

CALIFORNIA COASTAL COMMISSION

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**F19a**

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STAFF REPORT: REGULAR CALENDAR

Application No.:	6-19-0731
Applicant:	City of San Diego
Agent:	Michelle Garcia-Quilico
Location:	Western terminus of Voltaire Street at Dog Beach, Ocean Beach, San Diego, San Diego County
Project Description:	Replacement and expansion of an existing 5,500 sq. ft. disabled public access ramp and pad located on sandy beach.
Staff Recommendation:	Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed new public access ramp would be located between an existing public beach parking lot and Dog Beach, a sandy public beach area where off-leash dogs are allowed. The proposed 5,500 sq. ft. concrete ramp will be located roughly within the footprint as the 4,700 sq. ft. existing ramp with a minor expansion of the ramp to comply with minimum American with Disability (ADA) wheelchair maneuverability requirements. The proposed ramps will include a new foundation and raise the height of the ramp curbs to limit sand migration onto the ramp. Construction of the project is expected to take up to 6 months, and will require closing the existing ramp itself and a portion of the existing bike trail next to the site, and the use of 8 public parking spaces. Therefore in order to limit impacts to public access and recreation, **Special Condition #3** prohibits development activity from Memorial Day Weekend through Labor Day. **Special**

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Condition #1 requires the applicant to submit a revised final approved site plan that includes the location of the staging area.

The majority of the site is located on the sandy beach and, construction will result in dust and other pollutants which could migrate into the ocean. Therefore, **Special Condition #2** requires the applicant to submit a Construction Pollution Prevention Plan identifying appropriate BMPs to minimize potential impacts from construction-related pollutants. Also, due to the site's proximity to the ocean and potential for future flooding, **Special Condition #5** requires the applicant to acknowledge the hazards present on-site, assume the risk of such hazards, and accept full liability for developing in a hazardous location. **Special Condition #6** requires the applicant to waive any right to future shoreline protection for the proposed development and remove or relocate the development under circumstances such as loss of access to the subject site, encroachments into public trust lands, or when safe vertical access via the ramp can no longer be provided due to coastal hazards.

Initial studies conducted by the applicant concluded that the proposed project could have a significant environmental effect on both archaeological and tribal cultural resources. Ground disturbing activities on the project site could potentially unearth subsurface cultural deposits. The applicant revised its project to include specific mitigation measures identified in the City's Mitigated Negative Declaration (MND) and consulted several tribes affiliated with the project area to ensure the measures were sufficient. The MND contains mitigation measures requiring monitoring by both a qualified archaeologist and Native American monitor during all earthmoving activities, among other requirements. **Special Condition #4** requires the applicant to comply with all recommendations and mitigation measures contained in the MND for this project. Additionally, in accordance with the Commission's Tribal Consultation Policy, Commission staff notified all Native American communities consulted by the City of San Diego of the Commission's review of the City's coastal development permit application.

Commission staff recommends **approval** of coastal development permit application 6-19-0731 as conditioned.

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[Exhibit 1 – Vicinity Map](#)

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I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-19-0731 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves coastal development permit 6-19-0731 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 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. Submittal of Revised Final Plans.

- (a) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, final plans that are in substantial conformance with the plans prepared by Platt/Whitelaw Architects, Inc. and Kimley-Horn and Associates, Inc., received 1/14/20, except that they shall be modified to reflect the following:
 - i. The location of the eight public parking spaces for the staging area shall be identified.
- (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 an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Construction Pollution Prevention Plan.

- (a) **PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a final Construction and Pollution Prevention Plan. The final Plan shall demonstrate that all construction, including, but not limited to, clearing, grading, staging, storage of equipment and materials, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:
 - i. **Property Owner Consent.** The Construction and Pollution Prevention Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including

properties to be crossed in accessing the site, consent to use of their properties.

- ii. **Minimize Erosion and Sediment Discharge.** During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:
 1. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.
 2. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
 3. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sand bag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.
 4. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.
 5. Runoff control BMPs (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area) that will be implemented during construction to retain, infiltrate, or treat stormwater and non-stormwater runoff.
- iii. **Minimize Discharge of Construction Pollutants.** The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:
 1. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:

- a. Covering stockpiled construction materials, soil, and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers.
 - b. Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on site.
 - c. Proper disposal of all wastes; providing trash receptacles on site; and covering open trash receptacles during wet weather.
 - d. Prompt removal of all construction debris from the beach.
 - e. Detaining, infiltrating, or treating runoff, if needed, prior to conveyance off-site during construction.
2. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall not take place on the beach, and shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
- iv. **Minimize Other Impacts of Construction Activities.** Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:
1. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.
 2. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.
 3. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon,

polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.

- v. **Manage Construction-Phase BMPs.** Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.
- vi. **Construction Site Map and Narrative Description.** The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
 - 1. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
 - 2. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
 - 3. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
 - 4. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.
- vii. **Construction Site Documents.** The Construction and Pollution Prevention Plan shall specify that copies of the signed CDP and the approved Construction and Pollution Prevention Plan be maintained in a conspicuous location at the construction job site at all times, and be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction and Pollution Prevention Plan, and the public review requirements applicable to them, prior to commencement of construction.
- viii. **Construction Coordinator.** The Construction and Pollution Prevention Plan shall specify that a construction coordinator be designated who may be contacted during construction should questions or emergencies arise

regarding the construction. The coordinator's contact information (including, at a minimum, a telephone number available 24 hours a day for the duration of construction) shall be conspicuously posted at the job site and readily visible from public viewing areas, indicating that the coordinator should be contacted in the case of questions or emergencies. The coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

- (b) The permittee shall undertake development in accordance with the approved Construction-Phase Pollution Prevention Plan, unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.
3. **Timing of Development.** No construction shall take place for the project from Memorial Day through Labor Day of any year. Access corridors and staging areas shall be located in a manner that had the least impact on public access to the beach via the maintenance of existing public parking areas and traffic flow on coastal access routes (e.g. no street or public access closures).
 4. **Area of Archaeological Significance.** The applicant shall comply with all recommendations and mitigation measures for archaeological and tribal resources contained in the Ocean Beach Dog Beach Accessibility Improvements SDP Mitigated Negative Declaration (Project No. 631632), dated September 2019.
 5. **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, including but not limited to waves, storms, flooding, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee 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.
 6. **No Future Shoreline Protection Device.**
 - (a) By acceptance of this CDP, the Permittee agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s), including but not limited to riprap or retaining walls, shall be constructed to protect the development approved pursuant to Coastal Development Permit No. 6-19-0731, in the event that the approved development is threatened with damage

or destruction from waves, erosion, storm conditions, shoreline retreat, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this CDP, the Permittee 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, and agree that no portion of the approved development may be considered an “existing” structure for purposes of Section 30235, and that new development shall in no way require the construction of protective devices.

- (b) By acceptance of this CDP, the Permittee further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this CDP, including the concrete disabled public access ramp, when: (1) essential services to the site can no longer be maintained (e.g., roadways); (2) development is impermissibly encroaching on public trust lands; or (3) safe vertical public access cannot be provided. Removal or relocation of the approved structure or other development authorized by this CDP shall require an amendment to this CDP. In the event that portions of the development fall to the water or ground before they are removed, the Permittee shall remove all recoverable debris associated with the development from the ocean, intertidal areas, and beach, and lawfully dispose of the material in an approved disposal site. Such removal activities shall require an amendment to this CDP.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION/HISTORY

The proposed project consists of the replacement and extension of an existing concrete ramp that provides wheelchair access from the Dog Beach public parking lot onto the public sandy beach and several existing benches. The existing 4,700 sq. ft., approximately 23-foot long ramp is located next to the small concrete “dog footprint” plaza that provides an entryway to Dog Beach in the Ocean Beach community of the City of San Diego ([Exhibit #3](#)). The new concrete ramp will be located in the same area as the existing ramp, but the City proposes the ramp be wider to comply with the current minimum American with Disabilities (ADA) wheelchair maneuverability requirements. The new concrete ramp will be approximately 5,500 sq. ft. in area, covering an additional approximately 800 sq. ft., and will include a new foundation designed to prevent future shifting of the ramp, and 6-inch to 2-foot high curbs along the perimeter of the ramp to limit migration of sand onto the ramp. Eight parking spaces east of the project site would be used for staging and storage during construction. Construction is expected to last approximately six months.

Other work proposed include replacement in-kind of both a concrete sidewalk and asphalt adjacent to the ramp, replacement of trash cans, curbs and gutters, the placement of new ADA signs in the Dog Beach public parking lot adjacent to the ramp, and restriping

existing ADA parking stalls, which will neither remove or add new parking spaces to the 388-space parking lot.

In 1998, the Commission approved a permit authorizing the City of San Diego to replace and expand the Ocean Beach Plaza, construct the ADA ramp that is the subject of the current proposal, construct a drinking fountain, and place barriers along the perimeter of the public beach parking lot (CDP #6-98-059). Dog Beach is located in an area of both original and deferred certification, where the Commission retains jurisdiction and Chapter 3 policies of the Coastal Act are the standard of review. As such, Chapter 3 policies of the Coastal Act are the legal standard of review with the City's certified LCP used as guidance.

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 of the Coastal Act states, in part:

(a) 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 . . .

Section 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. . . .

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or

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commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Ocean Beach Community Plan LUP Policy 6.1.2 states:

Provide improvements at . . . a portion of Dog Beach . . . to help meet the community's park and recreation needs, and continue to pursue additional park and recreation "equivalencies" as opportunities arise.

The Coastal Act emphasizes the need to protect and provide for public access to and along the coast. The project site is located on the northwest side of an existing beach parking lot that serves Dog Beach ([Exhibit #2](#)). Dog Beach is a wide sandy beach located within the San Diego River Channel/Floodway where dogs are permitted without a leash. The beach is an important recreational resource because it is one of a few areas of coastline in San Diego County where dogs are permitted. Several concrete barriers line the perimeter of the public beach parking lot to prevent the migration of sand into the parking lot. The barriers concentrate foot traffic to the beach through the Ocean Beach Plaza, a small concrete decorative ramp with a "paw print" design containing public amenities such as benches and bike racks, and the ADA ramp. Both the plaza and ADA ramp, which are sited perpendicular to an existing buried jetty that constitutes the southernmost edge of the San Diego River Channel/Floodway, provide an even transition from the public parking lot to the beach. The San Diego River Trail, a public walkway/bikeway running parallel to the San Diego River Channel/Floodway, is sited on top of the jetty and terminates at the Ocean Beach Plaza. In addition to using the plaza and ADA ramp, able-bodied beach-goers can also scale over the steep buried jetty west of the plaza or cross over San Diego River Trail to the east of the project site to reach the beach from the parking lot. For disabled beach-goers, the Plaza and ADA ramp provide the only means of accessing Dog Beach. Beach wheelchairs are available for check-out from the Ocean Beach Lifeguard Station, located approximately a quarter-mile down coast from Dog Beach. Generally, a beach wheelchair can be retrieved from the lifeguard station for use at Dog Beach; however, accommodations are made on a case-by-case basis for individuals in need of assistance.

The proposed project is intended to improve the existing ADA ramp by replacing the foundation, releveling the pavement, and installing higher curbs along the ramp perimeter to limit sand migration. Because the project site intercepts the San Diego River Trail, approximately 120 feet of the trail west of the bike path will be temporarily closed during construction. Access to the plaza and surrounding beach outside of the construction area will remain available through the parking lot and from outside the construction area ([Exhibit #2](#)). The City will provide temporary bicycle racks east of the project site along the trail. Eight parking spaces immediately east of the project site would be used for staging and storage during construction. There are approximately 388 parking spaces

within the public beach lot adjacent to the project site. Construction is anticipated to last a maximum of six months.

While the area impacted during construction will be fairly limited in scope, the site is a heavily used public recreational facility, and as such, any impacts during the summer months when the trail and beach are at peak use should be avoided. Thus, **Special Condition #3** prohibits development activity between Memorial Day Weekend and Labor Day. **Special Condition #1** requires the submittal of revised final site construction plans that include the location of the eight parking spaces identified as the staging area.

The City received objections to the issuance of a Site Development Permit for this project from the Ocean Beach Planning Board (OBPB), the local community group for Ocean Beach. The OBPB alleged, among other things, that the proposed project would not result in any improved access to the area and requested that the project be redesigned to remove the northern portion of the ramp and replace it with a less permanent solution that would allow disabled beachgoers to reach the MHTL of the Pacific Ocean (e.g. beach access mats). OBPB also raised concerns regarding future maintenance of the ramp to prevent sand from blowing onto the ramp, inhibiting access along the ramp.

The City has indicated that the project's scope is limited to replacing the existing ramp consistent with current ADA requirements, and that the ramp will be improved through this project to better accommodate wheelchair maneuverability. The proposed raised ramp curbs are intended to reduce the amount of sand that makes its way onto the ramp; however, if sand still manages to blow onto the path, City Parks and Recreation will clear the sand from the path. With regard to the provision of temporary wheelchair mats, the City does provide access via beach mats at several City beaches; however, these mats are only available from May through September. The mats are not used during other times of the year due to tidal action, high surf, and blowing sand conditions that make the mats unsafe to use. Temporary beach access mats would not address the ongoing need for disabled access at the site. The City asserts the concrete ADA ramp will provide access to the sandy beach year-round. The Commission agrees with the City that as proposed, the project will improve public beach access at the site. Nothing in the proposed project would preclude the City from making additional public access improvements in the future if desired.

Therefore, as conditioned, the proposed development will be consistent with the public access and recreation policies of the Coastal Act and the certified LUP.

C. COASTAL HAZARDS/FLOODING

Section 30253 of the Act states, in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

- (2) *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. [. . .]*

The project site is located on a wide beach approximately 400 feet away from the Pacific Ocean. The site is within the 100 Year Flood plain as identified by the City’s certified LCP. A preliminary review of the site through the CoSMoS “Our Coast Our Future” (OCOF) web tool shows that with twenty-five centimeters of sea level rise, during a 100-year storm event, some low-lying portions of the parking lot that provide access to the ADA ramp will be prone to flooding; but complete flooding of the site and Voltaire Street, which provides the vehicular access to the beach parking lot, is within the model’s range of uncertainty. According to the 2018 OPC sea level rise projections, the above scenario could occur on-site as soon as 2045.

The proposed project involves the replacement of an existing concrete ADA ramp roughly in the same footprint as the existing ramp. The ramp and adjacent parking lot are public amenities with high adaptive capacity and can be easily removed and relocated if threatened in the future. **Special Condition #6** requires the applicant to waive any right to future shoreline protection for the proposed development and remove or relocate the development under circumstances such as loss of access to the subject site, encroachments into public trust lands, or when safe vertical access via the ramp can no longer be provided due to coastal hazards. Thus, this particular project adequately minimizes risks to life and property. Nevertheless, because substantial flooding is expected to occur on the subject site in the relatively near future, **Special Condition #5** requires the applicant to acknowledge the hazards present on-site, assume the risk of such hazards, and accept full liability for developing in a hazardous location.

D. BIOLOGICAL RESOURCES/WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of

waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30240 of the Coastal Act states, in part:

[...]

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Ocean Beach Community Plan LUP Policy 4.1.9 states:

Incorporate water quality protection measures to new development projects in conformance with the City's Storm Water Standards Manual.

Ocean Beach Community Plan LUP Policy 7.4.1 states:

Apply all Best Management Practices found in General Plan, Conservation Element Section C, D, and E, to reduce the impacts of construction on adjacent properties and open space or other environmentally sensitive areas. Evaluate and updated the management practices to account for changes in water quality that could arise as a result of sea level rise impacts, as applicable.

Ocean Beach Community Plan LUP Policy 7.4.6 states:

Allow new construction within floodplain areas only in accordance with adopted development regulations and proper setbacks and buffer areas from wetland areas as applicable.

Sandy beaches are comprised of three different biological zones: the supra-littoral zone, the mid-littoral zone, and the surf zone, each of which provides critical habitat, food and/or breeding grounds for many species. These zones provide functions that include buffering and absorption of wave energy by stored sand, filtration of large volumes of seawater, extensive detrital and wrack processing and nutrient recycling, and the

provision of critical habitat and resources for declining and endangered wildlife, such as shorebirds and pinnipeds.

The northern portion of the project site is within the Multi-Habitat Planning Area and the majority of the project site is within a coastal beach, identified in the City's certified LCP as an environmentally sensitive land. A Biological Letter Report, prepared by City biologists, concluded that no sensitive flora or fauna are present within the project site. Additionally, any temporary impacts to the coastal beach area would be restored with local sand. Thus, this project will not result in any significant impacts to biological resources.

In approving the new development, the Commission typically requires the incorporation of best management practices (BMPs) to assure the protection of coastal waters. The majority of the project site is located on Dog Beach and includes impervious surfaces. The proposed development will generate dust and other pollutants. New concrete will also need to be poured to form the new foundation, ramps curbs, and other components of the proposed ramp. Without sufficient BMPs in place, debris from the development could migrate into the ocean. **Special Condition #2** requires the applicant to submit a Construction Pollution Prevention Plan, prepared by a licensed engineer, that incorporates BMPs designed to address contaminants associated with construction activity. As conditioned, the proposed project will not result in adverse water quality impacts, consistent with the resource protection policies of the Coastal Act and the City's LCP.

E. ARCHAEOLOGICAL/CULTURAL RESOURCES

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Ocean Beach Community Plan LUP Policy 9.2.1 states:

Conduct subsurface investigations at the project level to identify potentially significant archaeological resources in Ocean Beach.

Ocean Beach Community Plan LUP Policy 9.2.2 states:

Protect and preserve significant archaeological resources. Refer significant sites to the Historical Resources Board for designation.

Ocean Beach Community Plan LUP Policy 9.2.3 states:

Ensure adequate data recovery and mitigation for adverse impacts to archaeological and Native American sites at the project level. In order to

determine ethic or cultural significance of archaeological sites or landscapes to the Native American community, meaningful consultation is necessary.

Ocean Beach Community Plan LUP Policy 9.2.4 states:

Include measures during new construction to monitor and recover buried deposits from the historic period and address significant research questions related to prehistory.

In August 2018, the Commission adopted its Tribal Consultation Policy to improve tribal consultation on projects submitted to the Commission that could adversely impact tribal cultural resources. In accordance with the policy, Commission staff provided notice to representatives of the Viejas Band of Kumeyaay Indians, Iipay Nation of Santa Ysabel, Jamul Indian Village, Rincon Band of Luiseño Indians, for early notification of the project.

The City of San Diego consulted with the Iipay Nation of Santa Ysabel and Jamul Indian Village, both of which are traditionally and culturally affiliated with the project area. The City also received comments from the Viejas Band of Kumeyaay Indians and Rincon Band of Luiseño Indians whose representatives both stated that their tribes may have cultural ties to the project site. The City conducted an Initial Study which determined that the proposed project could have a significant environmental effect on both archaeological and tribal cultural resources. The project was then revised to include specific mitigation measures identified in the City's Mitigated Negative Declaration (Project No. 631632). These measures include in part (1) monitoring by both a qualified archaeologist and Native American monitor during all earthmoving activities and (2) temporary suspension of construction activities if archeological and tribal cultural resources are encountered.

All of the Native American communities above concurred with the City selected measures for archaeological and Native American monitoring and agreed that no further consultation was required. **Special Condition #4** requires the applicant to comply with all the recommendations and mitigation measures for archaeological and tribal resources contained in MND for this project. Therefore, as conditioned, the proposed development is consistent with Section 30244 of the Coastal Act and the certified LCP.

F. LOCAL COASTAL PLANNING

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The property is located within an area subject to both original and deferred certification, where the Commission retains jurisdiction and Chapter 3 policies of the Coastal Act are the standard of review; however, the proposed development is also consistent with the City's certified LCP. The subject site is designated as a resource-based park in the Ocean Beach Community Plan (certified Land Use Plan) and the proposed development is consistent with that designation.

Additionally, the certified LCP also contains policies requiring improvements at the project site for public access and recreation. The certified LCP provides policies to protect archaeological and tribal cultural resources, requiring the City to engage in meaningful consultation with Native American communities. As conditioned, the proposed project is consistent with the City's certified LCP and approval of the proposed development would not prejudice the ability of the City to continue to implement its certified LCP.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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 City of San Diego adopted a Mitigated Negative Declaration in September 2019 (Project No. 631632) for the proposed project.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing public access, hazards, water quality, archeological and tribal cultural resources, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project 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

- Ocean Beach Community Plan
- Mitigated Negative Declaration (Project No. 631632)
- Summary of Results from Biological Field Assessment for Ocean Beach Dog Beach Accessibility Improvements (dated 2/26/19)
- CDP #6-98-059