



Notice of Received Application

The Department of Development Services has received an application for the following project. We invite any questions or comments you may have on this project.

PROJECT INFORMATION

Project Location:	Area Adjacent to 190 N. Marina Drive		
Application No.:	2301-03 (SPR23-001)	Filing Date:	4/19/23
Community Group(s):	N/A		
Project Description:	Site Plan Review for a 2,960 sq. ft. City-owned public area to be used for outdoor dining. The project includes the construction of a trellis structure to extend from the restaurant to the new outdoor dining area to include shade area for Aqualink customers.		
Contact Information for the City Planner Assigned to this Project:	Maryanne Cronin 411 W. Ocean Blvd., 3 rd Floor Long Beach, CA 90802 (562) 570-6952 Maryanne.cronin@longbeach.gov		
Council District:	3		
Mayor's Office:	Shawna Stevens, Chief of Staff, Shawna.Stevens@longbeach.gov		
Tentative Hearing Date:	To Be Determined		
Additional Information:			

To request this information in an alternative format or to request a reasonable accommodation, please contact the Development Services Department at longbeach.gov/lbds and 562.570.3807. A minimum of three business days is requested to ensure availability; attempts will be made to accommodate requests with shorter notice.

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
301 East Ocean Avenue, Suite 300
Long Beach, CA 90802-4302
(562) 590-5071

**NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT**

April 10, 2023

John Morris
Boathouse on the Bay
190 N Marina Drive
Long Beach, CA 90803

Violation File Number: V-5-23-0035

Property Location: Public Sidewalk between Boathouse on the Bay and Alamitos Bay; Public Land Adjacent to Boathouse on the Bay on Marina Drive, Long Beach APN 7242-014-900; Los Angeles County

Unpermitted Development¹: Public access restriction through the placement of dining tables on public sidewalk and construction of a tented outdoor dining structure meant for the exclusive use of restaurant guests on public land

Dear John Morris:

The California Coastal Act² was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,250-mile coastline through implementation of a comprehensive planning and regulatory program to manage conservation and development of coastal resources. The California Coastal Commission ("Commission") is the state agency created by, and charged with administering, the Coastal Act of 1976. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect scenic landscapes and views of the sea; and provide maximum public access to the sea, including public access and use of public property such as those along the Alamitos Bay.

Our staff has received reports and confirmed the installation of several outdoor dining tables on the public walkway between Boathouse on the Bay ("Boathouse") and Alamitos Bay, and a tented outdoor dining structure on public land adjacent to Boathouse on Marina Drive. Both installations are located on, and, in effect, privatize public land along Alamitos Bay. Commission staff has confirmed that this work is non-compliant with relevant City of

¹ Please note that the description herein of the violation at issue is not necessarily a complete list of all development on the subject property that is in violation of the Coastal Act that may be of concern to the Commission. Accordingly, you should not treat the Commission's silence regarding (or failure to address) other development on the subject property as indicative of Commission acceptance of, or acquiescence in, any such development. Please further note that the term "violation," as used throughout this letter, refers to alleged violations of the Coastal Act.

² The Coastal Act is codified in Sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and, thus, to the Coastal Act, unless otherwise stated.

Unpermitted Development

As stated above, installation of the dining tables and tented outdoor dining structure on public property within the Coastal Zone for the exclusive use of Boathouse have occurred without the necessary CDP. All development in the Coastal Zone requires a CDP, as Section 30600 of the Coastal Act requires that any person undertaking development in the Coastal Zone first obtain a CDP. Development is broadly defined by Section 30160 of the Coastal Act:

“Development” means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z’berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

Installation of both the dining tables and tented outdoor dining structure constitutes placement of solid material and/or structure within the Coastal Zone. Additionally, the dining tables’ obstruction of pedestrian egress on the public walkway, and the tented dining structure’s complete restriction of public access to the public land, affect “change in the intensity of the use of water, or of access thereto” along Alamitos Bay. Therefore, both the dining tables and tented outdoor dining structure constitute developments as defined by the Coastal Act. Commission staff have confirmed that the developments have been installed within the required coastal development permit jurisdiction, in violation of the Coastal Act.

In 2001, the Commission approved CDP 5-01-275 to Bancap Seaport Village, Inc. and the City of Long Beach. This permit authorized the demolition of a two-story, fire damaged restaurant, and construction of a two-story 19,740 square foot mixed-use commercial structure at 190 Marina Drive. Special Condition One of CDP 5-01-275 provides that the permit’s approval is only for the specifications identified in the permit, and any deviation from the approved plans shall be submitted for review by the Executive Director of the Commission to determine whether an amendment is necessary. Today, Boathouse occupies the restaurant space in this commercial development. In 2014, the Commission approved an amendment to this CDP, which permitted Boathouse to expand its exterior patio dining area by 1,151 square feet subject to certain conditions. Prior to the installation of the unpermitted developments, both impacted areas were unobstructed public land

and perceiving the aesthetics of public open space, as well as use where allowable, is a general public prerogative.

The length, height, and contrasting composition of the tented outdoor dining structure significantly blocks the public's view of Alamitos Bay from Marina Drive and adjacent areas. Therefore, this development significantly reduces the scenic and visual quality of surrounding areas, and is a violation of Section 30251 of the Coastal Act. Furthermore, this development conflicts with the general public prerogative of preserving the aesthetics of public open space in the Long Beach General Plan.

Public Access Violation

Please be advised that in cases involving violations of the public access provisions of the Coastal Act, which is the case here, Section 30821 authorizes the Commission to impose administrative civil penalties up to \$11,250 per day for each violation.

We would like to resolve these issues quickly and believe this can be accomplished by removing both installations. Please consider this letter to be notification of our intent to pursue administrative penalties to Section 30821 if you do not said installations within 30 days of receiving this letter. Upon receiving this letter, please immediately contact our office to discuss resolution of this matter.

Resolution

While we are hopeful that we can resolve this matter informally, please be advised that, in addition to the administrative penalty authority described above, the Coastal Act has several additional remedies to address violations of the Coastal Act, including the following:

Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, or is inconsistent with any permit previously issued by the Commission, the Executive Director may issue an order directing that person to cease and desist. Section 30810 states that the Coastal Commission may also issue a cease and desist order.

As noted above, in cases involving violation(s) of the public access provisions of the Coastal Act, Section 30821 authorizes the Commission to impose administrative civil penalties in an amount not to exceed \$11,250 per day per violation in which the violation persists.

Thank you for your attention to this matter. Please call me by **April 25, 2023**, to discuss both installations' removal and resolution. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me at spenser.sayre@coastal.ca.gov.