

DATE ISSUED: September 13, 2000

REPORT NO. 00-184

ATTENTION: Natural Resources and Culture Committee,
Agenda of September 20, 2000

SUBJECT: Mission Beach Boardwalk Encroachments

REFERENCE: Manager's Report No. 96-40, dated February 28, 1996
Manager's Report No. 98-109 (revised), dated May 20, 1998

Final Environmental Impact Report, LDR No. 96-0721

SUMMARY

Issue - Shall City Council adopt, and direct the City Manager to apply, criteria to be used in implementing previous City Council direction to review applications for Encroachment Removal Agreements to build private walls or fences within the Mission Beach Boardwalk Widening Project's eastern three feet (landscaped buffer area) where existing residences or businesses were legally built with three or fewer feet of setback from the public right-of-way?

Manager's Recommendation - Adopt criteria described in this report and direct the City Manager to apply them in reviewing encroachment applications.

Other Recommendations - None.

Fiscal and Business Impact - None with this action. The potential for granting Encroachment Removal Agreements to property owners where residences or businesses were legally built with three or fewer feet of setback from the public right-of-way was addressed in the Environmental Impact Report (EIR) for the Boardwalk Widening Project.

BACKGROUND

During the early public hearings on the Mission Beach Boardwalk Widening plan, some adjacent property owners expressed concern that implementation of the plan would result in their not having room to build private walls or fences on the west side of their property if they wished. The plan's Drainage and Hydrology analysis indicated that existing private walls provide minor benefit in terms of protection from wave action. However, to accommodate the property owners'

concern, City Council included the following element in the project: “Where adjacent property owners legally built with three or fewer feet of set-back from the three-foot landscaped buffer, the City Council would consider individual applications to rebuild private storm protection walls up to three feet from the private structure (one-to-three feet within the landscaped buffer) with new Encroachment Agreements. If such walls are approved, additional improvements such as paving or landscaping patio areas could be allowed within these encroachments.” The quote is from the description of the Eastern Widening Alternative in the EIR for the project, which was certified by City Council in 1998. Similar verbiage is contained in the Boardwalk Widening plan presented to City Council in 1996, and in the description of the project which City Council approved in 1998. The attached graphic was presented at a City Council hearing to help people visualize this project element. Even where properties are allowed to encroach into and use the entire eastern three feet of public right-of-way (landscaped buffer area), the private walls/fences will be separated from the northbound wheeled travel lane by a two-foot wide paved buffer.

The purpose of this action is to obtain City Council approval of criteria for City staff to use in reviewing applications from adjacent property owners to build private walls/fences within the eastern three feet of the Mission Beach Boardwalk Widening Project. The landscaped buffer is designed to capture drainage from adjacent properties.

It is proposed that when the following criteria are met by an application for encroachment into the eastern three feet of public right-of-way on Ocean Front Walk, City staff may grant an Encroachment Removal Agreement (ERA). The criteria are consistent with the City Council-approved Mission Beach Boardwalk Widening Project and certified EIR.

Proposed Criteria

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 does not have: sharp edges or protrusions; a gate that swings west; or gate hinges that extend west of the wall or fence.
5. The western-most edge of the footing of the wall or fence is not more than 36 inches from the western-most load-bearing wall of the residence or business.
6. The western-most edge of the footing of the wall or fence does not extend west of the western edge of the public right-of-way.
7. 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.

8. In the judgment of City staff, nothing in the proposed encroachments constitutes a health or safety concern.

9. 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 subject encroachments and pay to install the landscaped buffer improvements in the public right-of-way.

10. Exceptions: 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, 4, 6, 8 and 9, above.

ALTERNATIVES

1. Require all applications for boardwalk encroachments to be heard by City Council or one of its Committees.
2. Approve criteria for staff review of encroachments other than those listed in this report.

Respectfully submitted,

Marcia C. McLatchy
Park and Recreation Director

Approved: George I. Loveland
Assistant City Manager

McLATCHY/TW

Attachment: Graphic of Encroachments Allowed in Public Right-of-Way

Note: Attachment not available in electronic format. A copy is available for review in the Office of the City Clerk.