THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: **December 5, 2013** **REPORT NO. PC-13-139**

ATTENTION: **Planning Commission, Agenda of December 12, 2013**

SUBJECT: CHILDREN'S POOL BEACH SEASONAL CLOSURE. PROJECT NO. 225045, PROCESS 5.

OWNER: City of San Diego, Park and Recreation Department

APPLICANT: City of San Diego, Park and Recreation Department

SUMMARY

Issue(s): Should the Planning Commission recommend the City Council approve an amendment to the La Jolla Community Plan/Local Coastal Program which would facilitate a seasonal closure of the Children's Pool beach based on protection of marine resources?

Staff Recommendation: **APPROVE** the Community Plan/Local Coastal Program Amendment.

Community Planning Group Recommendation: On June 6, 2013, the La Jolla Community Planning Association voted 9-6-1 to recommend denial of the proposed amendments to the La Jolla Community Plan to seasonally close Children's Pool beach (Attachment 10). Please refer to the Discussion section of this report.

Environmental Review: Negative Declaration No. 225045 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA). By Resolution 4545-PC, the Planning Commission recommended that the City Council adopt this Negative Declaration. An Errata has been prepared to Negative Declaration No. 225045 to address changes in the Project Description. These revisions do not affect the environmental analysis or conclusions of the document. In accordance with CEQA Guidelines Section 15073.5 (c)(4), the revised environmental document does not require recirculation.

Fiscal Impact Statement: None with this project. All costs are covered by a Park and Recreation Department General Fund Deposit Account.

Code Enforcement Impact: None with this project.

Housing Impact Statement: None with this project.

BACKGROUND

The project proposes to close the La Jolla Children's Pool Beach seasonally from December 15 to May 15 each year to coincide with harbor seal pupping season through a Community Plan/Local Coastal Program (CP/LCP) Amendment and Ordinance. See attached Report to Planning Commission 13-098 (Attachment 1).

The Planning Commission previously took action on this item at its September 12, 2013 meeting when it approved Resolution 4545-PC (Attachment 2) which recommended to the City Council "approval and adoption of the Community Plan/Local Coastal Program (CP/LCP) Amendment, Ordinance and Negative Declaration No. 225045." The Community Plan/Local Coastal Program Amendments included declaring the Children's Pool beach and an adjacent buffer zone an Environmentally Sensitive Habitat Area (ESHA). California Coastal Commission staff has agreed to consolidate the processing of the Coastal Development Permits required to implement the seasonal closure. Therefore, the City is not considering these permits.

Subsequent to the September 12, 2013 action, on October 25, 2013, Coastal Commission staff sent a letter to the Mayor and City Council (Attachment 3) clarifying their objection to using the Environmentally Sensitive Habitat Area (ESHA) provision in Section 30240 of the Coastal Act in the CP/LCP amendment to support the seasonal closure of the Children's Pool. The letter also suggested using Section 30230 (protection of marine resources) of the Coastal Act to support the closure.

Because this information from the Coastal Commission was provided after the Planning Commission hearing, the item was returned to staff to allow for further consideration of the suggested alternative approach. Staff now concurs with the marine resource/Coastal Act Section 30230 approach and is recommending a shift from the ESHA designation to support the seasonal closure to using the protection provided in Section 30230. This is based on the following information provided in the October 25, 2013 Coastal Commission staff letter:

- Sunbathing and similar activities would not be considered "resource dependent" under ESHA and therefore would not be allowed year round, regardless of the presence of seals.
- Beaches and marine mammals are "Marine Resources" and should therefore be regulated under Section 30230, "Marine Environment", and not Section 30240, Land Resources."
- The rookery area is of special biological significance (see discussion below).
- ESHA is subject to balancing provisions of Section 30007.5 in the Coastal Act; therefore, 30230 offers the same protective measures as ESHA.

Given this new approach, staff is returning to Planning Commission for recommendation on these revised Community Plan/Local Coastal Program amendments.

The action now before the Planning Commission is a recommendation on the CP/LCP amendment language. Report 13-098 is still applicable to the project and only new information related to the CP/LCP amendment is provided below.

DISCUSSION

Establishing a policy in the Community Plan to support a seasonal closure.

Staff has determined that a CP/LCP amendment is required to enact the seasonal closure. The recommended language is attached as Attachment 4. The plan amendment would use Coastal Act Section 30230 to support the seasonal closure. Article 4, "Marine Environment," Section 30230, "Marine resources; Maintenance" of the Coastal Act reads as follows:

> *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.* (emphasis added)

The Coastal Commission staff letter indicates that "the harbor seal rookery at Children's Pool is an area of special biological significance" (this latter term is distinct from the same term used by the State Water Resources Control Board to describe areas around La Jolla Cove). Subsequent conversations with Coastal Commission staff confirm that they do not find that the Harbor seal species itself is significant or rare, threatened or endangered. Instead, Coastal Commission staff has determined that Children's Pool Beach is a significant area due to its importance to Harbor seal reproduction. This interpretation means that this section of the Coastal Act is an appropriate mechanism for supporting the beach closure during pupping season.

Currently, the La Jolla CP/LCP makes no reference to Section 30230 of the Coastal Act. With respect to Children's Pool Beach, the existing Plan makes two references to public access to the Children's Pool. The first is a goal in the "Natural Resources and Open Space System section on page 39:

> *Enhance existing public access to La Jolla's beaches and coastline areas (for example La Jolla Shores Beach and Children's Pool areas) in order to facilitate greater public use and enjoyment of these and other coastal resources.*

The second reference is in Appendix G, Coastal Access Sub-area Maps, Subarea E, Coast Boulevard, page 171 which lists the Children's Pool ramp and stairway as access points. No changes are proposed on this page.

The additions recommended in the attached Draft La Jolla Community Plan Amendment (Attachment 4) add reference to Coastal Act Section 30230 and Marine Resources where appropriate.

CONCLUSION

Coastal Commission staff has recommended a viable alternative to designating the Harbor Seal rookery at Children's Pool Beach as an ESHA. Amending the La Jolla Community Plan/Local Coastal Program to incorporate seasonal beach closure as a "special protection" described by Section 30230 of the Coastal Act is a reasonable and defensible regulatory construct which avoids the pitfalls that Coastal Commission staff advises would occur with an ESHA designation. The proposed access restrictions would protect marine mammals as required by the Coastal Act and would restrict access to the minimum amount of time and area needed to protect this fragile coastal resource.

ALTERNATIVES

1. **Recommend approval** of the La Jolla Community Plan/Local Coastal Program Amendment, **with modifications**.

2. **Recommend denial** of La Jolla Community Plan/Local Coastal Program Amendment.

Respectfully submitted,

Mike Westlake
Acting Deputy Director
Development Services Department

Morris E. Dye
Project Manager
Development Services Department

Attachments:

1. Planning Commission Report 13-098
2. Planning Commission Resolution 4545-PC
3. October 25, 2013 Coastal Commission Staff Letter
4. Draft Community Plan Amendment Document

ATTACHMENT 1

THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: **September 5, 2013** **REPORT NO. PC-13-098**

ATTENTION: **Planning Commission, Agenda of September 12, 2013**

SUBJECT: CHILDREN'S POOL BEACH SEASONAL CLOSURE. PROJECT NO. 225045, PROCESS 5.

OWNER: City of San Diego, Park and Recreation Department

APPLICANT: City of San Diego, Park and Recreation Department

SUMMARY

Issue(s): Should the Planning Commission recommend the City Council to seasonally close the beach at the Children's Pool Beach?

Staff Recommendations:

1. Recommend **APPROVAL** of the Community Plan/Local Coastal Program Amendment.
2. Recommend **APPROVAL** of Coastal Development Permit No. 802284.
3. Recommend **ADOPTION** of Negative Declaration Project No. 225045.

Community Planning Group Recommendation: On June 6, 2013, the La Jolla Community Planning Association voted 9-6-1 to recommend rejection of the proposed amendments to the La Jolla Community Plan to seasonally close Children's Pool beach (Attachment 10).

Environmental Review: A Negative Declaration Project No. 225045 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) guidelines.

Fiscal Impact Statement: None with this project. All costs are covered by a Park and Recreation Department General Fund Deposit Account.

Code Enforcement Impact: None with this project.

Housing Impact Statement: None with this project.

BACKGROUND

Project Description

The "Children's Pool" or "Casa" Beach site is located at 888 Coast Boulevard in the La Jolla Community Plan area, within the La Jolla Planned District Zone 5 (LJPD-5) Zone (Attachment 1, Aerial Map). The site is comprised of a beach upon which harbor seals breed and haul-out (breeding activity, which qualifies the site as a rookery, began in 1991), semi-enclosed by a breakwater with stairs for beach access on its beach side.

The California Coastal Commission has indicated they have permit jurisdiction for the Children's Pool from the bottom of the stairs (the sand) to the ocean. City of San Diego permit jurisdiction is from the bottom of the stairs landward.

The project proposes a seasonal (December 15 to May 15) closure of the Children's Pool Beach pursuant to Council resolution R-305837 requiring the following actions:

- Community Plan/Local Coastal Program Amendment approval by the City and certification by Coastal Commission
- Coastal Development Permit issued by the City (Development)
- Coastal Development Permit issued by the Coastal Commission (Access)
- San Diego Municipal Code Amendment by the City (Ordinance)

A City-issued Coastal Development Permit is required to restrict public access to the coast by closing the lower stairs of the breakwater through the installation of a chain and signage related to the access restriction.

Limitations on public access to the coast constitute "development" as defined by the California Coastal Act. Development within the Coastal Overlay Zone requires a Costal Development Permit (CDP) issued by the City of San Diego. Restricting public access to the beach requires a CDP issued by the California Coastal Commission as the entire sand beach is in within their jurisdiction. City staff consulted with the State concerning the potential option of consolidating both CDPs with processing retained by the State. However, because the proposed community plan amendment is pending, the Coastal Commission declined to consolidate approvals at this time. Therefore, the City of San Diego must consider a CDP separately. The applicant is proposing that the City Council consider the CDP outside the consolidated process.

DISCUSSION

Project Issues

Project issues include an amendment to the La Jolla Community Plan/Local Coastal Program to establish an Environmental Sensitive Habitat Area (ESHA) and limit public access and a

Municipal Code amendment.

Community Plan Amendment/Local Coastal Program Amendment

The amendment to the La Jolla Community Plan, which is also the Local Coastal Program, requires a Process 5 decision before the San Diego City Council. Approval of a City-issued Coastal Development Permit would be appealable to the Coastal Commission (some denials are not appealable to the California Coastal Commission). The Coastal Commission would need to certify the City Council-approved Community Plan/Local Coastal Program amendment as consistent with the California Coastal Act.

Municipal Code Amendment (Ordinance)

Finally, the project includes an amendment to the San Diego Municipal Code through an ordinance to add the following language:

> *It is unlawful for any person to be upon or to cause any person to be upon the beach of the La Jolla Children's Pool, starting from the lower stairs to the beach beginning with the second landing, from December 15 to May 15.*

The ordinance is not effective until the Community Plan Amendment/Local Coastal Program Amendment is certified by the California Coastal Commission. It would not affect the ability of City staff or emergency service providers to access the beach in the course of their duties during seal pupping season. Additionally, the ordinance does not require a recommendation from the Planning Commission. Therefore, only the Community Plan/Local Coastal Program amendment, which includes the ESHA establishment, and Coastal Development Permit are before the Planning Commission.

Existing regulations/guidelines that affect public access at Children's Pool beach include:

- The Marine Mammal Protection Act which prohibits "take" (e.g., harassment) of marine mammals without a permit.
- San Diego Municipal Code Section 63.0102(b)(10) which makes it unlawful to take, kill, wound, disturb, or maltreat any bird or animal…
- A year-round rope barrier (currently installed), which provides a guideline installed in the sand across the Children's Pool beach with a three-foot opening at the east end of the rope to provide ocean access.

These existing regulations/guidelines have not completely resolved inappropriate interactions between seals and citizens or those between citizens of different perspectives on the Children's Pool issues. For example, the ranger on duty at the Children's Pool observed 67 Harbor seal flushes caused by people seaward of the lower stairs on the breakwater between November 6, 2012 and April 8, 2012. Flushing causes seals to flee the area and retreat into the water. More flushes may have occurred during the ranger's absence. Two people were recently documented in the media inappropriately interacting with seals at night. According to the applicant, the current proposal represents the next step in the adaptive management strategy for

human/seal(pinniped) beach sharing.

On June 8, 2010, the City of San Diego City Council, via Resolution R-305837, directed the City Attorney "to draft an ordinance amending the Municipal Code…to prohibit public access to the Children's Pool beach during Harbor seal pupping season, from December 15 to May 15 (the harbor seal pupping season adopted by Council in 2004) and directed the Mayor or his designee "to amend the Local Coastal Program, only if required, to prohibit the public from entering the beach during harbor seal pupping season from December 15 through May 15." This resolution constituted formal initiation of the Community Plan/Local Coastal Program amendment.

Establishing an ESHA

Staff has determined that the regulatory mechanism for enacting the seasonal closure is a Community Plan/Local Coastal Program Amendment. The plan amendment would include designation of the Harbor seal rookery (the beach) as an Environmentally Sensitive Habitat Area (ESHA), with an ESHA buffer to include the lower stairs on the breakwater during Harbor seal pupping season, in accordance with California Coastal Act Section 30107.5:

> *"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."*

Once an ESHA is established, Coastal Act Section 30240 requires as follows:

> *"Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values...."*

The application is proposing that the ESHA designation would cover the Children's Pool Beach (the area of haul-outs and the rookery) while a buffer for the ESHA would be established at the top of the lower stairs on the breakwater.

Based on Park and Recreation staff observations, this is the minimum buffer needed to prevent significant disruptions to seals caused by citizens. Similarly, limiting access during the pupping season is considered to be the minimum amount of time needed to prevent significant disruptions.

In a December 13, 2012 letter to City staff (Attachment 11), Coastal Commission staff:

- Supported a seasonal, full beach closure during pupping season
- Advised the City not to invoke an ESHA due to:
  - Close proximity to urban setting
  - Current joint use management strategy
  - Beach is easily accessible to the public
  - Beach has a dedicated user group

This portion of the discussion focuses primarily on consistency of the proposed Community Plan/Local Coastal Program (Plan) Amendment with the existing ESHA discussion in the Plan and the California Coastal Act.

Under the header of "Local Coastal Program," the La Jolla Community Plan/Local Coastal Program currently reads as follows on page 27:

> **Environmentally Sensitive Habitat Areas**
> *The Natural Resources and Open Space System and Residential Elements recommend that development be designed to prevent significant impacts upon sensitive habitats and identified endangered or threatened plant and animal species.*

While there are many references in the Plan to the impact of brick-and-mortar projects on environmentally resources and lands, and references to the City's Environmentally Sensitive Lands regulations, Sumner Canyon is currently the only area designated in the plan as an Environmentally Sensitive Habitat Area.

With respect to Children's Pool Beach, the existing Plan makes two references to public access to the Children's Pool. The first is a goal in the "Natural Resources and Open Space System section on page 39:

> *Enhance existing public access to La Jolla's beaches and coastline areas (for example La Jolla Shores Beach and Children's Pool areas) in order to facilitate greater public use and enjoyment of these and other coastal resources.*

The proposed project would add the following language to the Environmentally Sensitive Habitat Areas section and is representative of similar language which would be added in two other locations (Attachment 9):

> *A specific, Environmentally Sensitive Habitat Area that has seasonal access restrictions is designated for the Children's Pool Beach in order to protect breeding Harbor Seals. No public access is permitted below the top of the lower staircase leading down to the sand from the sidewalk during seal pupping season. This area is designated as an Environmentally Sensitive Habitat Area pursuant to Sections 30107.5 and 30240 of the California Coastal Act.*

The second reference is in Appendix G, Coastal Access Sub-area Maps, Subarea E, Coast Boulevard, page 171 which lists the Children's Pool ramp and stairway as access points. No changes are proposed on this page.

The primary issue in this case is the competing goals of public access and natural resource protection. The Coastal Act states basic goals in Section 30001.5 as follows:

> **Legislative findings and declarations; goals**

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:
(a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.
(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

The Legislature provided for resolving competing goals as follows in Section 30007.5:

Legislative findings and declarations; resolution of policy conflicts
The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources.

In its 2012 staff report on the year-round rope at the La Jolla Children's Pool, the San Diego Coastal Commission staff recognized the pinniped rookery as a "fragile coastal resource:"

"As provided for in Sections 30210, 30212, and 30214 of the Coastal Act cited above, public access shall be provided for all people consistent with public safety needs and the need to protect natural resource areas from overuse. Children's Pool Beach...must be balanced with the protection of fragile coastal resources at the subject site. The proposed year-round rope barrier, as conditioned, is consistent with Sections 30210, 30212, and 30214 of the Coastal Act because it maintains public access to the beach while providing protection of the haul out site, or natural resource area, from overuse by people."

Having the rookery recognized as a "fragile coastal resource" makes applicable the solution identified in the Statewide Interpretive Guidelines for Public Access (Coastal Commission, February, 1980):

"Where fragile coastal resources exist on the site...and if full public access would have an adverse impact on such resources...limitations on public use should be imposed to allow for public access consistent with the protection of the values of the site. Restrictions on the seasons during which public access would be allowed...may be imposed to mitigate impacts on the access on the fragile resources."

With respect to ESHA, the above legislative declaration with respect to public access and natural resources has been memorialized as follows in Designing Accessways: Coastal Access Standards Element of the California Recreation Plan, (a joint publication of the State Coastal Conservancy and the California Coastal Commission, California State Coastal Conservancy, and California Dept. of Parks and Recreation, 1982):

"Accessways and trails should be sited and designed: ... to prevent misuse of

environmentally sensitive habitat areas..."

Therefore, the Coastal Act, and subsequent documents prepared by the Coastal Commission make it clear that the goal of public access is subordinate to the goal of protecting fragile coastal resources and ESHA. Furthermore, Section 30240 of the Coastal Act expressly forbids significant disruptions to ESHA.

Almost all pinniped rookeries in California are subject to access restrictions (note that in Channel Islands National Park while only a few rookeries have established restrictions, park staff indicates that future human/pinniped interactions will result in administrative closures to humans of additional rookery areas). The National Oceanic and Atmospheric Administration (NOAA) has mapped 85 rookeries on and off the California coast. A summary of restrictions (access restrictions/total rookeries) is as follows:

- Federally managed:
  - Channel Islands National Park (48/48)
  - Military Installations (22/22)
  - Other National Parks, Monuments, Recreation Areas (5/6)
- State Managed - Parks, MLPA and Caltrans (7/7)
- City/County - Managed (1/2)

Of the 85 rookeries on and off the California coast, only the Marin County/Bolinas lagoon and the La Jolla Children's Pool have historically had human/pinniped interaction issues and have no existing access restrictions. In the Bolinas lagoon, a combination of docent-led education and outreach to kayak renters has virtually eliminated pinnipeds disturbance by humans.

With respect to ESHA designation in Local Coastal Programs (LCPs), the following is a summary of coastal counties:

County	NOAA Haul-out?	NOAA Rookery?	LCP ESHA?
Del Norte	Yes	No	No
Humboldt	Yes	No	Some, haul-out areas for harbor seals
Mendocino	Yes	No	Yes, marine mammal haul-out areas
Sonoma	Yes	No	Yes/Some, marine mammal haul-out grounds
Marin	Yes	No	No (the Bolinas lagoon rookery is not in the LCP)

San Mateo	Yes	Yes	Yes, coastal breeding sites
Santa Cruz	Yes	No	Yes, marine mammal hauling grounds

County	NOAA Haul-out?	NOAA Rookery?	LCP ESHA?
Monterey	Yes	Yes	Yes, rookeries and haul-out sites
San Luis Obispo	Yes	Yes	Yes, marine habitat
Santa Barbara	Yes	Yes	Yes, rookeries and haul-out areas
Ventura	Yes (Pt. Mugu NAS)	Yes (Pt. Mugu NAS)	No
Los Angeles	No	Yes (Catalina Island)	No
Orange	No	No	No
San Diego	Yes	Yes	No (City or County)

Some LCPs do not identify pinniped rookeries specifically as ESHAs. However, they identify most potential rookeries and haul-outs as ESHA. For example, in Del Norte County, offshore rocks and islands, areas inland of the mean high tide line to first line of vegetation, vegetation, wet sand areas, and (2) tidal-influenced river mouths are all ESHA. There are no rookeries mapped by NOAA in Orange County.

Other examples of ESHA implementation are as follows:

- City of Carpinteria
  - ESHA for "marine mammal rookeries and hauling grounds" in Local Coastal Plan
  - Municipal Code closes City beach to all people during the harbor seal pupping season
- Monterey County - County Code prohibits entering designated restricted areas set up to protect harbor seals
- City of Goleta - Local Coastal Plan identifies marine mammal habitats, including haul-out areas as a "Marine ESHA."
- City of Half Moon Bay - Local Coastal Program identifies "coastal and off-shore areas containing breeding and/or nesting sites" as ESHA.

A two-pronged test in the Coastal Act definition of ESHA is used to establish how pinniped haul-outs and rookeries typically qualify as ESHA. The first prong of the test is whether the

plant or animal life, or their habitats, are either rare or especially valuable because of their special nature or role in an ecosystem. The U.S. Congress identified the value of marine mammals in its Findings and Declaration of Policy in the Marine Mammal Protection Act as follows:

> *"Marine mammals have proven themselves to be resources of great international significance, **esthetic and recreational as well as economic**, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem".*

The applicant contends that this demonstrates compliance with the first prong of the test.

The second ESHA designation test prong requires that ESHAs "be easily disturbed or degraded by human activities and developments." The applicant contends that the following demonstrate compliance with the second prong of the test:

- language from the web sites of the NOAA Fisheries, Office of Protected Resources, which lists as a threat to Harbor Seals: humans may harass and disturb hauled out seals while the seals are resting,
- a 2010 letter to the City from NOAA (Attachment 12) advocating beach closure,
- language from the California Division of Fish and Game [Wildlife] web site stating that harbor seals are easily disturbed or frightened into the water by human presence, and
- a large number of pictures and video which show that seals can be flushed (a Marine Mammal Protection Act-defined, "Level B" harassment which the applicant contends is the same as "significant disruption") simply by people approaching them.

Pinniped rookeries' ESHA designation and associated access restrictions into them is common due to statewide Coastal Commission policies. For example, at a June 11, 2011 training, Coastal Commission staff advised the Coastal Commission as that "Examples of ESHA include marine mammal haul-out areas, an 'Especially Valuable Habitat Area' due to its 'especially valuable ecosystem function.'" It should be noted here that the Children's Pool beach supports the more sensitive marine mammal rookery, not just a haul-out. Further, a Coastal Commission web page entitled "LCP Update Guide: Natural Resources" recommends as examples LCPs which have established access restrictions at pinniped haul-outs and rookeries (e.g., City of Malibu and County of San Luis Obispo).

As a result, the applicant contends that designating the harbor seal rookery at Children's Pool Beach as ESHA is appropriate, consistent with rookery management elsewhere, and consistent with the Coastal Act. While not agreeing that ESHA designation is appropriate, San Diego Coastal Commission staff does support access restrictions, noting that ongoing acts of MMPA-defined harassment are inconsistent with the Coastal Act, writing in a July 05, 2012 email (Attachment 13) as follows:

> *While the Commission does not regulate the taking of marine mammals, the statutory framework provided in MMPA on this issue provides the Commission a*

platform from which it can evaluate whether or not a proposed development is consistent with section 30230 of the Coastal Act. In other words, the Commission finds that if there is unauthorized harassment, or incidental "taking", of the seals at the Children's Pool area, then such acts of harassment are not consistent with Chapter 3 policies of the Coastal Act.

To summarize, not only is the existing access and harassment inconsistent with the Statewide Interpretive Guidelines for Public Access, the harassment is, in the opinion of San Diego Coastal Commission staff, a violation of the Coastal Act.

Seasonally restricting access is consistent with other Coastal Commission findings. In Consistency Determination 085-04, for example, the Coastal Commission found that the strategy in the Resource Management Plan (RMP) for the California Coastal National Monument (CCNM) is consistent with the Coastal Act. The RMP reads as follows:

Where known conflicts with wildlife exist, activities that harm wildlife resources or access to particular sites may be restricted on the monument. Restrictions of access to the CCNM will be made considering local knowledge of seabird and pinniped use (e.g., known nesting and pupping seasons), existing and potential use conflicts, and enforcement considerations. Activities that will be closely managed during seasonal restrictions include those with the potential to disturb wildlife. Management intervention normally will begin with the least restrictive approach (e.g., ethics education), with seasonal access limitations implemented on the CCNM as a last resort.

Therefore, the practice of restricting access to protect sensitive resources is not unprecedented.

CONCLUSION

The current joint use of Children's Pool beach has not adequately reduced the inappropriate and sometimes illegal interactions between seals and people, or those interactions between people with different perspectives on the seal/people issue. This may be due to dependence on voluntary compliance with guidance provided by a rope installation across the sand at the beach functioning as a visual guideline. While attempts at voluntary compliance via docent-sponsored education worked at the Bolinas lagoon rookery, human-induced flushes at Children's Pool, which violate the MMPA and the Coastal Act, continue at an unacceptable rate. Therefore, the applicant contends that the time for the next step in adaptive management – a clear, citable, bright line for unacceptable behavior (a change from geographical joint use to temporal joint use) is now.

Amending the La Jolla Community Plan/Local Coastal Program to designate the Harbor seal rookery as an ESHA with access restrictions is a reasonable and defensible regulatory construct, consistent with statewide Coastal Commission precedents and current directives. The proposed temporary access restrictions would protect marine mammals as required by the Coastal Act and would restrict access to the minimum amount of time and area needed to protect a fragile coastal resource.

ALTERNATIVES

1. **Recommend Approval** of the La Jolla Community Plan/Local Coastal Program Amendment and Coastal Development Permit No. 802284, **with modifications.**

2. **Recommend Denial** of La Jolla Community Plan/Local Coastal Program Amendment and Coastal Development Permit No. 802284, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,

Mike Westlake
Acting Deputy Director
Development Services Department

Morris E. Dye
Project Manager
Development Services Department

Attachments:

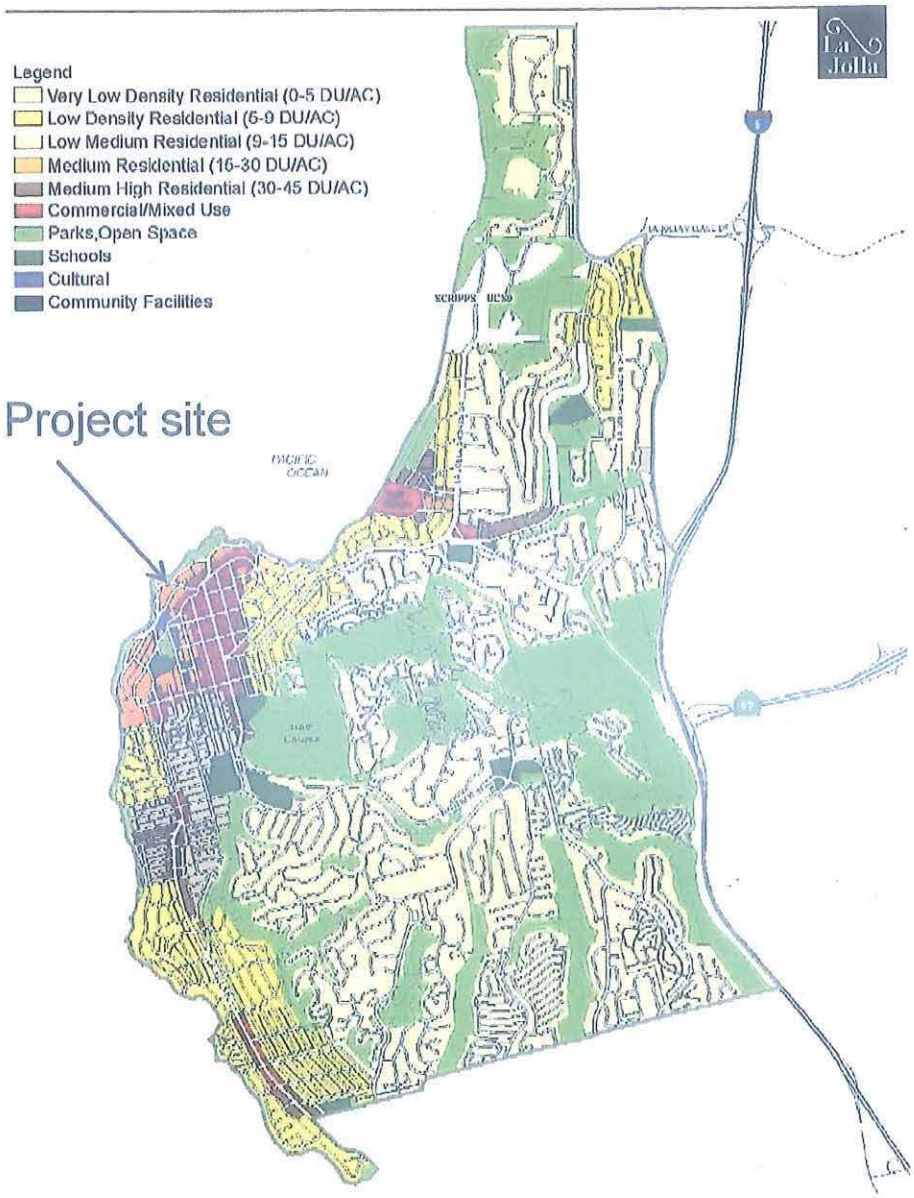
1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Draft Permit Resolution with Findings
5. Draft Permit with Conditions
6. Draft Environmental Resolution (ND)
7. Draft Ordinance
8. Project Site Plan
9. Draft Community Plan Amendment Documents:
10. Community Planning Group Recommendation
11. Coastal Commission Staff Letter
12. National Oceanic and Atmospheric Administration (NOAA) Letter
13. Coastal Commission July 12, 2012 Email

Site Map

ATTACHMENT 1

OF PC-13-139

ATTACHMENT 2

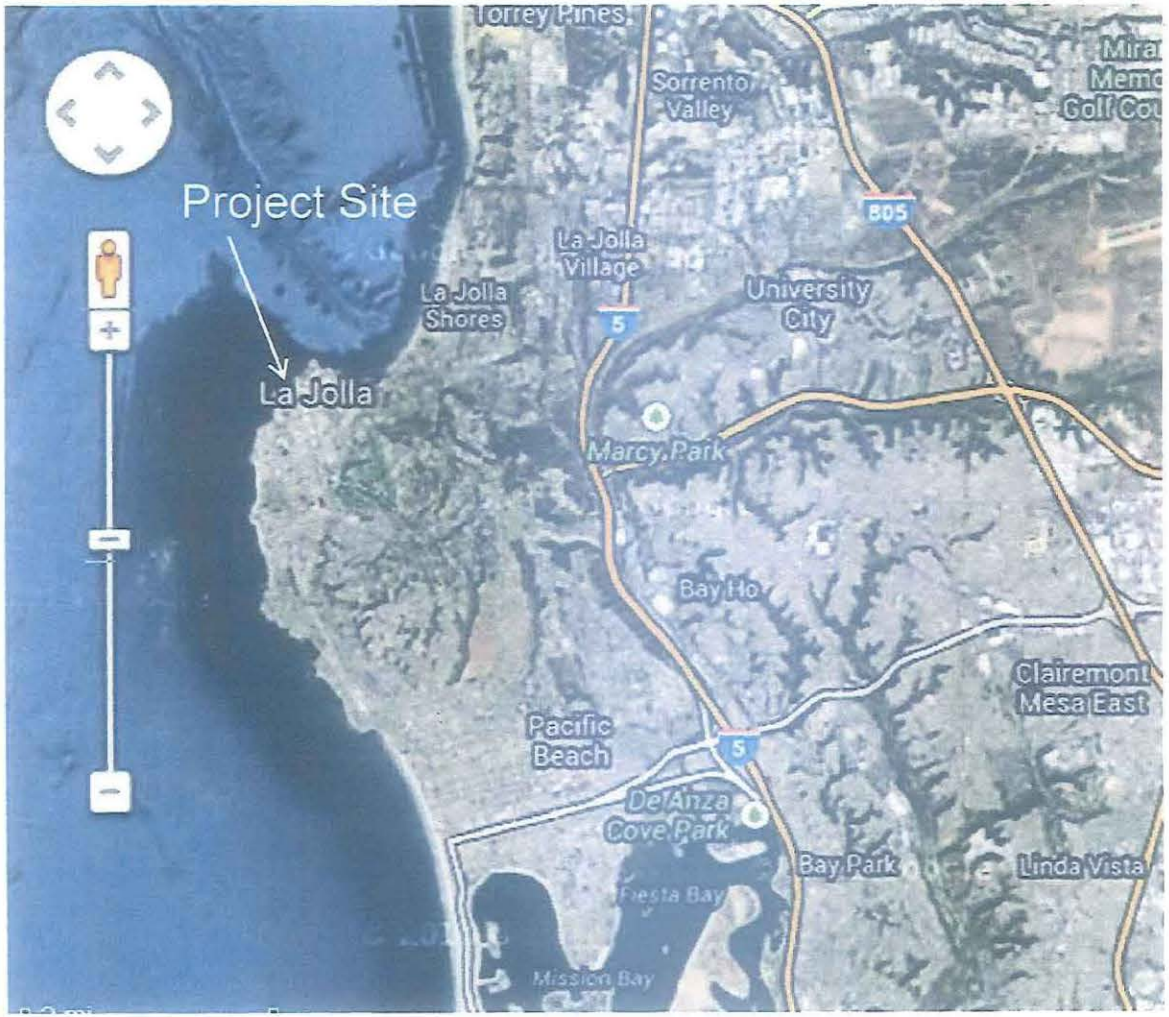


Land Use Map

Children's Pool Beach closure– 888 Coast Boulevard

PROJECT NO. 225045

North



Project Location Map

Children's Pool Beach Closure – 888 Coast Boulevard
PROJECT NO. 225045

North

ATTACHMENT 1
OF PC-13-139
ATTACHMENT 3

CITY COUNCIL OF THE CITY OF SAN DIEGO
RESOLUTION NO. _____
COASTAL DEVELOPMENT PERMIT
CHILDREN'S POOL BEACH CLOSURE-PROJECT NO. 225045

WHEREAS, City of San Diego, Park and Recreation Department, Owner/Permittee, filed an application with the City of San Diego to establish an Environmentally Sensitive Habitat Area (ESHA) and buffer area, and for a Community Plan/Local Coastal Program Amendment, and a Coastal Development Permit that would prohibit public access to the ESHA at the La Jolla Children's Pool beach during Harbor seal pupping season, December 15 to May 15 annually as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Coastal Development Permit No. 802284.

WHEREAS, the project site is located at 888 Coast Boulevard in Zone 5 of the La Jolla Planned District of the La Jolla Community Plan Area.

WHEREAS, the project site is legally described as being a portion of La Jolla Park, in the City of San Diego, State of California according to Map thereof No. 352, filed in the Office of the County Recorder of San Diego County on March 22, 1887 of Official Records.

WHEREAS, on _____, the City Council of the City of San Diego considered Community Plan/Local Coastal Program Amendment, and a Coastal Development Permit No. 802284 pursuant to the Land Development Code of the City of San Diego. NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego as follows:

That the City Council adopts the following written Findings, dated _____.

FINDINGS:

Coastal Development Permit - Section 126.0708

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 would amend the La Jolla Community Plan and Local Coastal Program to establish an Environmentally Sensitive Habitat Area (ESHA) at the La Jolla Children's Pool Beach and a buffer area at the associated stairs, and prohibit public access to the ESHA at the La Jolla Children's Pool Beach from December 15 to May 15 annually.

Section 30001.5 of the Coastal Act states that basic goals of the state for the coastal zone are to protect, maintain, and where feasible enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources, assure orderly, balanced utilization and conservation of coastal zone

resources taking into account the social and economic needs of the people of the state, and to maximize public access to and along the coast, and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners. California Coastal Commission staff has determined the pinniped rookery at the Children's Pool to be a "fragile coastal resource." Statewide Interpretive Guidelines for Public Access (Coastal Commission, February, 1980) states that "Where fragile coastal resources exist on the site…and if full public access would have an adverse impact on such resources…limitations on public use should be imposed to allow for public access consistent with the protection of the values of the site. Restrictions on the seasons during which public access would be allowed…may be imposed to mitigate impacts on the access on the fragile resources." In Designing Accessways: Coastal Access Standards Element of the California Recreation Plan, (a joint publication of the State Coastal Conservancy and the California Coastal Commission, California State Coastal Conservancy, and California Dept. of Parks and Recreation, 1982): it states in part that "Accessways and trails should be sited and designed: … to prevent misuse of environmentally sensitive habitat areas…"

Therefore, the Coastal Act and subsequent documents prepared by the Coastal Commission make it clear that the goal of public access is subordinate to the goal of protecting fragile coastal resources and ESHA. Furthermore, Section 30240 of the Coastal Act expressly forbids significant disruptions to ESHA.

Section 30211 of the California Coastal Act states: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. The project intends to protect a Fragile Coastal Resource as defined by the Coastal Act by restricting access at the La Jolla Children's Pool during a portion of the year. This is in conflict with the access requirement of this finding for that portion of the year, but restricting access is allowed by the Coastal Act which provides that limitations to access may be imposed to protect the Fragile Coastal Resource.

The project would maintain public access to the beach at the Children's Pool from May 16 to December 14 each year (seven months). To protect the Fragile Coastal Resource (the ESHA), public access would be limited for five months of the year. However, this access limitation is allowed by the California Coastal Act to protect the Fragile Coastal Resource. Since the California Coastal Commission has determined that public access is subordinate to the goal of protecting fragile coastal resources, public access would be maintained where appropriate. Therefore, 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 as amended. As the project would not include any physical development that would affect any public views at the La Jolla Children's Pool, 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.

2. **The proposed coastal development will not adversely affect environmentally sensitive lands.**

The project would establish an Environmentally Sensitive Habitat Area (ESHA) at the La Jolla Children's Pool Beach and a buffer area at the associated stairs, and prohibit public access to the ESHA at the La Jolla Children's Pool Beach from December 15 to May 15 annually.

The adjacent Coastal Beach and Coastal Bluff are the environmentally sensitive resources potentially affected by the project. The proposed project would not include any physical development on either the

Coastal Beach or Coastal Bluff. Signs and a chain would be installed on the existing stairs at the Children's Pool. No signs or chain would be installed on either the beach or the bluff. Therefore, the proposed coastal development will not adversely affect environmentally sensitive lands.

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 project would amend the La Jolla Community Plan and Local Coastal Program to establish an Environmentally Sensitive Habitat Area (ESHA) at the La Jolla Children's Pool Beach and a buffer area at the associated stairs, and prohibit public access to the ESHA at the La Jolla Children's Pool Beach from December 15 to May 15 annually.

The area above the Children's Pool is identified as a Viewshed area in the La Jolla Community Plan and Local Coastal Program Land Use Plan. The proposed signs and chain would be placed on the walls of the existing stairs and would not extend above the stairs structure, and, therefore, would not affect the identified Viewshed.

Section 30001.5 of the Coastal Act states that basic goals of the state for the coastal zone are to protect, maintain, and where feasible enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources, assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state, and to maximize public access to and along the coast, and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners. California Coastal Commission staff has determined the pinniped rookery at the Children's Pool to be a "fragile coastal resource." Statewide Interpretive Guidelines for Public Access (Coastal Commission, February, 1980) states that "Where fragile coastal resources exist on the site…and if full public access would have an adverse impact on such resources…limitations on public use should be imposed to allow for public access consistent with the protection of the values of the site. Restrictions on the seasons during which public access would be allowed…may be imposed to mitigate impacts on the access on the fragile resources." In Designing Accessways: Coastal Access Standards Element of the California Recreation Plan, (a joint publication of the State Coastal Conservancy and the California Coastal Commission, California State Coastal Conservancy, and California Dept. of Parks and Recreation, 1982): it states in part that "Accessways and trails should be sited and designed: … to prevent misuse of environmentally sensitive habitat areas…"

Therefore, the Coastal Act and subsequent documents prepared by the Coastal Commission make it clear that the goal of public access is subordinate to the goal of protecting fragile coastal resources and ESHA. Furthermore, Section 30240 of the Coastal Act expressly forbids significant disruptions to ESHA.

Section 30211 of the California Coastal Act states: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. The project intends to protect a Fragile Coastal Resource as defined by the Coastal Act by restricting access at the La Jolla Children's Pool during a portion of the year. This is in conflict with the access requirement of this finding for that portion of the year, but restricting access is allowed by the Coastal Act which provides that limitations to access may be imposed to protect the Fragile Coastal Resource.

The project would maintain public access to the beach at the Children's Pool from May 16 to December 14 each year (seven months). To protect the Fragile Coastal Resource (the ESHA), public access would be limited for five months of the year. However, this access limitation is allowed by the California Coastal Act to protect the Fragile Coastal Resource. Since the California Coastal Commission has determined that public access is subordinate to the goal of protecting fragile coastal resources, public access would be maintained where appropriate.

As the project would not affect the Viewshed identified in the Local Coastal Program and the proposed access limitation would be allowed by the California Coastal Act the project is in conformity with the Local Coastal Program land use plan Implementation Program as amended by the project.

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 would amend the La Jolla Community Plan and Local Coastal Program to establish an Environmentally Sensitive Habitat Area (ESHA) at the La Jolla Children's Pool Beach and a buffer area at the associated stairs, and prohibit public access to the ESHA at the La Jolla Children's Pool Beach from December 15 to May 15 annually.

Section 30001.5 of the Coastal Act states that basic goals of the state for the coastal zone are to protect, maintain, and where feasible enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources, assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state, and to maximize public access to and along the coast, and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners. California Coastal Commission staff has determined the pinniped rookery at the Children's Pool to be a "fragile coastal resource." Statewide Interpretive Guidelines for Public Access (Coastal Commission, February, 1980) states that "Where fragile coastal resources exist on the site…and if full public access would have an adverse impact on such resources…limitations on public use should be imposed to allow for public access consistent with the protection of the values of the site. Restrictions on the seasons during which public access would be allowed…may be imposed to mitigate impacts on the access on the fragile resources." In Designing Accessways: Coastal Access Standards Element of the California Recreation Plan, (a joint publication of the State Coastal Conservancy and the California Coastal Commission, California State Coastal Conservancy, and California Dept. of Parks and Recreation, 1982): it states in part that "Accessways and trails should be sited and designed: … to prevent misuse of environmentally sensitive habitat areas…"

Therefore, the Coastal Act and subsequent documents prepared by the Coastal Commission make it clear that the goal of public access is subordinate to the goal of protecting fragile coastal resources and ESHA. Furthermore, Section 30240 of the Coastal Act expressly forbids significant disruptions to ESHA.

Section 30211 of the California Coastal Act states: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. The project intends to protect a Fragile Coastal Resource as defined by the Coastal Act by restricting access at

the La Jolla Children's Pool during a portion of the year. This is in conflict with the access requirement of this finding for that portion of the year, but restricting access is allowed by the Coastal Act which provides that limitations to access may be imposed to protect the Fragile Coastal Resource.

The project would maintain public access to the beach at the Children's Pool from May 16 to December 14 each year (seven months). To protect the Fragile Coastal Resource (the ESHA), public access would be limited for five months of the year. However, this access limitation is allowed by the California Coastal Act to protect the Fragile Coastal Resource. Since the California Coastal Commission has determined that public access is subordinate to the goal of protecting fragile coastal resources, public access would be maintain where appropriate. Therefore, 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.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City Council Coastal Development Permit No. 802284 is hereby GRANTED by City Council to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Coastal Development Permit No. 802284, a copy of which is attached hereto and made a part hereof.

_____

Morris E. Dye
Development Project Manager
Development Services

Adopted on: _____

Job Order No. 21002681

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 21002681

COASTAL DEVELOPMENT PERMIT NO. 802284
CHILDREN'S POOL PROJECT NO. 225045
CITY COUNCIL

This Coastal Development Permit No 802284 is granted by the City Council of the City of San Diego to the Park and Recreation Department of the City of San Diego, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0702. The site is located at the La Jolla Children's Pool, 888 Coast Boulevard, near Jenner Street in the Coastal Overlay zone of the La Jolla Community Plan Area. The project site is legally described as: being a portion of La Jolla Park, in the City of San Diego, State of California according to Map thereof No. 352, filed in the Office of the County Recorder of San Diego County on March 22, 1887 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to close the Children's Pool beach to public access from December 15 to May 15 annually and install two beach closure signs on the existing wall and gate, respectively, and install a chain barrier at the second landing of the lower stairs of the existing set of stairs that provide access to and from the beach area closing public access to Children's Pool Beach as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated _____on file in the Development Services Department.

The project shall include:

a. Installing two beach closure signs: One approximately 36 inches by 30 inches installed at the top of the lower stairs, and one 24 inches by 18 inches on the gate west of the stairs.

b. Installing a chain barrier across the opening at the second landing of the lower stairs of the existing set of stairs that would prohibit access to the beach area.

b. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months 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 36 month 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 extension is considered by the appropriate decision maker. This permit must be utilized by _____.

2. This Coastal Development Permit shall become effective only after the California Coastal Commission certifies an amendment to the Local Coastal Program required by this project.

3. 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.

4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and

b. The Permit is recorded in the Office of the San Diego County Recorder.

5. 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.

6. 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.

7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

8. 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.).

9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

10. 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.

11. 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" conditions(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.

PLANNING REQUIREMENTS:

12. The chain allowed by this permit across the opening at the entrance to the lower stairs at the Children's Pool preventing access to the beach may be installed beginning December 15 of each year and must not be installed across the opening from May 16 to December 14 of each year.

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" conditions(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.

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.

APPROVED by the City Council of the City of San Diego on _____and Resolution No. _____.

Permit Type/PTS Approval No.:
Date of Approval:

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

_____
NAME
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.

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

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

RESOLUTION NUMBER R- _____

ADOPTED ON _____

WHEREAS, on December 2, 2010, the Park and Recreation Department of the City of San Diego submitted an application to Development Services Department for an Amendment to the La Jolla Community Plan and Local Coastal Program, a Coastal Development Permit, and an amendment to the San Diego Municipal Code to add a Section 63.0102(e)(2) for the Children's Pool Closure Project No. 225045; and

WHEREAS, the matter was set for a public hearing to be conducted by the City Council of the City of San Diego; and

WHEREAS, the issue was heard by the City Council on _____ 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, a public hearing is required by law implicating due process rights of individuals affected by the decision, and the Council is required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the City Council considered the issues discussed in Negative Declaration No. 225045/SCH 2013041059 prepared for this Project; NOW THEREFORE,

BE IT RESOLVED, by the City Council that it is certified that the Declaration has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.), that the Declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said Declaration, together with any comments received during the public review process, has been reviewed and considered by the City Council in connection with the approval of the Project.

BE IT FURTHER RESOLVED, that the City Council finds on the basis of the entire record, including the Initial Study and any comments received, that there is no substantial evidence that the Project will have a significant effect on the environment, and therefore, that said Declaration is hereby adopted.

BE IT FURTHER RESOLVED, that the Declaration and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the CITY CLERK, 202 C STREET, SAN DIEGO, CA 92101.

BE IT FURTHER RESOLVED, that the CITY CLERK is directed to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project after final passage of O-_____ amending the San Diego Municipal Code to add a Section 63.0102(e)(2).

APPROVED: JAN GOLDSMITH, CITY ATTORNEY

By: _____

Shannon Thomas, DEPUTY CITY ATTORNEY

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~STRIKEOUT~~

NEW LANGUAGE: UNDERLINE

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 3, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 63.0102, RELATING TO THE USE OF THE LA JOLLA CHILDREN'S POOL.

§63.0102 Use of Public Parks and Beaches Regulated

(a) through (d) [No change in text.]

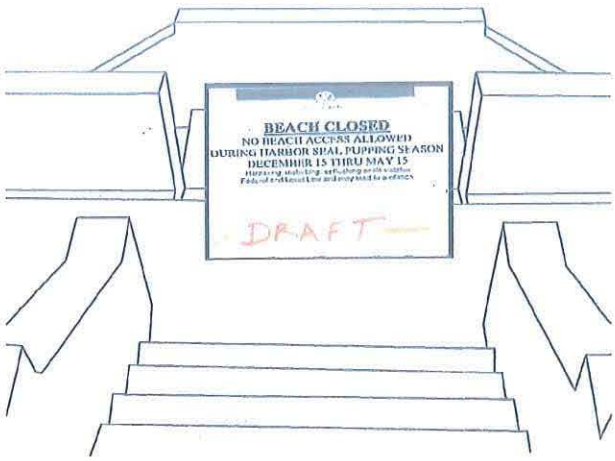
(e) Regulations for the Use of the La Jolla Children's Pool and Beach Areas

(1) [No change in text.]

(2) It is unlawful for any person to be upon or to cause any person to be upon the beach of the La Jolla Children's Pool, starting from the lower stairs to the beach beginning with the second landing, from December 15 to May 15.

ST:als
05/23/2012
Or.Dept:Park & Rec.
Document No. 146502

Proposed ESHA, buffer, and access limits



Proposed Signage: 24" wide by 18" tall on gate and 36" wide by 30" tall at top of lower stairs

ATTACHMENT 1
OF PC-13-139
ATTACHMENT 9

Community Plan and Local Coastal Program Land Use Plan

April 2013 Edits
CPA for Children's Pool ESHA

City of San Diego Planning Department
202 C Street, MS 4A
San Diego, CA 92101

This plan presents the coastal issues that have been identified for the community; it proposes policies and recommendations in the various elements of the community plan to address those issues. These issues are summarized below:

- **Public Access to the Beaches and Coastline**

The Natural Resources and Open Space System Element recommends a comprehensive sign program to identify existing locations along the coast where public access to the shoreline exists; Figure 6, 9 and Appendix G identifies the existing coastline access points from La Jolla Farms to Tourmaline Surfing Park; and the Transportation System Element incorporates recommendations for improving bicycle access to Ellen B. Scripps Park and La Jolla Shores Beach and other public shoreline areas of La Jolla.

The plan also states that the City will review new developments for the potential of prescriptive rights of access in accordance with the California Coastal Act and state law.

- **Environmentally Sensitive Habitat Areas**

The Natural Resources and Open Space System and Residential Elements recommend that development be designed to prevent significant impacts upon sensitive habitats and identified endangered or threatened plant and animal species. In addition, a specific Environmentally Sensitive Habitat Area that has seasonal access restrictions and buffer is designated for the Children's Pool Beach in order to protect breeding pinnipeds. No public access is permitted below the top of the lower staircase leading down to the sand from the sidewalk during seal pupping season. The beach area is designated as an Environmentally Sensitive Habitat Area pursuant to Sections 30107.5 and 30240 of the California Coastal Act and the lower staircase is a buffer for the ESHA.

- **Recreation and Visitor Serving Retail Areas**

The Commercial Land Use Element recommends retention of existing hotel, retail and visitor-oriented commercial areas in proximity to the beach and coastline parks in order to maintain a high degree of pedestrian activity and access to coastal resources.

- **Preservation or Conservation of Historic Resources**

The Heritage Resources Element recommends preserving the historical integrity of these community landmarks and archeological sites per the Secretary of Interior's Standards as well as maintaining the existing Cultural Complex within downtown La Jolla in order to retain the distinctive architectural, educational and historic heritage of the community.

- **Provision of Parks and Recreation Areas**

The Community Facilities Element recommends the preservation of existing resource and population-based parks and the identification of additional park and recreation opportunities throughout the community.

PHYSICAL ACCESS POINTS: (*dedicated)

1. Torrey Pines City Beach -U.C.S.D. access road off La Jolla Farms Rd. and trail south of glider port
2. Scripps Institution of Oceanography (public parking & stairs)
3. Kellogg Park-La Jolla Shores Beach*
4. Boat launching ramp at Avenida de la Playa
5. Walk at south end of the Marine Room restaurant
6. Princess Street (emergency access)
7. Scenic overlook from Coast Walk off of Torrey Pines Road (public parking, lateral access)
8. Cave Store access to Goldfish Point
9. La Jolla Cove -Ellen B. Scripps Park *
10. Coast Boulevard Park: Boomer Beach
11. Coast Boulevard Park: Shell Beach
12. Coast Boulevard Park: Children's Pool (For more information regarding the ESHA with seasonal access restrictions refer to Appendix G Subarea E)
13. Coast Boulevard Park: South Casa Beach

13a. Coast Boulevard Park: Wipe-out Beach

14. Nicholson's Point Park
15. Dedicated walkway at 100 Coast Boulevard South*
16. Stairway at the end of Marine Street (Jones Beach)
17. Paved walk at end of Vista Del Mar; heavily used for beach access*
18. Street at the end of Sea Lane
19. Walk at the end of Vista de la Playa
20. Fern Glen at Neptune Place
21. Windansea Shoreline Park at the west end of Fern Glen, Belvedere, Westbourne, Nautilus & Bonair Streets*
22. La Jolla Strand Shoreline Park at the West End of Gravilla, Kolmar, Rosemont Streets, and Palomar Avenue*
23. Hermosa Terrace Shoreline Park at west end of Palomar Avenue*
24. Paved easement between 6406 and 6424 Camino de la Costa
25. Cortez Place between 6160 and 6204 Camino de la Costa
26. Mira Monte Place between 6040 and 6102 Camino de la Costa -unimproved street
27. Paved stairs and walk at the end of the 5900 block of Camino de la Costa
28. Stairway from Bird Rock Avenue to tide pools
29. Pathway and stairs extending to the shore from Linda Way
30. Tourmaline Park*

wildlife habitats. In addition, the open space designations and zoning protect the hillsides and canyons for their park, recreation, scenic and open space values. The location of the public and private dedicated and designated open space and park areas in La Jolla are shown on Figure 7 and include, but are not limited to, all lands designated as sensitive slopes, viewshed or geologic hazard on City of San Diego Map C-720 dated 12/24/85 (last revision).

Visual Resources

La Jolla is a community of significant visual resources. The ability to observe the scenic vistas of the ocean, bluff and beach areas, hillsides and canyons, from public vantage points as identified in Figure 9 has, in some cases, been adversely affected by the clutter of signs, fences, structures or overhead utility lines that visually intrude on these resources.

Mount Soledad provides magnificent vistas of the coast of San Diego and is a regional landmark and an important visual resource for the community to preserve. Its slopes form a unique visual backdrop of significant scenic value which provides a natural relief from the commercial development that characterizes La Jolla's village area. Moreover, public views to La Jolla's community landmarks such as the San Diego Museum of Contemporary Art, and to historic structures, including the La Jolla Recreation Center and the La Jolla Woman's Club, are to be preserved. Significant public views of the coast are provided from Ellen B. Scripps Park and Kellogg Park. Other identified public vantage points are shown in Figure 9.

Shoreline Areas and Coastal Bluffs

The entire coastline of La Jolla stretching from La Jolla Farms to Tourmaline Surfing Park provides dramatic scenic beauty to the City of San Diego is considered an important sensitive coastal resource and should be protected.

The maximum use and enjoyment of La Jolla's shoreline is dependent upon providing safe and adequate public access to such major and special use recreational areas as La Jolla Shores Beach, Ellen B. Scripps Park, Coast Boulevard Park, Marine Street Park, Coast Walk, Windansea Beach, Calumet Park, Tourmaline Surfing Park and the Bird Rock tidepool areas.

Public access to this resource is limited, particularly along portions of Bird Rock, La Jolla Hermosa and in La Jolla Farms, due to steep slopes, cliff erosion and sensitive rock formations and restricted parking. Beach access is also limited in the seasonal Children's Pool Beach Environmentally Sensitive Habitat Area and buffer during the seal pupping season in order to prevent significant disruption.]

This plan identifies two types of physical access: lateral (movement along the shoreline) and vertical (access to the shoreline from a public road). Public access at designated beach and shoreline points has been improved with the addition of stairways or ramps at certain points along the coastline including Tourmaline Surfing Park, Linda Way, Bird Rock Avenue, Windansea Park, La Jolla Strand Park, Jones Beach, Coast Boulevard Park, Shell Beach, Scripps Park, Children's Pool and La Jolla Shores Beach.

SUBAREA E: COAST BOULEVARD

Shoreline Access:

a. La Jolla Cove. Small (.4-acre) pocket beach at the north end of Ellen B. Scripps Park. Concrete stairways provide access down bluff. Heavily used. The Cove and adjacent bluffs are an important visual and historical resource. Site of the La Jolla Roughwater Swim.

b. Ellen Scripps Park. Dedicated 5.6-acre bluff top park. The park is a major recreational focal point for visitors to La Jolla. A scenic walkway along the bluff edge provides outstanding coastal views. A ramp down the bluff provides access to Boomer Beach. Heavily utilized. No off-street parking.

c. Shell Beach. Small pocket beach south of Ellen B. Scripps Park. Stairway has been damaged.

d. Children's Pool. Small (.7-acre) artificial pocket beach held in place by seawall. Lifeguard facilities. Stairway access down bluff. Heavily utilized. A specific Environmentally Sensitive Habitat Area that has seasonal access restrictions is designated for the Children's Pool Beach in order to protect breeding Harbor Seals. No public access is permitted below the top of the lower staircase leading down to the sand from the sidewalk during seal pupping season. This area is designated as an Environmentally Sensitive Habitat Area pursuant to Sections 30107.5 and 30240 of the California Coastal Act.*See discussion below.

e. South Casa Beach. Small pocket beach accessible by concrete stairway. Part of Coastal Boulevard Park.

f. Coast Boulevard Park. Dedicated 4.55-acre Shoreline Park between the stairway at Ocean Street and the stairway south of La Jolla Boulevard. Several unimproved trails provide access down gentle bluffs and vegetation dunes. Moderate-to-heavy use. No off-street parking.

g. Vehicular access. Graded area near intersection of South Coast Boulevard and Coast Boulevard provide beach access for emergency vehicles.

h. Concrete stairway next to pump station. Provides pedestrian access to adjacent pocket beach and north end of Nicholson's Point Park.

* On June 8, 2010, the City of San Diego City Council, via Resolution R-305837, directed the City Attorney "to draft an ordinance amending the Municipal Code…to prohibit public access to the Children's Pool beach during harbor seal pupping season, from December 15 to May 15" and directed the Mayor or his designee "to amend the Local Coastal Program, only if required, to prohibit the public from entering the beach during harbor seal pupping season from December 15th through May 15th. In order to effect this directive, staff proposed the establishment of an Environmentally Sensitive Habitat Area during pupping season for the Children's Pool beach in accordance with California Coastal Act Section 30107.5:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."

Upon adoption of an ESHA, Coastal Act section 30240 requires:

"Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas...." and *"[d]evelopment 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."*

The La Jolla Community Plan/LCP places high value on coastal access and resource protection and the community plan policies are all considered to have equal value. In addition, the Coastal Act recognizes the value of various, competing goals in Section 30001, it also sets out a strategy on how to resolve conflicts between those goals in Section 30007.5:

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Therefore, in order for the LCP to be consistent with the Coastal Act, compliance with Section 30007.5 is required. The basis for the prohibition of public access onto the lower staircase leading down to the sand from the sidewalk and onto the Children's Pool beach during the seal pupping season via establishment of an ESHA that restricts seasonal access is based on such a prohibition being the most protective of significant coastal resources.

In conjunction with the LCP amendment, the City Council also adopted an ordinance by adding a Section 63.0102(e)(2) as follows: *It is unlawful for any person to be upon or to cause any person to be upon the beach of the La Jolla Children's Pool, starting from the lower stairs to the beach beginning with the second landing, from December 15 to May 15.*

PO Box 889, La Jolla, CA 92038
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Voicemail: 858.456.7900
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La Jolla Community Planning Association

Regular Meetings: 1st Thursday of the Month
La Jolla Recreation Center, 615 Prospect Street

Thursday, 6 June 2013

FINAL MINUTES -- Regular Meeting

Trustees Present: Patrick Ahern, Cynthia Bond, Helen Boyden, Tom Brady, Bob Collins, Dan Courtney , Janie Emerson, Jim Fitzgerald, Gail Forbes, Joe LaCava, Nancy Manno, Myrna Naegle, Bob Steck, Ray Weiss, Frances O'Neill Zimmerman.
Absent: Tony Crisafi, Phil Merten

1. **Welcome and Call To Order:** Joe La Cava, Vice President, at 6:10 PM

2. **Adopt the Agenda**

Approved Motion: To adopt the posted Agenda, deleting items 9 D, F, H, I, and J from the Consent Agenda (Collins, Fitzgerald: 10-0-1)

In favor: Ahern, Bond, Boyden, Brady, Collins, Fitzgerald, Little, Naegle, Steck, Weiss.
Abstain: LaCava

3. **Meeting Minutes Review and Approval – 2 May 2013**

Approved Motion: To approve the Minutes of 2 May 2013 (Ahern/Steck: 10-0-1)

In favor: In favor: Ahern, Bond, Boyden, Brady, Collins, Fitzgerald, Little, Naegle, Steck, Weiss, Zimmerman.
Abstain: LaCava

4. **Elected Officials Report** - Information Only

Council District 1 – City Council President Pro Tem Sherri Lightner
Rep: Erin Demorest, 619.236.7762, edemorest@sandiego.gov – The La Jolla Shores Lifeguard Tower is finished. Demolition of the old will take place this month. Work on the Children's Pool Lifeguard Tower demolition is set to begin June 12. The Bernard-Ticino environmental appeal will be reheard at the City Council at its Monday, June 24, 2 PM, meeting. The Princess Street area resurfacing on Torrey Pines Road has been finished. It includes improved bike lanes. The final pavement striping will be done on June 10. Public workshops on the proposed Trolley expansion to the UCSD and UC areas are scheduled for this month in various locations. (handout provided)

5. **Non-Agenda Public Comment** - Issues not on the agenda and within LJCPA jurisdiction, two (2) minutes or less

A. **UCSD** - Planner: Anu Delouri, adelouri@ucsd.edu, http://physicalplanning.ucsd.edu. The various UCSD commencements will be held from June 14 to June 16. The grand opening of the MESOM building will occur on June 14.

B. **General Public Comment** –
Egon Kafka, La Jolla Town Council: The Thursday, June 13, 5 PM, meeting of the Council will include presentations by SANDAG and CalTrans on the I-5 Corridor and Trolley projects as well as all other transportation matters affecting La Jolla.

6. Non-Agenda Items for Trustee Discussion - Issues not on the agenda and within LJCPA jurisdiction, two (2) minutes or less.

Trustee Little had asked for help from Sherri Lightner's office regarding the lack of off-street parking at a mixed use building, 702 Turquoise. It was reported to Code Compliance with no effect on that project, but a project in the planning stages at 910 Turquoise by the same builder has been redesigned to include off-street parking. **Trustee Little** offered his thanks.
Trustee Weiss commented that the Mayor's emergency declaration to biologically remove the guano from the rocks at the Cove did not come through community review at the LJCPA. **Vice President LaCava** stated that such consultation would only come as a courtesy, but that Parks and Beaches might have been an appropriate venue. **Trustee Weiss** said some of his concern was alleviated knowing that a biologist had been consulted.

7. Officers' Reports

A. Secretary

Trustee Boyden stated that if you want your attendance recorded today, you should sign in at the back of the room. There are two sign-in lists: one for LJCPA members and a yellow one for guests.

LJCPA is a membership organization open to La Jolla residents, property owners and local business owners at least 18 years of age. By providing proof of attendance members maintain their membership status and become eligible for election as a Trustee. Eligible visitors wishing to join the LJCPA need to submit an application, copies of which are available at the sign-in table or on-line at the LJCPA website: www.lajollacpa.org/.We encourage you to join so that you can vote in the Trustee elections and at the Annual Meeting in March.

You are entitled to attend without signing in, but only by providing proof of attendance can you maintain membership or become a trustee. If you want to have your attendance recorded without signing in at the back, then hand to the Secretary before the end of the meeting a piece of paper with your printed full name, signature and a statement that you want your attendance recorded.

Please note that members who failed to attend a meeting between March of 2012 and February 2013 (and similar for all time periods) have let their membership lapse and will need to submit another application to be reinstated.

C. Treasurer

Trustee Fitzgerald reported a 5/12013 beginning balance of $400.76; collections of $58.25, printing and telephone expenses of $116.90 for a net gain of $41.35 with an ending balance of $442.11. June printing expenses were higher and the next 6 months rent for the Rec Center will be paid in June.

Trustee Fitzgerald commented on the special generosity of the Membership and Trustees and reminded Trustees, Members and guests: LJCPA is a non-profit organization and must rely solely on the generosity of the community and the Trustees. All donations are in cash to preserve anonymity.

8. President's Report –

A. LJCPA Committee Appointments

Approved Motion: To ratify the following LJCPA appointments to the various joint committees and boards: La Jolla DPR – Robert Mapes; La Jolla Shore PRC - Bob Steck; La Jolla PDO – Gail Forbes, Jim Fitzgerald **(Little, Brady: 12-0-2)**

In favor: Ahern, Bond, Boyden, Brady, Collins, Forbes, Little, Manno, Naegle, Steck, Weiss, Zimmerman
Abstain: Fitzgerald, LaCava

B. LJCPA Committee Appointments by other groups –

Approved Motion: To ratify the appointments by other groups shown on the attached list to LJCPA joint committees and boards. **(Ahern, Fitzgerald: 13-0-1)**

In favor: Ahern, Bond, Boyden, Brady, Collins, Fitzgerald, Forbes, Little, Manno, Naegle, Steck, Weiss, Zimmerman
Abstain: LaCava

C. July CPA meeting date

Approved Motion: To adjourn Regular Meeting on July 4th to Special Meeting on Wednesday July 10th. **(Manno, Fitzgerald 13-0-1)**

In favor: Ahern, Bond, Boyden, Brady, Collins, Fitzgerald, Forbes, Little, Manno, Naegle, Steck, Weiss, Zimmerman.
Abstain: LaCava

D. Community Orientation Workshop (COW) – Reminder to take the eCOW if you did not attend the May 18th training session. **Trustees Boyden** and **Weiss** reported difficulties. This has been reported to the City.
E. La Jolla CPA Input to the City's FY2015 Public Infrastructure Budget will start at the July Meeting. All La Jollans and La Jolla organizations are welcome to submit suggestions.
F. Bernard-Ticino Residence Appeal heard at City Council, June 3 without a decision and continued to June 24 (see Elected Officials report above)
G. **Tom Tomlinson** has been appointed Interim Director of Development Services Department, replacing Kelly Broughton who has been hired by Chula Vista. **Mr. Tomlinson** currently works in Facility Financing.
H. The revisions to the LJCPA By laws approved by the members at the March Annual Meeting have been signed off on by the City. The City Attorney Office made some language revisions which **Trustee LaCava** believes do not affect the spirit and intent of the Bylaws as approved by the Membership in March. These will be brought to the LJCPA in July for the trustees to ratify that the essence of the Bylaws revisions has not been changed.
I. The Visin duplex (Playa del Sur) appeal will be heard at Planning Commission on June 13.
J. We appreciate the coverage given to La Jolla matters by the local newspapers. **Pat Sherman** is continuing, but **Mariko Lamb** is moving on and will be replaced by **Dave Schwab**.

9. **Consent Agenda** – Ratify or Reconsider Committee Action

Consent Agenda allows the Trustees to ratify actions of our joint committees and boards in a single vote with no presentation or debate. The public may comment on consent items. Anyone may request that a consent item be pulled for reconsideration and full discussion. Items pulled from this Consent Agenda are automatically trailed to the next LJCPA meeting.

PDO – Planned District Ordinance Committee, Chair Ione Stiegler, 2nd Mon, 4pm
DPR – Development Permit Review Committee, Chair Paul Benton, 2nd & 3rd Tues, 4pm
PRC – LJ Shores Permit Review Committee, Chair Helen Boyden, 4th Tues, 4pm
T&T – Traffic & Transportation Board, Chair Todd Lesser, 4th Thurs, 4pm

PRC – No Action this month

A. **Starbucks Torrey Pines (Pulled by Mike Costello)**
DPR Action: Motion to approve a Coastal Development Permit and Site Development Permit for outdoor patio seating for the existing Starbucks at 1055 Torrey Pines Rd (existing commercial building). 4-1-1
1055 Torrey Pines Rd. – CDP & SDP for outdoor patio seating of approximately 1,099 square feet, for an existing Starbucks in an existing commercial building

B. **Rudolph Garage/Guest Quarters**
DPR Action: Findings can be made for a Coastal Development Permit to construct a new detached 515 sq. ft. garage with 525 sq. ft. guest quarters above, on a 0.56 acre site with an existing 4,047 sq. ft. SFR at 1559 El Paso Real. 5-0-0
1559 El Paso Real - CDP to construct a new detached 515 sq. ft. garage with 525 sq. ft. guest quarters above, on a 0.56 acre site with an existing 4,047 sq. ft. Single Family Residence.

C. **12th Annual Taste at the Cove**
T & T ACTION: Approve the closure (removal of parking) at Scripps Park on September 5, 2013 from 6:00am to 12:00am (midnight). 7-0-0
Street closures for annual Taste of the Cove at Scripps Park at La Jolla Cove

D. **Scripps Park loading zones – Removed from agenda. See item 2.**
T & T ACTION: None
Reconfigure some or all of the 3 minute loading zones to 15 min. loading zones in front of Scripps Park.

E. **Handicap parking at Bird Rock Elementary**
T & T ACTION: To approve two handicap parking spaces at 5371 La Jolla Hermosa fronting Bird Rock Elementary, at the south end of the bus loading zone. 6-0-1.
5371 La Jolla Hermosa Ave- Install two handicap parking places

F. **Remove 90 Feet of Commercial loading along Camino Del Reposo – Removed from agenda. See item 2.**
T & T ACTION: None

Remove the 90 feet of Commercial loading on the side of La Jolla Shores Market

G. 20th Annual San Diego Triathlon

T & T ACTION: Approve the Coast Blvd street closure on October 20, 2013. Motion carries 7-0-0

Street closure Oct. 20th at Coast Blvd near Ellen Browning Scripps Park

H. OEX La Jolla Commercial loading zone – Removed from agenda. See item 2.

T & T ACTION: None

2243 Avenida De La Playa – loading zone to unload kayaks

I. Old Town Trolley Tours bus stop – Removed from agenda. See item 2.

T & T ACTION: None

Requesting a bus stop at the Cove and on top of Mount Soledad near the cross

J. Remove Green Zone in front of La Jolla Shores Market – Removed from agenda. See item 2.

T & T ACTION: None

Remove the 23 feet of green zone

Approved Motion:

To accept the recommendation of the DPR Committee: (B) Rudolph Garage/Guest Quarters: Findings can be made for a Coastal Development Permit to construct a new detached 515 sq. ft. garage with 525 sq. ft. guest quarters above [square footage corrected per DPR minutes], on a 0.56 acre site with an existing 4,047 sq. ft. SFR at 1559 El Paso Real and forward the recommendation to the City.

To accept the recommendations of the T &T Committee: (C) 12th Annual Taste at the Cove: Approve the closure (removal of parking) at Scripps Park on September 5, 2013 from 6:00am to 12:00am (midnight); 7-0-0; **(E) Handicap parking at Bird Rock Elementary:** To approve two handicap parking spaces at 5371 La Jolla Hermosa fronting Bird Rock Elementary, at the south end of the bus loading zone. 6-0-1; **(G) 20th Annual San Diego Triathlon:** Approve the Coast Blvd street closure on October 20, 2013. 7-0-0 and forward the recommendations to the City.

(Manno, Fitzgerald 13-0-1)

In favor: Ahern, Bond, Boyden, Brady, Collins, Fitzgerald, Forbes, Little, Manno, Naegle, Steck, Weiss, Zimmerman
Abstain: LaCava

10. Reports from Other Advisory Committees - Information only

A. **Coastal Access and Parking Board** - Meets 1st Tues, 5pm, La Jolla Recreation Center. Getting up and running again
B. **Community Planners Committee** – Meets 4th Tues, 7pm, 9192 Topaz Way, San Diego. – **Trustee LaCava** reported that the CPC passed the City-wide Bicycle Master Plan 13-11. The City has clarified the Records Retention Policy for Community Planning Groups, City cannot provide storage; the LJCPA does more than required. **Trustee LaCava** added that he was re-elected chair of CPC.

11. Morreale Residence - – pulled by Dan Allen from the May Consent Agenda

1644 Crespo Dr. - A Coastal Development Permit to construct a 700 square-foot, detached guest quarters, on a 0.20-acre site.

DPR Action (March 2013): Findings can be made for a Coastal Development Permit to construct a 700 square foot detached guest quarters, on a 0.20-acre site containing a single-family residence located at 1644 Crespo Drive. 7-0-1

Applicant: Brook Papier, Conrado Gallardo

Mr. Allen stated that the project had not been posted on the Kearsage Frontage, nor had neighbors been notified. He questioned the projected use of the guest quarters as proposed. He asked that 6' of unpaved ROW on Kearsage could be paved to allow for parallel parking.

Presented by **Mr. Gallardo** who discussed the historic nature of the main building. He pointed out that there would be no kitchen, natural landscaping of the hillside is proposed, no additional on site parking other than garage due to grading considerations. He stated documentation exists that the property had been properly noticed and posted about 18 mos ago. Owner **Anthony Morreale** stated it was just a guest quarters for and not for rental. Neighbor **Marina Baroff** commented. **Trustees Boyden, Brady, Collins, Fitzgerald, Forbes, Little, Manno** and **Weiss** commented.

Approved Motion: Recommendation can be made for a Coastal Development Permit to construct a 700 square foot guest quarters on the site. (Fitzgerald, Steck: 10-0-5)

In favor: Ahern, Bond, Boyden, Brady, Collins, Fitzgerald, Forbes, Steck, Weiss, Zimmerman
Abstain: Emerson, LaCava, Little, Manno, Naegle

13. Tree Removal- 7850 Ivanhoe Street – pulled by Trustee Courtney from the May 2, consent agenda.
7850 Ivanhoe St - Removal of a tree located that has caused damage to the sidewalk and continues to do so.
PDO ACTION April 2013: To recommend removal of the tree 5/2/0
Applicant: CA Marengo

Trustee Courtney stated that the heritage tree had been cut down before the LJCPA took action. **Trustees Bond, Forbes** and **Little** also commented.

Approved Motion: The LJCPA strongly requests the City of San Diego refrain from removing any heritage trees until the LJCPA has submitted its recommendations. **(Courtney, Brady: 15-0-1)**
In favor: Ahern, Bond, Boyden, Brady, Courtney, Emerson, Fitzgerald, Forbes, Little, Manno, Naegle, Steck, Weiss, Zimmerman
Abstain: LaCava.

14. Huckins Residence– pulled by Jean Wickersham from the May 2 agenda
1545 Virginia Way - Sustainable Expedite Program (process 2) Coastal Development Permit to construct a 3,818 sq ft, two-story, above basement, single family residence on a 7,000 sq ft vacant lot.
DPR Action (April 2013): Findings can be made for a Coastal Development Permit to construct a 3,818 sq ft, two-story, above basement, single family residence on a 7,000 sq ft vacant lot located at 1545 Virginia Way. 7-0-1
Applicant: Tim Golba

Donald Kearns (spouse of **Ms. Wickersham**) stated that they had worked with the architect to resolve their concerns about the fence/wall at the property line and very much appreciated the cooperation of Mr. Golba. They are withdrawing their objections.

No presentation was made. **Architect Tim Golba** explained that the issue had to do with the common lot line, fence, and retaining wall; further, that the applicant had asked LJCPA's indulgence to hold off on taking action until the matter could be resolved.

Approved Motion: To ratify the recommendation of the DPR Committee that *the Findings can be made for a Coastal Development Permit to construct a 3,818 sq ft, two-story, above basement, single family residence on a 7,000 sq ft vacant lot located at 1545 Virginia Way. 7-0-1 and applaud the cooperation between applicant and neighbor to resolve the problem.* **(Weiss/Emerson: 15-0-1)**
In favor: Ahern, Bond, Boyden, Brady, Collins, Courtney, Emerson, Fitzgerald, Forbes, Little, Manno, Naegle, Steck, Weiss, Zimmerman
Abstain: LaCava

15. Children's Pool Beach Closure - Action Item- Chaired by Trustee Boyden

Note: Item was opened at the May 2nd regular meeting. Applicants made their presentation. **Public Testimony was taken and closed (public testimony will not be re-opened.)** Trustee deliberations were started and the following motions were passed:
** Approved Motion: To reject the Draft Negative Declaration and request the City process an Environmental Impact Report.*
** Approved Motion: To request the City extend the deadline for responses to the Draft Negative Declaration so that the LJCPA can develop responses at its June 6, regular meeting (City extended deadline only until June 3.)*
** Tabled Motion: To reject the proposed amendment to the La Jolla Community Plan*

Trustee deliberation will resume with the following Potential Action Items:
1. Whether to take the motion: "To reject the proposed amendment to the La Jolla Community Plan" off the table.
2. Consideration of the proposed amendment to the Community Plan
3. Consideration of a response to the Draft Negative Declaration.

Background:

A. Proposed amendment to the La Jolla Community Plan and Local Coastal Program to establish an Environmentally Sensitive Habitat Area (ESHA) and buffer area for the Children's Pool Beach. The amendment will also include modification to community plan policies related to beach access to prohibit access to the ESHA during harbor seal pupping season to contribute to the protection of sensitive habitat area for breeding pinnipeds, a Coastal Development Permit to prohibit access to the Children's Pool Beach annually from Dec. 15th to May 15th which would require installation of two signs & a chain barrier and an amendment to the SD Municipal Code to add a Section 63.0102(e)(2) that would state:
"It is unlawful for any person to be upon or cause any person to be upon the beach of the La Jolla Children's Pool, starting from the lower stairs to the beach, beginning with the second landing, from Dec. 15 to May 15th."

B. Notice of Draft Negative Declaration "The recommended finding that the project will not have a significant effect on the environment is based on an Initial Study." Comments due May 18, 2013.

LJCPA Action (July 2012): Approved Motion: To reaffirm LJCPA opposition to a year-round "Rope Barrier" at Children's Pool beach and supports LJP&B action of June 2012 to give the community six months to come forth with feasible mitigation alternative for people and seals to share the beach, (Courtney/Brady, 12-3-1).
LJ PARKS & BEACHES ACTION (June 2012): A motion was made to deny CDP Application No. 6-11-078 to install a year-round rope and to give to the community six months to come forth with feasible mitigation alternative for people and seals to share the beach. 15-0-0

Exhibits:
1. Proposed text changes to La Jolla Community Plan (see attached)
2. Notice of Negative Declaration - http://docs.sandiego.gov/citybulletin_publicnotices/CEQA/PN1300%2520%2523225045%2520Draft%2520ND%25204-18-13.pdf)

Applicant: Chris Zirkle, Deputy Director, Parks & Rec Open Space Division
Dan Daneri, District Manager, Shoreline Parks and Mechanized Beach Maint., Parks & Rec

Trustee Boyden stated that a letter from Dr. Jane Reldan and a proposed response to the DND written by Mike Costello and submitted by Trustee Brady had been distributed to Trustees and public copies are available for review at the back table. Also at the back table a public copy of the proposed text changes to the La Jolla Community Plan.

Approved Motion: To take the motion: "To reject the proposed amendment to the La Jolla Community Plan" off the table. (Little, Brady: 13-2-1)
In favor: Ahern, Bond, Brady, Collins, Courtney, Emerson, Fitzgerald, Forbes, Manno, Naegle, Steck, Weiss,
Opposed: LaCava, Zimmerman
Abstain: Boyden

Speaking to the Motion after it was removed from the table were: **Trustees: Ahern, Brady, Fitzgerald, Forbes, LaCava, Little, Manno, Weiss.**

Approved Motion: To call the question (2/3 required) **(Collins, Little: 15-0-1)**
In favor: Ahern, Bond, Boyden, Brady, Collins, Courtney, Emerson, Fitzgerald, Forbes, Little, Manno, Naegle, Steck, Weiss, Zimmerman
Abstain: Boyden

Approved Motion: To reject the proposed amendment to the La Jolla Community Plan (Little, Brady 9-6-1)
In favor: Ahern, Brady, Collins, Courtney, Forbes, Little, Manno, Naegle, Steck
Opposed; Bond, Emerson, Fitzgerald, LaCava, Weiss, Zimmerman
Abstain: Boyden

Proposed Motion: To add language to the Coastal Access Subareas (pg 32) and Shoreline Areas and Coastal Bluffs (pg. 50) to the La Jolla Community Plan to require the City to prevent colonization at La Jolla's other beaches. (LaCava/Emerson)

Commenting on the motion were: **Trustees Little, Naegle, Weiss. City Deputy Director Chris Zirkle provided the information that City welcomed input on the language and that no date for the Planning Commission hearing had been set as yet.**

Motion postponed indefinitely: Above motion **(LaCava/Brady: 12-2-1)**
In favor: Ahern, Bond, Brady, Collins, Courtney, Emerson, Fitzgerald, LaCava, Manno, Naegle, Steck, Weiss, Zimmerman
Opposed; Forbes, Little
Abstain: Boyden

Approved motion: To not use the La Jolla Parks and Beaches letter as a template for replying to the DND **(Zimmerman/Fitzgerald: 9-5-1)**
In favor: Ahern, Bond, Brady, Emerson, Forbes, Fitzgerald, LaCava, Steck, Weiss, Zimmerman
Opposed: Courtney, Little, Manno, Naegle
Abstain: Boyden

Approved Motion: To call the question on the subsequent motion (2/3 required) **(Zimmerman/Courtney: 14-0-1)**
In favor: Ahern, Bond, Brady, Courtney, Emerson, Fitzgerald, Forbes, LaCava, Little, Manno, Naegle, Steck, Weiss, Zimmerman
Abstain: Boyden

Failed Motion: To send the 15-page "Costello" letter dated 6/3/2013 in response to the DND to the City **(Brady/Little 3-11-1)**
In favor: Brady, Manno, Naegle
Opposed: Ahern, Bond, Courtney, Emerson, Fitzgerald, Forbes, LaCava, Little, Steck, Weiss, Zimmerman
Abstain: Boyden

Commenting on the above motion were **Trustees: Ahern, Brady, Courtney, Forbes, LaCava, Little, Manno, Weiss**

Failed Motion: To send the portion of the "Costello" letter beginning from mid-page 7 to the end in reply to the DND (LaCava/Courtney: 1-11-1
In favor: Courtney
Opposed: Ahern, Bond, Emerson, Fitzgerald, Forbes, LaCava, Little, Manno, Steck, Weiss, Zimmerman
Abstain: Boyden

Commenting on the above motion were **Trustees: Fitzgerald** and **Weiss.**

16. Children's Pool – Nighttime Closures through May 15, 2013 –Chaired by VP LaCava
Application for a standard Coastal Development Permit (CDP) (Process 3) following the Emergency CDP under PTS 316719 for closure of the Children's Pool from sunset to sunrise effective through May 15,2013 at the La Jolla Children's Pool. The property is located at 809 Coast Boulevard. Note this standard CDP replaces the emergency CDP but will impose no new requirements since the May 15, 2013 cut-off date has already passed; however, regulations require emergency CDPs to be replaced with a standard CDP.
Applicant: Dan Daneri, District Manager, Shoreline Parks and Mechanized Beach Maintenance

It was noted that the time period has already passed.

Comments by community members **Melinda Merryweather** and **Ken Hunrichs** and **Trustees Forbes** and **Little.**

Approved Motion: To decline approval on the grounds that the timing is absurd. **(Little/Weiss: 10-3-1)**
In favor: Ahern, Bond, Boyden, Brady, Courtney, Emerson, Little, Steck, Weiss, Zimmerman
Opposed: Fitzgerald, Forbes, Manno
Abstain: LaCava

17. Adjourn at PM- at 8:52 PM to Special Meeting on July 10, 2013 at 6 PM.

STATE OF CALIFORNIA -- THE NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION
SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370

December 13, 2012

Stacey LoMedico
City of San Diego, Park and Recreation Department
202 C Street, MS 35
San Diego, CA 92101

Re: Children's Pool Beach Local Coastal Program Amendment

Dear Ms. LoMedico:

First, we would like to again acknowledge your continuing efforts to coordinate review of the difficult management issues at the Children's Pool. We appreciate the challenges that your department is responding to and the following recommendations are offered to provide direction and support for ensuring marine mammal protection while preserving public access in an appropriate manner.

At our November 1, 2012 meeting, we discussed the City of San Diego's proposal to prohibit public access to the Children's Pool during pupping season and the methods by which this may be accomplished. As authorized in Resolution No. 305837, the City Council has directed City staff to amend the Municipal Code, as well as the La Jolla Community Plan and Local Coastal Program Land Use Plan, to prohibit the public from entering the sandy beach at Children's Pool during harbor seal pupping season, from December 15th through May 15th. The purpose of this seasonal closure would be to augment the City's joint use management policy by providing the harbor seal rookery an added level of protection from human disturbance and harassment during their most vulnerable period – the pupping season – when seals haul out and remain on the beach for longer periods of time in order to prepare for birth, go through the birthing process, and nurse the seal pups once they are born.

As discussed, several other jurisdictions within California have provided for the protection of marine mammal haul-out areas and/or rookeries by designating them as Environmentally Sensitive Habitat Areas (ESHA) within their Local Coastal Programs (LCP) and permitting seasonal access restrictions during the pupping season. Using these jurisdictions as models, it is the City's intention to amend the LCP to establish a seasonal ESHA and buffer for the Children's Pool Beach marine mammal haul out area in accordance with Section 30107.5 of the Coastal Act. However, these other jurisdictions do not share the same site-specific conditions present at the Children's Pool – mainly, its close proximity to an urban setting and the City's joint use management strategy that has allowed people and seals to share the beach. Unlike many other marine mammal haul-out areas and rookeries, the Children's Pool is easily accessible to the public and has a dedicated user group (e.g., divers, swimmers, and beachgoers).

We would like to reiterate that we advise the City not to invoke an ESHA or seasonal ESHA designation at Children's Pool as part of the LCP amendment. Instead of

designating the beach as a seasonal ESHA, we recommend that seasonal restrictions be considered based on the broader protection of sensitive resources and/or marine mammals pursuant to Section 30230 of the Coastal Act. Again, we will continue to work with your office on suggested policy language for an LCP amendment as it progresses through your local amendment process.

After further internal discussion, Commission staff would be supportive of the City's proposal to impose seasonal restrictions, including full beach closure to the public, at Children's Pool in order to protect the seal rookery during pupping season. The City, the National Marine Fisheries Service, and the Department of Fish and Game all have limited resources to protect the seal rookery and enforce the Marine Mammal Protection Act at the Children's Pool; therefore, seasonal restrictions on public access appears warranted to adequately protect harbor seals during pupping season when they are most vulnerable.

The City also requested our review of the "Harris Plan," an alternative that would involve: 1) placement of "moveable boulders" at Children's Pool in an alignment that would partition off approximately 75% of the sandy beach during pupping season and 25% of the sandy beach during non-pupping season for use by the seals, 2) adjustment of boulders twice a year to accommodate the 75% and 25% configurations, 3) removal of top layer of polluted sand twice a year to coincide with boulder adjustment, and 4) disposal of polluted sand into the ocean, seaward of the seawall. We are not in support of this alternative, as the placement of boulders on the beach would create a physical and visual barrier that would adversely impact public access. Additionally, it is unclear how this would mitigate the existing issues as the seals would still be free to occupy all beach areas and any effort to corral them in certain areas would be inconsistent with marine mammal protection measures. Further, this alternative would face similar enforcement issues associated with the currently permitted guideline rope.

Finally, the City requested our input as to whether the removal of natural wrack, or marine vegetation (i.e., dried seaweed and kelp), is permitted at La Jolla beaches as part of organized clean-ups. The removal of wrack has significant impacts on the natural ecology of sandy beaches, including on invertebrates and foraging seabirds. Given the importance of wrack in beach habitats, it should not be removed from beaches during clean-up activities by private citizens, with the exception that debris that is entangled in the wrack, and which poses a clear threat to public safety, may be removed by hand as needed. The removal of wrack is only permitted by City personnel as part of historical beach maintenance activities.

If you have any questions or concerns, please do not hesitate to contact me. Thank you for your attention to these matters and I look forward to working closely with you and your staff.

Sincerely,

Kanani Brown
Coastal Program Analyst

Cc: Sherilyn Sarb, Deputy Director, California Coastal Commission
Deborah N. Lee, District Manager, California Coastal Commission
Lee McEachern, District Regulatory Supervisor, California Coastal Commission
Chris Zirkle, Deputy Director, City of San Diego Parks and Recreation
Kathleen Hasenauer, Deputy Director, City of San Diego Parks and Recreation
Daniel Daneri, District Manager, City of San Diego Parks and Recreation

ATTACHMENT 12

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802- 4213

2010/02039:CCF

May 14, 2010

Donna Frye
Chair, Natural Resources & Culture Committee
San Diego City Council
202 C St. #10
San Diego, California 92101-3860

Dear Councilwoman Frye:

Thank you for contacting NOAA's National Marine Fisheries Service (NMFS), Southwest Regional Office, regarding the San Diego City Council's next steps concerning Children's Pool Beach (CPB), located in La Jolla, California. Following a conference call with my staff in the Protected Resources Division on April 28, 2010, your staff sent, via electronic mail, a copy of your draft report to be presented to the San Diego City Council identifying management options for CPB. Per your request, this letter provides our comments and recommendations regarding the proposed management options. In order to provide some context for these comments, we have added some background (Appendix 1) on the Marine Mammal Protection Act (MMPA), harbor seal biology and life history, and the historical and current use of CPB by harbor seals.

The presence of a harbor seal colony at CPB has been the focus of several lawsuits in the recent past. In 2009, the California State Legislature passed Senate Bill 428, which amended the conditions of the 1931 State trust granting the CPB area tidelands to the City of San Diego. Effective January 1, 2010, the trust was amended to allow for an additional use of the tidelands: a "marine mammal park for the enjoyment and educational benefit of children." While, there is no definition or recognition of the term "marine mammal park" under the MMPA and NMFS' implementing regulations, this amendment of the trust provides the City of San Diego with greater latitude in implementing management actions regarding the harbor seal colony at CPB.

COMMENTS AND RECOMMENDATIONS

My staff and I have reviewed the actions that were proposed by the San Diego City Council Natural Resources and Culture Committee, of which you are the Chair, and offer the following comments and recommendations.

1. **Direction to seek a Local Coastal Program amendment to prohibit the public from entering the beach during pupping season, 24 hours a day from December 15 through May 15.**

Harbor seals (*Phoca vitulina richardii*) at CPB are subject to many potential daily urban disturbances– traffic noise, car alarms, slamming doors, people shouting and laughing. Any of these disturbances may provoke a reaction from a harbor seal on the beach. This may include raising their head, looking around, or moving. The most disruptive of human interactions are those that lead to animals flushing into the water, causing animals to expend energy and prevent them from gaining the benefits of hauling out (e.g., rest or thermoregulation). When pups are on the beach, they can be injured or even killed by stampeding adult seals. Biologists have observed that the presence of people on the beach near the hauled out seals, or at the water's edge typically results in large numbers of seals flushing (Hanan 2004). By preventing the public from entering the beach, flushing can (in most cases) be prevented. Therefore, NMFS supports prohibiting the public from entering the beach.

For the harbor seals hauled out at CPB, the most critical time for protection from disturbance and harassment are during the last months of pregnancy and through pup weaning. The first full-term harbor seal pups are usually born at CPB in January. Based on these dates, implantation occurs no later than August. Therefore, adult females hauled out at CPB after August are likely pregnant. NMFS has received documented reports of abortions and premature parturition occurring in CPB harbor seals in November and December. Therefore, NMFS recommends treating December 1 as the beginning of the pupping season. This date is a conservative start date for pupping season and provides protection from human interference for late term pregnant females hauled out at CPB, and likely reduces the risk of abortion and premature parturition. After birth, pups nurse and are dependent on their mothers for approximately 4-6 weeks until weaning. The last pups of the season (typically born in April) may not wean until the end of May. Therefore, NMFS recommends treating May 30 as the end of the pupping season, as this date ensures that the majority of pups will be weaned.

NMFS has one comment regarding this restriction. The City Council might consider exempting certain categories of people from the general prohibition. For example SeaWorld personnel may need to access CPB if an entangled animal is observed on the beach. We recommend that the City Council consider a mechanism that will allow access in this, or other appropriate situations.

2. **Prohibit dogs on the Children's Pool Beach year round, 24 hours a day**

NMFS supports this action. Dogs may harass seals and cause them to flush into the water. There is also a risk of disease transmission between canines and pinnipeds. Therefore, prohibiting dogs from the beach is protective of the seals and dogs by reducing potential disturbance and preventing potential health issues.

3. **Seek private funding for a Park Ranger or Lifeguard full-time position with expert qualifications whose primary duty is to patrol the Children's Pool. Authorize the Park and Recreation Department or Lifeguard Services to create a Volunteer Docent Program led by this Park Ranger or Lifeguard**

NMFS supports this action. NMFS recognizes that at least some percentage of harassment of marine mammals is caused by well-meaning members of the public who do not understand the

impact their behavior may have on the animals or lack knowledge of applicable laws. La Jolla's CPB is a destination area for many tourists who may have no experience with wild marine mammals. Once informed, most people tend to maintain a greater distance and limit potentially disruptive behaviors. Therefore, the combination of enforcement and education should greatly help this situation.

While NMFS appreciates the efforts of the private organizations that have provided educational materials at CPB, we believe that the programs would be more organized and messages more consistent if they were maintained by a central group operating under the purview of the local government, such as the program envisioned by this proposal. NMFS would look forward to coordinating closely and assisting with such a program. Additionally, having a dedicated employee with enforcement authority would likely help prevent violation of city ordinances that are protective of seals or limit conflict, including purposeful violation of those city ordinances.

While NMFS has enforcement authority under the MMPA, limited staffing creates a challenge. NMFS has a toll-free hotline (1-800-853-1964) to report violations of marine laws (including the MMPA). In 2009, this number received a total of 154 calls regarding CPB. Although only three of the 154 calls resulted in a full investigation, all of the calls represent a significant investment for the local NMFS enforcement agent.

Under MMPA Section 109(a), no State may enforce a State law or regulation relating to the taking of the species of marine mammal without a transfer of management authority from the Secretary of Commerce. This has not occurred in California. However, States and local governments are free to implement and enforce ordinances, such as the closure of a beach, which may have a side benefit of preventing the harassment of a marine mammal.

4. **Seek an emergency amendment to the existing Coastal Development Permit to keep the guideline rope up year round**

NMFS supports this action with some reservations, as maintenance of the guideline rope does not ensure that harbor seals will not be harassed. For example, if a harbor seal hauls out on the "human" side of the rope, harassment of that seal may still be considered a violation of the MMPA, even if one is on the "correct" side of the rope. NMFS recommends that the public maintain a distance from any seal, regardless of where they are regarding the guideline rope. For most harbor seal haulout sites along the West Coast of the U.S., NMFS recommends a distance of 100 feet. However, with the relatively small area at CPB, NMFS has recommended that the public maintain a distance of at least 50 feet from any seal, while standing on CPB (as opposed to standing on the breakwater). As this is a viewing guideline and not codified in the regulations, NMFS has the flexibility to modify it to meet the individual circumstances of the geographic area and the natural history of the species. Because viewing distances are guidelines, they do not have the force of law, but harassment is a violation of the MMPA regardless of the distance from which it occurs.

Therefore, NMFS supports establishing the guideline rope year-round, as it would allow at least some measure of public awareness and protection to the harbor seals hauled out on the sand. However, we note that merely abiding by the guideline rope (standing on the "human" side) does

not guarantee that a person will not violate the MMPA. For example, humans approaching CPB from the water while harbor seals are on the beach may present more of a threat to the seals than humans on the beach, which may result in flushing en masse into the water.

CONCLUSION

Thank you for the opportunity to provide input on the proposed actions sent before the City Council of San Diego. We hope that our comments and recommendations will help inform your discussions. If you have any further questions, please do not hesitate to contact Sarah Wilkin at Sarah.Wilkin@noaa.gov or 562-980-3230 or Christina Fahy at Christina.Fahy@noaa.gov or 562-980-4023.

Sincerely,

for Rodney R. McInnis
Regional Administrator

cc: Copy to File: 151422SWR2005PR2267

Appendix 1.

BACKGROUND:

Marine Mammal Protection Act

Under the Marine Mammal Protection Act (MMPA), NMFS (exercising the authority of the Secretary of Commerce) is the resource trustee agency for cetaceans and pinnipeds (excluding walrus) in the United States and is responsible for implementing and enforcing the law. The stated goal of the MMPA is to ensure that marine mammal species and stocks do not "diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part" (16 U.S.C. §1361(2)). To implement this goal, the MMPA imposes a general moratorium on the "take" of a marine mammal in U.S. waters. It defines take to mean "to harass, hunt, capture, or kill or attempt to harass, hunt, capture or kill any marine mammal" (16 U.S.C. §1361(13)).

Pacific harbor seals – general biology/life history

Pacific harbor seals (*Phoca vitulina richardii*) are widely distributed throughout the North Pacific. Haulout sites are widely distributed throughout the California mainland and on offshore islands, including beaches, rocky shores, and intertidal sandbars. This subspecies inhabits near-shore coastal and estuarine areas from Baja California, Mexico to Alaska. Their migrations are limited to 300-500 kilometers, occasionally traveling these distances to find food or suitable breeding areas. The timing of harbor seal pupping occurs sequentially along the west coast of North America, with the earlier pupping seasons occurring in Baja California and southern California, and later seasons occurring in the Pacific Northwest and British Columbia, Canada. After birth, pups nurse and are dependent on their mothers for approximately 4-6 weeks until weaning. Harbor seals breed shortly after weaning their pups. Delayed implantation of the fertilized blastocyst occurs 1.5 to 3 months following mating. The gestation period is approximately 9 months.

For any individual or group of individuals in a breeding colony, there are two time periods in a given year when non-lethal disturbance or harassment would be the most harmful to harbor seals. ~~The first is any interference with pregnant females that might result in the loss of young prior to~~ birth (either through abortion of a fetus that cannot survive outside of the womb or the premature birth of a pup that lives a short time before dying). This type of reproductive failure can be harmful to the health of that female and, over time, may result in the collapse of the harbor seal colony. The second critical time period is immediately following birth, when mothers and their pups bond, so they can recognize each other if they become separated. Disruption of the bonding process usually leads to abandonment of the pup and eventual death without human intervention.

Harbor seals at Children's Pool Beach

There have been limited studies focusing on the harbor seals in La Jolla, but the animals likely colonized CPB because it provided suitable habitat. Genetic analyses have not been conducted to determine population structure or the origins of the founding animals for this rookery; however, one reasonable assumption is that they may have originated from some of the offshore islands (e.g., San Clemente Island) in southern California. In addition, there is no evidence that human intervention (via the release of rehabilitated seals) created this colony. Prior to colonization of CPB, some rehabilitated harbor seals were released from multiple La Jolla beaches located near known offshore haulout sites (rocks). However, these releases represent a small number of animals and there is no evidence that those released harbor seals were more likely to haul out on the mainland beaches versus offshore rocks following release. Currently, all harbor seals rehabilitated in San Diego County are released off Point Loma.

Currently, Pacific harbor seals use CPB to haul out year-round, and to give birth and nurse their pups. Harbor seals historically occupied the offshore rocks near La Jolla, but were not consistently observed on the mainland at CPB until the early 1990's. By 1995, harbor seals were using CPB daily (Yochem and Stewart 1998). This time period coincides with an observed increase in the harbor seal population off California. During this time, individual animals could be observed hauling out in areas containing suitable habitat (Hanan 1996), sometimes leading to the establishment of a haulout site or re-colonization of an historical haulout site. With a sloping, sandy beach that is north-facing and generally protected from tidal influence and high wave action, CPB provides suitable habitat for harbor seals.

The first observed pups confirmed born on CPB occurred in the late 1990's. NMFS conducts a statewide harbor seal census survey every few years and includes the animals at CPB. More frequent observations by volunteer groups and project monitoring reports indicate that the number of pups born annually appears to have stabilized at CPB, now averaging between 40-50 pups. Harbor seals, including those at CPB, display site fidelity, with female harbor seals often remaining close to the area they gave birth.

The term "rookery" is not defined in either the MMPA or through its implementing regulations. ~~The American Heritage Science Dictionary (2002) defines a rookery as: "A place where certain~~ birds or animals, such as crows, penguins, and seals, gather to breed." Harbor seals have been observed giving birth at CPB for approximately 10 years, and the timing and numbers of pups born are generally predictable from year to year. Therefore, NMFS considers CPB to be a harbor seal rookery and year-round haulout site.

LITERATURE CITED

Hanan, D. 1996. Dynamics of abundance and distribution in the Pacific harbor seal, *Phoca vitulina richardsi*, on the coast of California. Doctor of Philosophy dissertation. University of California, Los Angeles. 173 pages.

Hanan, D. 2004. Biological letter report and recommendations for construction regarding pinniped surveys at Children's Pool, La Jolla, California. Report submitted to City of San Diego, Public Building and Parks Division, Engineering and Capital Projects Department, Architectural Engineering and Contracts Division. In partial fulfillment of Fixed Fee Agreement C-12438.

Yochem, P. and B. Stewart. 1998. Behavioral ecology and demography of seals and sea lions at Seal Rock Marine Mammal Reserve. HSWRI Technical Report No. 98-282. Submitted to City of San Diego, Seal Rock Marine Mammal Reserve Ad Hoc Committee.

ATTACHMENT 1
OF PC-13-139

ATTACHMENT 13

Dye, Morris

From: Zirkle, Chris
Sent: Monday, July 22, 2013 12:03 PM
To: Dye, Morris
Subject: FW: Monitoring Condition

Chris Zirkle, Deputy Director
Open Space Division
Park and Recreation Department
202 "C" Street, 5th Floor (MS 5D)
San Diego, CA 92101

(619) 685-1323

From: Daneri, Daniel
Sent: Thursday, July 05, 2012 11:30 AM
To: LoMedico, Stacey; Hasenauer, Kathleen; Zirkle, Chris
Subject: FW: Monitoring Condition

Please see comment below requiring monitoring even if the Ranger position is not budgeted.

From: Brown, Kanani@Coastal [mailto:Kanani.Brown@coastal.ca.gov]
Sent: Thursday, July 05, 2012 11:03 AM
To: Daneri, Daniel
Subject: RE: Monitoring Condition

Hi Dan,

The draft addendum includes the following correction based upon our conversations with NMFS and the letter that they have provided to us:

While the Commission does not regulate the taking of marine mammals, the statutory framework provided in MMPA on this issue provides the Commission a platform from which it can evaluate whether or not a proposed development is consistent with section 30230 of the Coastal Act. In other words, the Commission finds that if there is unauthorized harassment, or incidental "taking", of the seals at the Children's Pool area, then such acts of harassment are not consistent with Chapter 3 policies of the Coastal Act. Even if there is authorization from NMFS to incidentally take seals at Children's Pool, depending on the authorized activity, it is unclear, without more detail of the activity, whether such authorization would even be consistent with Chapter 3 of the Coastal Act. The seal rookery and haul-out site at Children's Pool Beach is unique due to its location in an urban setting that is easily accessible to the public, which has resulted in ongoing disturbance and harassment of the hauled out seals. While a distance of at least 100 yards, or 300 feet, is recommended by NMFS's "Guidelines for Viewing Seals and Sea Lions in California," due to the unique nature and location of Children's Pool Beach, NMFS Enforcement Agent Michelle Zetwo has recommended that people maintain a minimum distance of 20 feet for viewing hauled out seals at the subject site ***on certain days (particularly when there are too many people on the beach and/or seals hauled out to the rope or landward of the rope) when the recommended 50 ft. distance cannot be reasonably achieved. A letter from Rodney R. McInnis, Regional Administrator of NOAA's NMFS Southwest Region, recommends that the public maintain a distance of at least 50 feet from any seal, while standing on Children's Pool Beach (as opposed to standing on the breakwater).***

Do you still want us to include your letter? We would need to include all of the attachments including John Leek's comments as well. We would prefer not to because the issue has already been addressed, but will do so if you request it.

The special condition requires the monitoring whether there is a park ranger or not. If the park ranger could not do it, either a biologist, environmental resources specialist, park ranger, or lifeguard would need to step in. Thus, the City would need to budget for the park ranger or another staff member (biologist, environmental resources specialist, lifeguard) to perform the monitoring for the 3 years and be in compliance with the special condition.

Kanani Brown
Coastal Program Analyst II
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108
kanani.brown@coastal.ca.gov
(619) 767-2370

From: Daneri, Daniel [mailto:DDaneri@sandiego.gov]
Sent: Thursday, July 05, 2012 10:30 AM
To: Brown, Kanani@Coastal
Subject: RE: Monitoring Condition

Hi Kanani,

It might be a good idea to put the letter in there since the 20' distance in mentioned in the staff report and this clarifies where that distance came from. One thing that might need to be included with the monitoring frequencies is that the Ranger position is only budgeted through FY 2013 and will reviewed for the following year. There are no indications the position will be cut but you never know for sure.

From: Brown, Kanani@Coastal [mailto:Kanani.Brown@coastal.ca.gov]
Sent: Thursday, July 05, 2012 9:09 AM
To: Daneri, Daniel
Subject: RE: Monitoring Condition

Hi Dan,

I'll share this with staff and get back to you today about the monitoring condition. Also, would you like us to include your letter regarding the 50' clarification in the addendum? We also have a letter from NMFS that clarifies the distance which we were planning to include, so your letter might be a bit redundant; however, if you would like it to be included in the addendum to the Commissioners, please let me know ASAP.

Thanks,

Kanani Brown
Coastal Program Analyst II
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108
kanani.brown@coastal.ca.gov

(619) 767-2370

From: Daneri, Daniel [mailto:DDaneri@sandiego.gov]
Sent: Tuesday, July 03, 2012 4:48 PM
To: Brown, Kanani@Coastal
Subject: RE: Monitoring Condition

Hi Kanani,

Please find attached for our monitoring potential. Sorry I didn't get it out sooner.

From: Brown, Kanani@Coastal [mailto:Kanani.Brown@coastal.ca.gov]
Sent: Monday, July 02, 2012 4:32 PM
To: Daneri, Daniel
Cc: LoMedico, Stacey
Subject: Monitoring Condition

Hi Dan,

Can you please provide the City's preferred language for the monitoring condition ASAP? We need to finalize the addendum this week and any changes to the monitoring condition need to be reviewed by our legal, bio, and planning staff.

Thanks,

Kanani Brown
Coastal Program Analyst II
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108
kanani.brown@coastal.ca.gov
(619) 767-2370

ATTACHMENT 2

PLANNING COMMISSION RESOLUTION NO. 4545-PC

RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A COMMUNITY PLAN/LOCAL COASTAL PROGRAM AMENDMENT AND ORDINANCE, AND NEGATIVE DECLARATION NO. 225045
LA JOLLA CHILDREN'S POOL BEACH SEASONAL CLOSURE
PROJECT NO. 225045

WHEREAS, on September 12, 2013, the Planning Commission of the City of San Diego held a public hearing for the purpose of considering and recommending to the Council of the City of San Diego approval and adoption of a Community Plan/Local Coastal Program Amendment, Ordinance and Negative Declaration No. 225045; and

WHEREAS, the Park and Recreation Department of the City of San Diego, Owner/Permittee, requested the Community Plan/Local Coastal Program Amendment, Ordinance and Negative Declaration No. 225045 to seasonally close the La Jolla Children's Pool beach to public access from December 15 to May 15 each year; and

WHEREAS, the Planning Commission of the City of San Diego has considered all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing; NOW THEREFORE,

BE IT RESOLVED, by the Planning Commission of the City of San Diego that it hereby recommends to the Council of the City of San Diego approval and adoption of the Community Plan/Local Coastal Program Amendment, Ordinance and Negative Declaration No. 225045, and offered the following comments:

1. Access to the beach and use of the coast in a safe area at this location would be lost (seasonally); and

2. Full equal ADA access on some beach in San Diego is an important consideration for the Council; and

3. Encourage the Council to take a larger, more global view on this issue and consider ensuring that, while the PC supports this closure, that this type closure does not occur elsewhere and that the Council assess who is losing out in this action and how those needs can be met in other places.

_____

Morris E. Dye
Development Project Manager
Development Services

Dated September 12, 2013
By a vote of: 4:2:0

STATE OF CALIFORNIA – THE NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION
SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370

October 25, 2013

Todd Gloria
Interim Mayor

Councilmembers
City of San Diego
202 C Street
San Diego, CA 92101

Re: La Jolla Community Plan and Local Coastal Program Amendment/Children's Pool

Dear Mayor Gloria and Councilmembers,

This letter represents Coastal Commission staff comments on the City of San Diego's proposal to amend the La Jolla Community Plan and Local Coastal Program (LCP) to designate Children's Pool Beach as an environmentally sensitive habitat area (ESHA) and prohibit the public from entering the sandy beach during harbor seal pupping season, from December 15th through May 15th. The purpose of this seasonal closure is to protect the harbor seal rookery from human disturbance and harassment during its most vulnerable period – the pupping season – when seals haul out and remain on the beach for longer periods of time in order to prepare for birth, go through the birthing process, and nurse and wean the seal pups once they are born.

While we are supportive of the City's proposal to impose seasonal restrictions, including full beach closure to the public during the pupping season, we do not support an ESHA designation at Children's Pool as part of the subject LCP amendment. Within areas designated as ESHA, only resource-dependent uses are allowed which would preclude many activities normally associated with the beach, including, but not limited to, sunbathing, accessing the water, passive recreational uses and possible repair/ maintenance of the breakwater. Under the Coastal Act, marine mammal protection and maximum public access opportunities are both mandated. Even with a seasonal closure during the pupping season, there remains a significant public educational asset and substantial passive recreational/coastal access opportunities for the many visitors who stop by and view the seals. Visual access of the ocean and beach environment also remains fully available during this time from the various public vantage points around the area.

As discussed previously with City staff, other jurisdictions which have designated marine mammal haul-out areas and/or rookeries as ESHA do not share the same site-specific conditions present at Children's Pool, including its close proximity to an intense urban setting, ease in accessibility, major population bases for both local residents and visitors at large, dedicated user groups and the City's joint use management strategy that has

allowed people and seals to share the beach. Further, the Commission has typically applied the ESHA designation to special status species and their associated habitats, and terrestrial resources, not marine resources.

After further internal discussion with our staff ecologist and legal counsel, Commission staff recommends that seasonal restrictions be considered based on the protection of marine resources pursuant to Section 30230 of the Coastal Act. 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. (emphasis added)*

Section 30230 is the more appropriate policy of the Coastal Act for the subject LCP amendment because it specifically addresses the protection of marine resources, such as marine mammals, and areas of special biological significance, such as the harbor seal rookery at Children's Pool. Additionally, the majority of the area where the seals haul out is within the intertidal zone, such that application of the marine environment policies of the Coastal Act is more applicable than the land resource policies. Finally, the marine resource protection policy provides sufficient protection of the resources such that the City does not need to designate the beach as ESHA in its LCP. During the last pupping season, this office endorsed a full beach closure without the establishment of a designated ESHA. Commission staff shares the City's concern about providing needed protection for the seals, especially through their pupping season, having enforceable measures while recognizing broader public access goals outside of the pupping season. From a policy perspective, we also do not want to undermine and potentially prejudice the application of the ESHA provisions in the future when there are clear alternatives that result in the same protective measures.

In conclusion, Commission staff is supportive of the City's proposal to close Children's Pool Beach during the pupping season pursuant to Chapter 3 policies of the Coastal Act without an ESHA designation. Please see the attachment for suggested modifications to the City staff's proposed language. Thank you for your consideration and please do not hesitate to contact San Diego Commission staff at the above office if you have any questions or concerns.

Sincerely,

Kanani Brown
for Coastal Program Analyst

(G:\San Diego\KANANI\LCPs\Children's Pool Beach Closure\October 2013 Letter DRAFT.docx)

ATTACHMENT A – SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed LCP amendment be considered. The underlined sections represent language that Commission staff suggests be added, and the ~~struck-out~~ sections represent language that Commission staff suggests be deleted.

1. On Page 26, remove the language referring to ESHA and add provisions for marine resources:

   Environmentally Sensitive Habitat Areas

   The Natural Resources and Open Space System and Residential Elements recommend that development be designed to prevent significant impacts upon sensitive habitats and identified endangered or threatened plant and animal species. In addition, ~~a specific, Environmentally Sensitive Habitat Area that has~~ seasonal access restrictions and a buffer ~~is~~ are designated for the Children's Pool Beach in order to protect breeding pinnipeds pursuant to Section 30230 of the California Coastal Act. No public access is permitted below the top of the lower staircase leading down to the sand from the sidewalk during seal pupping season. ~~The beach area is designated as an Environmentally Sensitive Habitat Area pursuant to Sections 30107.5 and 30240 of the California Coastal Act and the lower staircase is a buffer the ESHA~~.

2. On Page 30, remove the language referring to ESHA:

   Coast Boulevard Park: Children's Pool (For more information regarding the ~~ESHA with~~ seasonal access restrictions refer to Appendix G Subarea E)

3. On Page 40, remove the language referring to ESHA:

   Public access to this resource is limited, particularly along portions of Bird Rock, La Jolla Hermosa and in La Jolla Farms due to steep slopes, cliff erosion and sensitive rock formations and restricted parking. Beach access is also limited on a ~~in the~~ seasonal basis at Children's Pool Beach ~~Environmentally Sensitive Area and buffer~~ during the seal pupping season to protect an area and species of special biological significance ~~in order to prevent significant disruption~~.

4. On Page 168, remove the language referring to ESHA:

   d. Children's Pool. Small (.7-acre) artificial pocket beach held in place by seawall. Lifeguard facilities. Stairway access down bluff. Heavily utilized. ~~A specific, Environmentally Sensitive Habitat Area that has seasonal access restrictions is designated for the Children's Pool i~~ In order to protect breeding Harbor Seals, ~~N~~no public access is permitted below the top of the lower staircase leading down to the sand from the sidewalk during seal pupping season. ~~This area is designated as an Environmentally Sensitive Habitat Area pursuant to Sections 30107.5 and 30240 of the California Coastal Act~~. *See discussion below.

On Pages 168-169, delete the proposed "discussion" footnote in its entirety and replace it with the following:

*On June 8, 2010, the City of San Diego City Council, via Resolution R-305837, directed the City Attorney "to draft an ordinance amending the Municipal Code…to prohibit public access to the Children's Pool beach during harbor seal pupping season, from December 15 to May 15" and directed the Mayor or his designee "to amend the Local Coastal Program, only if required, to prohibit the public from entering the beach during harbor seal pupping season from December 15th through May 15th". In order to effect this directive, staff proposed the closure of Children's Pool beach during pupping season in accordance with California Coastal Act Section 30230:

"*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.*"

Therefore, in order for the LCP to be consistent with the Coastal Act, compliance with Section 30230 is required. The seasonal prohibition of public access onto the lower staircase leading down to the sand from the sidewalk and onto the Children's Pool beach during the seal pupping season is based on such a prohibition being the most protective of significant marine resources.

In conjunction with the LCP amendment, the City Council also adopted an ordinance by adding a Section 63.0102(e)(2) as follows: *It is unlawful for any person to be upon the beach of the La Jolla Children's Pool, starting from the lower stairs to the beach beginning with the second landing, from December 15 to May 15.*

Community Plan and Local Coastal Program Land Use Plan

November 2013 Edits
CP/LCP Amendment for Children's Pool

City of San Diego Planning Department
202 C Street, MS 4A
San Diego, CA 92101

This plan presents the coastal issues that have been identified for the community; it proposes policies and recommendations in the various elements of the community plan to address those issues. These issues are summarized below:

- **Public Access to the Beaches and Coastline**

  The Natural Resources and Open Space System Element recommends a comprehensive sign program to identify existing locations along the coast where public access to the shoreline exists; Figure 6, 9 and Appendix G identifies the existing coastline access points from La Jolla Farms to Tourmaline Surfing Park; and the Transportation System Element incorporates recommendations for improving bicycle access to Ellen B. Scripps Park and La Jolla Shores Beach and other public shoreline areas of La Jolla.

  The plan also states that the City will review new developments for the potential of prescriptive rights of access in accordance with the California Coastal Act and state law.

- **Environmentally Sensitive Habitat Areas and Marine Resources**

  The Natural Resources and Open Space System and Residential Elements recommend that development be designed to prevent significant impacts upon sensitive habitats and identified endangered or threatened plant and animal species. In addition, seasonal access restrictions and a buffer are designated for the Children's Pool Beach in order to protect breeding pinnipeds pursuant to Section 30230 of the California Coastal Act. No public access is permitted below the top of the lower staircase leading down to the sand from the sidewalk during seal pupping season.

- **Recreation and Visitor Serving Retail Areas**

  The Commercial Land Use Element recommends retention of existing hotel, retail and visitor-oriented commercial areas in proximity to the beach and coastline parks in order to maintain a high degree of pedestrian activity and access to coastal resources.

- **Preservation or Conservation of Historic Resources**

  The Heritage Resources Element recommends preserving the historical integrity of these community landmarks and archeological sites per the Secretary of Interior's Standards as well as maintaining the existing Cultural Complex within downtown La Jolla in order to retain the distinctive architectural, educational and historic heritage of the community.

- **Provision of Parks and Recreation Areas**

  The Community Facilities Element recommends the preservation of existing resource and population-based parks and the identification of additional park and recreation opportunities throughout the community.

- **Provision of Affordable Housing**

PHYSICAL ACCESS POINTS: (*dedicated)

1. Torrey Pines City Beach -U.C.S.D. access road off La Jolla Farms Rd. and trail south of glider port
2. Scripps Institution of Oceanography (public parking & stairs)
3. Kellogg Park-La Jolla Shores Beach*
4. Boat launching ramp at Avenida de la Playa
5. Walk at south end of the Marine Room restaurant
6. Princess Street (emergency access)
7. Scenic overlook from Coast Walk off of Torrey Pines Road (public parking, lateral access)
8. Cave Store access to Goldfish Point
9. La Jolla Cove -Ellen B. Scripps Park *
10. Coast Boulevard Park: Boomer Beach
11. Coast Boulevard Park: Shell Beach
12. Coast Boulevard Park: Children's Pool (For more information regarding the seasonal access restrictions refer to Appendix G Subarea E)
13. Coast Boulevard Park: South Casa Beach

13a. Coast Boulevard Park: Wipe-out Beach

14. Nicholson's Point Park
15. Dedicated walkway at 100 Coast Boulevard South*
16. Stairway at the end of Marine Street (Jones Beach)
17. Paved walk at end of Vista Del Mar; heavily used for beach access*
18. Street at the end of Sea Lane
19. Walk at the end of Vista de la Playa
20. Fern Glen at Neptune Place
21. Windansea Shoreline Park at the west end of Fern Glen, Belvedere, Westbourne, Nautilus & Bonair Streets*
22. La Jolla Strand Shoreline Park at the West End of Gravilla, Kolmar, Rosemont Streets, and Palomar Avenue*
23. Hermosa Terrace Shoreline Park at west end of Palomar Avenue*
24. Paved easement between 6406 and 6424 Camino de la Costa
25. Cortez Place between 6160 and 6204 Camino de la Costa
26. Mira Monte Place between 6040 and 6102 Camino de la Costa -unimproved street
27. Paved stairs and walk at the end of the 5900 block of Camino de la Costa
28. Stairway from Bird Rock Avenue to tide pools
29. Pathway and stairs extending to the shore from Linda Way
30. Tourmaline Park*

wildlife habitats. In addition, the open space designations and zoning protect the hillsides and canyons for their park, recreation, scenic and open space values. The location of the public and private dedicated and designated open space and park areas in La Jolla are shown on Figure 7 and include, but are not limited to, all lands designated as sensitive slopes, viewshed or geologic hazard on City of San Diego Map C-720 dated 12/24/85 (last revision).

Visual Resources

La Jolla is a community of significant visual resources. The ability to observe the scenic vistas of the ocean, bluff and beach areas, hillsides and canyons, from public vantage points as identified in Figure 9 has, in some cases, been adversely affected by the clutter of signs, fences, structures or overhead utility lines that visually intrude on these resources.

Mount Soledad provides magnificent vistas of the coast of San Diego and is a regional landmark and an important visual resource for the community to preserve. Its slopes form a unique visual backdrop of significant scenic value which provides a natural relief from the commercial development that characterizes La Jolla's village area. Moreover, public views to La Jolla's community landmarks such as the San Diego Museum of Contemporary Art, and to historic structures, including the La Jolla Recreation Center and the La Jolla Woman's Club, are to be preserved. Significant public views of the coast are provided from Ellen B. Scripps Park and Kellogg Park. Other identified public vantage points are shown in Figure 9.

Shoreline Areas and Coastal Bluffs

The entire coastline of La Jolla stretching from La Jolla Farms to Tourmaline Surfing Park provides dramatic scenic beauty to the City of San Diego is considered an important sensitive coastal resource and should be protected.

The maximum use and enjoyment of La Jolla's shoreline is dependent upon providing safe and adequate public access to such major and special use recreational areas as La Jolla Shores Beach, Ellen B. Scripps Park, Coast Boulevard Park, Marine Street Park, Coast Walk, Windansea Beach, Calumet Park, Tourmaline Surfing Park and the Bird Rock tidepool areas.

Public access to this resource is limited, particularly along portions of Bird Rock, La Jolla Hermosa and in La Jolla Farms, due to steep slopes, cliff erosion and sensitive rock formations and restricted parking. Beach access is also limited on a seasonal basis at Children's Pool Beach, an area of special biological significance, during the harbor seal pupping season to protect the harbor seal rookery during this most vulnerable period.

This plan identifies two types of physical access: lateral (movement along the shoreline) and vertical (access to the shoreline from a public road). Public access at designated beach and shoreline points has been improved with the addition of stairways or ramps at certain points along the coastline including Tourmaline Surfing Park, Linda Way, Bird Rock Avenue, Windansea Park, La Jolla Strand Park, Jones Beach, Coast Boulevard Park, Shell Beach, Scripps Park, Children's Pool and La Jolla Shores Beach.

SUBAREA E: COAST BOULEVARD

Shoreline Access:

a. La Jolla Cove. Small (.4-acre) pocket beach at the north end of Ellen B. Scripps Park. Concrete stairways provide access down bluff. Heavily used. The Cove and adjacent bluffs are an important visual and historical resource. Site of the La Jolla Roughwater Swim.

b. Ellen Scripps Park. Dedicated 5.6-acre bluff top park. The park is a major recreational focal point for visitors to La Jolla. A scenic walkway along the bluff edge provides outstanding coastal views. A ramp down the bluff provides access to Boomer Beach. Heavily utilized. No off-street parking.

c. Shell Beach. Small pocket beach south of Ellen B. Scripps Park. Stairway has been damaged.

d. Children's Pool. Small (.7-acre) artificial pocket beach held in place by seawall. Lifeguard facilities. Stairway access down bluff. Heavily utilized. In order to protect breeding Harbor Seals, no public access is permitted below the top of the lower staircase leading down to the sand from the sidewalk during seal pupping season. *See discussion below.

e. South Casa Beach. Small pocket beach accessible by concrete stairway. Part of Coastal Boulevard Park.

f. Coast Boulevard Park. Dedicated 4.55-acre Shoreline Park between the stairway at Ocean Street and the stairway south of La Jolla Boulevard. Several unimproved trails provide access down gentle bluffs and vegetation dunes. Moderate-to-heavy use. No off-street parking.

g. Vehicular access. Graded area near intersection of South Coast Boulevard and Coast Boulevard provide beach access for emergency vehicles.

h. Concrete stairway next to pump station. Provides pedestrian access to adjacent pocket beach and north end of Nicholson's Point Park.

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