Th14b

READER Addie M. Scholfield June 2,08 849 Coast Boulevard JUN 0 5 2008 La Jolla, California 92037 CALIFORTHA COASTAL COMMISSION SAN DISGO COALT DISTRICT I am writing to ask you to please reject the petition allowing Cabanas on the Torrey Pines Peach. They are really an intrusion on the only pristine beach available in the San Drego Grea. As a docent at Torrey Pines Reserve and a frequent Visitor to the beach, I hope you will not change the nature of this Unique beach. Thank you. addie 1111. Scholfelle



Agenda No. 14B Application No. 6-07-025-A1 Esther Barath and Phel Steinmetz

Esther Barath and Phel Steinmetz 8460-44 Via Sonoma La Jolla, CA 92037 June 2, 2008

RE: Permit No. 6-07-025-A1 Applicant: The Lodge at Torrey Pines

California Coastal Commission 7575 Metropolitan Drive, Suite 103 San Diego, CA 92108-4421

Attention: Ms. Ellen Lirley, Coastal Program Analyst

To Whom It May Concern:

Thank you for the opportunity toregister our position with the Coastal Commission on the above-mentioned permit.

Torrey Pines State Reserve and its coastline is one of the few open space/ commerical-free zones with beachfront access in our area. We oppose the private privilege proposed for The Lodge at Torrey Pines and would like to preserve equal access to the Reserve's natural resources. The presence of the cabanas and beach chair sets imposes semi-permanent structures on this beautiful stretch of relatively narrow coastline for at least the summer months. Additionally, we are concerned about the wear and tear on the shoreline by the vehicles used to transport the furniture to the beach.

If the Lodge needs any alternative suggestions, here are a few: 1)transport guests and beach chairs/umbrellas to parking lot and hand-assist carrying these to beach; 2) provide an on-call shuttle for guests to and from parking lots. We support maintaining Torrey Pines beach as a reserve, not as a resort.

Thank you.

Sincerely,

Dajatt

Esther Barath

Phel Steinmetz

JUN 0 5 2008

CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION SAN DIEGO AREA 7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421 (619) 767-2370



Filed: May 1, 2008 49th Day: June 19, 2008 October 28, 2008 180th Day: Staff: Ellen Lirley-SD Staff Report: May 27, 2008 Hearing Date: June 11-13, 2008

AMENDMENT REQUEST STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-025-A1

Applicant:	The Lodge at Torrey Pines	Agent: Robert Gleason
Original Description:	Temporary placement of beach chairs, unb limited food and beverage service on the be amenity/public concession, during the sum The proposed facilities will occupy an area and 20' in width, or approximately 6,000 sc overnight storage of these amenities in com approximately three parking spaces in the S	each to create a hotel mer months of 2007 and 2008. a maximum of 300' in length I. ft. The project includes tainers occupying
Proposed Amendment:	Amend Special Condition #1, parts c. and f cabanas up to two weeks in advance by hot and daily placement of only the number of plus one for same-day walk-up rental. Free to be set out daily whenever the program op	el guests or the general public, cabanas reserved for that day, e beach chair sets will continue
Site:	Southern portion of Torrey Pines State Bea Park Road, Torrey Pines, San Diego (San I	•
Substantive Fi	le Documents: Certified City of San Diego	LCP; California Department of

Parks and Recreation Draft Concession Contract; CCC File 6-07-025

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval with conditions of the proposed permit amendment. Equal opportunity for public access is the only issue raised with this specific amendment. The Commission originally removed the use of a reservation system for the beach amenities, finding it could give an unfair advantage to hotel guests over the general public. However, the applicant monitored use of the amenities daily last summer, and the results appear to demonstrate that the opposite is true, since hotel guests used the amenities three times as often as the general public without a reservation system. Even so, there was never a time when all nine cabanas

were rented on the same day; the highest ever daily use was seven cabanas. The applicant is proposing to implement a limited reservation system, with the expectation that more members of the public will use the cabanas if they know for certain one will be available on the day they want. Currently, the general public has to drive to the site, sometimes from long distances, hoping a cabana will be available when they arrive. Hotel guests are already on-site, and thus have a greater opportunity to secure a cabana.

The first special condition requires the applicant to place two extra cabanas for walk-up trade instead of the one the applicant has proposed, thus, with a total of nine cabanas for rent each day, a maximum of seven cabanas could be secured through the proposed reservation system. The applicant has submitted documentation of use of the cabanas last summer, which staff believes justifies use of a limited reservation program for the remaining summer of the two-year permit. The monitoring counts are attached as Exhibit #4, and the evidence is discussed in detail in the following findings. The second special condition reminds the applicant that all conditions of the original permit not modified herein remain in full force and effect.

The specific project site is in the Coastal Commission's area of original jurisdiction, being comprised of tidelands. Thus, Chapter 3 of the Coastal Act is the legal standard of review, with the City's certified LCP used for guidance.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

<u>MOTION</u>: I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-07-025 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

THE FOLLOWING CONDITION SUPERSEDES AND REPLACES SPECIAL CONDITION #1 OF THE ORIGINAL PERMIT IN ITS ENTIRETY

1. <u>Final Revised Plans</u>. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final site and operations plans, in substantial conformance with the plan identified as The Lodge at Torrey Pines, Beach Access Program Operations Plan, revised in April, 2008, but that shall be further revised to read as follows:

a. The site plan shall be reversed, such that the beach chairs and umbrellas are at the northern end of the proposed site, and the beach cabanas are at the southern end of the site.

b. The location for storage of the beach equipment overnight during the summer months shall be located within the South Torrey Pines Parking Lot, but outside marked parking stalls to the extent possible. No signage is permitted on the storage containers

c. The full ten sets of beach chairs and umbrellas (20 chairs, ten umbrellas total) and all reserved cabanas, plus 2 additional for same-day, walk-up trade, shall be set up and available every day the program is in operation. It is at the applicant's discretion whether or not to operate the program on any given day. The number of rented cabanas set up each day may vary according to reservations, but cannot exceed 25% of the total, approximately 6,000 sq.ft. site (i.e., cabanas may not occupy an area greater than 1,500 sq.ft.).

d. Motorized transport may operate on the beach only during two periods each day, in the morning and in the evening, to deliver and retrieve the beach equipment. Any interim deliveries of food or other supplies shall be conducted on foot from the parking lot.

e. The proposed beach shuttle shall operate, or be available to operate, from May 16^{th} to September 30^{th} of each year, each day the program is in operation.

f. Up to seven cabanas may be reserved up to two weeks in advance by hotel guests or members of the general public. Reservations may be secured at the hotel up to the day before use. The two additional cabanas required above for same-day, walk-up trade may only be rented at the beach.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive

Director. No changes to the approved final plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. <u>Prior Conditions of Approval</u>. All prior conditions of approval of the permit 6-07-025, not specifically revised herein, shall remain in full force and effect.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. <u>Project History/Amendment Description</u>. Approximately one year ago, the applicant entered into a contract with the California Department of Parks and Recreation (State Parks) to allow a semi-commercial use on the southern portion of Torrey Pines State Beach. The hotel proposed to set out free beach chairs and umbrellas, but also provide a limited food and beverage service and cabanas for rent. The Commission reviewed the project, voicing serious concerns over its consistency with public access, since the facilities would occupy approximately 6,000 sq.ft. of sandy beach daily all summer long. However, the facilities do provide an amenity to all beachgoers.

The Commission's primary concern was that the public have equal opportunity with hotel guests for use of the facilities. For that reason, the Commission disallowed any use of a reservation system, and required that, if the applicant were to place ANY facilities on a given day, it must place ALL facilities that day, believing this would put everyone on the same footing. The permit was also limited to two years to be consistent with the State Parks program, and to see how operations actually went. When the applicant applied in 2009 for a new permit or amendment, it would be required to provide daily or weekly counts showing how the program was utilized, comparing use by hotel guests to use by the general public.

Although only one year has passed, the subject amendment request has been accepted, since the program as approved is not working well for either hotel guests or other members of the public. The applicant contends the general public wants a reservation system as much, or more than, hotel guests. Evidently, members of the public have wanted to rent the cabanas for group outings, birthdays, etc., but want to be sure that a cabana will be available on a particular day. Only through a reservation system can such a guarantee be made. Thus, the applicant would like to continue providing the amenities if it can increase use to be successful.

Specifically, the amendment request proposes a change in operations, including implementation of a reservation system and eliminating the requirement to set up all the cabanas every day. The applicant had originally proposed a six-week reservation system last year that the Commission did not approve. The current request is for a two-week reservation system, that is, anyone can reserve a cabana up to two weeks prior to the requested day of use. The applicant proposes to announce the reservation system to the general public on all the signage required by the original permit, and on literature given

to hotel guests. In addition, the applicant requests to be allowed to only set up the number of cabanas reserved, plus one for walk-up trade. All of the free beach chairs/umbrellas would continue to be set up every day the program operates. As stated, the applicant maintains it is members of the public who are most interested in a reservation system, as they don't want to plan on renting one, then take a chance on finding them all sold out when they arrive.

Torrey Pines State Beach is a State Parks holding located geographically within the City of San Diego. Although the City has a certified LCP, the specific project site is in the Coastal Commission's area of original jurisdiction, being comprised of tidelands. Thus, Chapter 3 of the Coastal Act is the legal standard of review, with the City's certified LCP used for guidance.

2. <u>Consistency with Coastal Act Policies</u>. The following Chapter 3 policies are most pertinent to the subject amendment request:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...

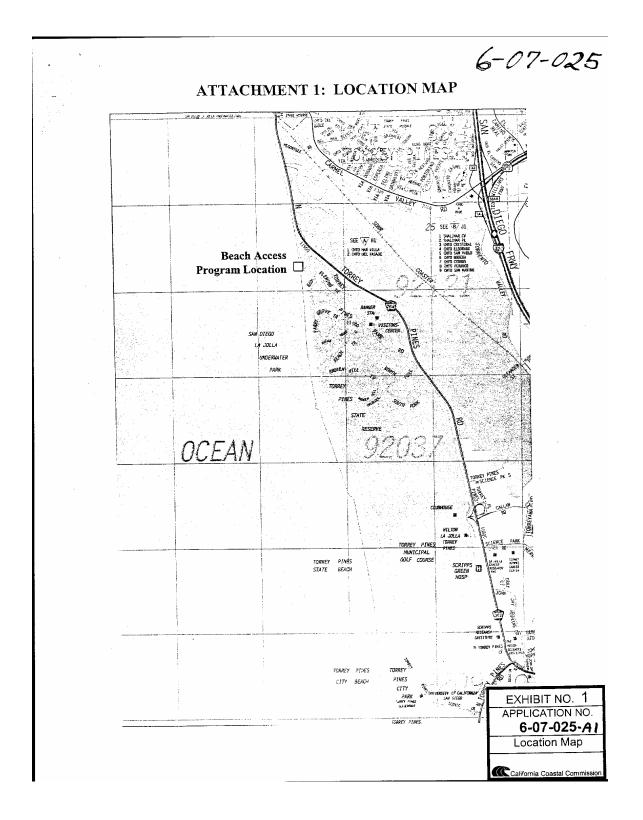
In its review of the original permit application, the Commission's primary concern was that the public have equal opportunity with hotel guests for use of the facilities. The thought was that a reservation system favored hotel guests, and the amenities should just be first-come, first-served for anyone. A condition of approval of the original permit required the applicant to monitor the use of the beach chair sets and cabanas to compare use by hotel guests with use by the general public. The results of the 2007 monitoring are attached as Exhibit #4, and appear to justify a reservation system for this summer.

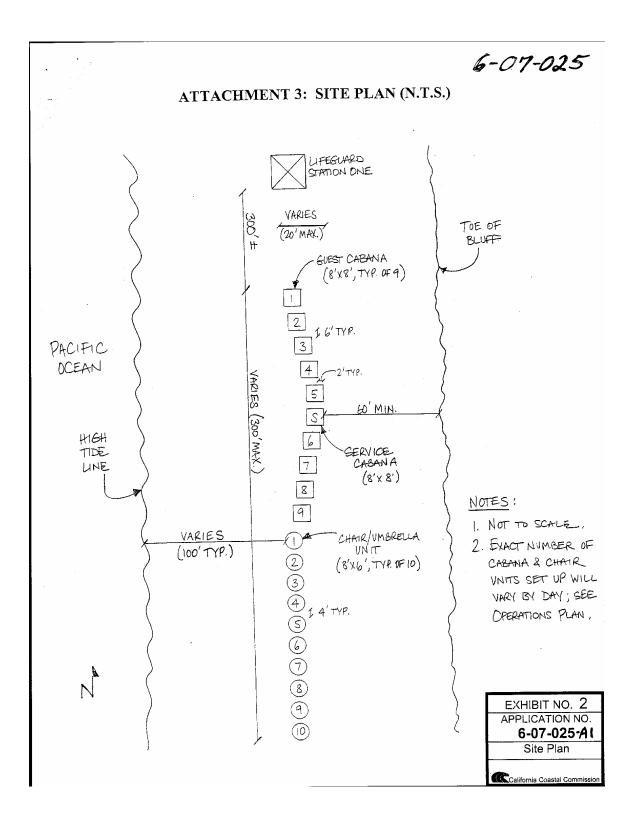
The permit was for 2007 and 2008 only, to be consistent with the applicant's contract with State Parks, and requires an amendment or new permit to extend the program into

additional summers. The program was in operation for a total of 73 days, and on 28 of those days, no cabanas were used by either hotel guests or the general public. In fact, on another 28 days, no more than two cabanas were rented, and on all days of use the general public never accounted for more than 2 cabanas in any one day. For the days on which one or more cabanas were rented, hotel guests were the users by a ratio of three to one. The most cabanas rented on any one day was seven, six by hotel guests, and one by the general public. Finally, of over 650 opportunities to rent cabanas during the elevenweek period, less than 100 cabanas were rented. The free beach chairs, however, were used every day of the program, with a lot of daily turnover as well. With the beach chair sets, use by the general public topped use by hotel guests by roughly three to one, with a total of almost 2,000 recorded uses.

Based on the very low usage of cabanas all last summer, the applicant has requested permission to use a modified reservation system for the summer of 2008. Since members of the general public had evidently wanted to reserve cabanas, and could not, public usage was minimal, with 59 days out of the program where no member of the general public rented a cabana. Last year the Commission found that providing such beach amenities could enhance the beach experience for many, but denied the reservation system because they found the system could be preferential to hotel guests, thus excluding the public. However, based on the monitoring results provided by the applicant, this is apparently not the case. Therefore, the Commission finds it appropriate to allow a reservation system for this second summer of a two-year permit, but retains the requirement for monitoring in 2008, so the information will be available when (or if) the applicant applies to continue the program in future years. Therefore, with a revised Special Condition #1, and retention of Special Conditions 2-6 of the original permit, the Commission finds the amendment does not raise any issues not already addressed in the original permit, and is thus consistent, as conditioned, with the cited Chapter 3 policies of the Coastal Act.

⁽G:\San Diego\Reports\Amendments\2000s\6-07-025-A1 Lodge at Torrey Pines stfrpt.doc)





STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governo

CALIFORNIA COASTAL COMMISSION

San Diego Coast Area Office 7575 Metropolitan Drive, Suite 103 San Diego, CA 92108-4421 (619) 767-2370 Date: May 23, 2007 Permit Application No.: 6-07-025 Page: 1 of 5



<u>Revised</u>

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

THIS IS NOT A COASTAL DEVELOPMENT PERMIT

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. <u>Commission staff cannot issue the CDP until the applicant has</u> <u>fulfilled each of the "prior to issuance" Special Conditions.</u> A list of all of the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On May 11, 2007, the California Coastal Commission approved Coastal Development Permit No. 6-07-025, requested by The Lodge at Torrey Pines subject to the attached conditions, for development consisting of: Temporary placement of beach chairs, umbrellas, and cabanas, along with limited food and beverage service on the beach to create a hotel amenity/public concession, during the summer months of 2007 and 2008. The proposed facilities will occupy an area a maximum of 300' in length and 20' in width, or approximately 6,000 sq. ft. The project uncludes overnight storage of these amenities in containers occupying approximately three parking spaces in the South Torrey Pines Parking Lot more specifically described in the application file in the Commission offices. <u>Commission staff will not issue the CDP until the "prior to issuance" special</u> conditions have been satisfied.

The development is within the coastal zone in the southern portion of Torrey Pines State Beach, southwest of Torrey Pines Park Road, San Diego (San Diego County) 301-130-02.



NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions) Date: May 23, 2007 Permit Application No.: 6-07-025

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If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. 6-07-025, please contact the Coastal Program Analyst identified below.

> Sincerely, PETER M. DOUGLAS Executive Director

By: Ellen Lirley Coastal Program Analyst Date: May 23, 2007

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

Date

Permittee

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

STANDARD CONDITIONS

- 1. <u>Notice of Receipt and Acknowledgment</u>. 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. <u>Expiration.</u> 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. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions) Date: May 23, 2007 Permit Application No.: 6-07-025

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- 4. <u>Assignment</u>. 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. <u>Terms and Conditions Run with the Land.</u> 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:

The permit is subject to the following conditions:

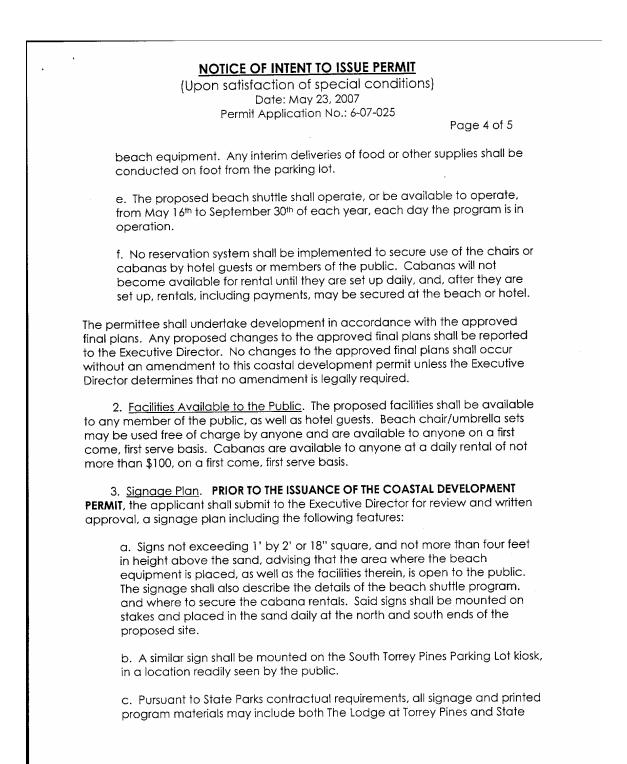
1. <u>Final Revised Plans</u>. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final site and operations plans, in substantial conformance with the plan identified as The Lodge at Torrey Pines, Beach Access Program Operations Plan, dated February, 2007, but that shall be revised to include the following:

a. The site plan shall be reversed, such that the beach chairs and umbrellas are at the northern end of the proposed site, and the beach cabanas are at the southern end of the site.

b. The location for storage of the beach equipment overnight during the summer months shall be located within the South Torrey Pines Parking Lot, but outside marked parking stalls to the extent possible. No signage is permitted on the storage containers

c. The full ten sets of beach chairs and umbrellas (20 chairs, ten umbrellas total) and all ten cabanas shall be set up and available every day the program is in operation. It is at the applicant's discretion whether or not to operate the program on any given day, but the number of cabanas set up each day may not vary (if one is set up, all are made available). The cabanas set up each day may vary according to reservations, but cannot exceed 25% of the total, approximately 6,000 sq.ft. site (i.e., cabanas may not occupy an area greater than 1,500 sq.ft.).

d. Motorized transport may operate on the beach only during two periods each day, in the morning and in the evening, to deliver and retrieve the



NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions) Date: May 23, 2007 Permit Application No.: 6-07-025

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Parks logos. However, no signage of any type is permitted on the cabanas or umbrellas.

The permittee shall undertake development in accordance with the approved signage plan. Any proposed changes to the approved signage plan shall be reported to the Executive Director. No changes to the approved signage plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. <u>Daily Set Up and Take Down</u>. No beach equipment (chairs, umbrellas, side tables or cabanas), ice chests or other food containers, signage, or any other program materials shall be left on the beach overnight. All facilities will be set up and taken down daily and stored overnight in the storage containers in the South Torrey Pines parking lot.

5. <u>Term of Permit</u>. The subject permit authorizes the proposed activities from mid-May to the end of September during 2007 and 2008 only. Any continuation of the program for 2009 or beyond will require a new coastal development permit. Any application for a future permit or amendment shall include documentation of how the facilities operated in 2007 and 2008 with respect to public versus hotel guest use. The documentation may consist of daily or weekly counts, and may tally results in either actual numbers or percentages.

6. <u>Condition Compliance</u>. Within 90 days of Commission action on this coastal development permit amendment or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

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