B. PUBLIC ACCESS	10
C. VISUAL RESOURCES	12
D. HAZARDS	14
F. LOCAL COASTAL PROGRAM (LCP)	18
G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	19

## APPENDICES

Appendix A - Substantive File Documents

## EXHIBITS

Exhibit 1 – Vicinity Map & Aerial View  
Exhibit 2 – Parcel Maps  
Exhibit 3 – Existing Views  
Exhibit 4 – Existing Signage  
Exhibit 5 – Site/Field Plans  
Exhibit 6 – Project Details  
Exhibit 7 – Cross Sections  
Exhibit 8 – Public Communication



## 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. 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. Color and Texture Plan.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a plan demonstrating the following:

- (1) the structure will be constructed with concrete split-faced and cinder block that has been colored with earth tones that are compatible with the adjacent sandy



beach and similar to the existing permitted “sand wall” approved under Coastal Development Permit #5-99-289,

(2) white and black tones will not be used,

(3) the color will be maintained through-out the life of the structure,

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

**3. Revised Final Plans.**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, two (2) copies of all Revised Final Plans. The Plans shall include a detailed post-and-cable fence plan with supporting dimensions indicating a minimum of 4-inch cable spacing for the fence.
- 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.

**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 an existing approximately 0.8 acre grass playfield and expand it seaward by approximately 0.2 acres onto an existing asphalt-paved play area; 2) construct an approximately 2 foot-10 inch high (as measured from the adjacent public boardwalk), 318 foot long concrete masonry unit (CMU) perimeter wall along two sides of the existing grass recreational area (north and northeast); 3) crown approximately 274 feet of the proposed CMU wall and 13 feet of an existing, approved “sand wall” (CDP # 5-99-289), which extends from the landward, up coast corner of the field, with a 2 foot-2 inch high post-and-cable fence; and 4) widen the public walkway by 4 feet along the length of the landward (north) side of the grass area (seaward of the boardwalk) to increase access by creating a staging area for playground users and to reduce conflicts between the bicyclists and pedestrians along the Ocean Front boardwalk (**Exhibits 5, 6 and 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 15 feet Mean Sea Level (MSL), and the ground surface elevation of the boardwalk is about 10 feet MSL. The proposed finished elevation of the grass field will range approximately from 13 to 15 feet MSL, or 3 to 5 feet above the promenade, beginning from the landward edge and sloping upward as the field extends seaward (**Exhibit 5 and 7**).

The applicant proposes to install an approximately 318 foot long CMU wall using split-faced and cinder block, with a decorative cap, and decorative tiles, similar to the tiles installed on the walls of the Newport Beach Elementary School facility on the landward side of the promenade (**Exhibit 5 and 6**). The appearance of the proposed wall will be comparable to the existing “sand wall” (**Exhibit 3**) with the exception of the decorative tiles that will be installed along the north side of the wall facing the promenade. The proposed, approximately 311 feet in length, post-and-cable fence will have 4-inch cable spacing (**Exhibit 6**). Both the wall/fence along the up coast (west) side and the down coast (east) side of the field will be perpendicular to and extending seaward from the Ocean Front lateral boardwalk (walkway/bike path) (**Exhibit 5**). The wall/fence along the landward side of the grass field, which is parallel and adjacent to 287 feet of the beachfront lateral walkway, will have two (2) 10-foot wide concrete stair entryways for access and an ADA ramp with an 8 to 9 foot wide entryway for access into the grass area (**Exhibit 5 and 6**). The applicant is proposing the wall/fence to keep balls from rolling onto the beachfront boardwalk, which is necessary for public safety. In addition, the proposed wall/fence takes the place of a required railing for safety, and the stairs and the ramp are necessary due to the proposed difference in grade elevation between the grass field and the beachfront public boardwalk.

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 proposed perimeter wall and/or fence will be installed on three sides of an existing grass field. The grass field is part of the recreational area for the adjacent Newport Elementary School. The field is adjacent to and on the seaward side of Oceanfront boardwalk, 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. 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.



The proposed wall/fence will not completely enclose the existing grass field, and there are no gates surrounding the recreational area to obstruct access. The northerly wall/fence flanked by the Oceanfront boardwalk will have three access points. The access points comprise of two concrete stairways and an ADA ramp to provide entryways into the grass field area from the public walkway. There is no wall/fence proposed for the south sides of the field; leaving a 292 foot long opening to the south. Therefore, a person wishing to traverse the grass field from the public paved boardwalk to the beach could do so either through the proposed entryways along the boardwalk, or along the easterly side, through the basketball courts and through the 131 foot long opening of the east side of the field. On the westerly side most persons could step over the existing “sand wall” (CDP #5-99-289) with little effort due to its short height of 2 feet.

The applicant states that the new proposed wall/fence has been designed so that the wall/fence will not adversely impact the public’s use of the area. In addition, while there are other structures surrounding the grass field, such as the school’s existing black top playground, existing paved basketball courts, and miscellaneous playground equipment, these structures do not obstruct public access. 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. 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”, which discourages public use during non-school operational hours when the park is open to the public (**Exhibit 4**). 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 range approximately from 13 to 15 feet MSL, in contrast to the existing ground surface elevation of the field which currently varies from about 10 feet MSL to 15 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. In addition, the applicant proposes to widen the public walkway by 4 feet along the length of the north side of the grass area. An improved, wider pedestrian walkway will reduce conflicts between playground users, bicyclists, and pedestrians along the promenade and, therefore, will also improve public access along and into the playground.

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 applicant is proposing the wall/fence to keep balls from rolling onto the Oceanfront boardwalk. In addition, the wall/fence is necessary for playground user safety because of the proposed difference of grade between the field and the Oceanfront boardwalk. Therefore, the wall/fence will improve safety for the school children and the general public using the recreation area. The proposed wall/fence will also not restrict access to the field; such a restriction would result in an adverse impact upon public access to the beach and existing recreational area. As conditioned, the Commission finds that the proposed wall/fence 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.*

The project height of the wall segments topped with a fence will be 5 feet above the grade of the Oceanfront walkway, and 34 inches above the finished turf grade. The wall/fence along the north side of the grass field, which is parallel and adjacent to 287 feet of the beachfront lateral walkway, will have two (2) 10-foot wide concrete stair entryways for access and an ADA ramp with 8 to 9



foot wide entryways for access into the grass playground area (**Exhibits 5 and 6**). The wall/fence along the northwest side of the field will be approximately 12 feet-8 inches long, and along the northeast side will be about 14 feet-8 inches long (**Exhibits 5 and 6**). The applicant states that the proposed wall and fence are necessary due to the change in elevation, to buttress the grading for leveling the field, and to keep balls from rolling into the Oceanfront boardwalk.

The wall/fence will be located seaward of the existing Oceanfront boardwalk, a popular paved public accessway which runs the length of the Balboa Peninsula and the Beach, extending approximately 3 miles, and parallel to the shoreline in this area of the City of Newport Beach. Presently, 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 proposed concrete wall will be approximately 2 feet-10 inches above the grade of the public boardwalk and 8 inches above the finished grade of the field. The proposed post-and-cable fence, which will be located on top of the proposed wall and a portion the existing concrete "sand wall", will extend to a height of approximately 5 feet above the grade of the public boardwalk and 2 feet-2 inches above the finished grade of the field. Since the grade of the boardwalk is approximately 4 to 5 feet below the grade of the blacktop, which flanks the south edge of the grassy field and has an elevation ranging from 14 to 15 feet MSL, the effective height of the wall and the fence when viewed from the walkway will be approximately 0 to 1 foot above the grade of the blacktop and of the seaward edge of the grass field. Due to the low height of the wall and fence and the open design of the post and cable with cables spaced no closer than 4 inches apart, no significant adverse impact upon views of the ocean would occur.

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. Moreover, the Commission finds that the proposed wall/fence will not have any substantial direct impact upon vistas of the beach and ocean from the surrounding beach or public promenade. However, while the applicant proposes to install decorative tiles on the wall facing the walkway, the remainder of the proposed wall could be a prominent feature on the sand if not appropriately colored to blend with the surrounding sand. Albeit, the applicant is suggestive of replicating the color palette previously approved by the



Commission for the “sand wall” (CDP #5-99-289) on the west side of the field, which uses earth toned colors. In addition, the presence of a wall presents an opportunity for signage, such as advertising and graffiti, which would cause the wall to be a prominent adverse visual feature on the beach. In order to reduce visual impacts the Commission imposes **Special Conditions 2**. **Special Condition 2** requires the applicant to submit a color and texture plan showing that the wall will be colored with earth toned materials, that black and white colors will not be used, and that the color will be maintained throughout the life of the structure. The plans are to be reviewed and approved by the Executive Director and the permittee shall construct the wall in accordance with those plans. In order to reduce adverse visual impacts from signs and graffiti, **Special Condition 1** prohibits the presence of signs on the wall with the exception of signs necessary for the safety of the public. Under **Special Conditions 2**, if the wall were vandalized with graffiti, the permittee would be required to restore the wall to the plans approved by the Commission.

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 the 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 already been modified to no longer include a chain linked fence but, instead, include a post-and-cable fence design which will be rust resistant; therefore, the issues concerning the visual impact of the chain linked fence have been addressed.

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. 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 beach is currently approximately 400 feet wide in front of the proposed development on the landward edge of the grass field and the project site is currently 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, 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. Also, the applicant is not proposing to increase erosion hazards by extending development seaward of other existing appurtenant structures. 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 wall and fence is an appurtenant structure and does not represent a significant investment. Therefore, in the event the proposed wall and fence were subject to wave attack, erosion, sea level rise, or flooding, the wall could be removed to avoid the hazard. Therefore, since the wall is not a significant investment, protection, such as a shoreline protective device, would not be required to protect the



wall/fence in the event that the wall/fence were subject to wave attack, erosion, sea level rise, or flooding due to storms. Rather, removal of the wall/fence 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 wall/fence 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.

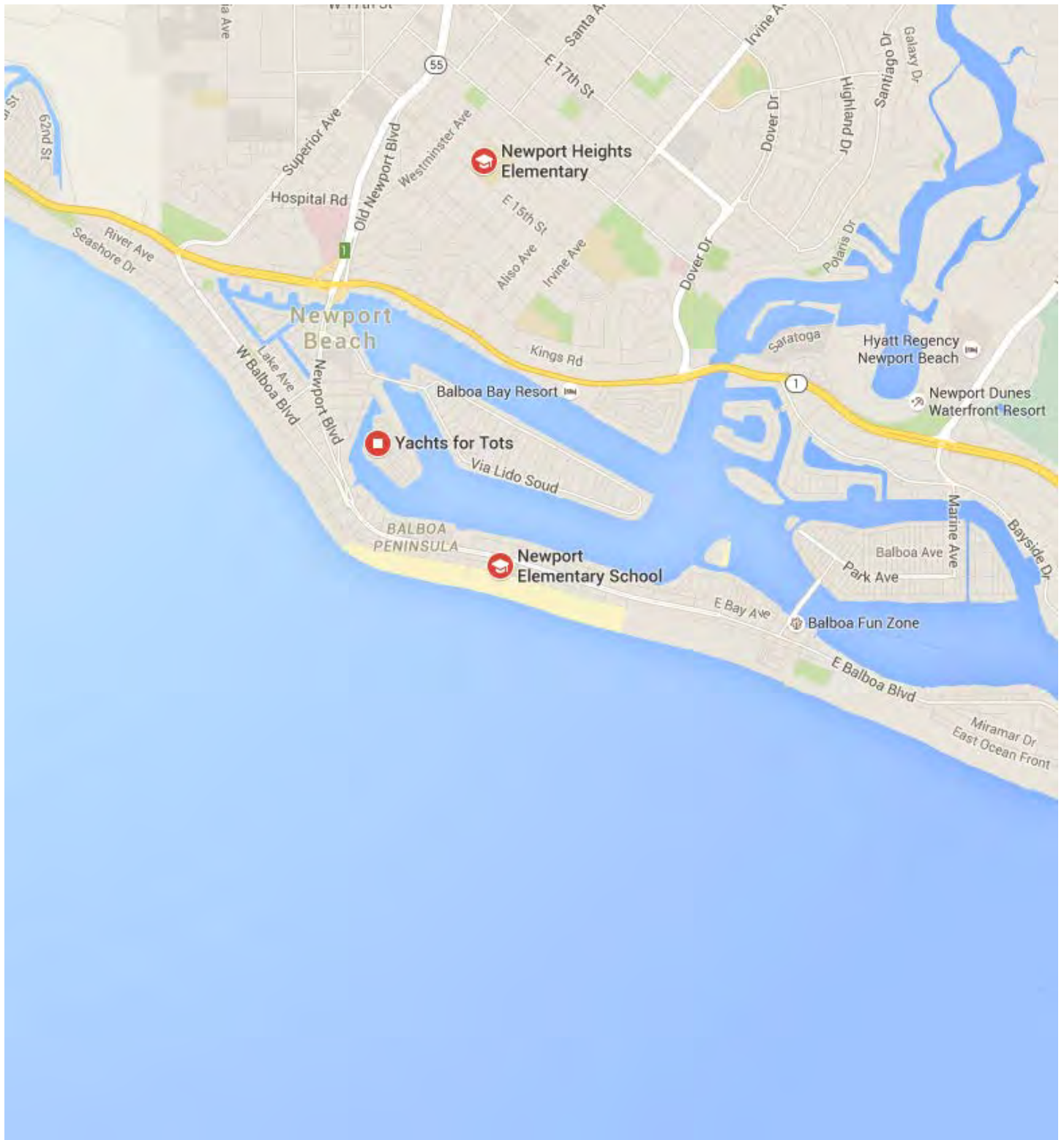
The project is located in an urbanized area. Development already exists on the subject site. The development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. **Special Conditions** imposed are intended to mitigate adverse impacts to coastal resources and public access. The **Special Conditions** address the following issues: 1) proper signage to ensure maximum public access; 2) requirements for a color and texture plan to mitigate for visual resources impacts; 3) revised final plans to ensure visual resource protection; 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

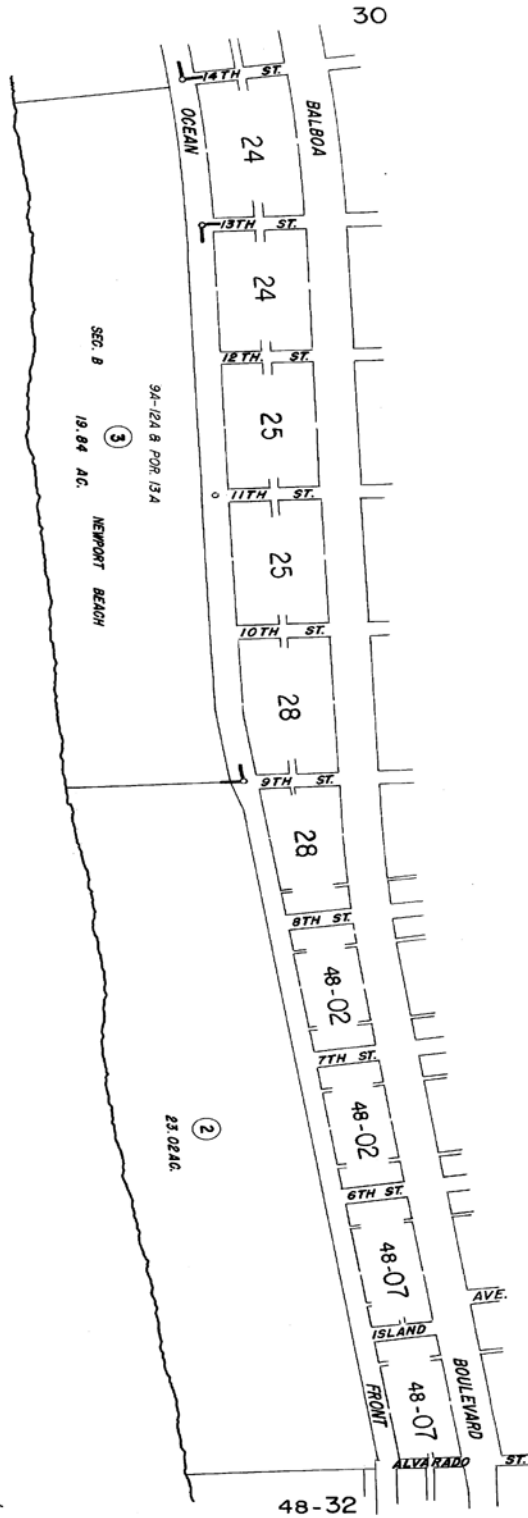
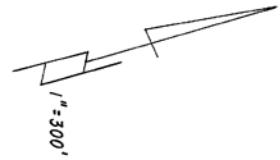
Plate 1



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POR. S. 1/2, SEC. 34, T6S. R. 10W.

47-29



MARCH 1949

SEC. B, NEWPORT BEACH

M.M. 4-27

NOTE - ASSESSOR'S BLOCK B

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

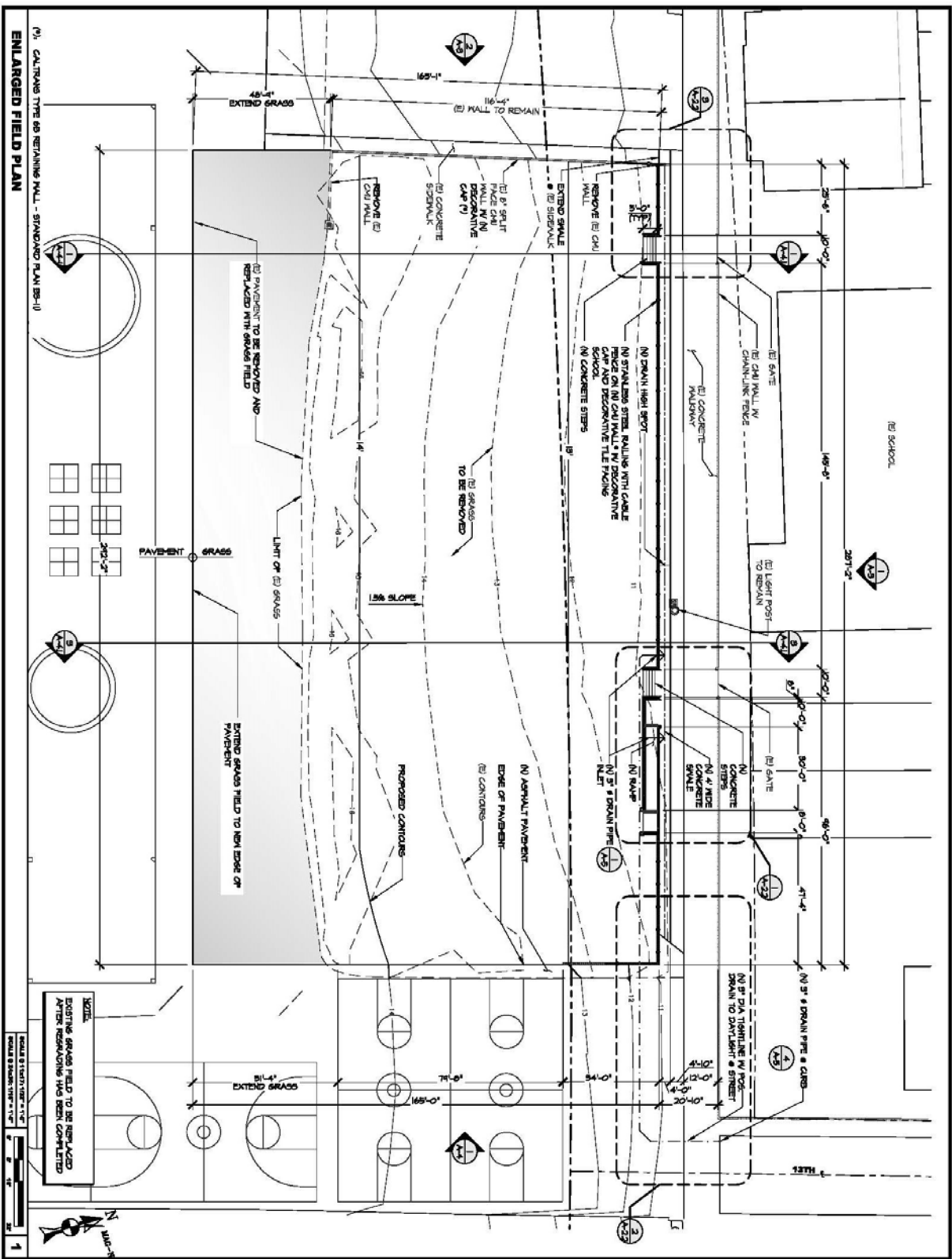
EXHIBIT # 4  
PAGE 1 OF 1





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MENARD BEACH, CA 94043  
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NOTE:  
EXISTING GRAVEL FIELD TO BE REPLACED  
AFTER RESURFACING HAS BEEN COMPLETED

SCALE 1"=10'-0" (SEE PLAN 1)  
SCALE 1"=20'-0" (SEE PLAN 2)

**COASTAL COMMISSION**

EXHIBIT # 5  
PAGE 2 OF 3

**SUBMITTALS**

REV.	DATE	DESCRIPTION	BY
1	10/23/12	QTY COMMENTS	JM
2	11/14/12	QTY COMMENTS	JM
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4	07/09/14	CLIENT COMMENTS	JM
5	08/28/14	QTY COMMENTS	JM
6	10/23/14	QTY COMMENTS	JM
7	04/23/15	QTY COMMENTS	JM
8	04/15/15	QTY COMMENTS	JM
9	04/18/15	QTY COMMENTS	JM

ISSUED FOR: COASTAL COMMISSION  
ISSUE DATE: 06/19/2015  
PROJECT No. FA  
DRAWN BY: SL CHECKED BY: EF



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CELL



# COASTAL COMMISSION

EXHIBIT # 5  
PAGE 3 OF 3

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2	11/14/12	CITY COMMENTS	JM
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5	09/29/14	CITY COMMENTS	JM
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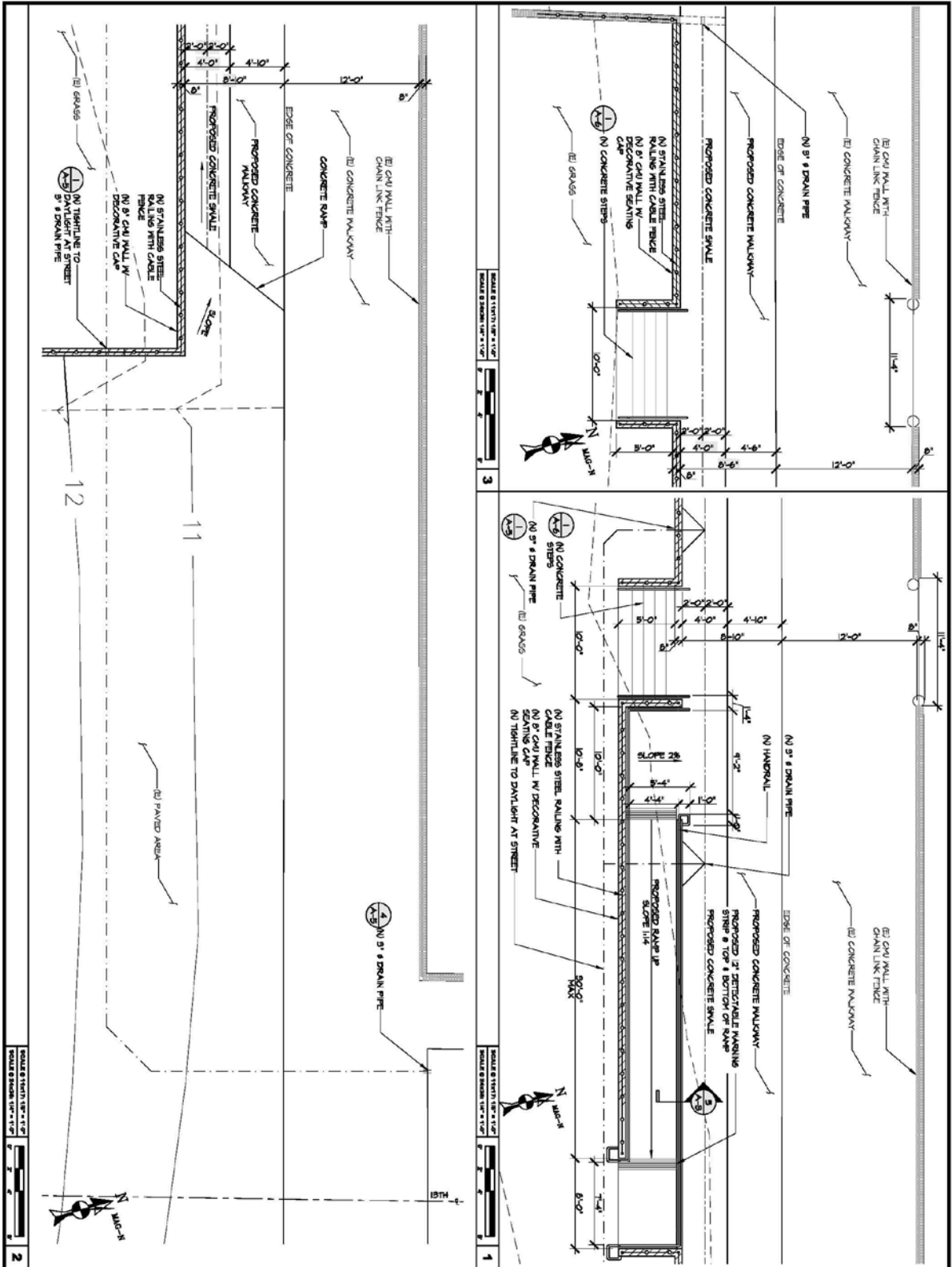
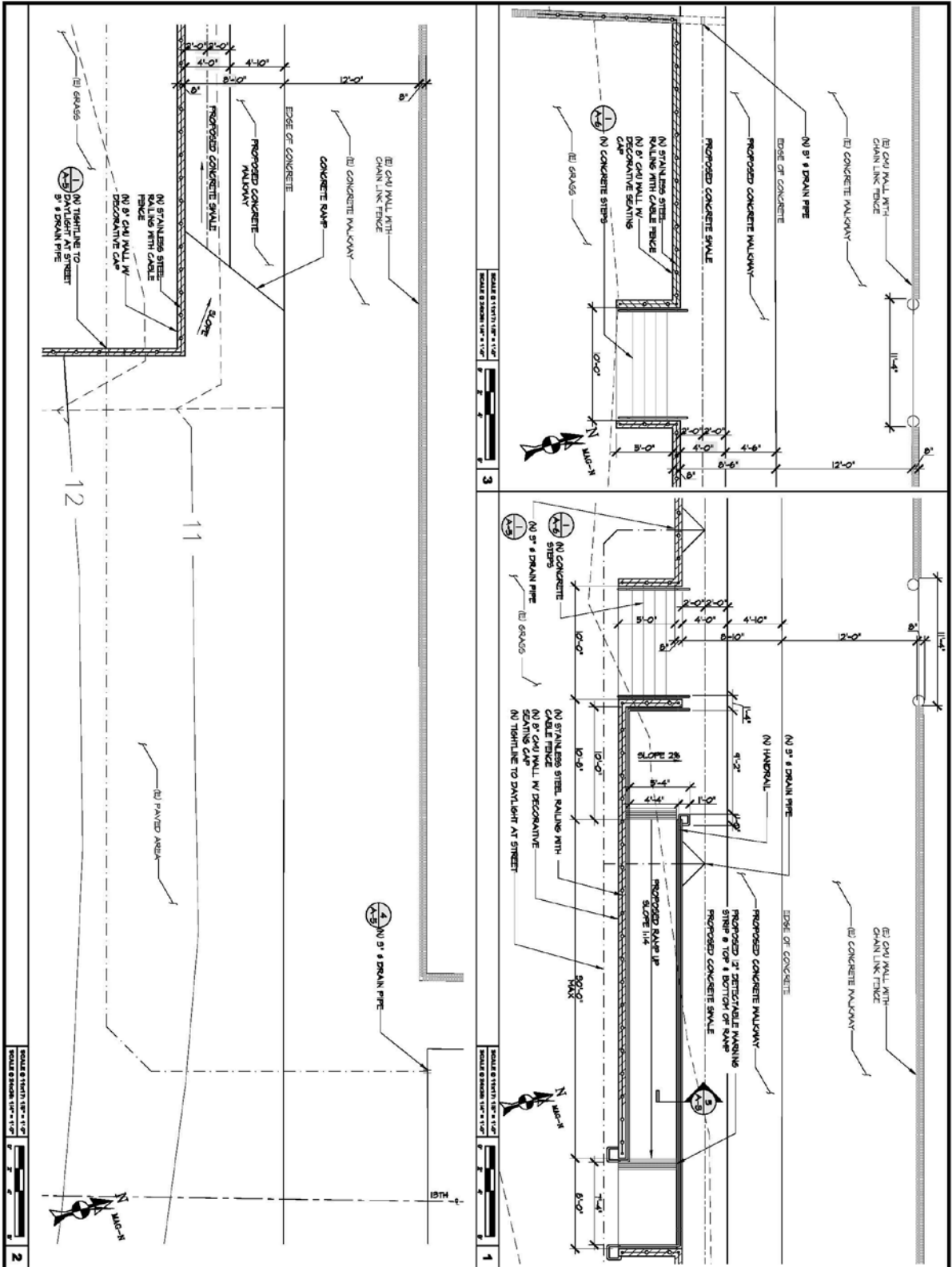
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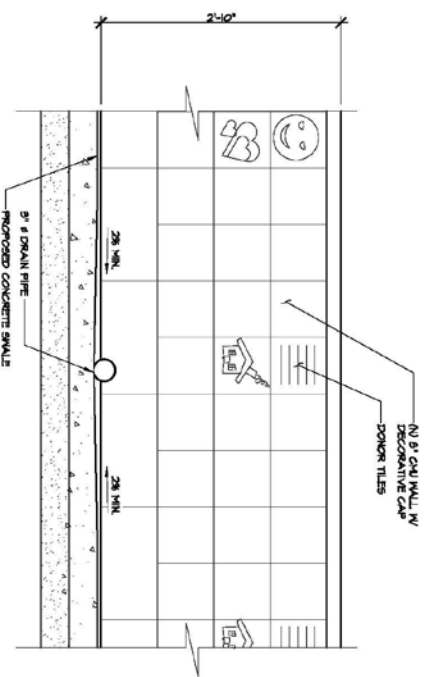
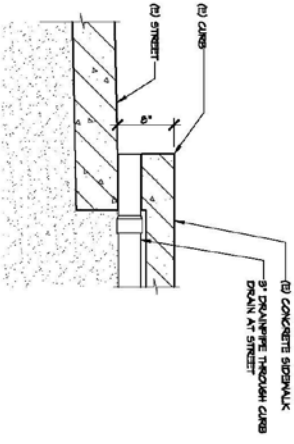
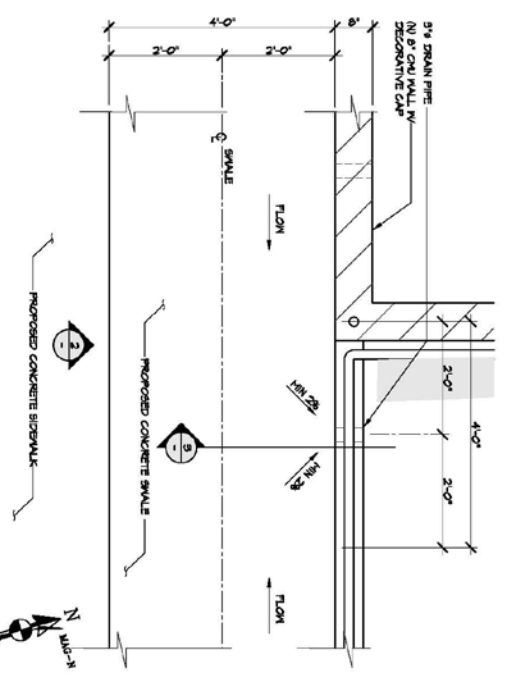
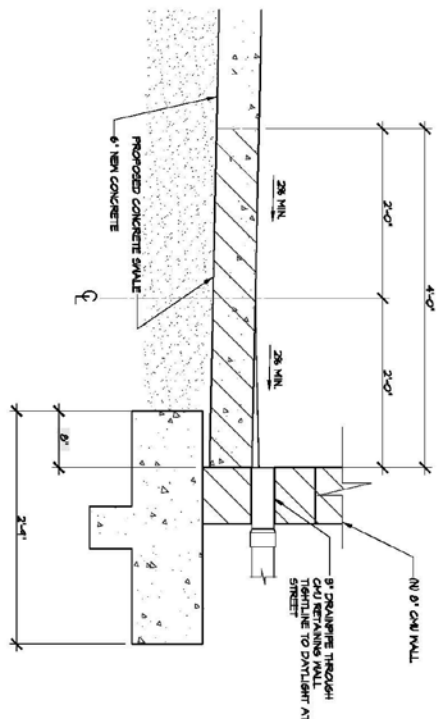


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04/15/15







**DRAIN DETAIL @ CMU WALL**

**DRAIN PLAN @ CMU WALL**

**DRAIN DETAIL @ CURB**

**DRAIN ELEVATION @ CMU WALL**

REV	DATE	DESCRIPTION	BY
1	10/23/12	CITY COMMENTS	JM
2	11/14/12	CITY COMMENTS	JM
3	11/16/12	CITY COMMENTS	JM
4	07/08/14	CITY COMMENTS	JM
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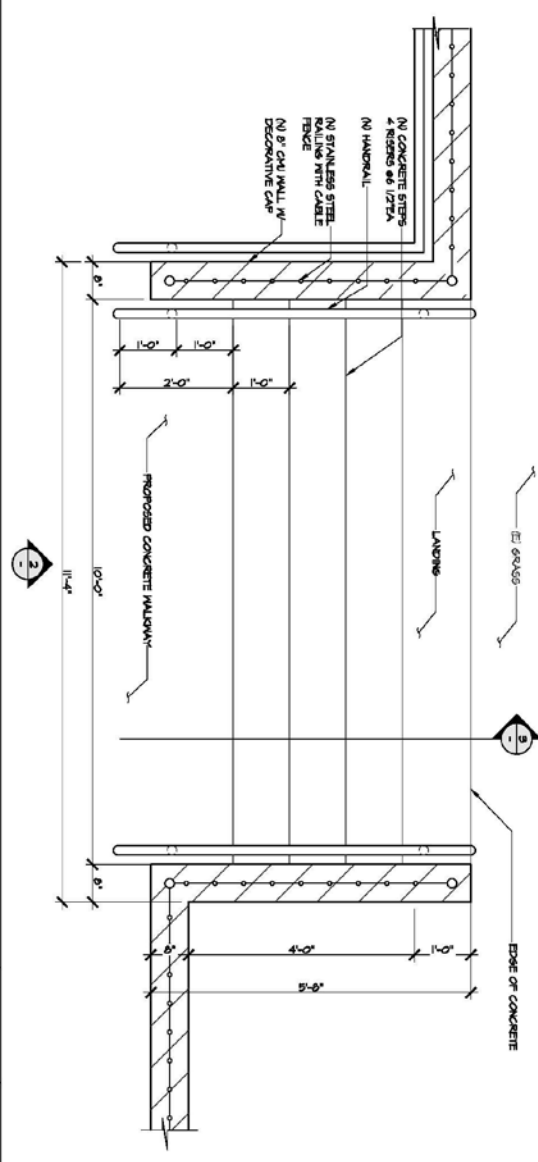


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 3401 W. 10th Ave., Suite 202  
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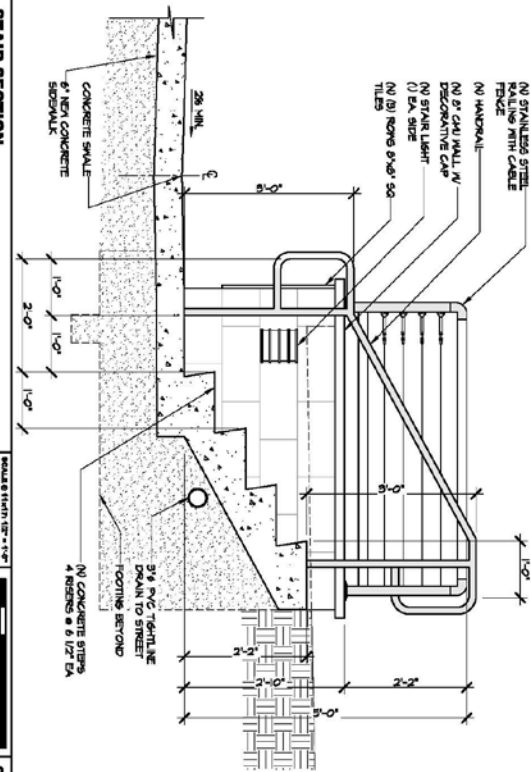
**COASTAL COMMISSION**

EXHIBIT # 6  
 PAGE 1 OF 4

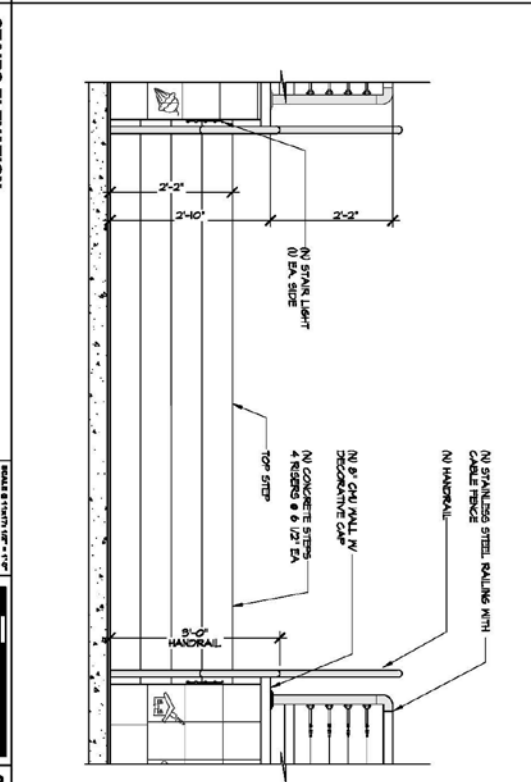




STAIR PLAN



STAIR SECTION



STAIRS ELEVATION

SCALE: 1/8" = 1'-0"  
SCALE: 3/32" = 1'-0"

SCALE: 1/8" = 1'-0"  
SCALE: 3/32" = 1'-0"

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SCALE



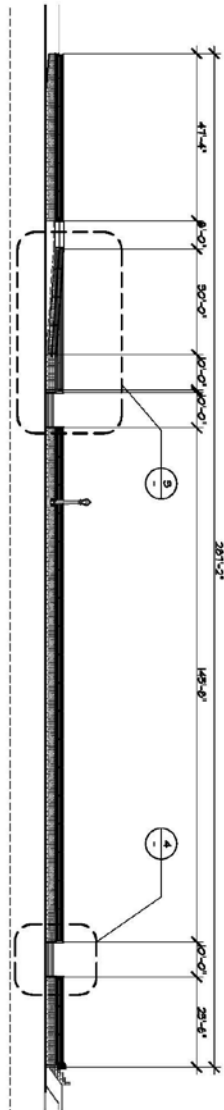
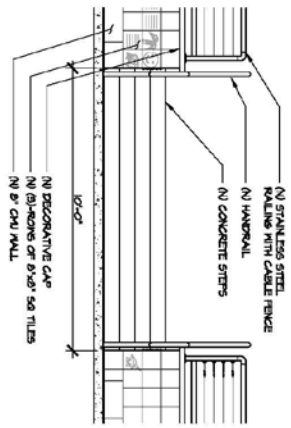
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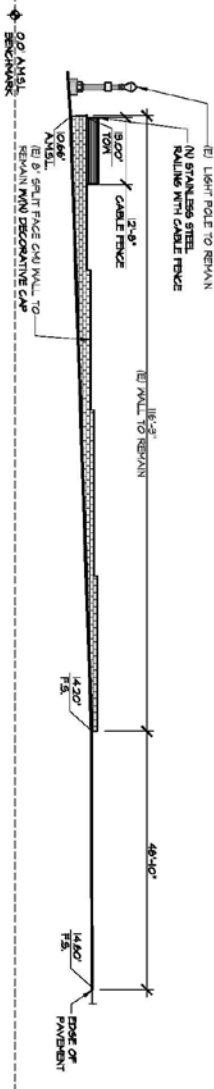
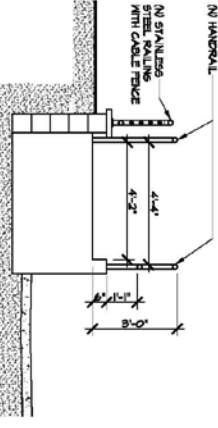


ENLARGED NORTHEAST ELEVATION @ STEPS

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NORTHEAST ELEVATION

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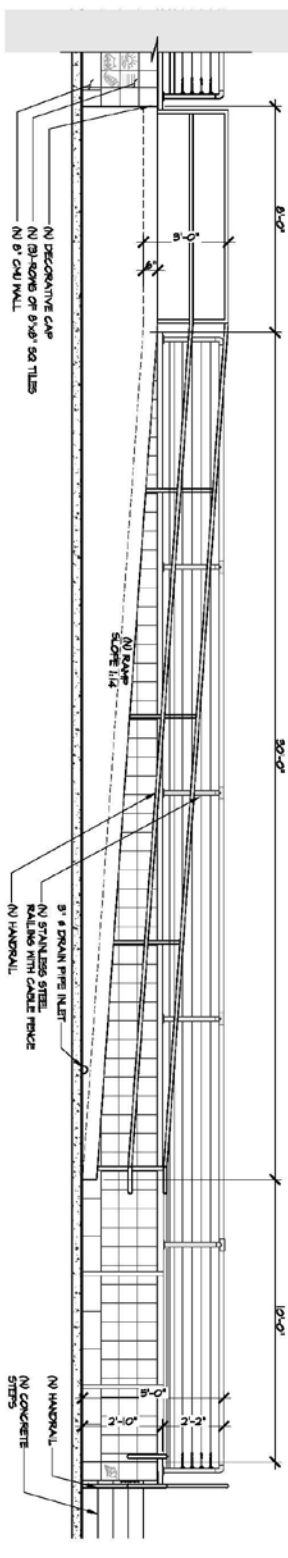


RAMP SECTION

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NORTH WEST ELEVATION

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ENLARGED NORTHEAST ELEVATION @ CONCRETE STEPS/ RAMP

SCALE: 8\"/>

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REV	DATE	DESCRIPTION
1	10/23/12	CITY COMMENTS
2	11/14/12	CITY COMMENTS
3	11/16/12	CITY COMMENTS
4	07/08/14	CITY COMMENTS
5	09/29/14	CITY COMMENTS
6	10/23/14	CITY COMMENTS
7	04/23/15	CITY COMMENTS









**Central Newport Beach Community Association**

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[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

**COASTAL COMMISSION**

EXHIBIT # 8  
PAGE 1 OF 1