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						

(Area code/daytime phone number)

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

(Area code/daytime phone number)

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.

number	street
Newport Beach	Orange
city	county

Assessor's Parcel Number(s) (obtainable from tax bill or County Assessor):

048-170-38

For office use only	Received
	Filed
	Fee
Application Number	Date paid

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. In January 2017, the fence was established 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 fence was placed adjacent to an older fence that was constructed in 2010. Since installing the newer fence, the City determined the need to evaluate different methods for protecting the WSP habitat. Therefore, this application is to remove the newer fence. SEE ATTACHED FOR MORE DETAILS

A separate application will be submitted to allow the older fence to remain through the 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. A third CDP application will be submitted for the long term management efforts.

u. 1	j	residential, state	-		
		Number of units		Number of bedrooms per unit (both existing and proposed)	Type of ownership proposed
E	xisting units	Proposed new units	Net number of units on completion of project		r ental
					stock cooperative
					time share
					other

a. If multi-family residential, state: NA

b. If land division or lot line adjustment, indicate: NA

Number of lots			Size of lots to be created (indicate	net or gross acreage)
Existing Lots	Proposed new lots Net number of lots on completion of project		Existing	Proposed

3.	Estimated cost of development (not including cost of land)						
4.							
5.	Total number of floo	ors in structure, including					
	subterranean floors	, lofts, and mezzanines		·· NA			
6.	Gross floor area exe	cluding parking (sq.ft.)		Enclosed a	area appro	x 70,000	sq.ft.
		luding covered parking ar					
7.	Lot area (within prope	rty lines) (sq.ft. or acre)		Parcel is	approx 27	acres	
	Lot coverage	Existing (sq.ft. or acre)	New prop	posed (sq.ft. or acre)	Total (sq.ft. c	or acre)	
	Building						
	Paved area						
	Landscaped area						
	Unimproved area						
		Grand Total (should equal lo	ot area as s	hown in #7 above)			
8.	Is any grading prop	osed?			Yes	X No	
	If yes, complete the fo	llowing.					
	a) Amount of cut		cu. yds.	d) Maximum hei cut slope	ight of	ft.	
	b) Amount of fill		cu. yds.	e) Maximum hei fill slope	ght of	ft.	
	c) Amount of imp export (circle w		cu. yds.	f) Location of bo or disposal si			
Cradi		control plans must be included	d with this a	nnlication if applicable	n cortain areas		

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:

	Number of parking spaces (indicated and stated as a second stated as a	ate whether standard	l or compact)			
	Existing Spaces	Proposed n	ew spaces	Net number of space	ces on completion	of project
	Is any existing parking being	removed?			🗌 Yes	X No
	If yes, how many spaces?		size			
	Is tandem parking existing an	d/or proposed?			Yes	X No
	If yes, how many tandem sets	s?	size			
10	Are utility extensions for the	following needed	to serve the p	roject? (Please che	ock yes or no)	
•	a) water b) gas	c) sewer	d) electric	e) telephone		
	Yes Yes	□ Yes	□ Yes	□ Yes		
	X No X No	X No	X No	X No		
	Will electric or telephone ext	ensions be above	e-ground?		🗌 Yes	X No
11.	Does project include remova	I of trees or other	vegetation?.		Yes	No
	If yes, indicate number , typ	e and size of tree	S			
	or type and area of other ve	getation				

SECTION III. ADDITIONAL INFORMATION

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

- Present use of property. 1.
 - a. Are there existing structures on the property? Yes X No

If yes, describe

b.	Will any existing structures be demolished?	Х	Yes	No
	Will any existing structures be removed?	Х	Yes	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?		Yes	X	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?		Yes	X	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)	X	Yes		No
	b. If yes, is public access to the shoreline and along the coast currently available on the site or near the site?	X	Yes		No
	If yes, indicate the location and nature of the access, including the distance from the project s The site is located on the public beach. Acce in and around the site as the fencing is stagg areas. Public access will not be affected dur	ess i ered	ls ma . in	iint <i>a</i> cert	ain
	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)?	X	Yes		No
	If yes, describe the effect				
	While the fence does not limit public access, eliminate any perceived barriers to access.	its	remo	oval	will

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) dikin	ng	b) filling	c) dred	ging	d) pla	cen	nent of structure	?S				
		′es	□ Yes		Yes		•	Yes					
	X	No	x N	0 X	No	X		No					
	Amount	of mater	rial to be d	redged or fi	lled (ind	dicate whi	ch)					cu. y	/ds
	Locatior	n of dred	ged materi	al disposal s	site								
	Has a U	I.S. Army	Corps of	Engineers' p	ermit b	een app	lied	l for?			Yes	X	No
6.		•		nd onto or ac trust lands?	-	5		elands,		X	Yes		No
	For proj paragra		State-owne	ed lands, add	ditional	informat	ion	may be require	ed as se	t for	th in Se	ection I	V,
7.				-				d recreational		X	Yes		No
	Will the	developi	ment provi	de public or	private	recreation	ona	l opportunities?		Х	Yes		No
	If yes, ex	xplain.											
	imp sig	lemen	ted to would k	protect pe place	spe d no	cies tifyi	an ng	ative meth d its hab: the publ:	itat. ic of	E tł	Iduca	tion	
8.						5	•	reviously used			Yes	X	No
	lf yes, h	ow many	/ acres will	be converte	ed?								
9.	Is the pr	roposed	developme	ent in or nea	r:								
	a. Sen	isitive ha	bitat areas	6 (Biological su	rvey may	y be requir	ed)			X	Yes		No
				ally listed rai				ndangered		Χ	Yes		No
	c. 100	-year flo	odplain (Hy	drologic mapp	ing may	be require	d) .			Х	Yes		No
	d. Parl	k or recre	eation area	1						Χ	Yes		No
10.	Is the pr	roposed	developme	ent visible fro	om:								
	a. Stat	te Highw	ay 1 or oth	er scenic ro	ute						Yes	Х	No

	b.	Park, beach, or recreation area	Χ	Yes		No
	C.	Harbor area		Yes	Χ	No
11.	Do	es the site contain any: (If yes to any of the following, please explain on an attached s	sheet.)			
	а.	Historic resources		Yes	X	No
	b.	Archaeological resources		Yes	X	No
	C.	Paleontological resources		Yes	Χ	No
12.	Wh	here a stream or spring is to be diverted, provide the following information:				
	Es	timated streamflow or spring yield (gpm) <u>NA</u>				
	lf v	vell 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, sitespecific **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.....

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.

Signature of Authorized Agent(s) or if no agent, signature of Applicant NOTE: IF SIGNED ABOVE BY AGENT, APPLICANT MUST SIGN BELOW.

SECTION VIII. AUTHORIZATION OF AGENT

I hereby authorize

to act as my representative

X No

and to bind me in all matters concerning this application.

Signature of Applicant(s) (Only the applicant(s) may sign here to authorize an agent)

APPLICATION FOR COASTAL DEVELOPMENT PERMIT

APPENDIX A

DECLARATION OF CAMPAIGN CONTRIBUTIONS

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



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 <u>City of Newport Beach</u>							
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 <u>Parks and Recreation (PR)</u> 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.							
Needed Received							
Design/Architectural review							
Variance for							
Rezone from							
Tentative Subdivision/Parcel Map No.							
Grading/Land Development Permit No.							
Planned Residential/Commercial Development Approval							
Site Plan Review							
Condominium Conversion Permit							
Conditional, Special, or Major Use Permit No.							
Other							
CEQA Status							
X Categorically Exempt Class 8 Item Protection of the							
Negative Declaration Granted (Date) Environment							
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							

Application No. _____

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	

APPENDIX D

(Permit Application)

DECLARATION OF POSTING

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, (dat	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 D		
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 E Street and F Street.

LOCATION: Balboa Peninsula, seaward of residential development

between E Street and F Street.

APPLICANT: City of Newport Beach

APPLICATION NUMBER:

DATE NOTICE POSTED: May 26, 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, 10[™] FLOOR LONG BEACH, CA 90802-4402 (562) 590-5071

PRINT ON YELLOW STOCK CARD

Removal of Fence Coastal Development Permit Application

The request is to remove sand fencing installed in January 2017 which borders an area designated Critical Habitat by the U.S. Fish and Wildlife (between E and F Streets). 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, threated or endangered species, and curbing dogs. The adjacent fencing (between D and E Streets), located east of the subject site and installed in 2010, will remain until the end of nesting season in September. 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.









FENCE LOCATIONS



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 life guard vehicles.

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 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.



FIGURE 2

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



VICINITY MAP



USFWS Critical Habitat



(95) Unit CA 48: Balboa Beach, Orange County, California. Map follows:



Fence Material and Signage



A Frame Signs





