

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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February 11, 2009
Permit No. 5-08-187



**COASTAL DEVELOPMENT PERMIT
5-08-187**

On **February 4, 2009**, the California Coastal Commission granted to **City of Long Beach** Coastal Development Permit **5-08-187**, subject to the attached Standard and Special Conditions, for development consisting of:

Conduct annual and emergency tree trimming activities consistent with the City of Long Beach Tree Trimming and Tree Removal Policy (See Special Condition One). More specifically described in the application file in the Commission offices.

The development is within the coastal zone at: **Downtown Shoreline, Alamitos Bay Marina, Marine Stadium, Colorado Lagoon, and other state tidelands and beaches within the City of Long Beach, Los Angeles County.**

Issued on behalf of the California Coastal Commission on February 11, 2009.

PETER DOUGLAS
Executive Director

By: Charles R. Posner
Title: Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

_____ Date

_____ Signature of Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS

1. **Tree Trimming and Tree Removal Policy**

Coastal Development Permit 5-08-187 approves annual and emergency tree trimming activities consistent with the following policy:

The purpose of this policy is to ensure the protection of bird nesting habitat protected by the Migratory Bird Treaty Act and the long-term protection of breeding, roosting, and nesting habitat of state and federally listed bird species, California bird species of special concern, and bird species that play an especially valuable role in the ecosystem. The City of Long Beach Department of Parks, Recreation and Marine is obligated to trim trees within the marine environment for the safety of the public and the protection of property. The trimming or removal of any tree that has been used for breeding and nesting within the past five years, determined by a qualified biologist, shall be undertaken in compliance with all applicable codes or regulations of the California Department of Fish and Game, the U.S. Fish and Wildlife Service and the U.S. Migratory Bird Treaty Act, and shall be conducted under the parameters described below.

Tree trimming or tree removal shall be prohibited during the breeding and nesting season of the bird species referenced above (January through September) unless the City of Long Beach Department of Parks, Recreation and Marine, in consultation with a qualified arborist, determines that a tree causes danger to public health and safety. A health and safety danger exists if a tree or branch is

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dead, diseased, dying, or injured and said tree or branch is in imminent danger of collapse or breaking away. The City shall be proactive in identifying and addressing diseased, dying or injured trees as soon as possible in order to avoid habitat disturbances during the nesting season. Trees or branches with a nest that has been active anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists.

The removal of any breeding and nesting tree shall require mitigation at a 1:1 ratio. A tree replacement planting plan for each tree replacement shall be developed to specify replacement tree location, tree type, tree size (no less than 36" box size), planting specifications, and a five-year monitoring program with specific performance standards. An annual monitoring report for tree replacement shall be submitted for the review and approval of the Executive Director of the Coastal Commission, the Director of the Parks, Recreation and Marine, and a representative of the Audubon Society. The Department of Parks, Recreation and Marine shall maintain the annual reports on file as public information and to be used for future tree trimming and removal decisions.

A. Tree Trimming During Non-Breeding and Non-Nesting Season (October through December)

1. Prior to tree trimming or removal, a qualified biologist or ornithologist shall survey the trees to be trimmed or removed to detect nests and submit a survey report to the City of Long Beach Department of Parks, Recreation and Marine, a representative of the Audubon Society, and the Executive Director of the Coastal Commission. The survey report shall include identification of all trees with nests. The Department of Parks, Recreation and Marine shall maintain a database of survey reports that includes a record of nesting trees that is available as public information and to be used for future tree trimming and removal decisions.

2. Any trimming of trees with nests shall be supervised by a qualified biologist or ornithologist and a qualified arborist to ensure that adequate nest support and foliage coverage is maintained in the tree, to the maximum extent feasible, in order to preserve the nesting habitat. Trimming of any nesting trees shall occur in such a way that the support structure of existing nests will not be trimmed and existing nests will be preserved, unless the Department of Parks, Recreation and Marine, in consultation with a qualified arborist, determines that such trimming is necessary to protect the health and safety of the public. The amount of trimming at any one time shall be limited to preserve the suitability of the nesting tree for breeding and/or nesting habitat.

Trees or branches with a nest that has been active anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists.

3. Trimming may not proceed if a nest is found and evidence of courtship or nesting behavior is observed at the site. In the event that any birds continue to occupy trees during the non-nesting season, trimming shall not take place until a qualified biologist or ornithologist has assessed the site,

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determined that courtship behavior has ceased, and given approval to proceed within 300 feet of any occupied tree.

- B. Tree Trimming or Removal During Breeding and Nesting Season (January through September). If tree trimming or removal activities cannot feasibly avoid the breeding season because a health and safety danger exists, the following guidelines must be followed:

1. A qualified biologist or ornithologist shall conduct surveys and submit a report at least one week prior to the trimming or removal of a tree (only if it is posing a health or safety danger) to detect any breeding or nesting behavior in or within 300 feet of the work area. A tree trimming and/or removal plan shall be prepared by an arborist in consultation with the qualified biologist or ornithologist and a representative of the Audubon Society. The survey report and tree trimming and/or removal plan shall be submitted for the review and approval of the Executive Director of the Coastal Commission, the Department of Fish and Game, the U.S. Fish and Wildlife Service, and the Director of the Parks, Recreation and Marine. The Department of Parks, Recreation and Marine shall maintain the plans on file as public information and to be used for future tree trimming and removal decisions. The plan shall incorporate the following:

- a. A description of how work will occur.
- b. Work must be performed using non-mechanized hand tools to the maximum extent feasible.
- c. Limits of tree trimming and/or removal shall be established in the field with flagging and stakes or construction fencing.
- d. Steps shall be taken to ensure that tree trimming will be the minimum necessary to address the health and safety danger while avoiding or minimizing impacts to breeding and nesting birds and their habitat.

2. Prior to commencement of tree trimming and/or removal the City of Long Beach Department of Parks, Recreation and Marine shall notify in writing the Executive Director of the Coastal Commission, the Department of Fish and Game, and the U.S. Fish and Wildlife Service of the intent to commence tree trimming or removal.

All tree trimming and tree removal shall be conducted in strict compliance with this policy. All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location. Any proposed change or deviation from the approved policy must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

2. Resource Agencies

The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with

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respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.