

CALIFORNIA COASTAL COMMISSION

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 Staff: Ellen Lirley-SD
 Staff Report: June 13, 2007
 Hearing Date: July 9-13, 2007

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-057

Applicant: Yuriy Kandinov

Agent: Angela Yukjananov

Description: Placement and operation of an 8' x 20' self-contained concession trailer in an unimproved area within an existing beach parking lot. The concession will sell food items and beach sundry products.

Site: North Torrey Pines State Beach parking lot on McGonigle Road, south of Carmel Valley Road, North City (Torrey Pines segment), San Diego, San Diego County. APN 301-130-01

Substantive File Documents: Certified Torrey Pines Community Plan and Land Development Code; Draft Concession Contract with State Parks, including an Operations Plan

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of a proposal to operate a private food, beverage and sundry concession through a contractual arrangement with the California Department of Parks and Recreation. The proposal raises potential issues with maintaining public access and parking availability, as well as protecting public views in this public recreation area. The proposed design and siting address some of these concerns, and special conditions addressing the term of the operation and signage are recommended to respond to the terms of the applicant's contract with State Parks and to concerns over visual resources.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-07-057 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit 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 THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Term of Permit. The subject permit authorizes the proposed activities during 2007, 2008, and until June 14, 2009 only, as stipulated in the applicant's contract with State Parks. Any continuation of the program beyond June 14, 2009 will require a new coastal development permit.

2. Signage Plan. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a signage plan including the following features:

- a. The principal business sign shall be located on the awning on the front of the trailer, and shall not extend above the height of the awning.
- b. One additional sign, as required by the County Department of Environmental Health, may be applied on another side of the trailer, but is limited to the following dimensions (minimum required by County) and must be placed on one of the trailer ends, not the back:

1. Business name not to exceed three inches in height.
2. Name of permittee not to exceed 1 inch in height.
3. City, State and Zip Code not to exceed 1 inch in height.

c. No other signage is permitted on the outside of the trailer, and no freestanding signage is permitted.

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.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes to install and operate a food concession called “Natural Delights” within the North Torrey Pines State Beach parking lot. In addition to food and beverage items, the applicant also proposes to sell beach sundries, such as sun screen, beach towels, etc. The proposed facility is an 8-foot wide, 20-foot long (or smaller) trailer, that will be located in an unimproved area within the southwestern part of the parking lot. The trailer will not occupy any public parking spaces, nor block any public accessways, and is well inland from the sandy beach itself. The parking lot is separated from the beach by North Torrey Pines Road (Highway 101), and a paved access walk leads from the parking lot, passes under the highway, and ends on the beach. Thus, the proposed trailer cannot be seen from the beach itself.

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. Public Access/Use of Public Parkland. The following Coastal Act policies addressing public access are most applicable to the proposed development, and state, in part:

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 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. ...

Section 30213

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

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30604(c)

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The proposed site is one of the parking lots for an existing public beach, serving the more northern portions of Torrey Pines State Park/Beach. It is a widely popular beach, attracting local, regional, and even international visitors. During holidays and summer weekends, the parking lot is often full to capacity, although some public parking is also available along Carmel Valley Road, an east-west trending coastal access route located slightly north of the parking lot. Typically, the street spaces are full as well, since these are free, and there is a fee to use the parking lot. Wherever one parks, access to the beach itself is through the parking lot, with most patrons using an accessway adjacent to the

location of the proposed food concession. Currently, the only public amenities provided in this area of the State Park are a restroom facility and outdoor showers. Historically, there were some picnic tables in unpaved/landscaped portions of the parking lot, including the general area of the proposed concession, although none currently exist.

There are no easily accessible food or grocery establishments in the immediate area, although there are a few restaurant/take-out businesses further east on Carmel Valley Road, the closest being about a third of a mile from the beach area. Beachgoers must either bring their own food and beach items, or walk or drive to obtain them. During high season, vacating a parking space to go get food would probably result in no parking space being available when one returned. The proposed concession will offer an alternative by providing food, beverages and sundries at a walk-up facility in close proximity to the beach. This could also increase use of alternative transit, since beachgoers would not necessarily need to carry as many items with them to the beach. An existing bus route has bus stops that connect to paved walkways on both the northbound and southbound sides of the highway, allowing people access from the highway directly to the beach. The concession proposes to operate, at a minimum, from 10:00 a.m. to 5:00 p.m., seven days a week, from the beginning of May until the end of September. Pursuant to its contract with State Parks, and this permit, it can operate at additional times as well during the two-year time period of the contract (June 15, 2007 – June 14, 2009).

The North Torrey Pines parking lot has 550 delineated public parking spaces. During summer weekends, particularly holiday weekends, the parking lot is typically full to capacity; at all other times of the year, even summer weekdays, there are always parking spaces available. Although the proposed concession trailer will not itself occupy any parking spaces, the concession employees will have to park in the lot. The applicant anticipates, however, that at any given time, no more than 2 or 3 parking spaces will be in use by employees. In addition, State Parks employees typically occupy 4 parking spaces for lifeguards and 1 for the person stationed at the entry kiosk throughout the summer. However, the State Park employee use is historic and ongoing, and it must be assumed that a similar level of employee use occurs at all beaches in the area, since all are staffed to some degree. The 2 or 3 additional spaces not available for beachgoer use is not significant in a parking lot of this size (550 spaces), and all concession employees must purchase an annual day-use parking pass, just like any other member of the public. Moreover, if the presence of the concession operation results in more beachgoers using alternative transit, the loss of 2 or 3 spaces for concession employees could be outweighed by fewer beachgoers using the lot for parking.

In summary, the proposed development is consistent with the cited public access and recreation policies because it provides a public amenity not currently available in this location. In doing so, it does not usurp any sandy beach or any public parking spaces, and is proposed in a location that will not block the flow of people from the parking lot to the beach. The minimal amount of parking required for concession employees is insignificant in comparison to the number of public spaces remaining available. Special Condition #1 limits the proposed activity to two years without further review by the

Coastal Commission, consistent with the State Parks concession contract which is also for two years only (June 15, 2007 – June 14, 2009). If State Parks wishes to continue a concession operation in this location beyond June 14, 2009, it will be required to put the contract out to bid. This two-year trial period provides the opportunity to analyze any unexpected impacts of the proposed facility before authorizing such an operation to continue in future years. As conditioned, the Commission finds the proposal consistent with the public access and recreation policies of the Coastal Act.

3. Visual Resources. Section 30251 of the Coastal Act addresses the preservation and enhancement of visual resources, and states, in part:

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. ...

The proposed concession trailer will not be visible from the beach, as it is proposed to be located on the east side of North Torrey Pines Road (Highway 1). It will, however, be visible from that highway. The proposed site historically included mature trees that would have blocked this view. However, the trees were removed as part of a bridge replacement project that has recently been completed (coastal development permit #6-02-172). The landscaping that is to be installed as part of that project will likely block, or at least partially screen, the proposed site, but that landscaping, including Torrey Pines trees and coastal sage scrub plants, has not been installed yet. However, the trailer will be a maximum dimension of 8' x 20' and will be located near the much larger existing restroom facility, that is also visible from the highway, such that the trailer's visual impact is relatively minor. Moreover, when viewed from the highway, the backdrop for the concession trailer is the 550-space paved parking lot, rather than a more scenic vista.

Other than the trailer itself, the primary visual concern is potential signage. Special Condition #2 establishes the parameters for signage. The only advertising signage permitted is one sign on the awning of the trailer, identifying the name of the business. This sign cannot extend beyond the awning, either vertically or horizontally. The County Department of Public Health requires a second sign for such businesses to be placed on one other side of the building. The condition limits the size of this sign to the minimum allowed by the Health Department, and stipulates it cannot be placed on the back of the trailer facing the highway (i.e., it must go on one of the ends). No other outside signage is allowed on the trailer, and no freestanding signs are allowed.

The Commission acknowledges that the proposed development will be visible from Highway 1, although it cannot be seen from the beach. However, the Commission further acknowledges that the proposed concession trailer will provide a new recreational

support facility to the general public, in the form of food and beverage service, as well as the provision of beach sundries. Therefore, the Commission finds that the visual impacts of the proposed concession trailer are not significant from a statewide perspective, and are offset by the recreational enhancements of the proposal. Also, the required signage shall be the minimum necessary to advise the public of the availability of these services. Moreover, the activity is limited to a two-year trial period, and cannot be renewed without further review by both State Parks and the Coastal Commission. Thus, the Commission finds the proposal, as conditioned, consistent with Section 30251 of the Coastal Act.

4. Local Coastal Planning. The City of San Diego has a fully-certified LCP and issues its own coastal development permits in nearly all areas under its jurisdiction. However, the subject site is in an area of Coastal Commission original jurisdiction. Thus, Chapter 3 policies of the Coastal Act are the legal standard of review, and the LCP is used only for guidance. The proposed development is geographically within the Torrey Pines Community Plan area, and that plan encourages protection of scenic resources, and identifies North Torrey Pines Road as a scenic corridor. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not interfere with the City's implementation of its LCP where the City has permitting authority.

5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

State Parks is the lead agency on this project for purposes of CEQA review, and the project was determined to be categorically exempt pursuant to Class 15311, Item C. The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing signage, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized

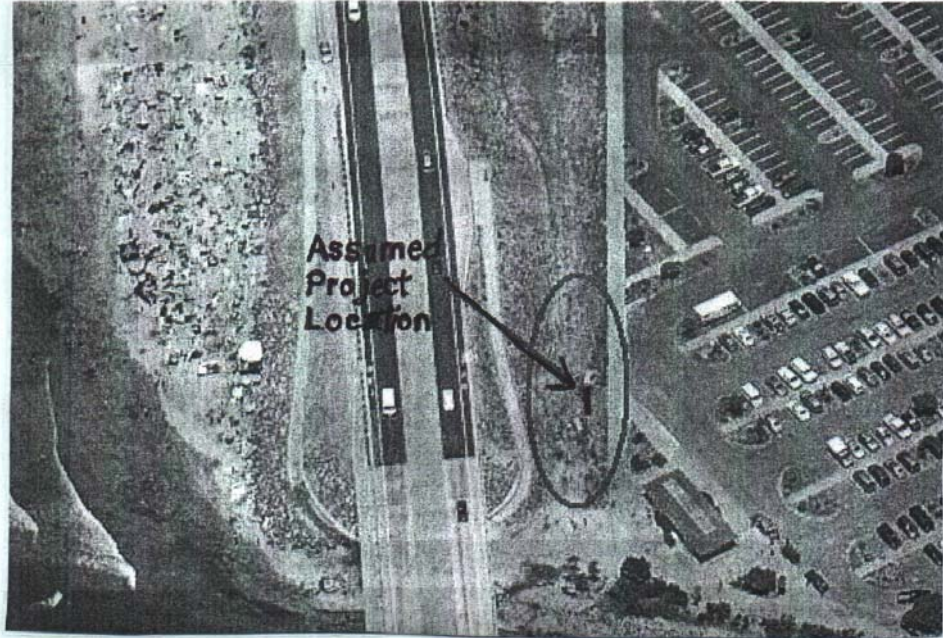
agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. 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. Terms and Conditions Run with the Land. 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.

6-07-057



6-07-057



Typical Trailer

EXHIBIT NO. 2
APPLICATION NO.
6-07-057
Site Plan +
Elevation California Coastal Commission