

**CALIFORNIA COASTAL COMMISSION**

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# F6b

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## STAFF REPORT: CONSENT CALENDAR

**Application Number:** 5-16-1108

**Applicant:** City of Santa Monica

**Project Location:** Santa Monica State Beach, seaward of public parking Lot 8 North (810 Pacific Coast Highway), City of Santa Monica, Los Angeles County

**Project Description:** Construct a 12 ft. wide, 450 ft. long timber walkway on the beach connecting to the Marvin Braude bike trail that parallels the beach. The timber walkway extension will allow users with physical limitations easier access across the sand to be closer to the water.

**Staff Recommendation:** Approval with conditions.

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### SUMMARY OF STAFF RECOMMENDATION

Commission staff is recommending **APPROVAL** of the proposed walkway project to improve public access to the Santa Monica State Beach. The project site is on the beach, immediately adjacent to a public parking lot, public access points, volleyball courts, and beach concessions. The project is consistent with past Commission approvals and is in an ideal location for improved public access. Commission staff recommends approval with conditions relating to beach grooming, construction responsibilities, assumption of risk, and no future shoreline protection devices.

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Appendix A - Substantive File Documents

### EXHIBITS

Exhibit No. 1 – Project Location

Exhibit No. 2 – Site Plan

Exhibit No. 3 – State Parks Approval letter

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission approve 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 permits included on the consent calendar. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

### Resolution:

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

## II. STANDARD CONDITIONS

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

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Beach Grooming.** By acceptance of this permit, the applicant, City of Santa Monica, acknowledges and agrees that with the extension of the beach walkway as approved by this permit, the use of beach grooming machinery shall be prohibited below the High Tide Line. With future sea level rise, if grooming machinery cannot perform the task without encroaching below High Tide Line, then the applicant shall modify the length of the walk. Such a modification shall be reported to the Executive Director and shall not occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.
2. **Construction Responsibilities, Debris Removal, Treated Wood Materials.**
  - A. Applicant shall not allow discharge of silt or debris into coastal waters as a result of this project. By acceptance of this permit, the applicant agrees that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs:
    - i. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
    - ii. Staging and storage of construction machinery and storage of debris shall not take place on the beach.
    - iii. Any and all debris resulting from construction activities shall be removed from the beach area on a daily basis and disposed of at an appropriate location.
    - iv. Machinery or construction materials are prohibited at all times in the subtidal or intertidal zones.
    - v. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during project staging, demolition and construction. BMPs shall include a pre-construction meeting to review procedural and BMP guidelines.
    - vi. The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
    - vii. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the beach or in the water, and that the project has not created any hazard to navigation.
  - B. Only Alkaline Copper Quaternary (ACQ) treated wood shall be used for the proposed project. Proper certification or documentation regarding the treatment for the wood must be provided by the manufacturer or the retailer and a copy shall be provided to Commission staff. If composite wood products are used, the applicant shall provide the above information.

All wood shall be inspected on site before use and any pieces found to have visible residues or bleeding of preservative should be rejected. If treated wood has a noticeable odor, then it

has not been properly processed or aged and the preservative may not be properly fixed. The wood will be rejected and not used in the proposed project.

Construction debris must be salvaged and disposed of properly. Cutting stations onsite shall be established with large tarps to capture debris. The cutting station should be kept well away from the water to minimize transport of sawdust by wind. Applications of field preservative treatments to cuts and bore holes, water repellants or other coatings, if not applied by the manufacturer at their facility, should take place at the cutting station before the wood is taken to the overwater area. These applications must be allowed to dry and/or cure before being transported near the water. Any debris which falls into the water should be promptly removed. Debris should be stored in a dry place until it is removed from the project site.

**3. Assumption of Risk, Waiver of Liability and Indemnity.**

**A.** By acceptance of this permit, the applicant, City of Santa Monica, acknowledges and agrees (i) that the site may be subject to hazards from waves, erosion, storm conditions, liquefaction, flooding and sea level rise; (ii) to assume the risks to the applicant, City of Santa Monica, 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; and (v) to include a provision in any subsequent lease of such property requiring the lessee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the terms of subsection A of this condition.

**B.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the City of Santa Monica, as 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.

**4. 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. 5-16-1108 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 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.

**B.** By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the applicant shall remove the development authorized by this Permit, due to destruction or damage resulting from waves, erosion, storm conditions, sea level rise, or other natural hazards in the future that leaves the walkway unusable or makes it hazardous to the public. In the event that portions of the development break off or separates,

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. Such removal shall require a coastal development permit.

## **IV. FINDINGS AND DECLARATIONS**

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

The City of Santa Monica proposes to construct one 12 ft. wide, 450 ft. long accessible walkway extension from the existing Marvin Braude public bike trail, seaward of Pacific Coast Highway (PCH), near the Montana Avenue cross street (see **Exhibit 1 & 2**). The proposed extension will extend the walkway 450 ft. closer to the water. The proposed walkway extension will be made from wood and will be anchored into the sand using stainless steel bolts. The walkway will include two 25 x 25 ft. public platforms for sitting or viewing, one at the 200 ft. center length and the other at the seaward terminus. The frame of the walkway will be Green pressure treated lumber, buried 12 in. deep into the sand. The surface of the walkway will be timber planks and stringers.

The proposed project is located on the public beach north of the Santa Monica Municipal Pier in the City of Santa Monica. The proposed walkway extension will be located adjacent to a public parking lot (Lot 8 North at 810 PCH), a public restroom, and near a public pedestrian access point directly from the west end of Montana Avenue pedestrian overpass (over PCH) to the beach (**Exhibits 1 & 2**). There are volleyball courts and beach concessions existing on the beach just north of the proposed project location. In addition, an existing portable lifeguard tower will be located downcoast and just seaward of the proposed walkway. Consistent with previously Commission-approved walkway extensions in Santa Monica State Beach, the proposed project will provide adequate spacing between the proposed walkway and the water to allow for beach grooming machinery to stay on dry sand. The proposed 450 ft. long walkway will end approximately 158 ft. from High Tide Line (HTL) and will allow for beach grooming machinery to stay on dry sand and not encroach beyond the HTL.

The purpose of the walkway is to improve accessibility to the water across the sandy beach for people using wheelchairs, or others that are less mobile, including the elderly and small children. The City has installed similar beach walkway extensions in the past on the north side of the pier in 2012 (CDP No. 5-12-090), and on the south side of the pier in 2013 (CDP No. 5-13-027), in 2014 (CDP No. 5-13-1290), and in 2015 (CDP No. 5-15-0085). The beach width increases north of the pier from 600 to over 900 ft. wide. Previous walkways approved south of the pier were shorter in length at 300 ft., but the wider beach in this location warrants a longer walkway at 450 ft. long to allow increased accessibility to the water.

One species of concern along the beaches of Santa Monica is the California grunion (*Leuresthes tenuis*), a small fish that spawns on the sandy beaches in the project vicinity immediately following high tides from March to August. Project activities within the intertidal zone may disturb adult grunion during the run period and/or may bury incubating grunion eggs. The City of Santa Monica routinely grooms the public beach with heavy machinery. Because of the location of the proposed walkway near the high tide line (HTL), there is the potential to impact the *Leuresthes tenuis* if grooming activity extends beyond the HTL. The construction of the walkway will terminate approximately 158 ft. above the HTL providing adequate room for the grooming machinery to stay on dry sand and not encroach beyond the HTL. Therefore, the location of the new walkway will not

adversely impact grunion habitat. **Special Condition No. 1** is necessary to ensure that the City is on notice that the extension of the walkways will not cause existing beach grooming machinery to extend below the HTL and with potential sea level rise the City may need to shorten the walkway to keep beach grooming vehicles above HTL. As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas.

The proposed construction activity will occur in a location where there is a potential for discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, or debris, in a location where it could be carried into coastal waters could impact water quality. The City is requiring that the contractors implement Best Management Practices (BMPs) during construction. To ensure that BMPs are incorporated to reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes **Special Condition 2** requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going BMPs following construction; and requires monitoring and maintenance of the system.

Construction activity on the beach for the installation of the walkway could affect the public's ability to gain access to, and/or make use of, the coast and nearby recreational facilities. However, according to the City the proposed construction will be completed either before the peak summer period or after Labor Day to minimize impacts to public access. During construction, public access along the existing Ocean Front Walk will continue up to the construction area where the extension will be added. Public access will then be diverted around the construction area where the public can continue to access the surrounding sandy beach area and water. As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities.

Development adjacent to the ocean is inherently hazardous. Since the proposed development is near the water in an area that is subject to wave uprush, the Commission is imposing its standard waiver of liability special condition (**Special Condition 3**) to ensure that the applicant is aware of the hazards and restrictions on the subject property, is aware that the project site is in an area that is potentially subject to wave action and flooding which could damage the proposed structures, and is aware that the Commission is not liable for such damage as a result of approving the permit for development. In addition, the condition insures that future lessees of the property will be informed of the risks, and the Commission's immunity from liability.

To further ensure that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes **Special Condition 4**, which would prohibit the applicant from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the high tide line; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. Special Condition 4, also establishes requirements related to response to future coastal hazards, including relocation and/or

removal of structures due to the threat of or actual damage or destruction to the premises resulting from waves, erosion, storm conditions, sea level rise, or other natural hazards in the future, and in the event that portions of the development fall to the beach before they are removed, requiring the applicant or successor(s) to 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.

**B. LAND, BIOLOGICAL, AND MARINE RESOURCES**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act. The proposed development will have no significant adverse impact on adjacent habitat, recreation areas, or parks. Therefore, the Commission finds that the project conforms with Section 30240(b) of the Coastal Act.

**C. PUBLIC ACCESS**

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

**D. HAZARDS**

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the water; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

**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. In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District). On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. The proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project 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**

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 Commission finds that 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.

**APPENDIX A- SUBSTANTIVE FILE DOCUMENTS**

1. City of Santa Monica LUP
2. Coastal Development Permit (CDP) Application No. 5-16-1108
3. CDP Nos. 5-12-090, 5-13-027, 5-13-1290, and 5-15-0085.