

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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**W7f**

Staff: M. Alvarado-LB
Date: 05/19/2016

ADMINISTRATIVE PERMIT

Application No. 5-16-0250

Applicants: City of Seal Beach

Project Description Request for an after-the-fact approval for the construction of a 34 - 50 in. high concrete block wall that encloses an approximately 3,550 sq. ft. sandy area with two entryways for a public children's playground on the public beach. The proposed project includes the removal of playground equipment, and the installation of modern playground equipment including one 12 ft. tall play structure, one 7 ft. swing set, two small climbing apparatuses, two 11 ft. high shade canopies, and six benches. ADA compliant accessibility to the play area will be provided through the installation of a rubber play surface area.

Project Location: Southerly side of Seal Beach Pier, Seal Beach (Orange County)
(APN: 199-105-02; 199-103-01)

EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

June 8, 2016 9:00 a.m.
County of Santa Barbara
Board of Supervisor's Chambers
105 E. Anapamu Street
Santa Barbara, CA 93101

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

JACK AINSWORTH
Acting Executive Director

By: Marlene Alvarado
Title: Coastal Program Analyst

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 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 term or 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.

SPECIAL CONDITIONS: See pages six thru seven.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development, which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

A. PROJECT DESCRIPTION & LOCATION

Request for an after-the-fact approval for the construction of a 34 - 50 in. high concrete block wall that encloses an approximately 3,550 sq. ft. sandy area with two entryways for a public children's playground on the public beach (**Exhibit 2**). The proposed project includes the removal of and the installation of playground equipment, which will include the installation of one 12 ft. tall play structure, one 7 ft. swing set, two small climbing seals, two 11 ft. high shade canopies, and six benches (**Exhibit 2**). ADA compliant accessibility to the play area will be provided through the installation of a rubber play surface area.

The subject site is located on two beach parcels within the Seal Beach State Beach between the first public road and the sea (**Exhibit 1**). An approximately 400-foot wide sandy beach occurs seaward of the project site, which is situated on the back beach area. The project site will be bounded by the sandy beach to the northwest (up coast) and southwest (seaward), the Seal Beach Municipal Pier to the northwest (up coast), and the beach parking lot to the northeast (landward) and southeast (downcoast), which is adjacent to and seaward of Eisenhower Park ("Park") (**Exhibit 1**). The project site does not extend further seaward than the parking lot. The property is owned by the State Land's Commission and is leased to the City of Seal Beach; the City maintains and operates the beach.

The proposed wall will not completely enclose the proposed public children's play area as it will have two access points. The entryways will be gated with a 42-inch gate to address concerns regarding children's safety due to the site's proximity to a parking lot. For general access to the beach, a person can easily traverse the abutting parking lot. In addition, a person can directly access the beach and the ocean water from the public street and into the area located between the project site and the Pier.

In addition, the proposed improvements are in an area historically used for children playground equipment and the wall and replacement equipment will not adversely impact any public recreational area.

Scenic resources include the coastline, beach, and the Seal Beach Pier (“Pier”). The project site is located on the beach, and the area provides beachgoers, pedestrians, and bicyclists views of scenic resources, which includes the coastline, beach, and the Seal Beach Pier. From inland public areas, such as the Park, the Pier, and the public right-of-way along Ocean Avenue, the coastline and the ocean horizon are visible.

The proposed playground equipment could impact public ocean views. As seen from Ocean Avenue and the Park, however, views of the ocean are partially obstructed by existing trees and vegetation. In addition, since the proposed project site is located at a lower elevation compared to the street, to the Park, and to the Pier, view obstruction of the beach and ocean due to the proposed project will be minimal.

Given that the applicant has chosen to implement the project on beach parcels despite risks from liquefaction, 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 1 and 2**. The City has stated that if threatened, the playground equipment and the wall can be removed to avoid hazards. Therefore, protection, such as a shoreline protective device, would not be required to protect the proposed development in the event that the project site were subject to wave attack, erosion, sea level rise, or flooding due to storms. The appurtenant and removable nature of the structures minimizes any hazard associated with the presence of the playground equipment and the wall in an area where wave attack, erosion, or flooding could occur.

Any future improvements to the public children’s play area authorized by this Coastal Development Permit No. 5-16-0250, including but not limited to repair and maintenance identified as requiring a permit, will require an amendment to Permit No. 5-16-0250 from the Commission as imposed by **Special Condition 3** to ensure that future development will not have an adverse impact on coastal public access, recreation, and visual resources.

B. PUBLIC ACCESS

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

C. RECREATION

The proposed development, as conditioned, does not interfere with public recreational use of coastal resources. The proposed development, as conditioned, protects coastal areas suited for recreational activities. Therefore, the Commission finds that the proposed development, as conditioned, is in conformity with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

D. 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 best management practices (BMPs) to minimize the effect of construction and post-construction activities on the marine environment. These BMPs include, but are not limited to, the appropriate management of equipment and construction materials and for the use of post-construction best

management practices to minimize the project's adverse impact on coastal waters. Therefore, the proposed development, as conditioned, conforms with 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.

E. DEVELOPMENT

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The project provides adequate parking based on the Commission's typically applied standards. Therefore, as conditioned, the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

F. LOCAL COASTAL PROGRAM

Section 30604 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 permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with the Chapter 3 policies of the Coastal Act.

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.

The proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

This permit is granted subject to the following special conditions:

SPECIAL CONDITIONS:

- 1. Assumption of Risk, Waiver of Liability and Indemnity.** 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.
- 2. No Future Shoreline Protective Device.**

 - A. By acceptance of this permit, the applicant(s) agrees, on behalf of itself 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. 5-16-0250 including the concrete wall and playground equipment 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 itself and all successors and assigns that the landowners shall remove the development authorized by this permit, including the concrete wall and playground equipment 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 applicant(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. In addition, in the event that portions of the development are destroyed on the beach before they are removed, the applicant 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.
- 3. Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-16-0250. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use land, shall require an

amendment to Permit No. 5-16-0250 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing

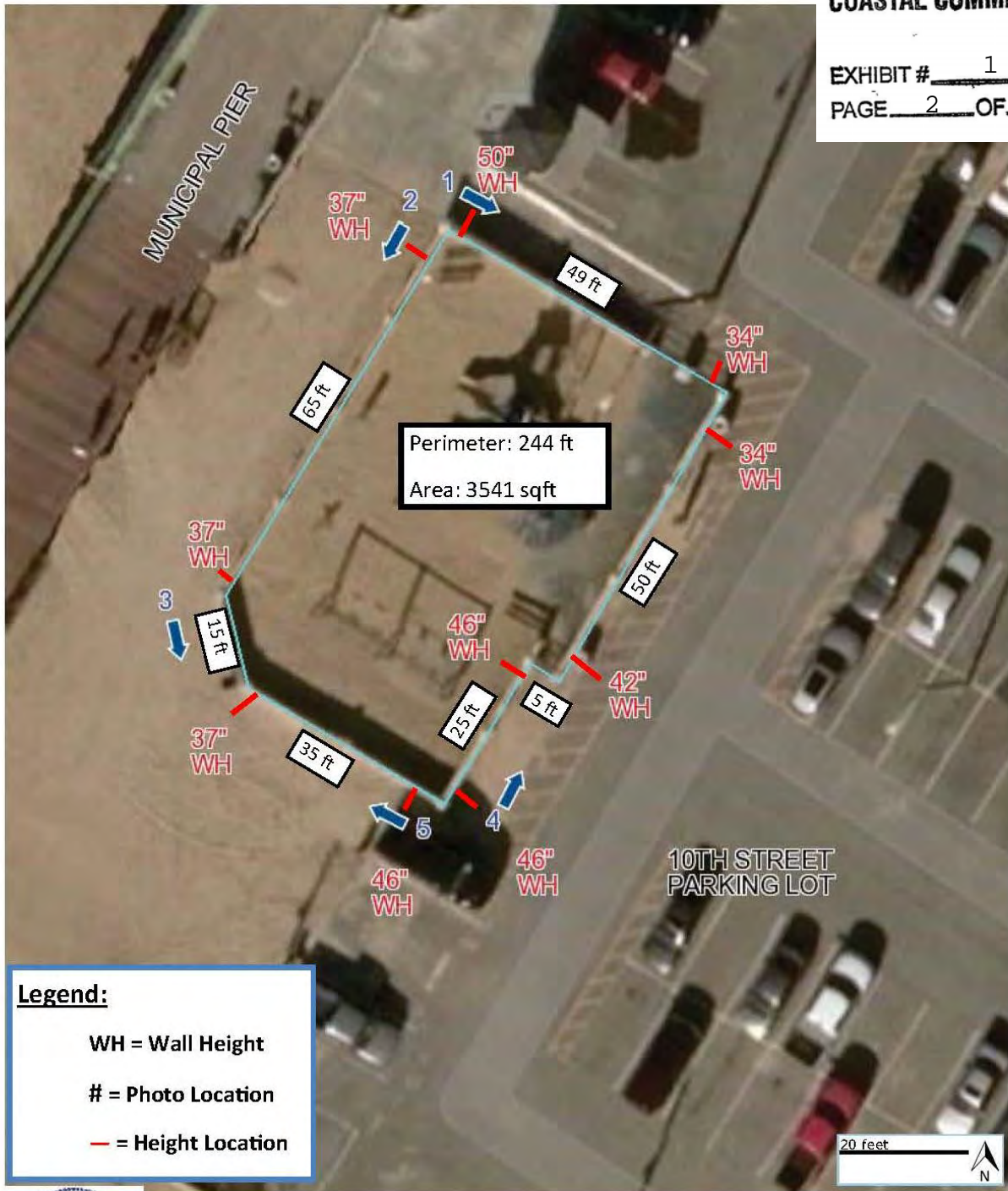


COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 2



Project Site



Legend:

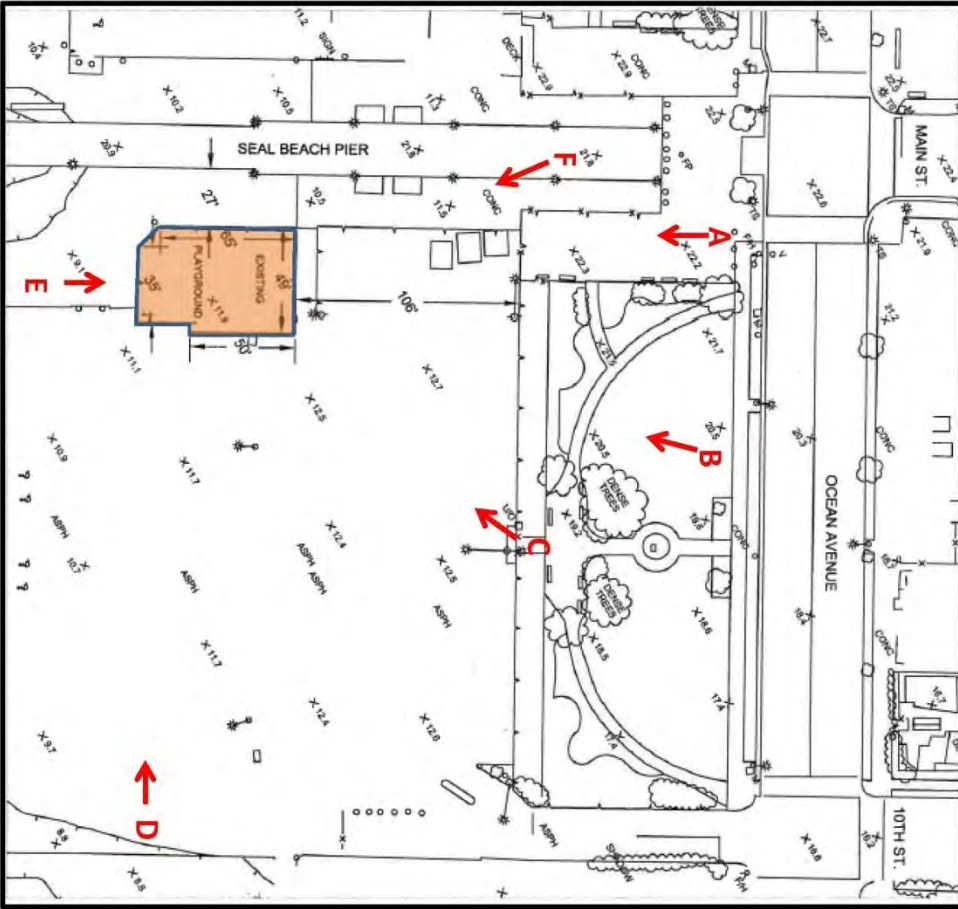
- WH = Wall Height
- # = Photo Location
- = Height Location



TOPOGRAPHIC PLAN
EISENHOWER PARK

VIEW COMPARISONS: TOPOGRAPHY AND PHOTOS

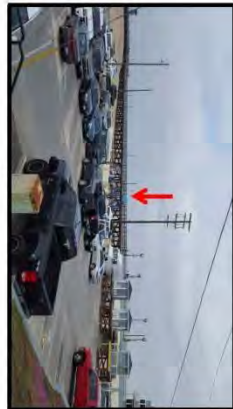
The Playground enclosure is at a lower elevation than Ocean Avenue, the nearest public street. As shown in the photos below, visibility will not be affected by the replacement of the rusted playground equipment and ADA compliant improvements within the play area.



View: A



View: B



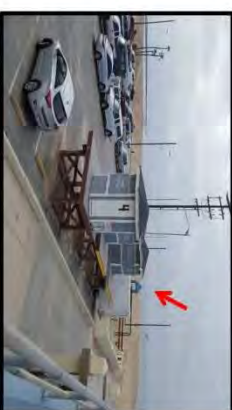
View: C



View: D



View: E



View: F

