

CALIFORNIA COASTAL COMMISSION

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W12b

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-21-0391

Applicant: City of Newport Beach

Agent: Peter Tauscher, Project Manager
City of Newport Beach

Location: 901 E. Oceanfront
Within Lot A Parking Beach Lot
Newport Beach, Orange County
APN: 048-320-03

Project Description: Removal of 2,100 sq ft, 13 feet high Jr. Lifeguard building, 650 sq ft storage container, 1,200 sq ft wood deck located on sandy beach; construction of a new 5,400 sq ft, 16.5 foot high (total height is 18.5 ft including 2' pad height), single story, flat roof, Jr. Lifeguard bldg. with a 1,720 sq ft wood deck; and reconfiguration of the existing beach parking lot, including demolition and replacement of hardscape and landscape, reconfiguration of parking spaces, re-striping, resulting in a net increase of six public parking spaces.

Staff Recommendation: Approval with conditions

PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID 19 emergency, and following California Assembly Bill 361, and the Governor's Executive Orders N-1-22, N-15- 21, N-29-20, and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

SUMMARY OF STAFF RECOMMENDATION

The proposed development includes removal of the existing Junior Lifeguard building, construction of a new Junior Lifeguard building, and reconfiguration of the existing Main Street and "A" Street public beach parking lots to accommodate the new Jr. Lifeguard building and to reconfigure and re-stripe public parking spaces within the lots (an increase of six parking spaces). The Junior Lifeguard Building is proposed to be located on the ocean-facing side of Balboa Peninsula in the City of Newport Beach, Orange County. The proposed building will be located east (downcoast) of the Balboa Pier and seaward of the Oceanfront Boardwalk Multi-Purpose Trail, and adjacent Peninsula Park, a grassy field ([Exhibit 1](#)). Although generally referred to as the Junior Lifeguard building, the new building will also serve as a year-round multipurpose facility with public education and recreation activities, as well as public and private events. The existing Junior Lifeguard facility, proposed for removal, was first placed sometime in the 1990s and was removed and replaced seasonally. It is currently present on site. It appears that no coastal development permit was sought or approved for this structure.

The Newport Beach Junior Lifeguard Program is a seven-week, ocean-based summer program for youth run by the City of Newport Beach Fire Department's Ocean Lifeguards. The program is open to all children ages 9 to 15 who can pass a standard swim test. Newport Beach residency is not a requirement, though there is a fee to participate. The proposed project includes a scholarship and public outreach program.

The proposed project includes construction phasing and staging to reduce public access impacts during construction. In addition, the proposed project includes a Traffic Management and Circulation Plan to reduce traffic and circulation impacts, and promote safety while the Junior Lifeguard program is in session.

The subject site is located within the Commission's retained permit jurisdiction. The standard of review is Chapter 3 of the Coastal Act, and the certified LCP serves as guidance.

Staff is recommending **approval** of the coastal development permit with **thirteen** special conditions including: **1) Permit Compliance; 2) Future Development; 3) Assumption of Risk, Waiver of Liability and Indemnity; 4) No Future Shoreline Protective Device; 5) Annual Erosion and Flood Monitoring; 6) Nesting Bird Surveys; 7) Electric Vehicle Charging Parking Spaces; 8) Limitation on the Number of Private Events Relative to Public Events; 9) Lighting Plan; 10) Main Street Parking Lot Drainage Plan; 11) Construction Public Access Signage Plan; 12) Construction and Pollution Prevention Plan; and 13) Recordation of a Deed Restriction.** As conditioned, the development will not have any new long-term adverse impacts on public access and recreation and is consistent with the public access and recreation policies of the Coastal Act.

The motion to carry out the staff recommendation is on page four of this report.

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EXHIBITS

- Exhibit 1 – Vicinity Maps
- Exhibit 2 – Project Plans
- Exhibit 3 – Bicycle Parking
- Exhibit 4 – Jr. Lifeguard Scholarship Information
- Exhibit 5 – Beach Widths
- Exhibit 6 – City of Newport Beach Letter, 11/17/2021

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit Application No. 5-21-0391 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned 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 Application No. 5-21-0391 for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Permit Compliance.

The permittee shall undertake and maintain the development in conformance with the special conditions of the permit and the final plans approved by the Executive Director. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission-approved permit amendment unless the Executive Director determines that no permit amendment is required.

2. Future Development.

This permit is only for the development described in coastal development permit (CDP) 5-21-0391. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by the CDP 5-21-0391. Accordingly, any future improvements to the development authorized by this permit shall require an amendment to CDP 5-21-0391 from the Commission or shall require an additional CDP from the Commission unless the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

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

By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, and erosion, all of which will may 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.

4. No Future Shoreline Protective Device.

A. By acceptance of this permit, the permittee agrees, on behalf of itself and any successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-21-0391 including, but not limited to, the Junior Lifeguards structure, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or any other natural hazards in the future. By acceptance of this permit, the permittee hereby waives, on behalf of itself and any successors and assigns, any rights to construct such devices that may exist

under Public Resources Code Section 30235, any similar provision of a certified LCP, or any applicable law.

B. By acceptance of this Permit, the permittee further agrees, on behalf of itself and all successors and assigns, that it is required to remove all or a portion of the development authorized by this permit and restore the site, if:

- i. The City or any government agency with jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structure are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural hazards related to coastal processes, and that there are no feasible measures that could make the structure suitable for habitation or use without the use of bluff or shoreline protective devices;
- ii. Essential services to the site (e.g. utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
- iii. Removal is required pursuant to LCP policies for sea level rise adaptation planning; or
- iv. The development requires new or augmented shoreline protective devices that conflict with applicable LCP or Coastal Act policies.

5. Erosion and Flooding Monitoring.

A. Monitoring Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a monitoring plan, prepared by a licensed civil or geotechnical engineer with expertise in coastal processes, for the review and written approval of the Executive Director. The plan shall be sufficient to assess the condition (safety & structural stability) of the Junior Lifeguard Building (Building) approved pursuant to CDP 5-21-0391 and shall include at a minimum:

1. A description of the approved Building and "A" Street Parking Lot (Parking Lot);
2. A discussion of the goals and objectives of the plan, which shall include whether the Building and Parking Lot remain in their approved, as-built conditions and whether the Building remains structurally stable and safe for occupancy and;
3. A description of the methods to be used to carry out the monitoring requirements detailed in subsection (B), below, including but not limited to measurements, photos, maps, plans, instrumentation/tools to be used.

B. Monitoring Requirement. Within one year of issuance of CDP 5-21-0391 and within 90 days of any major flooding or erosion event thereafter for the life of the Building, the permittee shall submit a monitoring report containing the following, at a minimum:

1. An evaluation of the condition of the approved Building and Parking Lot, including an assessment of whether any erosion and/or flooding damage has occurred and whether that could

- adversely impact current or future safety and stability of the Building;
 2. An evaluation of whether or not the building is expected to remain structurally stable and safe for occupancy over the next one-year period;
 3. An evaluation of the Building foundation based upon observation, professional expertise, and precise measurements;
 4. A description of all measurements taken in conformance with the approved monitoring plan, and the locations of all measurements taken, and the measurements themselves;
 5. Site photos and a map/plan identifying the points at which the photos were taken and the direction;
 6. An assessment of any significant beach erosion over the previous monitoring cycle, including documentation (measurements, photos, maps, plans) of seasonal beach width and beach width following significant storm events;
 7. An assessment of flooding since the previous monitoring cycle, including weather data;
 8. Recommendations for Building repair and maintenance.
- C. If the monitoring report contains recommendations for repair and maintenance necessary for safety and stability of the Building, the permittee shall contact the Executive Director to determine whether a coastal development permit or an amendment to this permit is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required repair and maintenance improvements within 90 days of the report submittal. The permittee shall provide sufficient information for the Executive Director to determine whether a new CDP or CDPA is required. The permittee shall include a recommendation, for the review and approval of the Executive Director, as to whether the repair and maintenance activities must be developed by a licensed civil or geotechnical engineer with expertise in coastal processes or by other licensed professionals or by appropriate City staff. Repair and maintenance shall not include shoreline protective device(s).

Building Removal. If the licensed professional drafting the monitoring report determines the Building is structurally unstable and is not safe for occupancy due to coastal hazards including, but not limited to, waves, storms, flooding and erosion, the permittee shall immediately notify the Executive Director, and within 90 days submit a complete application for a coastal development permit or an amendment to this permit for removal of the Building. The permittee shall work in consultation with the Executive Director on any measures deemed immediately necessary for public safety.

6. Nesting Bird Surveys.

The permittee shall retain the services of a qualified biologist to conduct nesting bird surveys in order to determine the presence of bird species including, but not limited to, black-crowned night herons, great blue herons, and snowy egrets, and the presence of any active bird nests. At least 30 calendar days prior to commencement of construction, the applicant shall submit the name and qualifications of the

biologist, for the review and approval of the Executive Director. All project construction activities shall be carried out consistent with the following:

- A.** The biologist shall conduct the first nesting bird survey thirty (30) calendar days prior to the commencement of construction. The nesting bird survey shall be sufficient to detect any active bird nests in all trees within a 150-foot radius of the proposed Junior Lifeguard structure and parking lot reconfigurations. If the survey finds any active nests are present within the palm trees proposed to be removed and relocated and/or replaced (Plan Sheets L-2 and L-3 Landscape Concept Plan, 11/17/2021), construction shall not commence. No trees shall be removed or relocated and an amendment to this permit shall be submitted to address the presence of any active nests. The amendment shall include, but is not limited to: 1) the biological survey that identified the presence of the active nests in the palm trees, with supporting evidence including maps depicting nest location(s); and, 2) the biologist's recommendations for next steps, including but not limited to, timing of construction that would avoid impacts to the nesting birds.
- B.** In the event the nesting bird survey finds no active nests within the palm trees proposed to be removed and replaced (Plan Sheets L-2 and L-3 Landscape Concept Plan, 11/17/2021), but active nest(s) are found in trees within 150 feet of the project footprint, then the measures identified below in Section C must be implemented. In the event the nesting bird survey finds no active nests within the palm trees to be removed and relocated and/or replaced, the removal and replacement and/or relocation of the 45 palm trees depicted on Plan Sheets L-2 and L-3 Landscape Concept Plan, 11/17/2021, may commence.
- C.** If an active nest of any shore, wading, or song bird is found within 300 feet of the project, or an active nest for any raptor species is found within 500 feet of the project, the applicant's biologist shall monitor bird behavior and construction noise levels. Follow-up nesting surveys shall be conducted and must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first. These surveys shall be submitted to the Executive Director within five days of completion. No nest shall be removed or disturbed. The biological monitor shall be present during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. Project-related activities may occur only if noise levels are at or below a peak of 65 dB at the nest site(s). If project-related noise exceeds a peak level of 65 dB at the nest site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction shall cease and shall not recommence until either new sound mitigation adequate to ensure protection of the nesting birds can be employed or the nests are no longer active. The new sound mitigation measures shall be submitted for the review and approval of the Executive Director. Work shall not re-commence without written acceptance of the new sound mitigation measures by the Executive Director.

- D.** The permittee shall implement the project in conformance with the requirements of this special condition.

7. Electric Vehicle (EV) Charging Stations

- A.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two full-size sets of final plans for the “A” Street parking lot and for the Main Street parking lot. The parking lot plans shall identify the location and type of electric vehicle charging spaces described below.
 1. A minimum of five electric vehicle ready parking spaces (with the ability to charge a minimum of five electric vehicles on site at the same time), and;
 2. A minimum of five additional electric vehicle capable spaces (installation of “raceway” – the enclosed conduit that forms the physical pathway for electrical wiring to protect it from damage, and adequate panel capacity to accommodate future installation of a dedicated branch circuit and charging station);
- B.** The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

8. Private Events.

- A.** By acceptance of this permit, the permittee agrees that public educational and recreational program use of the Junior Lifeguard building shall have priority over any private events.
- B.** The permittee shall undertake development in conformance with this special condition unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

9. Submittal of Final Lighting Plan.

- A.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two full-size sets of the final lighting plans. The lighting plan shall identify the location and type of all exterior lighting. The lighting plan shall confirm that all exterior lighting shall:
 1. Be designed to achieve the minimum degree of illumination necessary for public safety, minimize light trespass into adjacent non-target areas, and limit the illumination of open space, sandy beach, and ocean to the maximum extent feasible;
 2. Lighting shall be downward directed, shielded, energy efficient, dark sky-compatible, and;
 3. Incorporate state-of-the-art improvements in lighting technology when replaced thereafter. Replacement bulbs or fixtures shall be upgraded to incorporate best available technology over the life of the installation;
 4. Programmable timing devices shall be utilized to turn off unnecessary lights where feasible;
 5. Illuminated signs are prohibited.

- B. The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

10. Main Street Parking Lot Post Construction Drainage Plan.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two full size sets of the Main Street Parking Lot Post Construction Drainage Plan. The Post Construction Drainage plan shall reflect all water quality measures that will be implemented in the Main Street parking lot. These may include, but are not necessarily limited to, filtration of site drainage, directing drainage to landscaped areas, and/or directing drainage to dry wells.
- B. The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

11. Construction Public Access Signage Plan.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two sets of the final Construction Public Access Plan. The Construction Public Access Plan shall include construction information signage and public access wayfinding signage. The Construction Public Access Signage Plan shall, at a minimum:
 1. Identify on a site plan the location and type of each sign to be posted prior to and during project construction;
 2. Identify the timing/duration that each sign will be posted;
 3. Depict the content/wording of each sign to be posted prior to and during project construction;
 4. The dimensions of each sign;
 5. The size, text, and font of the sign lettering on each sign;
 6. The signage shall facilitate, manage, and promote public access to, from, and along the shoreline for the duration of construction of the Junior Lifeguard building and parking lot reconfigurations.
- B. The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

12. Construction Best Management Practices.

- A. The permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:
 - (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 (BMPs) 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 stored as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset 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.

13. Deed Restriction.

PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant’s entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION & DESCRIPTION

The proposed development includes removal of the existing Junior Lifeguard building, construction of a new Junior Lifeguard building, and reconfiguration of the existing Main Street and “A” Street public beach parking lots to accommodate the new Jr. Lifeguard building and reconfigure, re-stripe, and increase the number of public parking spaces within the lots. The Junior Lifeguard Building is proposed to be located on the ocean facing side of Balboa Peninsula in the City of Newport Beach, Orange County. The proposed building will be located east (downcoast) of the Balboa Pier and seaward of the Oceanfront Boardwalk Multi-Purpose Trail,¹ and adjacent Peninsula Park, a grassy field ([Exhibit 1](#)). Although generally referred to as the Junior Lifeguard building, the new building will also serve as a year-round multipurpose facility that, in addition to supporting the City’s Junior Lifeguard program, will also support public education and recreation activities, as well as public and private events. The elements of the proposed project are described in greater detail below.

Proposed Jr. Lifeguard Building

The proposed project includes construction of a new 5,400 square foot, 16.5 foot high (total height is 18.5 feet including 2-foot pad height above grade), single story, flat roof, Junior Lifeguard building with a 1,720 square foot wooden deck. Of the 1,720 square foot wooden deck, 1,350 is proposed to be open to the sky and 370 square feet will be covered by the proposed structure’s roof. Sun shade umbrellas are proposed on the open portion of the deck. The proposed structure will include a 1,115 square foot meeting room, a 295 square foot meeting room, 109 square foot kitchen, separate men’s and women’s locker rooms, interior restroom with showers, two additional restrooms accessible from the outside of the building and available to the general public, equipment storage area, general storage area, office space, and mechanical, electrical, and trash areas. The proposed building’s foundation will be a two-foot-deep mat foundation with shallow footings between 12 and 18 inches in depth ([Exhibit 2](#), page 26). The shallow footings will not act as shoreline protection.

In addition, the proposed project includes installation of electric, sewer, and water utility extensions to serve the new structure. These utilities will be placed beneath the parking lot, not on the beach. The Junior Lifeguard Building is proposed to be located in the seaward, downcoast corner of the “A” Street parking lot ([Exhibit 1](#)). The proposed project description states: “the project as currently proposed shall not include a sheetpile wall or any shoreline protective devices. Furthermore, in the event the structure becomes irrevocable threatened the City proposes removing the structure.” The applicant/City subsequently clarified that “irrevocable threatened” means the point at which the facility is unsafe for occupancy and cannot be made safe without any shoreline protections.

Currently, Junior Lifeguard participants lock bicycles and scooters to an existing, 180-foot-long fence that runs the length of Peninsula Park and adjacent sidewalk. Typically, this accommodates over 200 bicycles during Junior Lifeguard season. As part of the proposed project, the sidewalk adjacent to this fence will be widened from six feet wide to ten feet wide. This bike/scooter parking option will continue into the future. In

¹ Also referred to as the Newport-Balboa Bike Trail

addition, there is a 950 square foot bike parking area adjacent to the base of the Balboa Pier with bike racks that can accommodate over 130 bicycles ([Exhibit 3](#)).

Removal of Existing Jr. Lifeguard Building

There is an existing Junior Lifeguard facility, located on the sandy beach approximately 50 feet seaward of the "A" Street parking lot. This facility is comprised of a 2,100 square foot, 13 foot high, single story, triple-wide trailer; two 400 square foot storage (shipping) containers; and a 1,200 square foot wood deck. The existing facility is served by a single utility (electricity) by temporary hook-up. The connection is located in a shallow trench in the sand approximately 30 feet long. The electrical connection will be removed completely when the existing facility is removed. All elements of the existing facility are proposed to be removed from the site. Once all structures have been removed, any sand will be swept from the parking lot and the front loader used for the removal will then level the sand area to the profile of the surrounding beach. Total time of removal is expected to be 2.5 days. This facility was first placed sometime in the 1990s and was removed and replaced seasonally. It is currently present on site. It appears that no coastal development permit was sought or approved for this structure.

Newport Beach Jr. Lifeguard Program

The Newport Beach Junior Lifeguard Program is a seven-week, ocean-based summer program for youth run by the City of Newport Beach Fire Department's Ocean Lifeguards. The program is open to all children ages 9 to 15 who can pass a standard swim test. Newport Beach residency is not a requirement, but applicants must pay a fee to participate. Children with different abilities and backgrounds can participate. Special accommodations, one-on-one assistance, and additional support is available if needed at no additional cost.

The program is focused on building ocean swimming skills, physical fitness, beach safety awareness, and teaching the role of ocean lifeguards. In addition, the program focuses on educating participants to recognize potentially hazardous conditions associated with an ever-changing aquatic environment. Established in 1984 with two instructors and 50 participants, Newport Beach's program has grown to 60 instructors and support staff, and typically serves about 1,300 program participants every summer. Several Newport Beach lifeguards and staff began their service to the public as Junior Lifeguards.

The Junior Lifeguard program operates from late June to early August every year. Two sessions are offered Monday through Thursday, from 9 a.m. to noon and 1 p.m. to 4 p.m. Activities generally begin with a gathering on the beach to receive the morning briefing and instructions. Instructors then lead participants in various training activities on the beach or in the water. Junior Lifeguard activities involve both in-water and beach activities including long distance runs, swims and activities that would be centered within and in proximity to the proposed Junior Lifeguard building. Each week staff teach the Junior Lifeguards new skills to build their ocean abilities and prepare them for the activities that take place throughout the program. Typical daily activities include: lessons on entering and exiting the water safely; negotiating the surf and shore break; buoy swims; long distance ocean swims; paddling; body surfing; long distance runs; identifying and swimming out of a rip current; lifeguard safety and skills; basic first aid and personal safety; and team building, good sportsmanship and leadership. At the end of summer, Junior Lifeguards are tested on the skills and knowledge they've learned

throughout the program. By its nature, the program necessitates a presence on the beach and ocean. The program utilizes the following equipment: paddle boards, rescue buoys, sun-shades, water stations, flags, medical equipment, water safety equipment, masks and snorkels.

Outreach & Scholarship Program

Scholarship Program

In conjunction with the proposed project, a scholarship program is proposed to allow children from underserved and low-income families, who otherwise may not be able to participate, to participate in the program. The purpose of the scholarship program is to encourage the participation of young people with limited access or opportunity by assisting applicants with program tuition fees. Junior Lifeguard participants would qualify for need-based scholarship assistance determined solely by family income and passing the basic swim test.² The proposed scholarship program will cover all costs of participation. The current 2022 program cost is \$856 per participant. In addition to participation in the program, that cost also includes a backpack, towel, hat, sweatshirt, t-shirt, boardshorts, and one 1-piece or 2-piece swimsuit. Scholarship recipients will receive all of these items. In addition, each scholarship recipient will receive an OCTA youth bus pass and an OCTA regular bus pass for a parent or guardian to accompany the Junior Lifeguard, if needed. The OCTA bus passes will cover the entire program period. Single day passes will also be available for special occasions (such as Ben Carlson Day Run, Gray Lunde Ironman, Monster Mile, etc.), allowing the scholarship recipient to invite supporters to these events. The Junior Lifeguard program location just east of the Balboa Pier is served by OCTA Route 47 and can connect with other routes to serve most of Orange County with one or no transfers. OCTA Route 47 terminates within a 2-minute walking distance of the proposed Junior Lifeguard building.

The applicant has committed to providing scholarships for the entire program cost, adjusted going forward to cover any future program fee increases. At this time, Junior Lifeguard program staff have committed to providing scholarships for two to six Junior Lifeguard participants in the first year, and “depending on popularity and community response that number may be increased in following years.”

To obtain scholarships, families would apply through a link on the Newport Beach Junior Lifeguard website,³ and qualify using verification as a current National School Lunch Program (NSLP) participant. The NSLP is federally vetted income verification for school age youth, widely used in the community and would streamline the application process. Those not participating in the NSLP program could be considered using the US Department of Agriculture, Income Eligibility Guidelines ([Exhibit 4](#)). Individuals with extenuating circumstances would also be considered.

The scholarship program will be funded primarily by the Newport Beach Junior Lifeguard (NBJG) Foundation and administered by the Newport Beach Fire Department’s Junior Lifeguard program staff. Scholarship funding will also be provided

² It should be noted that the Jr. Lifeguard program is not a “learn to swim” program and basic swim skills are needed to participate.

³ <http://nbjg.net/>

by the Exchange Club of Newport Harbor⁴, and the Newport Beach Chamber of Commerce⁵. In addition, Spirit Run⁶, a City of Newport Beach sponsored event, will donate a portion of its net proceeds to the Newport Beach Junior Lifeguard Program. The Newport Beach Junior Lifeguard Foundation is a 100-percent volunteer non-profit 501c(3) corporation whose sole purpose is to support, preserve and enhance the Newport Beach Junior Lifeguard program. Incorporated in 2012, the foundation serves as the non-profit fund-raising auxiliary of the Newport Beach Junior Lifeguard program. Funding for the proposed Junior Lifeguard building is a partnership between the Newport Beach Junior Lifeguard Foundation and the City of Newport Beach. The funders will contribute generally to the NBJG program, and the scholarship program will be administered by the City of Newport Beach Junior Lifeguard program staff.

Public Outreach

In addition to the Junior Lifeguard program's existing social media presence, as part of the proposed project, the applicant will annually email fliers to inland public pools, parks, and recreation facility managers, to be posted at the managers' discretion. The fliers are intended to make people aware of the Newport Beach Junior Lifeguard program. The fliers will be in English and other languages known to be used in the areas. The Newport Beach Junior Lifeguard social media presence will also include English and other languages used in Southern California.

Other outreach measures currently in effect and on-going are described by the applicant as follows: "Newport Lifeguards staff provides a variety of educational and training activities for the community beyond the Junior Lifeguard program. Due to staffing limitations, many of these activities take place during fall, winter, and spring. Many opportunities coincide with school classes or field trips, but also include volunteer groups like Boy Scouts and church groups from all over Southern California. The activities typically include a tour of the beach area, a beach safety lecture, and a lifeguard demonstration to familiarize the audience with the coastal region. Having an appropriate venue [proposed facility] to reach these audiences allows us to provide this critically important information free of charge and share a very special place with people from all backgrounds. In addition, for over a decade, teachers at Fountain Valley and Santa Ana, and Newport-Mesa School Districts have requested visiting Newport Beach Lifeguard facilities or Newport Beach Lifeguard visit their schools for lectures on ocean safety, environment, local geography and/or lifeguarding. Most of the visits have been based on personal contacts, friends or spouses. The Newport Lifeguards and Junior Lifeguards have a robust social media presence Facebook, YouTube, Instagram and attract a variety of communities including the underserved."

In addition, the applicant states that the proposed structure would facilitate and enhance current programs offered by the City's Recreation and Senior Services Department, as follows: "The Recreation and Senior Services Department includes a Natural Resources division which offers field trips at the Corona del Mar tidepools teaching beach ecology and tidepool preservation. The division also works to educate the public on the endangered Western Snowy Plover and the dune habitat that is near the Junior Lifeguard location. The Junior Lifeguard facility would allow for school year field trip

⁴ <https://exchangeclubofnewportharbor.com/>

⁵ <https://www.newportbeach.com/>

⁶ www.newportspirtrun.org

programs to operate utilizing the facility for education on beach and marine wildlife and staging for a hike to see the Western Snowy Plover habitat.”

Swim Test

In the past, the swim test, which must be passed to participate in the Junior Lifeguard program, was offered only at Corona del Mar High School. As part of the proposed project, the swim test will also be offered at Costa Mesa High school, which is located about five miles northeast of Corona del Mar High School. The applicant identified Costa Mesa High School pool as an alternative, additional location for the swim test because it is more readily accessible to underserved and low-income families. The pool is located at 2650 Fairview Road, in northwest Costa Mesa. This school is adjoining to underserved and low-income families as indicated by 61.8-percent eligible rate of students who qualify for free/reduced-price meals (2019-20 data from Ed-Data.org). Costa Mesa High School is served by two Orange County Transit Authority (OCTA) bus routes. OCTA Route 55 is a north-south route that runs from the Santa Ana Civic Center, through Santa Ana and west side Costa Mesa to Pacific Coast Highway in Newport Beach. OCTA Route 47 is a north/south route that transits from the Fullerton Transportation Center to the Balboa Pier in Newport Beach. OCTA Route 47 serves the communities of Fullerton, Anaheim, Santa Ana, Costa Mesa and Newport Beach. There are six east/west OCTA routes that intersect Routes 47 and 55 providing access from north and central orange county and Route 1 that connects the Orange County coastal regions from Seal Beach to San Clemente.

Proposed Facility's Additional Uses

In addition to supporting the Junior Lifeguard program, the proposed facility will also allow the City of Newport Beach Recreation and Senior Services Department to program activities in the building during the non-Junior Lifeguard season (September through April). The City will offer recreational opportunities that may include fitness classes, school field trips, adult education and enrichment and other Recreation Department programming for up to 75 people at one time (maximum capacity of the largest room). These courses would be available to residents and non-residents alike. The building will also be available to residents throughout California for private rentals, for events such as weddings, bridal showers, birthday parties, meetings, family reunions and community events, at a lower cost than comparable oceanfront facilities. The largest room in the facility is 1,115 square feet and will accommodate a maximum of 75 (theater-style seating) and 48 people seated at round banquet tables. The proposed hourly rental fees are \$151 for commercial entities, \$53 for non-profit organizations, \$91 for private groups, and \$26 for resident, youth-serving, community groups (such as scouting, etc.) and the Newport-Mesa Unified School District. A \$150 cleaning fee may be added for some events.

Exterior restrooms will be available for use by the general public (not dependent on enrollment in a scheduled activity). There is also an existing public restroom building seaward of the “A” Street parking lot, just downcoast of the Balboa Pier. No change to this restroom facility is proposed. Recreation programming will be primarily scheduled on weekday mornings and afternoons. Rentals will be primarily scheduled on weeknights, and weekends between 8 a.m. and 10 p.m. In addition, the applicant (City of Newport Beach) is considering hosting movies and concerts that would utilize the Junior Lifeguard facility and adjacent Peninsula Park, both of which would be open to the

public and free of charge. Sufficient parking is available during the months of September-April in the adjacent parking lots.

Parking Lot Reconfiguration

The “A” Street parking lot immediately adjacent to the proposed Junior Lifeguard Building and the Main Street parking lot on the upcoast side of the Balboa Pier will be reconfigured, resulting in a net gain of six parking spaces within the public beach parking lots. The Junior Lifeguard program does not require a significant use of parking spaces, because most participants are dropped off and picked-up, or bike or walk to the facility. (With an upper age limit of 15, none of the junior lifeguards are legally able to drive.) In addition, as noted, the site is served by OCTA. More specifically, the two proposed parking lot reconfigurations include (the parking lot names are derived from the streets that lead to each lot’s entrance):

“A” Street parking lot – 43 of the existing parking spaces within the “A” Street parking lot will be reconfigured, replaced with 19 parking spaces, a net loss of 24 parking spaces. Two of the new parking spaces will be ADA accessible, where currently there are no accessible spaces. The proposed Junior Lifeguard building will be placed within the existing “A” Street parking lot at the seaward, downcoast corner. The reconfiguration of the “A” Street lot will be accomplished by converting an area of existing grass at the interior of the parking lot to new parking spaces by paving and striping the expanded area, re-paving and re-striping the area within the existing parking lot, removing and re-locating curbs and landscaping, relocating two picnic tables, and removing ten palm trees, and planting ten palm trees. ([Exhibit 2](#), page 14).

Main Street Parking Lot – 33 of the existing parking spaces within the Main Street parking lot will be reconfigured, replaced with 63 parking spaces, a net gain of 30 parking spaces. Six of the new parking spaces will be ADA accessible, where currently there are no accessible spaces. The reconfiguration of the Main Street parking lot will be accomplished by removing existing curbs and landscaping, constructing new curbs and landscaping, re-paving and re-striping the area within the existing parking lot, re-aligning drive aisles, removing and replacing 35 palm trees. ([Exhibit 2](#), page 15).

Project Phasing & Staging

Construction staging will occur entirely within areas of the “A” Street and Main Street parking lots. No construction staging or any construction activities will occur on the beach (with the exception of removal of the existing Junior Lifeguard facility from the sand, described earlier). No construction staging or activities will occur on the Oceanfront Boardwalk Multi-Use Trail. Only a portion of each of the two parking lots will be reconfigured. A majority of the Main Street lot will be unaffected by the project and remain open to the public during all construction activities ([Exhibit 2](#), page 12). A portion of the “A” Street parking lot will also remain available during construction. Construction activities will occur only during the non-peak summer use period, following Labor Day up until, but not including, the Friday before Memorial Day Weekend. In addition, the smaller “B” Street parking lot, located adjacent to the downcoast side of Peninsula Park will remain open and unaffected by the proposed project for the duration of the project. Equipment anticipated for grading and utility work within “A” Street parking lot include excavator, backhoe loader and bulldozer. Equipment needed for construction of the building will include lifts, small crane, concrete trucks and scaffolding.

Phase 1 of the proposed project will include reconfiguration of the two parking lots, landscape, and underground utility work. Phase 2 will include construction of the Junior Lifeguard building. Project phasing is expected to occur in the following order: 1) utilities, forms, and foundation; 2) exterior walls, rough utilities, framing; 3) framing, roofing, interior walls; 4) windows, utilities, finishes; 5) finishes, doors, site work; 6) site work; and 7) occupancy.

Proposed Traffic and Circulation Plan

Over the years it has existed, the Junior Lifeguard program has developed a Traffic Management and Circulation Plan ([Exhibit 2](#), page 11). The plan is implemented each year for the duration of the summer program. The plan includes recommended routes for drop off and pick and recommended bike routes, which are shared with participants and their families prior to the start of the program. The program also includes crossing guards, stationed at the Balboa Ferry landing on the Balboa Peninsula, at three points along Balboa Blvd., and at the interior corner of the "A" Street parking lot. In addition, the plan identifies a bicycle staging area where participants who bike or scooter to the program can lock their bike or scooter along a fence between Peninsula Park and the sidewalk along the "A" Street parking lot (this sidewalk is proposed to be widened from six feet to ten feet as part of the proposed project). This area accommodates approximately 200 bicycles and scooters in an area where the Junior Lifeguards do not have to cross the parking lot to access the beach, gathering areas, and proposed building. There is also another bike rack location directly east of the base of the Balboa Pier. This location can accommodate over 130 bicycles. This secondary location requires Junior Lifeguards to cross the parking lot. Overall, the Traffic Management and Circulation Plan promotes safety and facilitates traffic movement as approximately 750 Junior Lifeguards gather and leave in the morning and again in the afternoon when a different set of 750 Junior Lifeguards gather and depart, four times a day, Monday through Thursday, for the duration of the program. The proposed project includes implementation of the Traffic Management and Circulation Plan.

Standard of Review

On January 13, 2017, the City of Newport Beach Local Coastal Program (LCP) was effectively certified. The subject site is located within the Commission retained permit jurisdiction. The standard of review is Chapter 3 of the Coastal Act, and the certified LCP serves as guidance. As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act.

B. PUBLIC ACCESS & RECREATION

The following Coastal Act policies protect the public's right to public access and recreation opportunities:

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 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...

Section 30213 of the Coastal Act states:

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

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot be readily provided at inland water areas shall be protected for such uses.

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:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30253(d) of the Coastal Act states:

New development shall do all of the following:

- (d) Minimize energy consumption and vehicle miles traveled.

In addition, the City of Newport Beach certified Local Coastal Program (LCP), used in this area of original jurisdiction as guidance only, includes the following public access and recreation policies:

- 2.3.3-4. Encourage visitor-serving and recreational developments that provide public recreational opportunities.

2.3.3-5. Continue to provide and protect public beaches and parks as a means of providing free and lower cost recreational opportunities.

The LCP includes policies regarding Public Facilities designated land, such as the subject site, as well. The LCP described this as:

Public Facilities Lands designated for public facilities that are on or adjacent to the shoreline are primarily used for public parking, public safety facilities, and educational facilities. These include coastal dependent/related institutional uses, such as the Orange Coast College David A. Grant Collegiate Rowing Center, the Sea Scout Base, and the Kerckhoff Marine Laboratory.

The LCP includes the following Public Facilities policy:

Policy 2.4.2-1. Continue to designate lands for coastal-dependent/related educational and recreational uses.

The beach width seaward of the proposed project footprint averages approximately 273 feet. Upcoast of the subject site are the public beach parking lots and downcoast is the grassy field of Peninsula Park ([Exhibits 1 and 5](#)). Upcoast and downcoast of the parking lots and park, the sandy beach between the Oceanfront Boardwalk Multi-Use Trail and the ocean averages approximately 570 feet wide. The Balboa ferry landing is located just a few blocks inland of the project site. In addition, the general vicinity of the subject area, known as Balboa Village, provides substantial visitor serving commercial shops, restaurants, hotels, and opportunities to rent bikes and other visitor amenities. The City's certified Land Use Plan describes Balboa Village as the historic center for recreational and social activities on the Peninsula. The wide, sandy public beach runs the entire length of the Balboa Peninsula on the ocean side, from the harbor entrance to the Santa Ana River, a distance of over five miles. In addition, the Peninsula includes two piers - the Balboa Pier nearest the subject site, and the Newport Pier, upcoast of the site - drawing both general visitors and fisher-people.

The Oceanfront Boardwalk Multi-Use Trail runs approximately three miles along the beachfront, extending from "F" Street to 36th Street in West Newport. This multi-use trail is 12 to 22 feet wide and is popular with pedestrians, bicyclists, and skaters. Both piers fall along this route. A sharrow (class 3) bike lane on Seashore Dr. then links the oceanfront bike path to the Huntington Beach bike path along the beachfront for the entire length of Huntington Beach. The Seashore Dr. bike lane also links bicyclists to the Banning Channel Bikeway and the Santa Ana River Trail (on either side of the Santa Ana River) at the border between the Cities of Newport Beach and Huntington Beach. The Santa Ana River Trail extends over twenty miles inland to Yorba Linda. Likewise, across the Balboa Ferry, Balboa Island, and about three blocks up Jamboree Road, takes a bicyclist to the bike path along Back Bay Drive and then to the Mountains to the Sea Trail & Bikeway, which extends inland to Peter's Canyon Regional Park, in City of Orange, a distance of over twenty miles. These trails provide both relatively low cost, non-automobile access to the Balboa Peninsula, as well as recreational opportunities. Overall, this area is a very popular visitor destination, drawing visitors to the pier, the Oceanfront Boardwalk Multi-Use Trail, visitor commercial areas, and the wide sandy beach.

The area is accessible by car, bicycle, foot, and public transit. Large public beach parking lots are available at both the Newport and Balboa piers. Additional parking is available on the Balboa Peninsula at interior lots and on public streets. Bicycle parking is also available throughout the Peninsula, including at the base of the Balboa and Newport piers. It is important that public access to this popular and significant visitor serving area be maintained and maximized.

The Junior Lifeguard program has been present at the site since 1984. The proposed project will support the continuance of the Junior Lifeguard program, which affords young people the opportunity to become safe and comfortable in the ocean. It offers recreational opportunities and creates future beach lovers. The program is ocean dependent - you can't learn ocean safety if you're not in the ocean. The proposed scholarship and outreach programs will expand this opportunity to others who may not otherwise have been aware of the program and/or of the beach benefits it provides. The proposed building will not displace sandy beach area and increases by six, rather than decreasing, the number of public parking spaces available. The program has been on-going for almost 40 years. The proposed facility will not change the current program, but rather will better serve the existing one.

The Oceanfront Boardwalk multi-use trail, located at the landward edge of the "A" Street parking lot (and extending up and downcoast), will not be closed at any time during construction. There are multiple points of access to the beach and shoreline in the project vicinity, including at all streetends and along the length of the multi-use trail. These access points will all remain open and accessible during construction. Unobstructed beach access will remain available outside each construction phase footprint, which are contained entirely within the two parking lots. No sandy beach area will be impacted (with the exception of removal of the existing facility). Although no public access will be available through the proposed construction site, the "A" Street and Main Street parking lots will remain open will not be significantly impacted. Circulation through the Main Street lot will remain during construction.

Traffic Management and Circulation Plan

An existing Traffic Management and Circulation Plan is put into effect each year during the seven-week Junior Lifeguard program. The plan eases potential traffic and circulation issues, as well as promotes the safety of the Junior Lifeguard participants ([Exhibit 2](#), page 11). The Traffic Management and Circulation Plan identifies the Junior Lifeguard drop-off/pick-up route, crossing guard locations for participants arriving via bicycle, scooter, and on foot, including for those crossing from Balboa Island on the ferry. The Junior Lifeguard Traffic Management and Circulation Plan used in previous years will continue to be used with the new facility to effectively manage traffic and facilitate public access during the Junior Lifeguard season. **Special Condition No. 1** requires the project to be carried out as conditioned and proposed, which requires the Traffic Management and Circulation Plan to be carried out as proposed.

Construction Phasing and Staging

The proposed project includes construction staging and phasing that will minimize temporary construction related adverse impacts the project may have on public access by limiting construction activities to outside the peak summer use period (after Labor Day Weekend and before Memorial Day Weekend), and by limiting all construction and staging activities to portions of the existing developed parking lots. The parking lot

reconfiguration and construction of the building will occur in separate phases, thus limiting the construction footprint for each phase, thus reducing overall public access impacts. Both the “A” Street and Main Street parking lots will remain open during construction, though not all spaces will be available during this time (which will be non-peak use period. The City indicates the lots are typically not at capacity during these non-summer months). Construction parking will occur within the proposed project footprint within the existing parking lots. No work will occur on the sandy beach (other than removal of the existing, unpermitted, Junior Lifeguard facility). A screened construction fence will be maintained during all construction activities. The construction fencing will be modified during the various project phases to minimize the fenced-off area at any given time and to maximize public access. Construction signs will be posted on all construction fencing, near the entry of “A” Street parking lot and surrounding Main Street and “B” Street parking lots. The signs will include a brief description of the project, contact information, and website/social media information. **Special Condition No. 1** requires the project to be carried out as conditioned and proposed. This requires the project Construction Phasing and Staging to be carried out as proposed.

Construction Public Access Signage

Public access wayfinding signs are also proposed at the construction area including the “A” Street and Main Street parking lots, as well as at the “B” Street parking lot. Both construction information and public access wayfinding signs are proposed to be posted at least 10 days prior to commencement of construction and to remain in place for the duration of the project.

Although construction signage and public access wayfinding signage are proposed, the specific locations, wording, sign sizes, and font size have not been provided. In order to assure that the proposed signage is effectively sized and located, as necessary to promote public access, **Special Condition No. 11** requires that a Construction Public Access Signage Plan to be submitted, that depicts the specific wording, locations and sizes of both signs and sign lettering be submitted.

Electric Vehicles

Section 30253(d) of the Coastal Act requires that new development minimize energy consumption. The use of electric vehicles, compared to fossil fuel vehicles, minimizes energy consumption. Electric vehicles and supporting infrastructure are a component of the State’s plan to reduce adverse effects of climate change (including sea level rise and severe storms which have potential to directly affect the proposed development). It is important to increase efforts to facilitate electric vehicle usage as a means of reducing greenhouse gas emissions resulting from the use of fossil fuels in traditional internal combustion vehicles. Toward that end, it is important to provide new electric vehicle (EV) charging options with new development as a means of promoting public access for all people (including people who rely on EV charging stations to reach recreational facilities) consistent with Coastal Act Section 30210, and to create opportunities to increase the number of electric vehicle charging spaces in the future as demand increases. Coastal Act Section 30252 requires maintenance and enhancement of public access as it relates to new development, including “providing adequate parking facilities.” Electric vehicle charging facilities may be installed at the same time as other facilities that are required for the next development, including proposed work within existing public beach parking lots and the proposed electrical extensions to serve the new Junior Lifeguard structure.

This presents an excellent opportunity to increase the availability of electric vehicle charging spaces within the public beach parking lots, and to add additional conduit so that the parking lot is ready to increase the number of electric vehicle parking spaces in the future as demand increases. EV “ready” parking spaces are those that are fully ready to provide electric vehicle charging while an EV is parked in the space. EV “capable” parking spaces are those where installation of “raceway” (the enclosed conduit that forms the physical pathway for electrical wiring to protect it from damage) and adequate panel capacity is put in place, and thus “capable” to accommodate future installation of a dedicated branch circuit and charging station(s).

The California Green (CALGreen) Building Code recommends that development projects that include parking provide 5% of the parking spaces as EV “ready” and an additional 5% of parking spaces as EV “capable.” In the case of the proposed parking lot reconfigurations, the lots (within the areas to be reconfigured) will include a total of 82 parking spaces. Five percent of 82 is five spaces ($82 \times 0.05 = 4.1 \Rightarrow 5$ spaces). Thus, five spaces need to be created that are EV “ready” and an additional five spaces need to be created that are EV “capable.” Resulting in 10 total parking spaces, five with full charging capacity at this time and the other five equipped to add chargers in the future. The Commission traditionally has required maximum parking to assure that public access is maximized. However, more recently the Commission has approved of additional ways to promote public access and help minimize energy consumption. These methods include promoting public transit, bicycling, walking, ride sharing, and installation of electric vehicle charging stations. As the proposed development includes reconfiguring existing parking lots, it presents an optimum time to add electric vehicle charging options. **Special Condition 7** requires the applicant to submit revised final parking lot plans depicting the locations for electric vehicle charging spaces, a minimum of five with the ability to charge a minimum of five electric vehicles on site at the same time (EV ready spaces), and the installation of infrastructure to support a minimum of five additional electric vehicle “capable” spaces. The applicant may also propose to provide in excess of five EV ready and five EV capable parking spaces if it is feasible, upon submittal of the final plans.

Private vs. Public Events

The Junior Lifeguard building is proposed to be managed by the City’s Department of Recreation and Senior Services.⁷ The proposal includes use of the building for both public events as well as rentals for private events. It is important that the building not convert to a private event space, inconsistent with the underlying land use designation and zoning, and inconsistent with the Coastal Act and LCP policies promoting public access and recreation. As described earlier, public events expected to occur at the site include educational and recreational classes, school and similar field trips, public movie nights, and similar type public events. To ensure, that the building remains primarily available for public events, **Special Condition No. 8** requires that public educational and recreational program use of the Junior Lifeguard building shall have priority over any private events.

Main Street Parking Lot Alternative Location

⁷ <https://www.newportbeachca.gov/government/departments/recreation-senior-services>

In developing the proposed project, the City analyzed multiple alternatives for the location of the proposed Junior Lifeguard building. The City considered three locations near Balboa Pier (“A” Street Parking Lot, “B” Street Parking Lot, and Main Street Parking Lot ([Exhibit 1](#))). The Main Street Parking lot location would result in the loss of too many parking spaces (40) without the ability for replacement. Also, because of its lower elevation relative to sea level, the location of the FEMA line⁸ would place the building in the middle of the existing parking lot, which would not be safe for Junior Lifeguard participants, due to the need to cross back and forth across the active public parking lot to reach the beach. And finally, the beach is significantly narrower on the Main Street side of the pier (140 feet wide versus 273 feet wide).

“B” Street Parking Lot Alternative Location

The “B” Street location was dismissed due to poor drop off/pick up circulation, which would create problematic traffic situations in the vicinity. In addition, this location would require the building to be placed on sandy beach or on the existing parking lot resulting in loss of public parking spaces (approximately 25 spaces).

Above the Restroom Building at Balboa Pier Alternative Location

Co-locating the proposed facility above the restroom building at the base of the Balboa Pier was also considered, but dismissed because it would result in extensive congestion and interaction between beach-goers and Junior Lifeguard participants. Furthermore, it would require placing deep piles to support the structure, which would be costly and structurally vulnerable to seismic forces, and likely would not be consistent with the Coastal Act. Moreover, this location presented problems related to the City’s plans to use the proposed building during the non-Junior Lifeguard season, due to issues raised with Americans with Disabilities Act requirements.

Co-location at Newport Pier Lifeguard Headquarters Alternative Location

Also considered was co-locating the new structure at Newport Pier next to the Lifeguard Headquarters building. But that placement would require construction on the sandy beach, as well as placing the new structure in a location more prone to possible coastal hazards and surf than the proposed location.

15th Street Alternative Location

In addition, another location a half mile east of the Lifeguard Headquarters building was considered, at 15th Street where an existing public restroom facility is located. But this location was also rejected due to concerns about surf safety at this site and traffic circulation issues. Dangerous surf conditions would not be safe for Junior Lifeguard training.

The proposed “A” Street parking lot location is the location that has been successfully used historically for Junior Lifeguard program activities. This parking lot affords better traffic circulation than other locations due to its flow through entrance at “A” Street and exit at Washington Street; wave action is less here than at the other beach areas reviewed and is thus safer for training purposes; it is located adjacent to Peninsula Park, and the beach is suitably wide here for Junior Lifeguard activities. No construction on sandy beach would be required and no loss of public parking would result. Rather

⁸ FEMA (Federal Emergency Management Agency) flood line, VE Zone +22, behind which all new development must be placed.

the project results in a net increase of six public parking spaces. Regarding the proposed "A" Street parking lot location, the City concludes: "In review of all the sites considered the A Street Parking Lot is the best alternative and was able to satisfy most of the needs for lifeguards, Recreation Department, traffic circulation and use of available space. Other locations would require taking valuable passive or programable park space; placing the facility elevated on the beach (VE Zone +22), or not replacing parking in a suitable manner. The project intent is to provide a moderately cost-effective building that meets the expectation of the surrounding community. It is important to the safety of the Junior Guard participants that they do not have [to] cross a parking lot to get to the beach. It also provides the Lifeguards a suitable location to supervise beach activities and provide adequate response to any situations that occur during Junior Guard activities."

Conclusion

The area has multiple access points for the beach and shoreline so the proposed project would have very limited impacts on public access to the beach or adjacent visitor serving facilities. Each phase of the construction site footprint will have clear beach access all around. Coastal Act Sections 30210 and 30212 require maximum access and recreational opportunities at the coast be provided. Coastal Act Section 30213 requires protection of lower cost visitor and recreational facilities. Coastal Act Sections 30220 and 30221 require areas suitable for recreational activities be protected for such uses. Coastal Act Section 30253(d) requires that energy consumption be minimized. In addition, the City's certified LCP includes policies promoting public access and recreation.

Special Condition No. 1 requires the applicant to carry out the plan as proposed, which will assure that the proposed increase in public parking spaces will be provided, that construction phasing and staging will minimize adverse impacts to public access and recreation in that the construction footprint will be minimized and the duration of construction will be limited to the least necessary, and that no construction activities will occur during the peak summer use period. **Special Condition No. 7** requires the applicant to install a minimum of five electric vehicle ready parking spaces and a minimum of five electric vehicle capable parking spaces within the "A" Street and/or Main Street parking lots. **Special Condition No. 8** requires that public educational and recreational program use of the Junior Lifeguard building shall have priority over any private events.

Special Condition No. 10 requires the applicant to submit and implement a Construction Public Access Signage Plan. As conditioned, the Commission finds that the development will not have adverse impacts on public access and recreation and is consistent with the public access and recreation policies of the Coastal Act. Thus, as conditioned, public access to the area and recreational activities are provided and protected consistent with Sections 30210, 30212, 30213, 30220, and 30221 of the Coastal Act.

C. MARINE RESOURCES

The following Coastal Act policies protect marine resources from the effects of polluted runoff:

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.

The project is proposed to be located adjacent the beach where there is a potential for a discharge of polluted runoff from the site into coastal waters. The spilling of fuel, debris, or waste onto the beach or in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment.

The proposed project includes drainage features to address water quality. Drainage in the northeast corner of the "A" Street parking lot, in the area between the lot entrance and the proposed structure will be directed to a gutter in the center of the lot, and from there to an open-bottom channel drain, and then into an existing bioretention basin that treats the 85th Percentile storm, located in the grassy park area immediately north of the parking lot. This provides filtration of site drainage. In the southwest corner of the "A" Street parking lot, drainage will be collected and directed to a catch basin and directed through storm drain pipes to a dry well. The subgrade dry well with perforated sides allows site drainage to dissipate slowly and drain out the perforations, into the ground. Other water quality Best Management Practices (BMPs) proposed include: catch basin inspection, litter control, street sweeping, storm drain stenciling, and use of efficient irrigation systems (to limit overwatering and consequent runoff).

However, no project water quality BMPs have been identified for the proposed modified area of the Main Street Parking lot. It is assumed that some of the BMPs proposed for the "A" Street parking lot would also apply to the Main Street parking lot, such as catch basin inspection, litter control, street sweeping, storm drain stenciling, and use of efficient irrigation systems. However, the proposed project does not address water quality measures for the Main Street lot. **Special Condition No. 10** requires the applicant to submit a drainage plan identifying and depicting the water quality measures that will be implemented in the Main Street parking lot.

Water Quality BMPs proposed during construction include a stabilized construction entrance, placement of fiber rolls around the entire perimeter of the site (except for site

entrance), a concrete washout pit, and storm drain inlet protection. In addition, in order to reduce the potential for adverse impacts to water quality, the Commission imposes **Special Condition No. 12** requiring implementation of a construction best management practices (BMPs) that will minimize erosion, sediment, and pollutant discharge on-site and in adjacent areas, including requiring equipment fueling and maintenance to be conducted offsite and prompt removal and proper disposal of construction debris. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

D. LAND RESOURCES

Coastal Act section 30240(b) states:

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.

Nesting Birds

There are dozens of palm trees in close proximity to the project site. In an urbanized area, such as Newport Beach, stands of palm trees have been documented to provide nesting habitat for birds including black-crowned night herons, great blue herons, and snowy egrets. A biological report was prepared for the proposed development (Initial Resource Survey for the Newport Beach Junior Lifeguard Building Project, prepared by Marine Taxonomic Services, Ltd., dated 1/7/2021). The report assessed the subject site to identify sensitive habitat, species, and vegetation, and determine the potential for the area within the project site to be utilized as wetland habitat. The report reviewed the area from the bike path to the surf line. The report did not find the presence of any sensitive habitat or species within the project area. Neither sensitive or nesting avian species were observed during the project biologist's review of the project site and nearby beach. The biological report recognized that it is likely that western snowy plover (*Charadrius alexandrinus nivosus*; State of California species of special concern; federally listed as threatened) and California least tern (*Sternula antillarum browni*; State of California endangered; federally listed as endangered) would be expected to be occasionally observed near the shoreline and over the water. However, the project site does not provide nesting habitat for either species due to existing disturbance from recreational use. Sensitive vegetation was not observed within the project site or on the beach fronting the project site.

However, nesting colonial wading birds (such as black-crowned night herons, great blue herons, and snowy egrets) sometimes nest in palm trees. The proposed project includes removal and re-location or replacement of a total of 45 palm trees (around the perimeter of both parking lots to be improved). Although the biological report prepared for the project did not identify any nests within the palm trees on site, it is important that these trees be re-evaluated closer to the time of commencement of construction to ascertain the potential presence of nesting birds within these palm trees (there are only palm trees within the project vicinity). Moreover, it is important to recognize that should any nests be discovered, re-evaluation of construction and construction timing will be necessary. **Special Condition No. 6** is imposed to require nesting bird surveys within a 150-foot radius of the project site within thirty days prior to construction. The special

condition also requires that, if no nesting birds are present the project may proceed as proposed and conditioned. If the survey reveals that nesting birds are present within a 150-foot radius of the project site, but not within the project area where trees are proposed to be removed, special construction requirements to avoid disturbance are required. If there are active nests in trees proposed for removal, construction may not commence, and the applicant must submit an amendment to this permit to address the presence of nesting birds within the palm trees.

Night Lighting

No lighting plan has been provided with the proposed project. While the effects of night lighting on sensitive habitat and species are not well understood, new research supports a basis for concern about the impacts of light pollution and the need to limit light pollution to the maximum extent feasible. Therefore, to minimize potential impacts to coastal habitat and species, **Special Condition 9**, requires final lighting plans that are dark sky compatible, focus light downward, and prohibit the use of illuminated signs.

Conclusion

As conditioned, the development will not result in significant degradation of coastal habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

E. DEVELOPMENT

Coastal Act Section 30220 states:

Protection of certain water-oriented activities that cannot readily be provided at inland water areas shall be protected for such uses.

Coastal Act section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Land Use

The proposed site of the new Junior Lifeguard facility will be located on existing "A" Street parking lot. The parking lot is land use designated and zoned Public Facilities (PF) on the Local Coastal Program (LCP) certified Land Use Plan map. The beach, grassy areas and bike path surrounding the subject site are land use designated and zoned Parks and Recreation (PR). Both the certified LUP and IP describe the Public Facilities land use category as intended to provide public facilities, including public schools, cultural institutions, government facilities, libraries, community centers, public hospitals, and public utilities. The proposed Junior Lifeguard facility is consistent with the land use designation and zoning in that it provides a public community center type use.

The proposed Junior Lifeguard facility will provide a water-oriented use that cannot readily be provided at inland water areas, in that the Junior Lifeguard program provides instruction on ocean safety and ocean activities. The program is tailored to the specific dynamics of the ocean. The proposed project will be consistent with the certified land use and zoning for the site. In addition to providing the Junior Lifeguard ocean safety and ocean activities program, additional recreational opportunities will be offered at other times of the year such as educational and recreational classes, school field trips to teach students about the ocean and surrounding area and history, adult education and enrichment and other Recreation Department programming. The proposed facility will provide additional public restrooms. All of these uses are consistent with Section 30220 of the Coastal Act.

Visual Resources

The proposed Junior Lifeguard building will be visible from public viewpoints including from the adjacent Oceanfront Multi-Purpose Trail, Balboa Pier, Peninsula Park and from the sandy beach inland and downcoast of the site. Section 30251 of the Coastal Act requires new development to be sited and designed to protect views to and along the ocean and to be compatible with the character of the surrounding area. In this case, the applicant selected the proposed new Junior Lifeguard site within the "A" Street parking lot, in part, as an effort to minimize impacts to visual resources; it will be located near existing development including the public restroom facility and pier. Nevertheless, the new structure will interfere with existing public views. However, visual impacts have been minimized by limiting the height and footprint of the building to the least size necessary that still allows the functions required of the new Junior Lifeguard structure. The structure has been designed with the narrower side of the building (width of the structure) perpendicular to the ocean, with the intent of limiting public view impacts.

Moreover, the applicant (City of Newport Beach) will provide public uses at the site in addition to the Junior Lifeguard use, outside of the Junior Lifeguard season. Public uses include recreational opportunities such as educational and recreational classes, school and similar field trips, adult education and enrichment and other Recreation Department programming. These users will enjoy enhanced public views from the public facility. Views from the pier and the beach seaward of the project footprint are looking toward the ocean, rather than back landward where the building will be located. Substantial view opportunities will remain from the overall length of the multi-purpose trail, up and downcoast of the existing and proposed development at the base of the pier. The addition of the proposed Junior Lifeguard structure is compatible with the existing development at the base of the pier, which includes the public restroom facility, the pier approach, gazebo, and commercial building at the base of the pier, seaward of the multipurpose trail. As proposed, and as conditioned, the proposed Junior Lifeguard building will be consistent with Coastal Act Section 30251 which requires that the scenic and visual qualities of coastal areas be considered and protected and that development be visually compatible with the character of the surrounding area.

F. COASTAL HAZARDS

Coastal Act section 30253 states, in part:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) 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.
- (d) Minimize energy consumption and vehicle miles traveled.

Concentrations of atmospheric greenhouse gases have been increasing substantially in recent centuries, largely due to human-induced greenhouse gas emissions, which has resulted in considerable warming of the Earth and oceans. This global warming is causing and will continue to cause, among other things, sea levels to rise due to a combination of thermal expansion of ocean water and melting land ice. Depending on current and future concentrations of greenhouse gas emissions, scientists have developed projections of future sea level rise scenarios based on different emission scenarios and existing development. Sea level rise projections for Los Angeles under a high emissions scenario, provided in the 2018 Ocean Protection Council Sea Level Rise Guidance, range from approximately 3.2 feet (low risk aversion) to 6.7 feet (medium-high risk aversion) to 9.9 feet (extreme risk aversion) of sea level rise by 2100, which would be near the end of the 75-year design life typically considered by the Commission.

As our understanding of sea level rise continues to evolve, it is possible that sea level rise projections will continue to change as well. While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea-level change is clear and it is critical to continue to assess sea level rise vulnerabilities when planning for future development. Importantly, maintaining a precautionary approach that considers high or even extreme sea level rise rates and includes planning for future adaptation will help ensure that decisions are made that will result in a resilient coastal California.

Based on applicable best available science, the proposed structure will likely become threatened by sea level rise (SLR) prior to the 75-year design life. Originally, the project proposal included a sheetpile bulkhead shoreline protection device. However, the applicant has revised the project to eliminate any shoreline protection for the proposed development, now and in the future. The applicant is proposing to remove the structure if and when it becomes threatened ([Exhibit 6](#)).

The applicant submitted a Coastal Hazards Analysis, prepared by TerraCosta Consulting Group, Inc., dated 11/9/2020. Additional correspondence from the coastal hazards consultant was received in response to questions from Commission staff (11/9/2021; 9/15/2021; and 10/14/2021). The Coastal Commission's Adopted Sea Level Rise Policy Guidance (adopted 8/12/2015, Science Update adopted 11/7/2018) recommends that new development be designed considering the medium high risk aversion scenario over the expected 75-year life of development. The year 2100 is near the 75-year life of the development. Potential future sea level rise (SLR) under the medium high risk aversion scenario (high emissions), based on the Los Angeles tide gage data, is up to 6.7 feet of SLR by the year 2100.

Regarding the future SLR scenario of 6.7 feet, the 7/9/2021 TerraCosta correspondence states:

“It is our opinion that 6.7 feet of sea level rise would result in significant beach retreat, damaging the proposed Junior Lifeguard Facility and necessitating its relocation. It is our opinion that 3 feet of sea level rise would be a reasonable design criteria for this facility, recognizing that its current proposed location fits well with other adjacent property improvements and that it can be moved at a later date.”

However, the TerraCosta 7/9/2021 correspondence also provides an evaluation of the Coastal Commission SLR Policy Guidance recommended scenario as well, stating:

Given the preceding and assuming 3 feet of sea level rise for the design condition, when using a 17 percent probability of exceedance, 3 feet of sea level rise would occur around 2097; when using a 5 percent probability of exceedance, 3 feet of sea level rise would occur around 2084; and when using a 0.5 percent probability of exceedance, 3 feet of sea level rise would occur around the year 2067.

Depending which scenario is applied, the proposed structure may be threatened by SLR by the year 2097 using the low risk aversion scenario (which is not the scenario recommended in the Coastal Commission adopted SLR Policy Guidance), or by the year 2067 using the medium high risk scenario (which is recommended in the Coastal Commission SLR Guidance), or sometime before 2067 under a very high H++ scenario. Although the facility may be threatened in less than the typically considered design life of 75 years, it will afford some years of use, and because it is a public facility associated with the adjacent beach, it can be removed to accommodate future beach conditions.

In addition, some aspects of the proposed project design will assist with resiliency over its life. These design features include: the building profile is narrow facing the ocean (that is, the aspect of the building's width perpendicular to the coast is relatively narrow), the foundation pad will be elevated (the first floor elevation is at 16.3 feet NAVD88, about 3 feet higher than the surrounding grade, which helps to minimize minor nuisance flooding), and the type of building materials will provide some protection from the marine environment.

The Coastal Act discourages shoreline protective devices because they generally cause significant impacts on coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes. This is expected to be exacerbated with future sea level rise. Adverse impacts associated with shoreline protective devices include: as a sandy beach erodes, the shoreline will generally migrate landward, toward the structure, resulting in reduction and/or loss of public beach area and in some cases, public trust lands, while the landward extent of the beach does not increase typically due to the presence of existing development; oftentimes the protective structure is placed on public land, resulting in physical loss of beach area formerly available to the general public; the shoreline protective device may actually increase the rate of loss of beach due to wave deflection and/or scouring (this is site-specific and varies depending on local factors); shoreline protective devices cause visual impacts and can detract from a natural beach experience, adversely impacting public views; and, shoreline protection

devices can lead to loss of ecosystem services, loss of habitat, and reduction in biodiversity compared to natural beaches.⁹ All of these impacts would likely occur as a result of a shoreline protective device being constructed at this site. With expected sea level rise and related erosion and flooding, the beach area between the subject site and ocean waters is expected to narrow with time. Likewise, flooding from the harbor is expected to approach the subject site more and more in the future, raising the question of potential impacts to the subject site due to these coastal hazards, which in turn raises the question of a possible request for future shoreline protection at the site.

Shoreline protective devices, by their very nature, tend to conflict with various Commission approved LCP and Chapter 3 policies because shoreline structures can have a variety of adverse impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Because shoreline protection devices, such as seawalls, revetments, and groins, can create adverse impacts on coastal processes, Coastal Act Section 30253 specifically prohibits development that could "...create [or] 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."¹⁰

In order to ensure that new development is sited and designed to not create or contribute significantly to the destruction of the site or surrounding area through construction of protective devices, it is important to assure that new development (such as is being proposed here) not be permitted shoreline protection to the extent such shoreline protection would be inconsistent with Coastal Act Chapter 3 coastal resource policies. If it is known that the development requires shoreline protection, it would be unlikely that such development could be found to be consistent with Section 30253 of the Coastal Act which, as stated above, requires that new development not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, given the well-known coastal resource impacts that shoreline protection typically causes.

In this case, the proposed structure may be threatened by SLR prior to the end of the typically considered design life. Section 30253 of the Coastal Act requires that new development, such as is proposed, minimize risk and assure structural stability. Moreover, Section 30235 allows shoreline protection only for existing development. Thus, the proposed development will not be entitled to shoreline protection. In order to address these issues, the applicant has proposed that the project be removed if and when it becomes threatened ([Exhibit 6](#)) and that the proposed project will not include any shoreline protective devices. Thus, the proposed project will minimize risk by removing the development once it becomes threatened. In addition, the applicant recognizes that the project as proposed will not be entitled to any future shoreline protection and will remove the development rather than protect it. This avoids future

⁹ Summarized from <http://www.beachapedia.org/Seawalls>

¹⁰ However, section 30235 of the Coastal Act recognizes that "existing" development may be protected by a shoreline protective device subject to certain conditions. Section 30235 does not apply here because the proposed project is new development (new construction of a junior lifeguard facility). New development is not entitled to shoreline protection and would need to be designed in such a way as to not rely on shoreline protection. As such, the new structure must be conditioned for "no future shoreline protection".

issues regarding conformance with Section 30235 that could occur when an applicant requests protection for what is considered new development.

In any case, new development is not entitled to shoreline protection under the Coastal Act. In a letter dated 11/17/2021 ([Exhibit 6](#)), the City states that shoreline protective devices will not be installed to protect the facility from coastal hazards. The City also proposes to remove the structure in the event that it becomes irrevocably threatened and is unsafe to occupy. Furthermore, the proposed new junior lifeguard building incorporates a relatively shallow mat foundation (maximum depth of 2 feet) to facilitate removal of the structure if threatened. **Special Condition No. 1** requires the development be carried out in a manner consistent with the approved final project plans.

In order to further impose what the applicant has proposed, **Special Condition No. 4** recognizes that the applicant acknowledges that development, the Junior Lifeguard building and its foundation, constitutes new development under the Coastal Act, and therefore is not entitled to a shoreline protective device under Section 30235 of the Coastal Act. By accepting the subject coastal development permit, the applicant agrees to waive any rights to construct shoreline protective devices to protect the proposed development, the Junior Lifeguard building and foundation.

The applicant has agreed to remove the development if and when it becomes irrevocably threatened, which the applicant has stated means when the structure is unsafe for occupancy and cannot be made safe without shoreline protection. The applicant has also estimated that the proposed Junior Lifeguard structure could be demolished and removed in approximately five days. It is important that risk be reduced, as required by Coastal Act Section 30253. To that end it is important to monitor the structure to assure its continued safe viability. **Special Condition No. 5** requires the applicant to assess the building's structural stability within 90 days of any major flooding or erosion event. **Special Condition No. 5** further requires that at the time the Junior Lifeguard structure becomes structurally unstable and unsafe for occupancy, the permittee must immediately notify the Executive Director and, within 90 days, submit a complete application for removal of the building.

No shoreline protection is proposed. **Special Condition No. 4** makes clear that as proposed and conditioned, the project will not be entitled to future shoreline protection. **Special Condition No. 5** establishes the procedure for tracking the stability and safety of the structure and the procedure for removing the structure once it becomes unsafe. As proposed and conditioned, the proposed development will minimize risk and will not result in the adverse impacts created by shoreline protection. Therefore, the Commission finds the proposed development, as conditioned, will be consistent with Section 30253 of the Coastal Act.

G. UNPERMITTED DEVELOPMENT

Violations of the Coastal Act that are associated with the subject project have been undertaken on the subject property, including placement of the existing Junior Lifeguard facility on the sandy beach, approximately 50 feet seaward of the "A" Street parking lot. This unpermitted development occurred sometime in the 1990s. No coastal development permit was sought or approved for the placement of these structures. The applicant proposes to remove the unpermitted development from the sandy beach.

Special Condition No. 1 requires that the development be carried out as proposed, including removal of the unpermitted development on the sandy beach.

All elements of the existing facility are proposed to be removed from the site. More specifically, the proposed project includes the removal of the existing Junior Lifeguard facility which is comprised of: a 2,100 square foot, 13 feet high, single story, triple wide trailer; two, 400 square foot storage containers; and a 1,200 square foot wooden deck. The existing facility is served by a single utility, electricity, by temporary hook-up. The connection is located in a shallow trench in the sand approximately 30-feet long. The electrical connection will be removed completely when the existing facility is removed. Once all unpermitted structures have been removed, any sand will be swept from the parking lot and the front loader used in the removal process will level the sand area to the profile of the surrounding beach. Total time of removal is expected to be 2.5 days. As with the rest of the proposed project, the proposed removal will occur outside the peak summer use period.

If the application is approved by the Commission pursuant to staff's recommendation, and if all of the unpermitted development is removed pursuant to the staff recommendation, and the permit is issued, and the applicant complies with all of its terms and conditions, the issues raised by the unpermitted development will be resolved. However, if the removal of the development from the sandy beach does not occur as proposed, enforcement staff will consider action to address the violations of the Coastal Act, including but not necessarily limited to action pursuant to Coastal Act Section 30821, which authorizes the Commission to impose civil penalties for violations of the Coastal Act's public access provisions, with certain exceptions that do not apply here.

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), nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal permit.

H. DEED RESTRICTION

To ensure that future City leaders and any prospective future owners/managers of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition No. 13** requiring that, prior to any conveyance of the property, that the property owner record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property. Thus, any prospective future owner will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land. Therefore, the Commission finds that the proposed development, as conditioned, conforms to the Coastal Act by ensuring that any successors-in-interest have proper notice, recorded against the subject parcel, of the proposed development's required mitigation measures that mitigate the development's impacts on coastal resources.

I. LOCAL COASTAL PROGRAM

On January 13, 2017, the City of Newport Beach Local Coastal Program (LCP) was effectively certified. The subject site is located within the Commission's retained permit jurisdiction. The standard of review is Chapter 3 of the Coastal Act, and the certified LCP serves as guidance. As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the California Code of Regulations requires Commission approval of a coastal development permit application 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 Newport Beach, the lead agency for CEQA, determined that the proposed development qualifies under Section 15332 of the CEQA Guidelines – Class 32 (In-Fill Development Projects). The City also conducted multiple alternatives analyses and found that the project, as proposed, minimizes and adverse effects the project may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the development may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative, has no remaining significant environmental effects, and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

CDP Application 5-21-0391 file.

City of Newport Beach certified Local Coastal Program.

Coastal Hazards Analysis, prepared by TerraCosta Consulting Group, Inc., dated 11/9/2020; and additional correspondence (11/9/2021; 9/15/2021; and 10/14/2021).

Initial Resource Survey for the Newport Beach Junior Lifeguard Building Project, prepared by Marine Taxonomic Services, Ltd., dated 1/7/2021.

Geotechnical Investigation, prepared by Geocon West, Inc., dated 9/5/2019, revised 10/30/2020.