

CALIFORNIA COASTAL COMMISSION

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**W7a**

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180th Day:	08/07/2017
Staff:	S. Vaughn-LB
Staff Report:	02/16/2017
Hearing Date:	03/08/2017

STAFF REPORT: CONSENT CALENDAR

Application No.:	5-16-0348
Applicant:	City of Seal Beach
Agent:	Jim Basham, Community Development & Interim Public Works Director; Tin Kelsey, Recreation Manager; and Crystal Landavazo, Senior Planner
Location:	Seaward of the public walkway (Seal Way) on the sandy beach in between 10 th Street and Electric Avenue, City of Seal Beach, Orange County
Project Description:	Request to authorize a public beach picnic table sponsoring program. A maximum of 14 public picnic tables will be placed on the sand at the street ends of each street in between 10 th Street and Electric Avenue with associated signage. There will be a maximum of two tables per street end.
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The City of Seal Beach is requesting to establish a public picnic table sponsorship program. Under this program, residents will be able to pay for the installation of public picnic tables on the beach sand seaward of Seal Way public boardwalk. A maximum of two tables per street end will be allowed for a maximum of 14 total tables. Residents will be able to sponsor the tables on a first come first served basis. The picnic tables will not be eligible for reservations and will be available for use by the general public. The City will also install informational signs indicating that the picnic tables are for public use.

Staff is recommending **approval** of the proposed coastal development permit with **five (5)** special conditions. The special conditions would: **1) ensure public access to the picnic tables; 2) require final signage plans; 3) waive the right to future shoreline protection for the picnic tables; 4) require the City to assume the risks associated with the proposed development and provide a waiver liability and indemnity toward the Commission; and 5) submit a final maintenance plan.**

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EXHIBITS

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Site Plan
- Exhibit 3 – Sign Plan

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. **Public Access to Picnic Tables.** The permittee shall ensure that for the life of the approved development all installed picnic tables along Seal Way that are the subject of this permit are available to the general public with no reservations at no cost and on a first-come, first-served basis within the City of Seal Beach.
2. **Submittal of Final Signage Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a revised final sign program for the proposed picnic tables that is in substantial conformance with the applicant's proposal, including, but not limited to, the preliminary plan dated September 16, 2016, but which shall be modified as follows:

The plan shall demonstrate the proposed location for the signage and shall not result in the direct placement of new signage poles in sandy beach areas or other sensitive resource areas.

- A. The plan shall include at a minimum, the following components: sign material, dimensions (minimum 8" x 11"), appearance, and clearly legible wording.
- B. The plan shall demonstrate that poles and signs are placed and oriented to minimize impacts on public views of the water. No new poles shall be placed on the beach or in areas that will disrupt public views to the beach or ocean.
- C. The plan shall include signage at the Seal Beach Pier public parking lot and at any pedestrian access points seaward of East Seal Way between 10th Street and Electric Avenue. In addition, the plan shall include information posted on the City of Seal Beach website advertising the availability and location of picnic tables. Signs and the website information submitted pursuant to this plan shall comply with the requirements of Special Condition No. 1 (Public Access to the Picnic Tables) of this coastal development permit.
- D. No plaques donning the names of a sponsor shall be placed on the tables. The only information (plaque, sign, or otherwise) that shall be affixed to any table is that which informs the public that the tables are for the general public to use.

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 legally required.

3. **No Future Shoreline Protection Device.** By acceptance of this permit, the applicant 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. 5-16-0348 including, but not limited to, any of the picnic tables and signs, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, sea level rise, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of

itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

4. **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, fire 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.
5. **Submittal of Final Maintenance Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a final maintenance plan, for all of the picnic tables that are the subject of this permit, that is in substantial conformance with the preliminary plans dated April 18, 2016 and September 16, 2016. The plan shall identify, at a minimum, the City department responsible for inspecting, cleaning and replacing picnic tables, and the frequency of inspections and cleaning.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION & DESCRIPTION

The proposed project affects an approximately 10 foot wide by 2,500 foot long stretch (approximately 0.5 miles) of the sandy beach seaward of Seal Way boardwalk at the street ends including and in between 10th Street and Electric Avenue in the City of Seal Beach, Orange County (**Exhibits 1 & 2**). The subject sandy areas are designated as BEA (Beach) by the City of Seal Beach. The public boardwalk, Seal Way, is lined with residences on the landward side and a short dividing wall on the seaward side that separates the boardwalk from the sandy beach.

The City of Seal Beach proposes a public picnic table sponsor program. The program will allow Seal Beach residents to pay for picnic tables to be placed on the beach sand seaward of the Seal Way public boardwalk at the street ends in between 10th Street and Electric Avenue (**Exhibits 1 & 2**). The program will allow a maximum of two tables to be placed on the sand seaward of each street end (**Exhibit 2**) with a maximum of 14 total picnic tables. The picnic tables will be approximately six – eight feet long and have benches on either side. Residents will be allowed to sponsor, or pay for, a table on a first come, first served basis. Once a street end has two tables placed on the sand, no more tables will be allowed to be installed in that location. The picnic tables will be placed on the dry sand, close to the boardwalk and will not be permanently attached. The tables will be removed if they are found to be damaged or unsafe. If a table is removed, another table may be installed under the same program. The City also proposes to install signs associated with the picnic tables (**Exhibit 3**) that inform the public that the picnic tables are available for public use. The signs will have the City's logo on them and will be a minimum of 8" x 11" and will be placed on or near the picnic tables subject to **Special Condition 2**. Consistent with **Special**

Condition 1, the picnic tables will not be available for reservations but will be available to the general public at no cost on a first come, first served basis. As a condition of approval the City must waive any rights to future shoreline protective devices for the picnic tables as described in **Special Condition 3**. **Special Condition 4** requires the City to assume all risks associated with the development and to hold the Commission harmless of any future actions. **Special Condition 5** requires the City to submit a maintenance plan that identifies the City department responsible for maintaining the picnic tables.

Historically, residents living along the Seal Way boardwalk have placed picnic tables on the dry sand seaward of the boardwalk during the summer months. Overtime, the tables were left out overnight, which is not allowed under the City's Municipal Code. As such, the City notified residents to remove all personal items, including the picnic tables, from the beach at the end of each day. In response to the City's notification, the community requested that the City place public picnic tables on the beach for the community and visitors to the area to use. The City responded with the proposed public beach picnic table program. The program gives an opportunity for residents to apply to sponsor, or pay for, the installation of the picnic tables on the dry sand in the designated areas (**Exhibits 1 & 2**).

The proposed project has received the approval of the City of Seal Beach on April 15, 2016 and has been determined to be categorically exempt from CEQA (Class 3, Section 15303 [new construction of small structures] & Section 15061(b)(3) [the so-called common sense exemption].) Only as conditioned is the project consistent with the Chapter 3 policies of the Coastal Act.

B. PUBLIC RECREATION

The proposed development, as conditioned, does not interfere with public recreational use of coastal resources. To the contrary, the proposed development, as conditioned, protects coastal areas suited for recreational activities by providing a no-cost equal opportunity (first come first serve) amenity for residents and the public to enjoy the coastal resource at Seal Beach. 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.

C. PUBLIC ACCESS

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Again, to the contrary, the proposed development, as conditioned, facilitates public access to the coast and to nearby recreational facilities because the picnic sponsorship program will allow visitors to Seal Beach to rest or partake in any other number of activities (*e.g.*, have a picnic) which promotes the ability to use Seal Beach, a public beach and coastal resource. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. HAZARDS

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, has been designed to assure structural integrity, will avoid cumulative adverse impacts on public access, and prohibits shoreline protection in response to coastal hazards. Therefore, the Commission finds that the development, as

conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act.

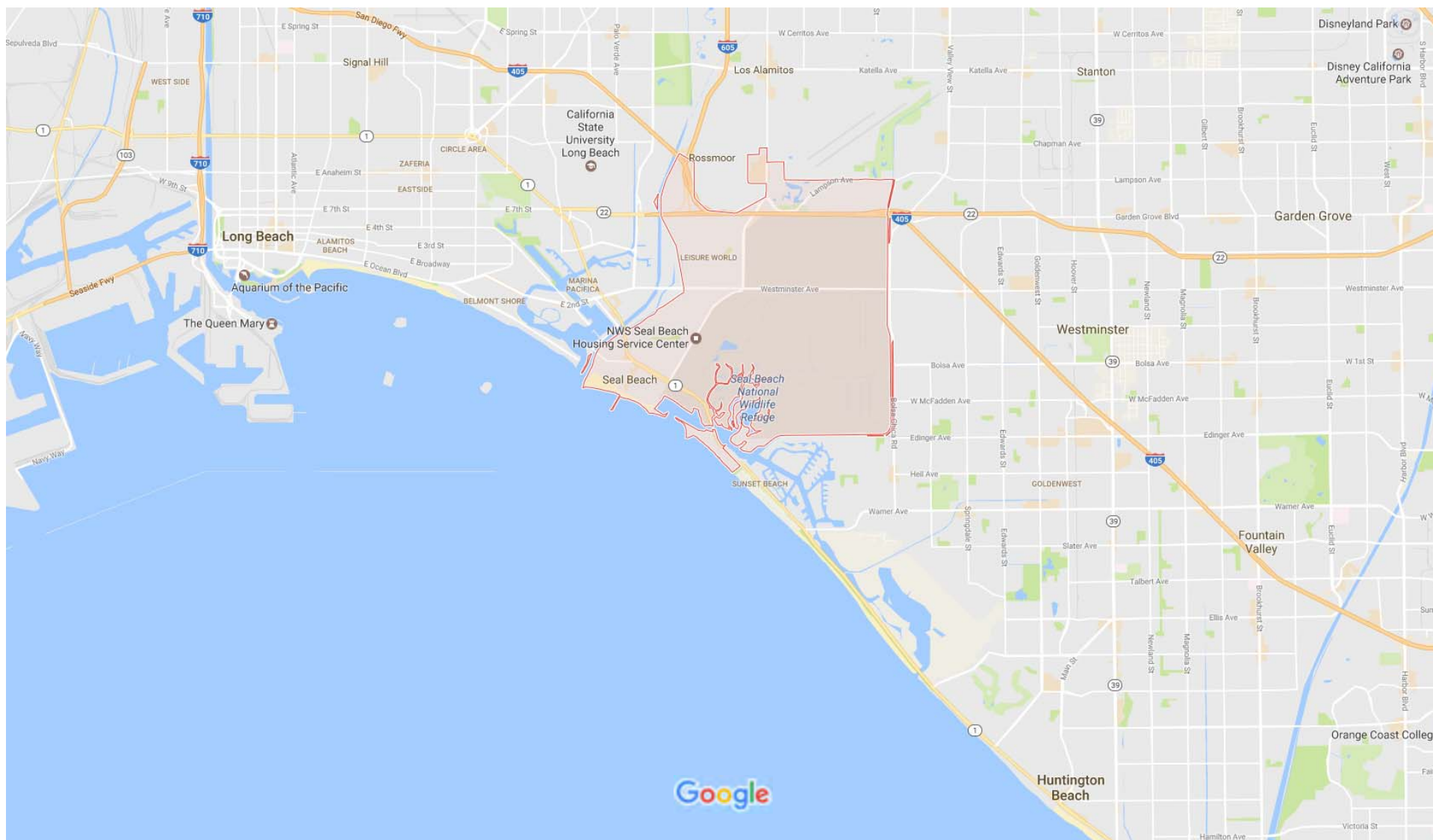
E. LOCAL COASTAL PROGRAM

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 City of Seal Beach has neither a certified LCP nor a certified Land Use Plan. As conditioned, the proposed development will be consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

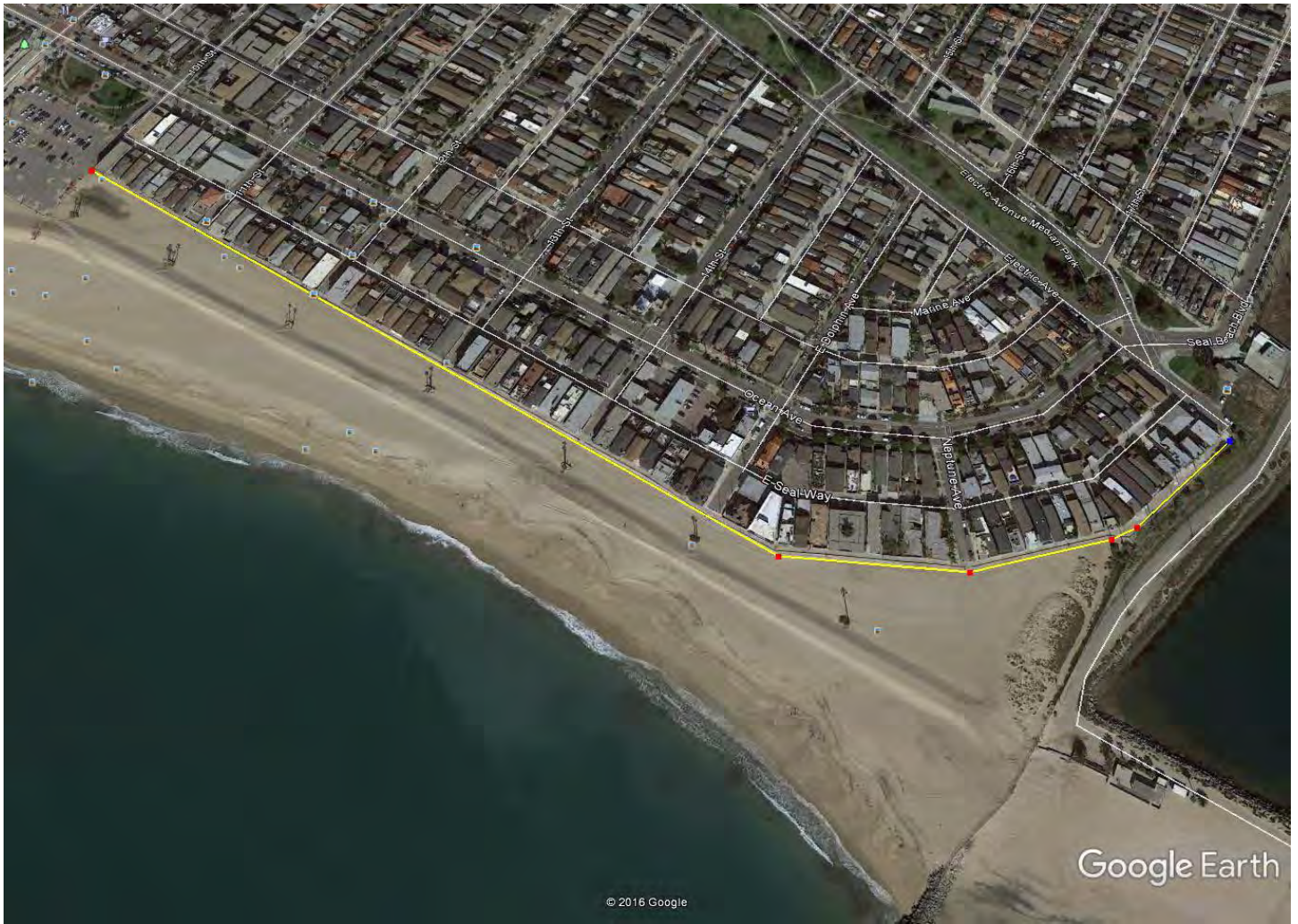
As previously discussed, the City determined the proposed project to be categorically exempt from CEQA (Class 3, Section 15303 [new construction of small structures] & Section 15061(b)(3) [the so-called common sense exemption].) As conditioned, there are no feasible alternatives or additional feasible 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.

Google Maps Seal Beach



Map data ©2017 Google 1 mi

Coastal Commission
5-16-0348
Exhibit 1
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Google Earth

feet
meters



City of Seal Beach Beach Picnic Tables Application



City of Seal Beach
211 Eighth Street
Seal Beach, CA 90740
(562) 431-2527 x:1341

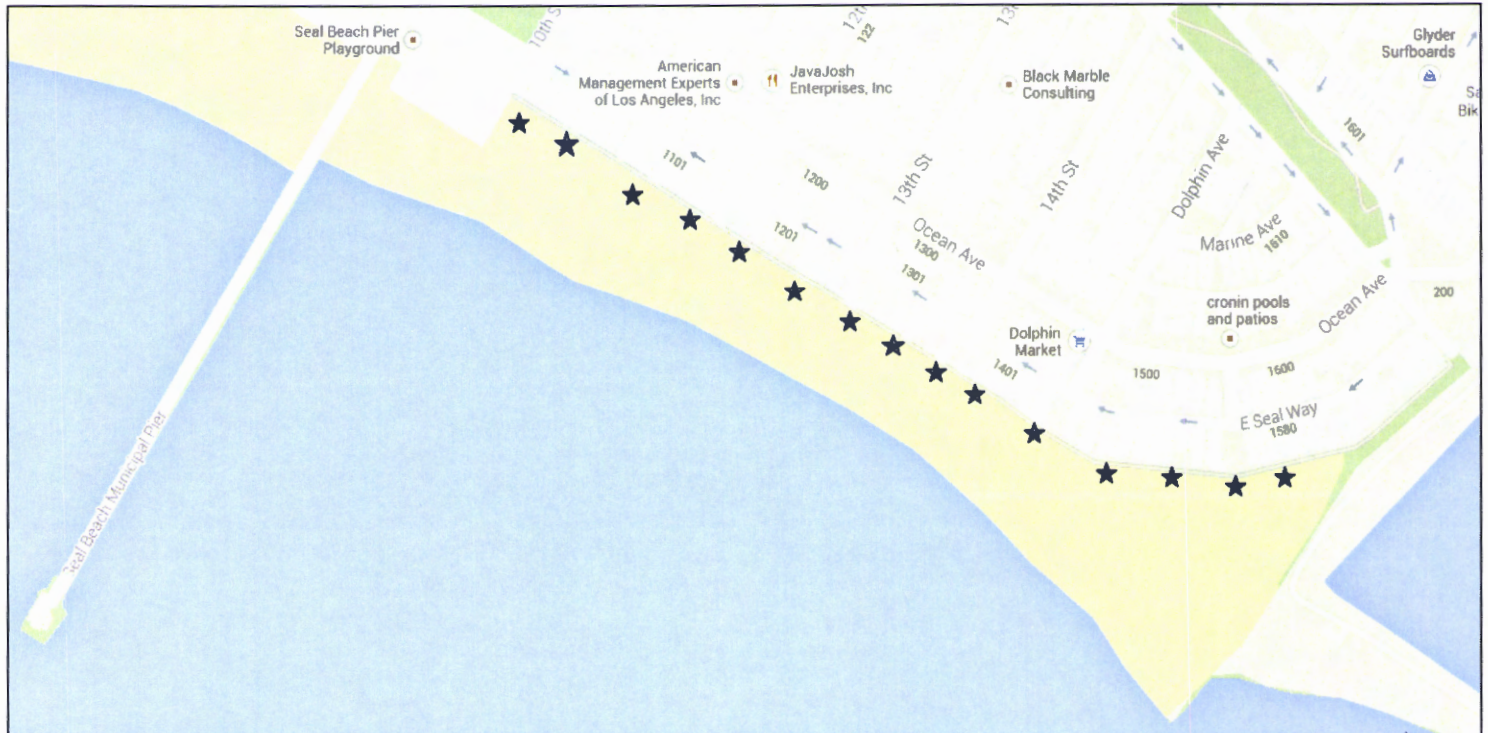
Application & Permit for Beach Picnic Table. Please Type or Print.

Contact Name:	Organization:
Address:	Home: ()
City:	Cell: ()
State:	Zip:
E-mail:	

Location Information

Requested Location (Closest Street): _____

Please mark on the map the preferred location for the placement of the bench



Conditions

This is NOT A PERMIT but rather a beach picnic table application. The City will review your application and a table will be issued if all conditions are met and if there is space available. Beach picnic tables will be acquired through first come first serve of space to eligible applicants. Applicants must also show proof of residency (water/electric bill, rental agreement, or another form deemed valid by the City).

Please review the next page and initial each condition.

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PROJECT 0348
South Coast Region

APR 18 2013

PROJECT AREA
10 FT. WIDE AREA OF BEACH ALONG SEAL WAY BETWEEN 10TH STREET & ELECTRIC AVENUE SECTION

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Exhibit 2
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BEACH ADJACENT TO SEAL WAY BOARDWALK



PROPOSED PICNIC TABLE STYLE



All Picnic Tables are for Public Use



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Exhibit 3
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