INTERNAL ORDER NUMBER: 21002110

SITE DEVELOPMENT PERMIT NO. 782184
Amending
Site Development Permit No. 701765
LA JOLLA CHILDREN'S POOL ROPE BARRIER – Project No. 213317

In accordance with the Final Judgment and Peremptory Writ of Mandate rendered on April 23, 2013 in the case of Animal Protection & Rescue League, et al., v. City of San Diego, et al., San Diego Superior Court case number 37-2012-00086105-CU-WM-CTL, this Site Development Permit is GRANTED by the City of San Diego to the City of San Diego Park and Recreation Department, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 143.0126.

The site is located at the Children’s Pool, west of Coast Boulevard, near Jenner Street in the Coastal Overlay zone of the La Jolla Community Plan.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to install, and maintain year-round, in perpetuity, a rope barrier, including support posts, foundations, signs and a three-foot ocean access opening, to create a buffer between humans and seals at the La Jolla Children's Pool as described and identified by size, dimension, quantity, type, and location on the corrected Exhibit “A,” a copy of which on file with the City’s Development Services Department.

The project shall include:

- Rope, supporting posts, support post footings and signs;

All structures shall be maintained in place approximately as shown in corrected Exhibit “A.”

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.

2. 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.

3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

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

6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.) and does not relieve the Owner/Permittee of any legal obligation to satisfy conditions imposed by the California Coastal Commission for issuance of a necessary Coastal Development Permit for the project.

7. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

PLANNING/DESIGN REQUIREMENTS:

8. All debris caused by construction must be removed from the site and disposed of appropriately.

9. All materials shall be maintained and managed so as to prevent them from entering the coastal waters. Placement shall be maintained at the location identified on corrected Exhibit "A."
10. The westernmost end of the rope shall be attached to the seawall not greater than 82 feet from the beginning of the seawall at the base of the stairs leading down from near the lifeguard station. The installed rope length shall not exceed 152 feet, and a minimum three-foot opening shall be maintained from the post at the easterlymost end of the rope to the nearest obstruction so as to create an opening for beach access.

11. The rope installation shall not use more than four posts, and each post shall not exceed four feet in height. The post nearest the three-foot opening at the easterlymost end of the rope, and two of the posts nearest the center of the length of rope may have an 18-inch by 24-inch City of San Diego informational sign attached.

12. Installed rope height shall not exceed four feet.

13. Rope diameter shall not exceed one-half inch.

14. This Site Development Permit shall remain in effect in perpetuity.

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Morris E. Dye
Development Project Manager
CITY OF SAN DIEGO

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.

Park and Recreation Department
City of San Diego
Owner/Permittee

By Kathleen Hasenauer
Deputy Director, Developed Regional Parks

NOTE: Notary acknowledgments must be attached per Civil Code section 1189 et seq.
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Diego

on May 10, 2013 before me personally appeared Morris E. Dye & Kathleen Hasenauer

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity(ies), and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature:

Identification:

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document: La Jolla Children's Pool Rope Barrier

Document Date: _______________ Number of Pages:

Signer(s) Other Than Named Above: __________________________

Capacity(ies) Claimed by Signer(s)

Signer's Name: __________________________

☐ Corporate Officer — Title(s): __________________________

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: __________________________

Signer Is Representing: __________________________

☐ Corporate Officer — Title(s): __________________________

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: __________________________

Signer Is Representing: __________________________
CITY OF SAN DIEGO
REINSTATED FINDINGS AND
RESOLUTION IN SUPPORT OF
SITE DEVELOPMENT PERMIT NO. 782184
Amending
Site Development Permit No. 701765
La Jolla Children’s Pool Rope Barrier

WHEREAS, the City of San Diego Park and Recreation Department, Owner/Permittee, applied to the City of San Diego for a permit to install, and maintain year-round, in perpetuity, a rope barrier, including support posts, foundations and a three-foot ocean access opening, to create a buffer between humans and seals at the La Jolla Children’s Pool; and

WHEREAS, the project is located at the La Jolla Children’s Pool, west of Coast Boulevard, near Jenner Street, La Jolla, within the Coastal Overlay Zone and the La Jolla Community Planning Area; and

WHEREAS, on September 15, 2010, a City of San Diego Hearing Officer, pursuant to the Land Development Code of the City of San Diego, considered the Park and Recreation Department’s application for a year-round rope barrier, granted Site Development Permit No. 782184, and issued written findings supporting issuance of the permit; and

WHEREAS, on September 24, 2010, the La Jolla Community Planning Association appealed the Hearing Officer’s decision to issue the Site Development Permit for a year-round rope barrier to the City of San Diego’s Planning Commission; and

WHEREAS, on December 9, 2010, the Planning Commission reversed the Hearing Officer, denied the Site Development Permit for a year-round rope barrier, and on December 15, 2010 issued written findings supporting its decision to deny the Site Development Permit; and

WHEREAS, on October 17, 2011 in the case of Animal Protection & Rescue League, et al., v. City of San Diego, et al., San Diego Superior Court case number 37-2011-00085228-CU-MC-CTL, the San Diego Superior Court issued a Peremptory Writ of Mandate requiring the City of San Diego and its Planning Commission to vacate the decision denying the Site Development Permit for a year-round rope barrier and further requiring another public hearing on the matter; and

WHEREAS, the City of San Diego’s Park and Recreation Department thereafter applied for a Coastal Development Permit for a year-round rope barrier from the California Coastal Commission for a year-round rope barrier (Coastal Commission Permit Application No.6-11-078); and

WHEREAS, following a public hearing conducted on July 11, 2012, the California Coastal Commission unanimously approved the Park and Recreation Department’s application for a Coastal Development Permit for a year-round rope barrier and made administrative factual and legal findings that a year-round rope barrier would be consistent with San Diego’s Local Coastal Plan and would not violate the California Coastal Act; and

WHEREAS, the Coastal Commission’s factual and legal administrative findings were never appealed by any interested party and are now final; and

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WHEREAS, on July 18, 2012, the California Coastal Commission issued a Notice of Intent to Issue Permit (NOI) for a Coastal Development Permit for the following development at the Children’s Pool: “Installation and maintenance of a 4 ft. high, 152 linear ft. rope barrier with 3 ft. opening for ocean access, support posts, foundations and informational signs, on a year-round basis, in perpetuity, to provide a buffer between humans and seals.”; and

WHEREAS, on September 27, 2012, the San Diego Planning Commission, in compliance with the Superior Court’s writ, vacated its previous decision denying the Site Development Permit and conducted another public hearing on the Park and Recreation Department’s application for a year-round rope barrier; and

WHEREAS, prior to the September 27, 2012 Planning Commission hearing, the Park and Recreation Department corrected an error in its earlier application for a year-round rope to reflect that its request for Site Development Permit was for a 152 linear foot rope (not the 130 linear foot rope depicted in the original “Exhibit A” included in the Department’s original permit application) in order to allow for a 3 foot public opening for ocean access; and

WHEREAS, the Planning Commission denied the Park and Recreation Department’s application for a Site Development Permit for a 152 foot annual rope barrier at the Children’s Pool and, on November 26, 2012, the Planning Commission issued written findings supporting its decision to deny the permit; and

WHEREAS, on April 23, 2013, in the case of Animal Protection & Rescue League, et al., v. City of San Diego, et al., San Diego Superior Court case number 37-2012-00086105-CU-WM-CTL, the San Diego Superior Court issued a Final Judgment and Peremptory Writ of Mandate ordering the City of San Diego and its Planning Commission to “vacate and set aside the Planning Commission’s grant of appeal and denial of the Amendment to Site Development Permit Number 701765, and, based on the lack of substantial evidence supporting the Planning Commission’s findings following the September 27, 2012 public hearing, reinstate the findings prepared by the City Hearing Officer, dated September 15, 2010 in support of the Site Development Permit.”; and

THEREFORE, in ministerial compliance with the Superior Court’s Writ, the following findings of the Hearing Officer are reinstated in this resolution in support of Site Development Permit No. 78184 authorizing the installation and maintenance at the La Jolla Children’s Pool of a four foot high, 152 linear foot rope barrier with three foot opening for ocean access, support posts, foundations and informational signs, on a year-round basis, in perpetuity, for the purpose of providing a buffer between humans and seals:

**Site Development Permit - Section 126.0504**

A. Findings for all Site Development Permits

1. The proposed development will not adversely affect the applicable land use plan.

The project is located on the sand of the La Jolla Children’s Pool west of Coast Boulevard, near Jenner Street, in La Jolla. The project would install, and maintain year-round, in perpetuity, a rope barrier, including support posts, foundations and a three-foot ocean access opening, to create a buffer between humans and seals in the sand at the La Jolla Children’s Pool. A rope barrier would be erected and stretch from near the concrete
access stairs on the east side of the beach to the sea wall on the west side, as shown on [corrected] Exhibit “A.”

One of the goals of the Community Facilities, Parks, and Services Element of the LJCP (p. 113) is to, “Ensure that all new and existing public facilities are designed and developed in a manner that will not contribute any adverse impacts to the environmentally sensitive areas of La Jolla.” The Children’s Pool is located in an area designated as Environmentally Sensitive Lands containing Coastal Beaches and Coastal Bluffs. The proposed rope installation would have no significant affect on either of these resources. The proposed rope installation would include hand digging holes in the sand (not exceeding 18 inches in depth), placing the foundation portion of the rope supports in the holes and covering the foundations up with sand. Ongoing maintenance and repair would involve similar affects (sic). Proposed permit conditions would require that any debris caused by construction, must be removed from the site and disposed of appropriately, and would also require that all materials shall be maintained and managed so as to prevent them from entering sensitive areas, including the coastal waters. Placement would be required to be maintained in location identified on [corrected] Exhibit “A,” during the identified time period. The La Jolla Community Plan also calls for the protection of public views. The proposed rope would be placed at a height not exceeding four feet and would not exceed one half-inch in diameter. Given this height and diameter, the rope would not block any public views. In addition, the La Jolla Community Plan does not envision the Children’s Pool as an improved recreation area, and, therefore, the placement of the rope would not conflict with the long range recreation plans for the area. As the project would not have any adverse impacts on the Coastal Beach or the Coastal Bluffs, and the project would not negatively affect any public views or recreation plans for the area, the proposed development will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The project is located on the sand of the La Jolla Children’s Pool west of Coast Boulevard, near Jenner Street, in La Jolla. The project would install, and maintain year-round, in perpetuity, a rope barrier, including support posts, foundations and a three-foot ocean access opening, to create a buffer between humans and seals in the sand at the La Jolla Children’s Pool in the sand above the Mean High Tide. A rope barrier would be erected and stretch from near the concrete access stairs on the east side of the beach to the sea wall on the west side, as shown on [corrected] Exhibit “A.”

The primary object of the proposed rope installation and maintenance is to serve as a buffer between humans and seals. Lifeguards advise beachgoers to avoid unattended seal pups, as a pup’s mother may be foraging and conflicts could arise upon the mother’s return. Users are advised not to place themselves between a seal mother and her pup. While the beach is open to public use, and beachgoers may pass the rope to enter the beach, the rope’s presence serves as a caution, and allows users to read signage warning them that it is unlawful to harass the seals, and that the water may cause illness due to bacteria levels that may exceed health standards. The sign also informs users that swimming is allowed, but is not recommended, and that the beach is open for public use. As the project would create a safety buffer between humans and seals, and would
provide information to the beach-going public regarding potential health hazards, the project would not be detrimental to public health, safety and welfare.

3. **The proposed development will comply with the applicable regulations of the Land Development Code.**

The project is located on the sand of the La Jolla Children’s Pool west of Coast Boulevard, near Jenner Street, in La Jolla. The project would install, and maintain year-round, in perpetuity, a rope barrier, including support posts, foundations and a three-foot ocean access opening, to create a buffer between humans and seals at the La Jolla Children’s Pool in the sand above the Mean High Tide Line. A rope barrier would be erected and stretch from near the concrete access stairs on the east side of the beach to the sea wall on the west side, as shown on [corrected] Exhibit “A.”

Land Development Code regulations require that the construction of a project potentially affecting an environmentally sensitive resource result in minimum disturbance to that resource. The proposed rope installation and maintenance would include digging shallow holes for each post footing and covering them with the sand. Standard cord (not exceeding one half-inch in diameter) would then be strung between the posts. Informational signage would be mounted to the posts to provide the public with safety information. In addition, the height of the rope would not exceed four feet, and no public views would be obstructed. None of these activities would significantly disturb the Coastal Beach or Coastal Bluff. As such the proposed development would result in minimum disturbance of the environmentally sensitive lands, and, therefore, would comply with the Land Development Code.

**B. Supplemental Findings—Environmentally Sensitive Lands**

1. **The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands;**

The project is located on the sand of the La Jolla Children’s Pool west of Coast Boulevard, near Jenner Street, in La Jolla. The project would install, and maintain year-round, in perpetuity, a rope barrier, including support posts, foundations and a three-foot ocean access opening, to create a buffer between humans and seals at the La Jolla Children’s Pool in the sand above the Mean High Tide Line. A rope barrier would be erected and stretch from near the concrete access stairs on the east side of the beach to the sea wall on the west side, as shown on [corrected] Exhibit “A.”

The proposed project site is the sand at the Children’s Pool beach. There is ample sand at the beach to allow the rope support posts to be placed in holes that would be hand dug in the sand, and to cover up the post foundations with the sand when the initial installation or re-installation for maintenance purposes is complete. The proposed rope installation and maintenance would include digging shallow holes for each post footing and covering them with the sand. Standard half-inch cord would then be strung between the posts. Informational signage would be mounted to the posts to provide the public with safety information. In addition, the height of the rope would not exceed four feet, and no public
views would be obstructed. None of these activities would significantly disturb the Coastal Beach or Coastal Bluff resources. As the site can readily accommodate the installation of the rope barrier project with minimal disturbance to the Children's Pool beach, and neither the Coastal Beach nor the Coastal Bluff would be negatively affected by the project, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;

The project is located on the sand of the La Jolla Children's Pool west of Coast Boulevard, near Jenner Street, in La Jolla. The project would install, and maintain year-round, in perpetuity, a rope barrier, including support posts, foundations and a three-foot ocean access opening, to create a buffer between humans and seals at the La Jolla Children's Pool in the sand above the Mean High Tide Line. A rope barrier would be erected and stretch from near the concrete access stairs on the east side of the beach to the sea wall on the west side, as shown on [corrected] Exhibit “A.”

The proposed rope installation would include digging shallow holes (not exceeding 18 inches in depth) for each post footing and covering them with the sand. The rope would be placed above the Mean High Tide Line and, as such, would not create erosional conditions. No geologic forces are expected to be factors with this type of development, and because no structures are proposed, no flood or fire hazards are anticipated. Therefore, the proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands;

The project is located on the sand of the La Jolla Children's Pool west of Coast Boulevard, near Jenner Street, in La Jolla. The project would install, and maintain year-round, in perpetuity, a rope barrier, including support posts, foundations and a three-foot ocean access opening, to create a buffer between humans and seals at the La Jolla Children's Pool in the sand above the Mean High Tide Line. A rope barrier would be erected and stretch from near the concrete access stairs on the east side of the beach to the sea wall on the west side, as shown on [corrected] Exhibit “A.”

The proposed installation and maintenance of the rope would include digging shallow holes (not exceeding 18 inches in depth) in the sand, placing the foundation portion of the rope supports in the holes and covering the foundations up with sand. The rope will be installed in dry sand above the Mean High Tide Line, ensuring the project can be installed, removed and replaced with minimal affect on the Coastal Beach and Coastal Bluff. In addition, proposed permit conditions would require that any debris caused by construction or maintenance to be removed from the site and disposed of appropriately. Permit conditions would also require that all materials shall be maintained and managed so as to
prevent them from entering sensitive areas, including the coastal waters. Placement
would be required to be maintained in the location identified on [corrected] Exhibit “A.”
Therefore, the proposed development would be sited and designed to prevent adverse
impacts on any adjacent environmentally sensitive lands.

4. The proposed development will be consistent with the City of San Diego’s Multiple
Species Conservation Program (MSCP) Subarea Plan;

The project is located on the sand of the La Jolla Children’s Pool west of Coast
Boulevard, near Jenner Street, in La Jolla. The project would install, and maintain year-
round, in perpetuity, a rope barrier, including support posts, foundations and a three-foot
ocean access opening, to create a buffer between humans and seals at the La Jolla
Children’s Pool in the sand above the Mean High Tide Line. A rope barrier would be
erected and stretch from near the concrete access stairs on the east side of the beach to the
sea wall on the west side, as shown on [corrected] Exhibit “A.”

The project is not located in or near the Multiple Species Conservation Program (MSCP)
Subarea. Therefore, the proposed development will be consistent with the City of San
Diego’s Multiple Species Conservation Program (MSCP) Subarea Plan

5. The proposed development will not contribute to the erosion of public beaches or
adversely impact local shoreline sand supply; and

The project is located on the sand of the La Jolla Children’s Pool west of Coast
Boulevard, near Jenner Street, in La Jolla. The project would install, and maintain year-
round, in perpetuity, a rope barrier, including support posts, foundations and a three-foot
ocean access opening, to create a buffer between humans and seals at the La Jolla
Children’s Pool in the sand above the Mean High Tide Line. A rope barrier would be
erected and stretch from near the concrete access stairs on the east side of the beach to the
sea wall on the west side, as shown on [corrected] Exhibit “A.”

The rope barrier pole foundations would be placed, initially and for maintenance
purposes, in dry sand above the Mean High Tide Line. As such, the project would not
create erosional conditions. Sand removed to hand dig the holes for pole installation,
would be used to cover the foundations, and therefore, sand would not be removed from
the Children’s Pool Beach as a result of the project. Therefore, the proposed development
will not contribute to the erosion of public beaches or adversely impact local shoreline
sand supply.

6. The nature and extent of mitigation required as a condition of the permit is
reasonably related to, and calculated to alleviate, negative impacts created by the
proposed development.

The project is located on the sand of the La Jolla Children’s Pool west of Coast
Boulevard, near Jenner Street, in La Jolla. The project would install, and maintain year-
round, in perpetuity, a rope barrier, including support posts, foundations and a three-foot
ocean access opening, to create a buffer between humans and seals at the La Jolla
Children’s Pool in the sand above the Mean High Tide Line. A rope barrier would be
erected and stretch from near the concrete access stairs on the east side of the beach to the sea wall on the west side, as shown on [corrected] Exhibit “A.”

No mitigation is required of this project. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

FURTHERMORE, in ministerial compliance with the Superior Court’s Writ, Site Development Permit No. 782184, authorizing installation and maintenance at the La Jolla Children’s Pool of a four foot high, 152 linear foot rope barrier with three foot opening for ocean access, support posts, foundations and informational signs, on a year-round basis, in perpetuity, for the purpose of providing a buffer between humans and seals, is hereby GRANTED by the City of San Diego to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Site Development Permit No. 782184, a copy of which is attached hereto and made a part hereof, including the above-referenced corrected Exhibit “A,” which is on file with the City’s Development Services Department.

Morris E. Dye
Development Project Manager
Development Services

cc: Development Services Department