

RESOLUTION NUMBER R- 293968

ADOPTED ON OCT 16 2000

WHEREAS, the Mission Beach Boardwalk Widening Project [Project] provides that the City Council would consider under certain specific circumstances individual applications of adjacent property owners for encroachment removal agreements [ERAs] to rebuild private walls and certain other improvements within the three-foot landscaped buffer area of the Project [Buffer Area]; and

WHEREAS, the potential for granting ERAs in the Buffer Area was addressed in the Environmental Impact Report for the Project [EIR], which was certified by the City Council on June 15, 1998; and

WHEREAS, the City Council desires to authorize the City Manager to implement this element of the Project by applying criteria that are consistent with the EIR; NOW,

THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager is authorized to review and consider applications for ERAs in the Buffer Area, and may grant ERAs when all of the following criteria have been met:

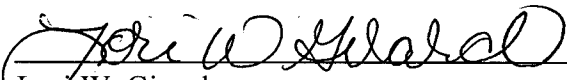
1. The western-most load-bearing wall of the applicant's residence or business is less than 36 inches from the eastern edge of the public right-of-way, as established by the City, *and* evidence is provided that the residence or business was legally built.
2. A wall or fence along Mission Beach Boardwalk is included in the application.
3. The wall or fence does *not* exceed 36 inches in height.

4. The wall or fence is smooth-faced on the western side.
5. All corners of the wall or fence are rounded.
6. The wall or fence does *not* have sharp edges or protrusions, a gate that swings west, or gate hinges that extend west of the wall or fence.
7. The western-most edge of any part of the wall or fence, including the footing, is *not* more than 36 inches from the western-most load-bearing wall of the residence or business.
8. The western-most edge of the wall or fence, including the footing, does *not* extend west of the 3-foot portion of public right-of-way designated for landscaped buffer.
9. Any other encroachments in the right-of-way are limited to paving, and landscaping with a maximum growth height of 36 inches that will not extend west of the wall or fence.
10. In the judgment of City staff, nothing in the proposed encroachments constitutes a health or safety concern.
11. The ERA will contain the conditions required by San Diego Municipal Code (M.C.) Section 62.0302, as well as at least one additional condition: If development, as defined in M.C. section 113.0103, of the property results in a permit requirement by any agency to conform with the setback requirement on Ocean Front Walk, then the property owner will remove the encroachments and pay to install the project improvements in the 3-foot portion of public right-of-way designated for landscaped buffer.

BE IT FURTHER RESOLVED, that the City Manager may also grant ERAs in the Buffer Area under the following circumstances: Where the City has cut an opening in the above-grade portion of the boardwalk's seawall, and there is not a secondary seawall west of the opening, owners of property on Ocean Front Walk within fifty feet north or south of such

opening in the boardwalk's seawall may apply for an ERA up to the length of that property's frontage on Ocean Front Walk, conditioned on complying with criteria #2, 5, 6, 8, 10 and 11, above.

APPROVED: CASEY GWINN, City Attorney

By 
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Deputy City Attorney

LWG:cdk
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