

**CALIFORNIA COASTAL COMMISSION**

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# W14a

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Hearing Date: 12/14/22

## STAFF REPORT: MATERIAL AMENDMENT

**Application No.:** 5-10-220-A1

**Applicant:** City of Seal Beach

**Location:** River's End Staging Area (RESA)/First Street Public Parking Lot (Seaward Terminus of First Street), Seal Beach, (County of Orange) & Portion of San Gabriel River Trail, Seal Beach & Long Beach (County of Orange & Los Angeles)

**Description of Original Project Approved Pursuant to Permit No. 5-10-220:** The proposed work at the River's End Staging Area (RESA) and First Street Public Parking Lot consists primarily of landscape improvements, new/renovated sidewalks, new asphalt paving, signage, lighting, picnic bench facilities, and a series of low seat walls to block windblown sand from reaching the RESA. Improvements to the San Gabriel River Trail consists primarily of trail resurfacing, striping, signage, fencing, landscaping, and irrigation.

**Description of Pending Permit Amendment No. 5-10-220-A1:** Amend the parking hours and rates for the First Street Public Parking Lot.

**Staff Recommendation:** Approval with conditions.

## SUMMARY OF STAFF RECOMMENDATION

The proposed permit amendment amends the parking hours and rates for the First Street Public Parking Lot in Seal Beach, Orange County.

The underlying coastal development permit and amendment includes fourteen special conditions to protect coastal resources and maximize public access. Commission staff is recommending approval of the coastal development permit amendment application if three existing special conditions are amended. All special conditions the Commission imposed through its approval of the underlying permit would continue to apply.

Staff recommends the Commission amend **Special Condition No. 8** to amend the parking fee collection time and the rates as proposed by the city, as follows: 1) change parking fee collection hours to 6am to 10pm (an addition of 1 hour); 2) change in hourly parking rates to \$2 per hour with a maximum of \$10 per day; 3) increase of the all-day parking fee from \$6 to \$10; and 4) establish a new flat fee of \$4 after 6pm. Associated with the amended parking fee collection hours, staff recommends the Commission amend **Special Condition No. 5** to require the applicant to submit two copies of a Revised Final Signage Program making it clear that the parking lot is always open, but that fees are collected between the hours of 6am to 10pm.

There is currently one permitted parking pay station in the First Street Public Parking Lot. However, the City has indicated that one additional parking pay station has been installed without a coastal development permit. To deal with this, the City is proposing installation of this one additional parking pay station as part of the project. Thus, staff recommends the Commission amend **Special Condition No. 2** to require the applicant to submit two full size sets of a Revised Final Project Plan showing the location of the one additional parking pay station in the First Street Public Parking Lot.

The City of Seal Beach does not have a certified Local Coastal Program. Therefore, the Coastal Commission is the permit issuing entity, and the standard of review is Chapter 3 of the Coastal Act.

The motion to approve the coastal development Permit (CDP) application is on Page Four. The special conditions begin on Page Four.

## TABLE OF CONTENTS

<u>I. MOTION AND RESOLUTION.....</u>	<u>4</u>
<u>II. CHANGES TO CONDITIONS.....</u>	<u>4</u>
<u>III. FINDINGS AND DECLARATIONS.....</u>	<u>7</u>
<u>A. Project Location and Description, Prior Permit History and Standard of Review.....</u>	<u>7</u>
<u>B. Public Access and Recreation.....</u>	<u>8</u>
<u>C. Coastal Act Violation.....</u>	<u>10</u>
<u>D. Local Coastal Program (LCP).....</u>	<u>11</u>
<u>E. California Environmental Quality Act (CEQA).....</u>	<u>11</u>
<u>APPENDIX A – SUBSTANTIVE FILE DOCUMENTS.....</u>	<u>13</u>
<u>APPENDIX B – STANDARD AND SPECIAL CONDITIONS PURSUANT TO CPD NO. 5-10-220 THROUGH CDP AMENDMENT NO. 5-10-220- A1.....</u>	<u>14</u>

## EXHIBITS

Exhibit 1 – Location Map

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit Amendment 5-10-220-A1 pursuant to the staff recommendation.

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

### Resolution:

The Commission hereby approves the Coastal Development Permit Amendment No. 5-10-220-A1 on the grounds that the development, as amended and subject to conditions, will be in conformity with the Chapter Three policies of the Coastal Act. Approval of the permit amendment 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. CHANGES TO CONDITIONS

**NOTE:** Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-10-220, as amended through 5-10-220-A1, and reflected in **Appendix B**, remain in effect. This permit amendment is granted subject to the following amended special conditions shown in **bold, double underlined**. Language to be removed is shown in ~~strikethrough~~.

### Existing Special Conditions

#### 2. REVISED FINAL PROJECT PLANS

- A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the Executive Director's review and approval, two (2) full size sets of Revised Final Project Plans (i.e., site plan, elevations, cross-sections, etc.). These Revised Final Project Plans shall depict all elements of the project, as described in the project description in the staff reports dated August 25, 2011 **and November 23, 2022**, except as required to be revised pursuant to **SPECIAL CONDITIONS NO. 5** and **14** and as follows:

1) the seat walls/ structures to reduce the amount of sand blown onto the RESA shall be raised in height from 18" to 24" above finished grade so they are more useful as seating; and 2) the three (3) most seaward seat walls shall be relocated 10-feet closer (inland) to the edge of the proposed sidewalk/hardscape; **and 3) indicate the location of the one additional parking pay station.**

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

#### **4. FUTURE CHANGES**

Currently, there is a parking charge between the hours of ~~7~~6am to 10pm at the **First Street Public Parking Lot (formerly River's End Staging Area) (RESA)** parking lot. It costs \$3 for 2 hours, or \$6 a day to park in the lot **It costs \$2 per hour with a maximum of \$10 per day. All-day parking costs \$10. After 6pm, parking costs \$4 total.** Any future change to the hours or rates of the parking operation in the RESA parking lot shall require an amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

#### **5. REVISED FINAL SIGNAGE PROGRAM**

- A. **PRIOR TO THE ISSUANCE OF A COASTAL DEVELOPMENT PERMIT THE AMENDMENT**, the applicant shall submit for review and approval of the Executive Director, two (2) copies of a Revised Final Signage Program, which provides information for all the proposed signs at the River's End Staging Area, **First Street Public Parking Lot, (RESA)** and the San Gabriel River Trail. At a minimum the signage program shall include:

- (1) The construction materials, the location; the dimensions, and the language on all proposed signs;
- (2) Any signs regarding the RESA parking lot hours must make it clear that the parking lot is always open, but that fees are collected between ~~7~~6am to 10pm; and
- (3) Shows that any beach closure sign is removed and not replaced unless restrictions on beach access are approved by the Commission through an amendment to this permit or through a separate Coastal Development Permit.

- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be

reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

### **III. FINDINGS AND DECLARATIONS**

#### **A. Project Location and Description, Prior Permit History and Standard of Review**

##### **Project Location and Description**

The project site is the First Street Public Parking Lot consisting of 115 public parking spaces located adjacent to what was formerly referred to by the Orange County Department of Public Works as the River's End Staging Area, the public beach, and the San Gabriel River Trail in the City of Seal Beach (Orange County) ([Exhibit No. 1](#)). It is a City owned parking lot that provides beach access parking to the public, which is located at the Southern (seaward) terminus of First Street (intersection of First Street and Ocean Avenue), adjacent to the mouth of the San Gabriel River. The public parking lot is a park-and-pay lot. There is currently one permitted parking pay station in the lot, which distributes parking tickets upon payment that are to be displayed on the vehicle dash; the City is proposing after-the-fact authorization to add a second pay station through this permit amendment.

The area formerly referred to as River's End Staging Area is a public beach facility area that is a popular location for windsurfing and kite sailing, which also serves as a recreational staging area for the San Gabriel River Trail, a paved regional trail along the Eastern boundary of the San Gabriel River that runs through several other cities but ultimately ends at the coast within the Cities of Long Beach and Seal Beach. The First Street Public Parking Lot provides the public a location where people can park their vehicles and gain access to these public recreational opportunities.

A manually operated gate is currently located at the entrance of the driveway leading into the public parking lot at the intersection of First Street and Ocean Avenue. Pursuant to Special Conditions No. 1 and No. 3 of the Commission's previously approved CDP No. 5-10-220, the gate shall remain open to provide 24-hour public access and it shall only be temporarily closed to address public safety concerns during a natural hazard event such as a flooding or tsunami warning period, and shall be re-opened as soon as feasible, but no later than 12 hours following the subsidence of the natural hazard. No change to the operation of the gate is proposed with this coastal development permit application.

Pursuant to Coastal Development Permit No. 5-10-220 and as identified in Special Condition No. 4, the following parking hours and fees were established: 1) parking fees are collected between the hours of 7am to 10pm; 2) parking in the lot costs \$3 for 2 hours and \$6 for all day. The CDP also states that no changes to the hours or fees can occur without an amendment and that there is only one approved parking pay station.

The City is proposing to make the following changes to the parking hours and fees for parking at the First Street Public Parking Lot: 1) change parking fee collection hours to 6am to 10pm (an addition of 1 hour); 2) change in hourly parking rates to \$2 per hour

with a maximum of \$10 per day; 3) increase of the all-day parking fee from \$6 to \$10; and 4) establish a new flat fee of \$4 after 6pm. As indicated in Special Condition No. 4 of the previously approved CDP, any changes to the parking lot hours or fees necessitates an amendment. Thus, the City has submitted this CDP application to amend those items.

The City is also proposing the installation of one additional parking pay station in the First Street Public Parking Lot, which has already been installed without a coastal development permit.

### **Prior Permit History**

On September 7, 2011, the Commission approved CDP No. 5-10-220-(City of Seal Beach) for work at the River's End Staging Area (RESA) and First Street Public Parking Lot primarily consisting of landscape improvements, new/renovated sidewalks, new asphalt paving, signage, lighting, picnic bench facilities, and a series of low seat walls to block wind-blown sand. Additionally, the project included improvements to the San Gabriel River Trail consisting primarily of trail resurfacing, striping, signage, fencing, landscaping, and irrigation.

### **Standard of Review**

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Seal Beach does not have a certified Local Coastal Program. Therefore, the Coastal Commission is the permit issuing entity, and the standard of review is Chapter 3 of the Coastal Act.

## **B. Public Access and Recreation**

### **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 30213 of the Coastal Act states in relevant 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



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

**Section 30252 of the Coastal Act** states in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by...

(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.

Among the most important goals and requirements of the Coastal Act is the mandate to protect, provide, enhance, and maximize public recreational access opportunities to and along the coast consistent with strong resource conservation principles. Within this guiding framework, the protection of and priority for lower cost visitor and recreational facilities is explicitly identified. Public beaches constitute a lower cost visitor-serving facility. As such, any development on or adjacent the public beach is subject to scrutiny as to whether the development would affect the public's recreational interests.

Many areas of urbanized California coastline have some form of parking fee or program, and these are generally driven by public safety, public access regulation, and revenue generation objectives. The intent of the proposed parking hour and rate change is to provide revenue to enable the City to better maintain and operate the beach parking lot and its associated facilities for the benefit of the public. The cited Coastal Act policies require that lower cost visitor and recreational facilities be protected and require that adjacent park and recreation areas, like the beach, be protected from the effects of adjacent development.

The proposed one additional hour of fee collection is not a significant change, as other public beach parking lots in Los Angeles County and Orange County have a similar 6am to 10pm collection time period, which consists of a full cycle of dawn to dusk hours including some evening hours for the public to partake in recreational activities. The price changes are not significant, as they fall in line or are lower than fees collected at other public beach parking lots in Newport Beach (Orange County) and in Long Beach (Los Angeles County)<sup>1</sup>. Thus, public access opportunities will continue to be provided even with the minimal increase of parking fees and increased parking collection time that would not adversely impact public access to the coast. Therefore, the Commission amends **Special Condition No. 4** to amend the parking fee collection time and the rates as proposed by the city.

There is currently one permitted parking pay station in the First Street Public Parking Lot. However, the City has indicated that one additional unpermitted parking pay station

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<sup>1</sup> CDP No. 5-13-506-(City of Newport Beach), CDP No. 5-13-507-(City of Newport Beach), and CDP No. 5-19-0997-(City of Long Beach)

has been installed. Thus, the City is requesting after-the-fact approval for the installation of this one additional parking pay station in the public parking lot. However, the City has not submitted plans regarding the installation of this one additional parking pay station. Thus, the Commission amends **Special Condition No. 2** to require the applicant to submit two full size sets of a Revised Final Project Plan showing the location of the one additional parking pay station in the First Street Public Parking Lot.

Currently, there are signs in the parking lot that indicate that the parking lot is open 24 hours, but that parking fees are collected between the hours of 7am to 10pm. However, the City is now proposing to amend the time parking fees are collected to now be 6am to 10pm, which would be inconsistent with **Special Condition No. 5** as it required a Revised Final Signage Program that included the indication that parking lot fees were collected between the hours of 7am to 10pm. Thus, the Commission amends **Special Condition No. 5** to require the applicant to submit two copies of a Revised Final Signage Program making it clear that the parking lot is always open, but that fees are collected between the hours of 6am to 10pm. If the Applicant proposes a parking lot closure period, it will require an amendment to this coastal development permit or a new coastal development permit.

## **Conclusion**

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30211, 30213, 30221, and 30252 of the Coastal Act, regarding public access and recreation, as discussed above.

## **C. Coastal Act Violation**

Violations of the Coastal Act have occurred on the project site, including but not limited to the increase in parking rates which has already taken place prior to the submittal of an application for this permit amendment, the installation of one additional parking pay station, and the periodic closure of the First Street Public Parking Lot at night. The subject permit amendment would authorize the first two referenced items and Special Condition No. 5 requires submittal of a signage plan to clarify that the parking lot is open 24 hours/day. Pursuant to Special Conditions No. 1 and No. 3 of CDP No. 5-10-220, the gate shall remain open to provide 24 hour public access and it shall only be temporarily closed to address public safety concerns during a natural hazard event such as a flooding or tsunami warning period and shall be re-opened as soon as feasible but no later than 12 hours following the subsidence of the natural hazard.

Although development has taken place prior to submission of this permit application, consideration of the permit application by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations). Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent performance of the work authorized by the permit in compliance

with all of the terms and conditions of the permit, including existing conditions of the underlying permit, will result in resolution of the violations specifically described herein going forward.

#### **D. Local Coastal Program (LCP)**

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 that 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.

#### **E. California Environmental Quality Act (CEQA)**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Seal Beach is the lead agency for purposes of CEQA compliance. A Mitigated Negative Declaration was prepared for the development of the parking lot subject to this permit amendment in February 2010 pursuant to the provisions of CEQA. Mitigation measures included a measure to minimize any impacts to public access, hazards, and water quality. The City determined that the changes in fee payment hours and the additional parking station proposed by this permit amendment were exempt from CEQA.

The proposed project is located in an urban area. Infrastructure necessary to serve the project exists in the area. The proposed project has been conditioned in order to be

found consistent with the resource protection policies of the Coastal Act. As conditioned, the proposed project has been found consistent with the public access policies of the Coastal Act.

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

5-10-220-A1  
City of Seal Beach

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

CDP Application File No. 5-10-220-A1 and associated file documents

## **APPENDIX B – STANDARD AND SPECIAL CONDITIONS PURSUANT TO CDP NO. 5-10-220 THROUGH CDP AMENDMENT NO. 5-10-220-A1**

Note: This Appendix B provides a list of all standard and special conditions imposed pursuant to Coastal Development Permit 5-10-220, as approved by the Commission in its original action and modified and/or supplemented by CDP Amendment No. 5-10-220-A1. Thus, this Appendix B provides an aggregate list of all currently applicable adopted special conditions.

### **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. **Compliance.** Any development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and project during its development, subject to 24-hour advance notice.
6. **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.
7. **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:**

### **1. PUBLIC ACCESS TO THE RIVER'S END STAGING AREA (RESA) FROM THE "DRIVEWAY PARCEL" AND "BIKE TRAIL PARCEL"**

The City of Seal Beach shall maintain daily 24-hour public access to the River's End Staging Area (RESA) except during those times indicated in **SPECIAL CONDITION NO. 3**, below. Any future permanent changes, i.e., non-emergency public safety changes as described in **SPECIAL CONDITION NO. 3**, to the public's ability to access the RESA from the "Driveway Parcel" and "Bike Trail Parcel" owned by Bay City Partners, LLC and leased to the City of Seal Beach will require an amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

### **2. REVISED FINAL PROJECT PLANS**

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the Executive Director's review and approval, two (2) full size sets of Revised Final Project Plans (i.e., site plan, elevations, cross-sections, etc.). These Revised Final Project Plans shall depict all elements of the project, as described in the project description in the staff reports dated August 25, 2011 and November 23, 2022, except as required to be revised pursuant to **SPECIAL CONDITIONS NO. 5** and **14** and as follows: 1) the seat walls/ structures to reduce the amount of sand blown onto the RESA shall be raised in height from 18" to 24" above finished grade so they are more useful as seating; 2) the three (3) most seaward seat walls shall be relocated 10-feet closer (inland) to the edge of the proposed sidewalk/hardscape; and 3) indicate the location of the one additional parking pay station.
- B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

### **3. VEHICULAR GATE**

The River's End Staging Area (RESA) public parking lot shall be managed such that maximum public access is provided. Except as follows, the City shall keep the public parking lot gate open and keep the parking lot accessible to the public at all times:

The gate across the driveway to the parking lot may be temporarily closed to address public safety concerns during a natural hazard event such as flooding or a

tsunami warning period; the public parking area shall be re-opened as soon as feasible but no later than 12-hours following subsidence of the natural hazard.

#### **4. FUTURE CHANGES**

Currently, there is a parking charge between the hours of 6am to 10pm at the First Street Public Parking Lot (formerly River's End Staging Area) parking lot. It costs \$2 per hour with a maximum of \$10 per day. All-day parking costs \$10. After 6pm, parking costs \$4 total. Any future change to the hours or rates of the parking operation in the RESA parking lot shall require an amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

#### **5. REVISED FINAL SIGNAGE PROGRAM**

**A. PRIOR TO ISSUANCE OF THE AMENDMENT**, the applicant shall submit for review and approval of the Executive Director, two (2) copies of a Revised Final Signage Program, which provides information for all the proposed signs at the River's End Staging Area, First Street Public Parking Lot, and the San Gabriel River Trail. At a minimum the signage program shall include:

- (1) The construction materials, the location; the dimensions, and the language on all proposed signs;
- (2) Any signs regarding the RESA parking lot hours must make it clear that the parking lot is always open, but that fees are collected between 6am to 10pm; and
- (3) Shows that any beach closure sign is removed and not replaced unless restrictions on beach access are approved by the Commission through an amendment to this permit or through a separate Coastal Development Permit.

**B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

#### **6. CONSTRUCTION STAGING PLAN**

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of a Construction Staging Plan, which indicates that the construction staging area(s) and construction corridor(s) will minimize public access impacts to the beach and San Gabriel River Trail.



- (1) The plan shall demonstrate that:
    - (a) The RESA will remain open and accessible at all times, with the construction process staged to allow for parking and access to on-site facilities;
    - (b) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition; and
    - (c) Construction equipment, materials, or activity shall not be placed on the sandy beach outside of the immediate construction zone or grass area or on the San Gabriel River Trail; and
    - (d) The construction staging area will gradually be reduced as less materials and equipment are necessary; and
    - (e) The construction access route will only be intermittently closed for transport of equipment and materials. When not in use for transportation of equipment and materials, it will be made available for undisrupted public access; and
    - (f) Any storage, staging or construction access will avoid the nearby Seal Beach Sand Dunes.
  - (2) The plan shall include, at a minimum, the following components:
    - (a) A site plan that depicts:
      1. limits of the staging area(s);
      2. construction corridor(s);
      3. construction site;
      4. location of construction fencing and temporary job trailers with respect to the existing parking lot, day use area and the sandy beach.
- B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

**7. TRAFFIC CONTROL PLAN**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of a Traffic Control Plan that demonstrate the following:
- (1) Every effort shall be made to minimize the duration of sidewalk, bike and road lane closures so that impacts upon public access are minimized;
  - (2) The sidewalk, bike and road lanes should be opened, even intermittently, whenever possible during construction; and
  - (3) A detour plan to re-route pedestrian and bicycle traffic shall be identified for those periods when the sidewalk and/or bicycle lane is closed within the project area.
- B.** The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

**8. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY**

- A.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from sea level rise, erosion, flooding, and/or wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B.** Prior to any conveyance of the property that is the subject of this coastal development permit, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection (A) of this condition. The restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed

or changed without a Commission amendment to this Coastal Development Permit.

- C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

**9. NO FUTURE SHORELINE PROTECTIVE DEVICE**

**A(1).** 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. 5-10-220 in the event that the development is threatened with damage or destruction from sea level rise, waves, erosion, storm conditions or other 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.

**A(2).** 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 if any government agency has ordered that the structure is not to be utilized 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 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.

**B.** Prior to any conveyance of the property that is the subject of this Coastal Development Permit, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection (A) of this condition. The restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this Coastal Development Permit.

**C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

## **10. CONSTRUCTION BEST MANAGEMENT PRACTICES**

- A.** The permittee shall comply with the following construction-related requirements:
- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
  - (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
  - (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
  - (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
  - (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.
- B.** Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:
- (1) The permittee shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
  - (2) The permittee shall develop and implement spill prevention and control measures;
  - (3) The permittee shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.

Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water; and

- (4) The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

## **11. LOCATION OF DEBRIS DISPOSAL SITE**

The permittee shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location. 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.

## **12. STORM WATER POLLUTION PREVENTION PLAN (SWPPP)**

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) sets of a Storm Water Pollution Prevention Plan (SWPPP) prepared and signed by licensed engineer that, at a minimum, meets the following:

- (1) The Storm Water Pollution Prevention Plan must satisfy the requirements of the Waste Discharge Requirements for The County of Orange, Orange County Flood Control District and The Incorporated Cities of Orange County within the Santa Ana Region Area wide Urban Storm Water Runoff Orange County, California Regional Water Quality Control Board, Santa Ana Region ORDER NO. R8-2009-0030 NPDES No. CAS618030 As amended by Order No. R8-2010-0062
- (2) The Storm Water Pollution Prevention Plan must show that permittee is properly prepared to apply site design, source control and treatment control BMPs, appropriate for the potential stormwater pollutants at this site, in order to protect coastal waters from polluted runoff generated by construction activities to the maximum extent practicable.

**B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

## **13. FINAL WATER QUALITY MANGEMENT PLAN (WQMP)**

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) sets of a Final Water Quality Management Plan (WQMP) for the post-

construction project site, prepared and signed by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (1) Appropriate structural and non-structural BMPs (site design, source control and treatment control) shall be designed and implemented to minimize water quality impacts to surrounding coastal waters;
- (2) Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible;
- (3) Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized;
- (4) Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals.
- (5) All runoff from the vehicle wash station shall be collected through the proposed wash rack and sand/oil separator and discharged only through the sewer system.
- (6) Runoff from all roofs, walkways, driveway and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMPs shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants (including trash, debris and vehicular fluids) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner;
- (7) Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs;
- (8) All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned out, and where necessary, repaired at the following minimum frequencies:
  - (1) prior to October 15th each year;
  - (2) during each month between

October 15<sup>th</sup> and April 15<sup>th</sup> of each year and, (3) at least twice during the dry season;

- (9) Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner;
- (10) It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.

**B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

#### **14. REVISED LANDSCAPING PLAN**

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of a Revised Landscape Plan, prepared by a licensed landscape architect that includes the following:

- (1) The plan shall demonstrate that:
  - (a) All landscaping shall consist of native or non-native drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>). Any existing landscaping that doesn't meet the above requirements shall be removed;
  - (b) Proposed landscaping shall not adversely impact public views of the beach and ocean provided through the site from First Street and Ocean Avenue. All landscaping within the view corridor to the beach and ocean shall be comprised of plant species that, at maximum growth (width/height), do not reduce, obstruct, or in any way interfere with, public views. The required Revised Landscape Plan shall

provide information regarding the maximum height and width of the proposed landscaping vegetation. Landscaping shall be trimmed/maintained such that impacts upon public views are avoided. Once planted, if the Executive Director determines that any landscaping within the view corridor to the beach and ocean is causing an impact upon public views, the applicant shall replace such landscaping with different plant species that meet the requirements of this special condition, as directed by the Executive Director;

- (c) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage; and
  - (d) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
- (2) The plan shall include, at a minimum, the following components:
- (a) Two (2) full size copies of a map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and
  - (b) A schedule for installation of plants.
- B.** The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.