APPLICATION FOR COASTAL DEVELOPMENT PERMIT

SECTION I. APPLICANT

1. Name, mailing address, and telephone number of all applicants.

Brenda Wisneski, Deputy Community Development Director
City of Newport Beach, 100 Civic Center Drive, Newport Beach
92660 949-644-3297

Note: All applicants for the development must complete Appendix A, the declaration of campaign contributions.

2. Name, mailing address and telephone number of applicant’s representatives, if any. Please include all representatives who will communicate on behalf of the applicant or the applicant’s business partners, for compensation, with the Commission or the staff. (It is the applicant’s responsibility to update this list, as appropriate, including after the application is accepted for filing. Failure to provide this information prior to communication with the Commission or staff may result in denial of the permit or criminal penalties.)

Same

SECTION II. PROPOSED DEVELOPMENT

Please answer all questions. Where questions do not apply to your project (for instance, project height for a land division), indicate Not Applicable or N.A.

1. Project Location. Include street address, city, and/or county. If there is no street address, include other description such as nearest cross streets.

Sand area on the ocean side of Balboa Peninsula, between D and E St.

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<tr>
<th>number</th>
<th>street</th>
<th>city</th>
<th>county</th>
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<tr>
<td>Newport Beach</td>
<td>Orange</td>
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Assessor’s Parcel Number(s) (obtainable from tax bill or County Assessor):

048-170-38

FOR OFFICE USE ONLY

RECEIVED
FILED
FEE
DATE PAID

APPLICATION NUMBER
2. Describe the proposed development in detail. Include secondary improvements such as grading, septic tanks, water wells, roads, driveways, outbuildings, fences, etc. (Attach additional sheets as necessary.)

Removal of temporary sand fence, constructed of wood planks at approximately 3 feet in height. The fence was constructed in 2010 in an area designated by US Fish and Wildlife as Critical Habitat. This designation was established on the basis that the area is known to support wintering and nesting activities of the Western Snowy Plover (WSP).

The City is evaluating different methods for protecting the WSP habitat and has engaged a biological consultant to determine the best approach. Therefore, this application is to remove the subject fence after nesting season (September 2017). During this period, the City of Newport Beach will develop a long term, comprehensive management plan for protection of the WSP. SEE ATTACHED FOR MORE DETAILS

Please note, a separate application was submitted on June 2, 2017 to remove a newer fence located west of the subject fence.

A third CDP application will be submitted for the long term management efforts.

a. If multi-family residential, state:  

<table>
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<tr>
<th>Number of units</th>
<th>Number of bedrooms per unit (both existing and proposed)</th>
<th>Type of ownership proposed</th>
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<tr>
<td>Existing units</td>
<td>Proposed new units</td>
<td>Net number of units on completion of project</td>
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b. If land division or lot line adjustment, indicate:  

<table>
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<th>Number of lots</th>
<th>Size of lots to be created (indicate net or gross acreage)</th>
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<tbody>
<tr>
<td>Existing Lots</td>
<td>Proposed new lots</td>
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</tbody>
</table>
3. Estimated cost of development (not including cost of land) $ ____________________________

4. Project height: Maximum height of structure (ft.)
   ▪ above existing (natural) grade ........................................
   ▪ above finished grade ..................................................
   ▪ as measured from centerline of frontage road ............

5. Total number of floors in structure, including
   subterranean floors, lofts, and mezzanines .................... NA

6. Gross floor area excluding parking (sq.ft.) .................... Enclosed area approx 70,000 sq.ft.
   Gross floor area including covered parking and
   accessory buildings (sq.ft.) ............................................

7. Lot area (within property lines) (sq.ft. or acre) ............ Parcel is approx 27 acres

<table>
<thead>
<tr>
<th>Lot coverage</th>
<th>Existing (sq.ft. or acre)</th>
<th>New proposed (sq.ft. or acre)</th>
<th>Total (sq.ft. or acre)</th>
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<td>Building</td>
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<tr>
<td>Paved area</td>
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<td>Landscaped area</td>
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<tr>
<td>Unimproved area</td>
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  Grand Total (should equal lot area as shown in #7 above)

8. Is any grading proposed? ............................................................... ☐ Yes ☐ No

   If yes, complete the following.

   a) Amount of cut cu. yds. d) Maximum height of cut slope ft.
   b) Amount of fill cu. yds. e) Maximum height of fill slope ft.
   c) Amount of import or export (circle which) cu. yds. f) Location of borrow or disposal site

Grading, drainage, and erosion control plans must be included with this application, if applicable. In certain areas, an engineering geology report must also be included. See page 7, items #7 and 11.

Please list any geologic or other technical reports of which you are aware that apply to this property:
9. Parking:

<table>
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<tr>
<th>Number of parking spaces (indicate whether standard or compact)</th>
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<tbody>
<tr>
<td>Existing Spaces</td>
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<td></td>
</tr>
</tbody>
</table>

Is any existing parking being removed? .......................................................... □ Yes  ❌ No
If yes, how many spaces? _______________ size _______________

Is tandem parking existing and/or proposed? .................................................. □ Yes  ❌ No
If yes, how many tandem sets? ____________ size ____________

10. Are utility extensions for the following needed to serve the project? (Please check yes or no)

   a) water  ☐ Yes  ☒ No
   b) gas  ☒ Yes  ☐ No
   c) sewer  ☐ Yes  ☒ No
   d) electric  ☐ Yes  ☒ No
   e) telephone  ☐ Yes  ☐ No

Will electric or telephone extensions be above-ground? .................................. □ Yes  ☒ No

11. Does project include removal of trees or other vegetation? .......................... □ Yes  ☒ No
If yes, indicate number, type and size of trees ..............................................

     or type and area of other vegetation ......................................................

SECTION III. ADDITIONAL INFORMATION

The relationship of the development to the applicable items below must be explained fully. Attach additional sheets if necessary.

1. Present use of property.

   a. Are there existing structures on the property? ........................................... □ Yes  ☒ No

If yes, describe

__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
b. Will any existing structures be demolished? ........................................... \[\checkmark\] Yes \[\square\] No
Will any existing structures be removed? ........................................... \[\checkmark\] Yes \[\square\] No

If yes to either question, describe the type of development to be demolished or removed, including the relocation site, if applicable.

The wood fence would be removed by a fence contractor and the materials stored off-site. A truck will be driven onto the sand, fasteners removed and discarded, stakes removed and fence rolled up. The process will be completed within 2-4 hours. Public access would not be limited during the process.

2. Is the proposed development to be governed by any Development Agreement? .............................................................................................................. \[\square\] Yes \[\checkmark\] No

3. Has any application for development on this site including any subdivision been submitted previously to the California Coastal Zone Conservation Commission or the Coastal Commission? .......................................................... \[\square\] Yes \[\checkmark\] No

If yes, state previous application number(s) __________________________

4. a. Is the development between the first public road and the sea (including lagoons, bays, and other bodies of water connected to the sea) ............ \[\checkmark\] Yes \[\square\] No

b. If yes, is public access to the shoreline and along the coast currently available on the site or near the site? ................................................................. \[\checkmark\] Yes \[\square\] No

If yes, indicate the location and nature of the access, including the distance from the project site, if applicable.

The site is located on the public beach. Access is maintained in and around the site as the fencing is staggered in certain areas. Public access will not be affected during removal.

c. Will the project have an effect on public access to and along the shoreline, either directly or indirectly (e.g., removing parking used for access to the beach)? ................................................................. \[\checkmark\] Yes \[\square\] No

If yes, describe the effect

While the fence does not limit public access, its removal will eliminate any perceived barriers to access.
5. Does the development involve diking, filling, draining, dredging or placing structures in open coastal waters, wetlands, estuaries, or lakes? (Please check yes or no)

   a) diking   b) filling   c) dredging   d) placement of structures

   □ Yes □ Yes   □ No □ No  □ Yes □ No  □ Yes □ No

   Amount of material to be dredged or filled (indicate which) __________________________ cu. yds

   Location of dredged material disposal site ____________________________________________

   Has a U.S. Army Corps of Engineers' permit been applied for? ....................... □ Yes □ No

6. Will the development extend onto or adjoin any beach, tidelands, submerged lands or public trust lands? ........................................................... □ Yes □ No

   For projects on State-owned lands, additional information may be required as set forth in Section IV, paragraph 10.

7. Will the development protect existing lower-cost visitor and recreational facilities? ........................................................... □ Yes □ No

   Will the development provide public or private recreational opportunities? .. □ Yes □ No

   If yes, explain.

   With removal of the fence, alternative methods will be implemented to protect species and its habitat. Educational signage would be placed notifying the public of the existence of habitat.

8. Will the proposed development convert land currently or previously used for agriculture to another use? ........................................................... □ Yes □ No

   If yes, how many acres will be converted? ____________________________

9. Is the proposed development in or near:

   a. Sensitive habitat areas (Biological survey may be required) ................................ □ Yes □ No

   b. Areas of state or federally listed rare, threatened, or endangered species ........................................................... □ Yes □ No

   c. 100-year floodplain (Hydrologic mapping may be required) ................................ □ Yes □ No

   d. Park or recreation area ........................................................... □ Yes □ No

10. Is the proposed development visible from:

    a. State Highway 1 or other scenic route ........................................................... □ Yes □ No
b. Park, beach, or recreation area ................................................................. [X] Yes [ ] No

c. Harbor area ........................................................................................................ [ ] Yes [X] No

11. Does the site contain any: (If yes to any of the following, please explain on an attached sheet.)

a. Historic resources .............................................................................................. [ ] Yes [X] No

b. Archaeological resources .................................................................................. [ ] Yes [X] No

c. Paleontological resources .................................................................................. [ ] Yes [X] No

12. Where a stream or spring is to be diverted, provide the following information:

   Estimated streamflow or spring yield (gpm) ....................................................... NA

   If well is to be used, existing yield (gpm) ......................................................... NA

   If water source is on adjacent property, attach Division of Water Rights approval and property owner's approval.

SECTION IV. REQUIRED ATTACHMENTS

The following items must be submitted with this form as part of the application.

1. **Proof of the applicant's legal interest in the property.** A copy of any of the following will be acceptable: current tax bill, recorded deed, lease, easement, or current policy of title insurance. Preliminary title reports will not be accepted for this purpose. Documentation reflecting intent to purchase such as a signed Offer to Purchase along with a receipt of deposit or signed final escrow document is also acceptable, but in such a case, issuance of the permit may be contingent on submission of evidence satisfactory to the Executive Director that the sale has been completed.

   The identity of all persons or entities which have an ownership interest in the property superior to that of the applicant must be provided.

2. **Assessor's parcel map(s)** showing the page number, the applicant's property, and all other properties within 100 feet (excluding roads) of the property lines of the project site. (Available from the County Assessor.)

3. Copies of required local approvals for the proposed project, including zoning variances, use permits, etc., as noted on Local Agency Review Form, Appendix B. Appendix B must be completed and signed by the local government in whose jurisdiction the project site is located.

4. **Stamped envelopes addressed to each property owner and occupant of property situated within 100 feet of the property lines of the project site (excluding roads), along with a list containing the names, addresses and assessor's parcel numbers of same.** The envelopes must be plain (i.e., no return address), and regular business size (9 1/2” x 4 1/8”). Include first class postage on each one. **Metered postage is not acceptable.** Use Appendix C, attached, for the listing of names and addresses. (Alternate notice provisions may be employed at the discretion of the District Director under extraordinary circumstances.)
5. **Stamped, addressed envelopes (no metered postage, please) and a list of names and addresses of all other parties known to the applicant to be interested in the proposed development (such as persons expressing interest at a local government hearing, etc.).**

6. **A vicinity or location map** (copy of Thomas Bros. or other road map or USGS quad map) with the project site clearly marked.

7. Copy(s) of plans drawn to scale, including (as applicable):
   - site plans
   - floor plans
   - building elevations
   - grading, drainage, and erosion control plans
   - landscape plans
   - septic system plans

   Trees to be removed must be marked on the site plan. In addition, a reduced site plan, 8 1/2" x 11" in size, must be submitted. Reduced copies of complete project plans will be required for large projects.

   NOTE: See Instruction page for number of sets of plans required.

8. Where septic systems are proposed, evidence of County approval or Regional Water Quality Control Board approval. Where water wells are proposed, evidence of County review and approval.

9. A copy of any **Draft or Final Negative Declaration, Environmental Impact Report (EIR) or Environmental Impact Statement (EIS)** prepared for the project. If available, comments of all reviewing agencies and responses to comments must be included.

10. **Verification of all other permits, permissions or approvals** applied for or granted by public agencies such as:
   - Department of Fish and Game
   - State Lands Commission
   - Army Corps of Engineers
   - U.S. Coast Guard

   For projects such as seawalls located on or near state tidelands or public trust lands, the Coastal Commission must have a written determination from the State Lands Commission whether the project would encroach onto such lands and, if so, whether the State Lands Commission has approved such encroachment.

11. For development on a bluff face, bluff top, or in any area of high geologic risk, a comprehensive, site-specific **geology and soils report** (including maps) prepared in accordance with the Coastal Commission’s Interpretive Guidelines. Copies of the guidelines are available from the District Office.

**SECTION V. NOTICE TO APPLICANTS**

Under certain circumstances, additional material may be required prior to issuance of a coastal development permit. For example, where offers of access or open space dedication are required,
preliminary title reports, land surveys, legal descriptions, subordination agreements, and other outside agreements will be required prior to issuance of the permit.

In addition, the Commission may adopt or amend regulations affecting the issuance of coastal development permits. If you would like notice of such proposals during the pendency of this application, if such proposals are reasonably related to this application, indicate that desire................................. □ Yes  ❌ No

SECTION VI. COMMUNICATION WITH COMMISSIONERS

Decisions of the Coastal Commission must be made on the basis of information in the public record available to all commissioners and the public. Permit applicants and interested parties and their representatives may contact individual commissioners to discuss permit matters outside the public hearing (an “ex parte” communication). However, the commissioner must provide a complete description of the communication either in writing prior to the hearing or at the public hearing, to assure that such communication does not jeopardize the fairness of the hearing or potentially result in invalidation of the Commission’s decision by a court. Any written material sent to a commissioner should also be sent to the commission’s office in San Francisco and the appropriate district office for inclusion in the public record and distribution to other commissioners.

SECTION VII. CERTIFICATION

1. I hereby certify that I, or my authorized representative, have completed and posted or will post the Notice of Pending Permit stock card in a conspicuous place on the property within three days of submitting the application to the Commission office.

2. I hereby certify that I have read this completed application and that, to the best of my knowledge, the information in this application and all attached appendices and exhibits is complete and correct. I understand that the failure to provide any requested information or any misstatements submitted in support of the application shall be grounds for either refusing to accept this application, for denying the permit, for suspending or revoking a permit issued on the basis of such misrepresentations, or for seeking of such further relief as may seem proper to the Commission.

3. I hereby authorize representatives of the California Coastal Commission to conduct site inspections on my property. Unless arranged otherwise, these site inspections shall take place between the hours of 8:00 A.M. and 5:00 P.M.

NOTE: IF SIGNED ABOVE BY AGENT, APPLICANT MUST SIGN BELOW.

SECTION VIII. AUTHORIZATION OF AGENT

I hereby authorize _______________________________ to act as my representative and to bind me in all matters concerning this application.

(Only the applicant(s) may sign here to authorize an agent)
Government Code Section 84308 prohibits any Commissioner from voting on a project if he or she has received campaign contributions in excess of $250 within the past year from project proponents or opponents, their agents, employees or family, or any person with a financial interest in the project.

In the event of such contributions, a Commissioner must disqualify himself or herself from voting on the project.

Each applicant must declare below whether any such contributions have been made to any of the listed Commissioners or Alternates (see last page).

CHECK ONE

X The applicants, their agents, employees, family and/or any person with a financial interest in the project have not contributed over $250 to any Commissioner(s) or Alternate(s) within the past year.

☐ The applicants, their agents, employees, family, and/or any person with a financial interest in the project have contributed over $250 to the Commissioner(s) or Alternate(s) listed below within the past year.

Commissioner or Alternate

Commissioner or Alternate

Commissioner or Alternate

______________________________
Signature of Applicant or Authorized Agent

______________________________
Date

Please type or print your name Brenda Wisneski
APPENDIX B
LOCAL AGENCY REVIEW FORM

SECTION A (TO BE COMPLETED BY APPLICANT)
Applicant  City of Newport Beach
Project Description  Removal of temporary fence
Location  Balboa Peninsula, ocean side between E Street and F Street
Assessor's Parcel Number  048-170-38

SECTION B (TO BE COMPLETED BY LOCAL PLANNING OR BUILDING INSPECTION DEPARTMENT)
Zoning Designation  Parks and Recreation (PR) du/ac
General or Community Plan Designation  Parks and Recreation (PR) du/ac
Local Discretionary Approvals
☐ Proposed development meets all zoning requirements and needs no local permits other than building permits.
☐ Proposed development needs local discretionary approvals noted below.

<table>
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<tr>
<th>Needed</th>
<th>Received</th>
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CEQA Status
☒ Categorically Exempt  Class 8 Item  Protection of the Environment
☐ Negative Declaration Granted (Date)  
☐ Environmental Impact Report Required, Final Report Certified (Date)  
☐ Other  

Prepared for the City/County of Newport Beach by Brenda Wisneski
Date  May 26, 2017  Title  Deputy Community Development Dir.
APPENDIX C

LIST OF PROPERTY OWNERS AND OCCUPANTS WITHIN 100 FEET AND THEIR ADDRESSES
(MAKE ADDITIONAL COPIES OF THIS SHEET AS NECESSARY)

| To be provided |  |  |  |  |  |  |  |  |  |
Prior to or at the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development, notice that an application for the proposed development has been submitted to the Commission. Such notice shall contain a general description of the nature of the proposed development. The Commission furnishes the applicant with a standardized form to be used for such posting. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Executive Director of the Commission shall refuse to file the application. 14 Cal. Code Regs. Section 13054(d).

Please sign and date this Declaration of Posting form when the site is posted; it serves as proof of posting. It should be returned to our office with the application.

Pursuant to the requirements of California Administrative Code Section 13054(d), I hereby certify that on, __________________ I or my authorized representative posted the Notice of Pending Permit for application to obtain a coastal development permit for the development of

removal of temporary fencing.

(description of development)

Located at Balboa Peninsula, between side between D Street and F Street

(address of development or assessor's parcel number)

The public notice was posted at __________________________

(a conspicuous place, easily seen by the public and as close as possible to the site of the proposed development)

__________________________

(signature)

__________________________

(date)

NOTE: Your application cannot be processed until this Declaration of Posting is signed and returned to this office.

FOR OFFICE USE ONLY

PERMIT NUMBER .................. _________________________________

RECEIVED ......................... _________________________________

DECLARATION COMPLETE ..... _________________________________
NOTICE OF PENDING PERMIT

A PERMIT APPLICATION FOR DEVELOPMENT ON THIS SITE IS PENDING BEFORE THE CALIFORNIA COASTAL COMMISSION.

PROPOSED DEVELOPMENT: Removal of temporary fencing located between D Street and E Street.

LOCATION: Balboa Peninsula, seaward of residential development between D Street and E Street.

APPLICANT: City of Newport Beach

APPLICATION NUMBER: _____________________________

DATE NOTICE POSTED: June 13, 2017

FOR FURTHER INFORMATION, PLEASE PHONE OR WRITE THE OFFICE LISTED BELOW BETWEEN 8 A.M. AND 5 P.M., WEEKDAYS.

CALIFORNIA COASTAL COMMISSION
SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4402
(562) 590-5071

PRINT ON YELLOW STOCK CARD
Removal of Fence (2010 Fence)
Coastal Development Permit Application

The request is to remove sand fencing installed in 2010 which borders an area designated Critical Habitat by the U.S. Fish and Wildlife (between D and E Streets) the end of nesting season in September. The area established following evidence that the area provided habitat for the Western Snowy Plover (WSP) which is considered a “bird species of special concern”. Since installing the fence, the City determined it was necessary to evaluate alternative methods for protecting the WSP. Signage has been limited to trail markers with small signs warning against sensitive habitat, threatened or endangered species, and curbing dogs. A separate application was submitted to immediately remove the adjacent fencing (between E and F Streets) which is located west of the subject site and was installed in January 2017. Once the subject fence is removed, alternative methods for habitat protection will be implemented, including signage, heighten enforcement of the leash law, and coordination with maintenance and lifeguard divisions to ensure equipment does not access the area.
Installed 2010
Remove September 2017

Installed January 2017
Request To Remove ASAP

FENCE LOCATIONS

Sensitive Wildlife Area
Proceed with Caution

Western Snowy Plover

This area, east of Pheasant Run to Wedge, provides nesting and rearing habitat for the Western Snowy Plover, a federally listed threatened species. These birds and their habitat are PROTECTED under the Endangered Species Act and Federal Regulations. These birds and their habitat are PROTECTED under the Endangered Species Act.

Birds and eggs are not to be handled but rather admired from a distance. Adult birds, chicks, and eggs have well with this rule to help prevent injuries from predators.

Please help us to protect this species and its habitat by avoiding contact in this area and following all laws and regulations regarding beach use.

Dogs are allowed on beach between the hours of 9:00 am to 5:00 pm. Dogs MUSTжить on a leash and on the control of responsible party.

Critical Habitat
Federally-listed species
Do Not Disturb

Western Snowy Plover

This area, east of Pheasant Run to Wedge, provides nesting and rearing habitat for the Western Snowy Plover, a federally listed threatened species. These birds and their habitat are PROTECTED under the Endangered Species Act. These birds and their habitat are PROTECTED under the Endangered Species Act.

Please help us to protect this area and its habitat by avoiding contact in this area and following all laws and regulations regarding beach use.

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Protected Species Habitat

A-FRAME SIGNAGE
LCP CONSISTENCY

It could be assumed that the project area satisfies the criteria for an environmental sensitive habitat area (ESHA). The City’s Local Coastal Program Implementation Plan (IP), Section 21.30B.030A Environmentally Sensitive Habitat Areas states the following:

*ESHA Designation. 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 shall be designated as an environmentally sensitive habitat area (ESHA).*

The IP states that buffers shall be designed to protect the biological integrity and preservation of the habitat. To do so in this case limits public access, therefore alternative methods are being considered including signage, educational efforts and improved communication with maintenance and lifeguard vehicles.

The City is engaging a biological consultant to assist in developing a long term approach for protecting the WSP. It has been suggested that the fencing may not be the optimal approach for doing so. Therefore, removal is justified to allow evaluation of different options.
MANAGEMENT EFFORTS

The City initiated management of the area in 2009 including monitoring and fencing installed in 2010. Figure 1 provides the average daily siting of plovers over 7 seasons. The pattern shows that the WSP population has grown in average numbers since 2009 and although there has been a slight drop in the last few years (2015 and 2016) we believe this is partly due to being short-staffed not being able to monitor as often as was previously and is currently being monitored.

![Figure 1](image)

**FIGURE 1**
Average Daily Sightings of WSP on Balboa Peninsula
2009-2016 (7 seasons)

Figure 2 reflects how the plovers use the area over the months of each year. The plovers show larger roosts and more often from mid-July to mid-March, with number waning from mid-March through early July.
Plant Remediation:
Much of the peninsula is overridden with non-native plants such as ice plant, sea rocket, and oxalis as well as many other non-native and invasive plant species. The City has implemented different strategies and techniques for propagation with a goal of developing restoration protocols for native dunes species. The remediation done thus has focuses on the dune areas from B Street to F Street. This has been a slow process due to limited staff resources. Much of the area between B and E Streets have had a large amount of non-natives removed in the dune area. The dunes between E and F were partially remediated but still need large swaths of ice plant removed and replanted. Our intention is to continue to remove non-natives and replace with native dune plants in this area and all dune areas within the Critical Habitat Area as designated by the Endangered Species Act. With the recent wet winter, many of the native and non-native plants are growing well. Native plants are ideal for the area allowing for smaller hummocks but not huge sand dunes that don’t provide the best habitat or views to residents.
PROJECT BOUNDARY

Installed January 2017
Request To Remove ASAP

Installed 2010
Remove September 2017

 Installed January 2017
Request To Remove ASAP
VICINITY MAP

Project Site
Figure 3. Critical Habitat Area from USFWS Endangered Species Act (rev. 2012) on Balboa Peninsula
Fence Material and Signage

Protected Area

A Frame Signs