

RESOLUTION NUMBER R- 311499

DATE OF FINAL PASSAGE: JAN 09 2018

ITEM # 336

1/9/18

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING COASTAL DEVELOPMENT PERMIT NO. 1968778 AND SITE DEVELOPMENT PERMIT NO. 1996818 FOR BEACH ACCESS STAIRWAYS/WALKWAYS PROJECT – PROJECT NO. 553409.

WHEREAS, the City of San Diego, Owner/Permittee, filed an application with the City of San Diego to repair and replace portions of the City owned public beach stairs and walkways (at three locations) which have deteriorated from erosion. Maintenance and repair will be performed in areas where voids are forming and existing handrails will be replaced as described in and referenced by the approved Exhibits “A” and corresponding conditions of approval for the associated Coastal Development Permit No. 1968778 and Site Development Permit No. 1996818, on portions of City owned walkways and stairways; and

WHEREAS, the project known as the Beach Access Stairway Repair project, is located at three (3) different locations: (i) Capri by the Sea (between Chalcedony & Missouri Streets); (ii) Orchard Avenue Walkway (between Orchard & Del Mar Avenues at rock revetment); and (iii) Old Salt Pool (North of Narragansett Street), legally described as City owned public beach accessways, in Pacific Beach and Ocean Beach Community Plan areas, in the (RM)-2-4 & (CV-1-2) Zone, Coastal Appealable Zone, Sensitive Coastal Zone (Beach), Parking Impact Zone (Beach), First Public Roadway Zone within Council District 2; and

WHEREAS, on December 15, 2010, the Hearing Officer of the City of San Diego considered and approved Coastal Development Permit No. 798109 and Site Development Permit No. 715826, which have since expired; and

WHEREAS, a Mitigated Negative Declaration (MND No. 200405) was prepared and adopted on December 15, 2010 for the Beach Access Stairways Project (Project No. 200405), which encompassed three additional sites. The proposed Beach Access Stairways Project (Project No. 553409) would not result in additional impacts not previously addressed in the Mitigated Negative Declaration. No new significant impacts will occur, no new mitigation will be required, and no new environmental document is required. The information contained in these documents reflect the independent judgment of the City of San Diego as the Lead Agency and have been reviewed and considered; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on January 9, 2018, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 1996818 and Coastal Development Permit 1968778:

A. COASTAL DEVELOPMENT PERMIT- SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0708

Findings for all Coastal Development Permits

- 1. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway**

identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan. The project involves the replacement of existing railings and the repair and replacement of deteriorated portions of the stairway/walkway. The repair and replacement of this public accessway to a safe condition for public use this project will improve public access to the beach consistent with the goals of the Community Plans. The repairs will also enhance the visual aesthetics of the existing public facilities.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The project involves replacement of existing railings and deteriorated portions of the stairways. Voids created under the stairways/walkways from erosion will be filled with concrete to protect the structure. In order to repair the eroded and cracked sections of the stairway, minor work will occur where existing improvements are located on the coastal bluff. Coastal bluffs are considered a sensitive resource under the Environmentally Sensitive Lands (ESL) regulations. All improvements are designed to minimize disturbance to the adjacent bluffs and the limits of work have been established in the project plans to avoid adverse impacts to ESL. Areas outside of the limits shown will be staked prior to construction to protect the adjacent bluff from disturbance, hence, will not adversely affect ESL.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program. The proposed development project will implement the recommendations of the Local Coastal Program (LCP) by preserving and protecting limited public access points to the beach identified in the LCP as important resources. The LCP does not contain specific recommendations for the sites, but the plans do identify the need to provide and maintain beach access. A key component for adequate access is the maintenance of existing facilities including stairways, pathways, and parking areas. Replacement of sections of railing will limit access to the bluffs preventing people from climbing on the bluffs, disturbing vegetation and contributing to erosion. This project will protect the adjacent bluffs by providing new railings and safe stairs/walkways, which will control access as recommended by LCP.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project location is between the first public roadway and the shoreline. The proposed development is for the replacement of existing railings, repair and replacement of deteriorated portions of the existing stairways/walkways. The intent is to provide safe pedestrian access to the beach. Section 30211 of the California Coastal Act requires that no development interfere with the public's right of access to the sea, the use of dry sand and the use of rock coastal beaches up to the first line of terrestrial vegetation. The purpose and intent of Section 30211 is to ensure that the public can access the sea and its associated rock coastal beaches. The project will repair portions of the stairways and walkways that, if not repaired, could limit access due to the poor condition of the existing structure. Therefore, the project is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

**B. SITE DEVELOPMENT FINDINGS – SAN DIEGO MUNICIPAL CODE (SDMC)
SECTION 126.0504**

Findings for all Site Development Permits

1. **The proposed development will not adversely affect the applicable land use plan.** The proposed development is for the replacement of railings, repair and replacement of deteriorated portions of the existing stairways/walkways including voids formed from erosion which must be filled to support the structure and prevent further erosion. By repairing this structure to a safe condition for public use this project will improve public access to the beach consistent with the goals the LC.P and Pacific Beach and Ocean Beach Community Plans. The repairs will also enhance the visual aesthetics of the existing public facilities.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed development is for the replacement of railings, repair and replacement of deteriorated portions of the existing stairways/walkways. Therefore, the project will improve public health and safety by replacing railings and repairing the existing structure to access the beach front.

3. **The proposed development will comply with the applicable regulations of the Land Development Code.** This project has been designed in accordance with the applicable regulations of the Land Development Code. The project design was developed with the intent of limiting disturbance to adjacent areas to the greatest extent possible to make the necessary repairs to the structure. All improvements required to repair or replace the existing damaged portions of the stairways were limited to the minimal disturbance possible and the project has been reviewed for conformance to the requirement of the ESL Regulations.

C. Supplemental Findings - Environmentally Sensitive Lands (ESL) – Section 143.0110

1. **The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.** The project involves replacement of railings and deteriorated portions of the stairways/walkways. Voids created under the stairways/walkways from erosion will be filled with concrete to protect the structure. In order to repair the eroded and cracked sections of the stairways, minor work will occur where existing improvements are located on the coastal bluff. The siting of the project is already established since this project proposes improvements to existing facilities. All efforts have been made to limit new improvements to within the existing facility footprint. The proposed improvements were the minimal necessary to protect the stairway and bluff and provide safe pedestrian access.

2. **The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** The proposed project is repair and maintenance of an existing structure. The project will minimize disturbance to natural landforms by designing the proposed improvements to utilize the surrounding land forms. The existing stairways is built into the bluff and the new improvements will also be set into the bluff to limit the visual presence of the structure. The

improvement of the stairways and railings replacement will protect the slope from erosion and control disturbance from pedestrians climbing on the bluffs.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The project involves replacement of sections of the stairway and portions of the walkway as well as railing replacement. The voids created under the stairway and existing walkways from erosion will be filled with concrete to protect the structure and slope. In order to repair the eroded and cracked sections of the stairway, minor work will occur where existing improvements are located on the coastal bluff. Coastal bluffs are considered a sensitive resource under the Environmentally Sensitive Lands (ESL) regulations. All improvements are designed to minimize disturbance to the adjacent bluffs and the limits of work have been established in the project plans to avoid adverse impacts to ESL. Areas outside of the limits shown will be staked prior to construction to protect the adjacent bluff from disturbance.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. As part of the MSCP, the Multi-Habitat Planning Area delineates core biological resource areas and corridors targeted for conservation. Since there are no impacts to the MHPA related to this site's development this project is consistent with the goals of the Multiple Species Conservation Program and Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The project involves replacement of section of the stairways and portions of the walkways as well as railing replacement. The voids created under the stairways and existing walkways from erosion will be filled with concrete to protect the structure and slope. These improvements will provide protection for the bluff and limit erosion on the adjacent slopes. Since the project proposes to replace existing structures, it will not create an adverse effect on local sand supply.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Coastal Development Permit No. 1968778 and Site Development Permit No. 1996818 is granted to City of San Diego, Owner and the City of San

Diego Public Works Department, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Corrine L. Neuffer
Deputy City Attorney

CLN:als
12/15/2017
Or.Dept: DSD
Doc. No.: 1645230

Attachment: Coastal Development Permit and Site Development Permit

**RECORDING REQUESTED
BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL
STATION 501**

**WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A**

WBS. No. 14073.06.02

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**BEACH ACCESS STAIRWAY PROJECT NO.553409 [MMRP]
COASTAL DEVELOPMENT PERMIT No. 1968778
SITE DEVELOPMENT PERMIT No. 1996818
CITY COUNCIL**

This Coastal Development Permit No. 1968778 and Site Development Permit No.1996818 is granted by the City Council of the City of San Diego, Owner, and City of San Diego Public Works Department, Permittee, pursuant to San Diego Municipal Code (SDMC) sections 126.0708 and 126.0504. The project is located at 3 sites (i) Orchard Avenue Walkway (located at the terminus of Orchard Avenue at the Pacific Ocean); (ii) Old Salt Pool Stairway (located at the terminus of Narragansett Avenue at the Pacific Ocean); and (iii) Capri by the Sea Walkway/ Stairway (located west of Ocean Boulevard between Chalcedony Street and Missouri Street).

Subject to the terms and conditions set forth in this Permit, permission is granted to City of San Diego, Owner and City of San Diego Public Works Department, Permittee to repair and replace portions of the City owned public beach walkways/stairways, which have cracked and deteriorated from erosion, repairs - such as replacing stairway handrails- will be made as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JAN 09 2018, on file in the Development Services Department.

The project shall include:

- a. Repair, maintenance and replacement of deteriorated sections of the existing beach access stairways/walkways including filling voids and replacing handrails as necessary;
- b. Repair and replace corroded or broken railings and;
- c. Improvements determined by the Development Services Department to be consistent with the land use and development standards.

STANDARD REQUIREMENTS:

1. This Permit must be utilized within 10 years after the date on which all rights of appeal have expired. If this Permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 10 Year period, this Permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the **January 9, 2027**.
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 (ESA) and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
8. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de

novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

9. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program (MMRP) shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

10. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration No. 200405, and shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

11. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 200405 to the satisfaction of the Development Services Department and the City Engineer. Prior to the issuance of the "Notice to Proceed" with construction, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

PALEONTOLOGICAL RESOURCES at the Old Salt Pool project area.

ENGINEERING REQUIREMENTS:

12. The Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

13. Prior to issuance of any construction permit, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP standards Chapter 4 of the City's Storm Water Standards.

14. Prior to issuance of any construction permit, the Owner/Permittee shall submit a current (October 2016 version) Storm Water Requirements Applicability Checklist.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.

APPROVED by the City Council of the City of San Diego on January 9, 2018, and by
Resolution No. RR- 311499.

Coastal Development Permit No. 1968778
Site Development Permit No. 1996818
Date of Approval: JAN 09 2018

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Golsa Soraya
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

CITY OF SAN DIEGO
Owner/Permittee

By _____
George Freiha
Senior Civil Engineer, Public Works
Department

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

Passed by the Council of The City of San Diego on JAN 09 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 09 2018.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By *Hyneady*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 311499