

# Boardwalk falls within scope of Coastal Commission

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SANTA CRUZ — A planning glitch that city officials learned about nearly two years ago, but failed to follow up, became an issue late last month when the California Coastal Commission stepped in.

The glitch, which most involved agree is more procedurally significant than serious, places much of the Seaside Co.'s Boardwalk in the Coastal Commission's primary planning zone.

That means Boardwalk officials now must apply directly to the commission for a coastal development permit when significant changes, such as a new ride, are proposed.

Since 1985, the city of Santa Cruz has been responsible for issuing these permits, although all decisions could be appealed to the Coastal Commission.

In addition, copies of all nine of the Seaside Co.'s permit applications to the city went to the commission for staff to review if they wanted, city officials said.

Staff members from the city's Planning Department and Redevelopment Agency learned in May 1996 that an environmental consultant for the city's beach-area plan had discovered that most of the Boardwalk was under the primary jurisdiction of the Coastal

Commission.

Staff members decided, however, to disregard the consultant's discovery because both Santa Cruz and the Coastal Commission had been working for 11 years under the belief that the Boardwalk was in the city's coastal-permit control.

"I didn't think it was an issue because I didn't think it made sense," said Keith Boyle, the associate planner who removed the language about the Boardwalk from the consultant's early draft report. "I basically made the decision because (the consultant's discovery) was inconsistent with the way we had always processed things."

It turned out, however, that the con-

sultant was right.

Beach Flats resident Phil Baer filed a complaint with the Coastal Commission about the permit process, and a subsequent review of the situation uncovered that the map from which both agencies had been working was incorrect.

"It doesn't seem particularly significant," said Tami Grove, director of the Coastal Commission's Central Coast office. "I think it was an innocent mistake. I think it was just one of those things that happen."

Critics like Baer, however, have suggested that city officials intentionally buried the consultant's discovery as a

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**In depth**



# Changing tide



Shmuel Thaler/Sentinel file

Under the current jurisdiction, the Boardwalk must apply to the Coastal Commission when making significant changes.

## Boardwalk in Coastal Commission jurisdiction

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way of helping the Seaside Co. avoid the primary scrutiny of the Coastal Commission.

"I don't have a great deal of confidence in the Coastal Commission, but it seemed obvious to me the city had not inadvertently handled the permit process this way," Baer said.

But Boyle said no one from the Planning Department or the Redevelopment Agency ordered him to remove the consultant's language about the Boardwalk from the draft environmental report.

Boyle, who said he rechecked the coastal-permit maps before red-lining the language, simply thought the consultant had made a mistake.

That doesn't satisfy Baer.

"It appears there is some sort of pattern where the city attempts to allow the Boardwalk to avoid Coastal Commission control," said Baer. "We need somebody from outside the city to function as a second analyst for these projects. The city appears to stand ready to approve anything the Seaside Co. proposes."

The map mix-up stems from the 1985 Santa Cruz coastal-development plan that was certified by both the city and the Coastal Commission. It turns out that the historic mean high tide line ran close to Beach Street, much higher than the current tide line.

As a result, the Coastal Com-

mission's primary jurisdiction runs close to Beach Street in that area, which puts most of the Boardwalk in the commission's jurisdiction for coastal permits.

Here's a little history on how that happened:

In 1972, California voters approved Proposition 20, which created the Coastal Commission. The commission's zone of influence ranged along the entire coast from 1,000 yards inland to three miles out to sea.

According to Lee Otter of the local Coastal Commission office, the goal was to create a statewide coastal plan, which eventually was completed. But in the meantime, local governments felt disenfranchised, and they went to the state Legislature for help.

In 1976, a revised Coastal Act was adopted, which allowed each local jurisdiction to create a coastal plan that would be certified by the commission. Once a local government had a certified plan, then it would have control of all coastal land in its jurisdiction above the historic mean high tide line.

What has caused problems for Santa Cruz's plan, which was certified by the Coastal Commission in 1985, is that the historic mean high tide line in the area around the Boardwalk is much different

**'I think it was an innocent mistake. I think it was just one of those things that happen.'**

— *Tami Grove, Coastal Commission*

from today's.

Otter said it was only after commission staff researched records from 1853 that it was discovered that dirt fill had altered the mean high tide line.

That's why the commission now has ruled that most of the Boardwalk is within the primary coastal zone.

"We simply were surprised to discover this boundary was in the middle of the Boardwalk instead of where everyone assumed it was," Otter said. "Our objective is to work with the city to rectify it."

In fact, the commission already is working with the city to return jurisdiction to Santa Cruz, Otter said.

"It's just a matter of who grants the permit," he said. "The Boardwalk would like to go through the city, so they would not have a split-jurisdiction problem."

City Planning Director Eileen Fogarty said it will be up to the

City Council to determine whether Santa Cruz will request that the Boardwalk be returned to its jurisdiction in terms of awarding coastal permits.

Vice Mayor Scott Kennedy said he thinks that would be a good idea, although he doesn't object to the commission having primary control.

"Most of the people in Santa Cruz would want the city to have as much control as possible ... as long as there is the right to appeal," Kennedy said. "There is a kind of logic to having primary control closer to home ... and then having the appeal process."

If the city chooses not to appeal the decision, the Seaside Co. would be forced to seek a coastal permit from the commission, while at the same time getting approval for all the other permits from the city. In the past, all those permits came from one source: the city.

"We've asked the city to initiate the process to get us back to

where we all thought we were," said Ted Whiting III, the Seaside Co.'s vice president for general services. "I don't think at this point it's a major problem, just a little more bureaucracy."

In a letter to Fogarty dated Jan. 20, Grove, of the local commission office, pointed out that of the nine coastal development permits issued by the city to the Seaside Co. since the wrong map was certified in 1985, none was appealed to the Coastal Commission.

Nonetheless, the historic tide-line data made it clear the Coastal Commission should have control of the primary development permit application process for most of the Boardwalk.

"That letter was shocking to me," said Boyle of the Planning Department. "I was really astounded they could make that determination."

Since then, however, Boyle and other city officials have learned about the historic mean high tide line being much closer to Beach Street than it is now.

Otter said he hopes the city appeals the decision.

"Good government includes decisions that make common sense," Otter said. "I hope folks understand that this is a bureaucratic ripple instead of a big deal. ... I'm sure it's not a big deal, and I'm in the driver seat."