

## CALIFORNIA COASTAL COMMISSION

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Staff: Ellen Lirley-SD  
Staff Report: July 10, 2007  
Hearing Date: August 8-10, 2007

## REVISED CONDITIONS AND FINDINGS

Application No.: 6-07-025

Applicant: The Lodge at Torrey Pines

Agent: Robert Gleason

Description: Temporary placement of beach chairs, umbrellas, and cabanas, along with limited food and beverage service on the public 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 includes overnight storage of these amenities in containers occupying approximately three parking spaces in the South Torrey Pines Parking Lot.

Site: Southern portion of Torrey Pines State Beach, southwest of Torrey Pines Park Road, Torrey Pines, San Diego, San Diego County. APN 301-130-02

Substantive File Documents: Certified City of San Diego LCP; California Department of Parks and Recreation Draft Concession Contract

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### STAFF NOTES:

Staff recommends the Commission adopt the following revised findings in support of the Commission's action on May 11, 2007. In its action, the Commission approved the temporary cabanas, beach chair sets, and limited food and beverage service. However, based on specific concerns raised by the Commissioners, staff modified its recommendation to eliminate any form of reservation system, so that the general public would have the same opportunity to rent and use these facilities as hotel guests. The staff also modified its recommendation to stipulate that if any cabanas are set up, all ten must be set up, as is already required for the beach chair/umbrella sets. Revisions to the staff report are found in Special Conditions #1, 2, 3, and 5, and on Pages 6, 8, 9, 10, and 11 of the findings.

Date of Commission Action: May 11, 2007

Commissioners on Prevailing Side: Blank, Clark, Neely, Reilly, Shallenberger, and Chairperson Kruer.

~~Summary of Staff's Preliminary Recommendation:~~ Staff is recommending approval of a two-year program, with conditions addressing the site layout and methods of operation, maintenance of public access, the storage/transport of equipment, appropriate signage, and the duration of the permit. The intent of the conditions is to make sure the public is allowed access throughout the concession area, and is made aware that the facilities can be used by the general public as well as hotel guests. Public access is the primary Coastal Act issue raised by the proposed development. Potential visual impacts are also addressed, but have been found insignificant due to the temporary nature of the improvements and the similarity of some of the proposed beach facilities to recreational equipment already used by the public.

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.

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**I. PRELIMINARY STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:** ~~*I move that the Commission approve Coastal Development Permit No. 6-07-025 pursuant to the staff recommendation.*~~

**STAFF RECOMMENDATION OF APPROVAL:**

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

**I. MOTION:** *I move that the Commission adopt the revised findings in support of the Commission's action on May 11, 2007 concerning approval of Coastal Development Permit No. 6-07-025*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a YES vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the revised findings hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The Commissioners eligible to vote are:

Commissioners Blank, Clark, Neely, Reilly, Shallenberger, and Chairperson Krueer.

**RESOLUTION TO ADOPT REVISED FINDINGS:**

The Commission hereby adopts the findings set forth below for *Coastal Development Permit No. 6-07-025* on the ground that the findings support the Commission's decision made on May 11, 2007 and accurately reflect the reasons for it.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Revised Plans. **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 ~~However,~~ the number of ~~rented~~-cabanas set up each day may not vary (if one is set up, all are made available). ~~according to reservations;~~ ~~but~~ 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<sup>th</sup> to September 30<sup>th</sup> of each year, each day the program is in operation.

f. No reservation system shall be implemented to secure use of the chairs or cabanas by hotel guests or members of the public. Cabanas will not become available for rental until they are set up daily, and, after they are set up, rentals, including payments, may be secured at the beach or hotel.

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. Facilities Available to the Public. The proposed facilities shall be available to any member of the public, as well as hotel guests. Beach chair/umbrella sets may be used free of charge by anyone and ~~may be reserved from one month ahead of time up to 6:00 p.m. the day before the proposed use, but only for one day per reservation.~~ ~~Unreserved chair/umbrella sets~~ are available to anyone on a first come, first serve basis. Cabanas ~~may be reserved from one month ahead of time up to 6:00 p.m. the day before the proposed use, and~~ are available to anyone at a daily rental of not more than \$100, on a first come, first serve basis. ~~but only for one day per reservation.~~

3. 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. Signs not exceeding 1' by 2' or 18" square, and not more than four feet in height above the sand, advising that the area where the beach equipment is placed, as well as the facilities therein, is open to the public. The signage shall also describe the details of the beach shuttle program ~~and the method of making reservations~~ and where to secure the cabana rentals. Said signs shall be mounted on stakes and placed in the sand daily at the north and south ends of the proposed site.

b. A similar sign shall be mounted on the South Torrey Pines Parking Lot kiosk, in a location readily seen by the public.

c. Pursuant to State Parks contractual requirements, all signage and printed program materials may include both The Lodge at Torrey Pines and State 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. Daily Set Up and Take Down. 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. Term of Permit. 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. Condition Compliance. 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.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes placement of beach chairs, side tables, umbrellas, and cabanas within a designated area south of Lifeguard Station #1 at Torrey Pines State Beach. The chairs would be arranged in sets including two chairs, one umbrella and one side table, with a maximum of ten such sets proposed for daily use. There are also a maximum of ten cabanas proposed, with nine available to anyone and one used by hotel employees to serve food and drink. The facilities are proposed to be located approximately one-quarter mile south of the South Torrey Pines parking lot, and will occupy approximately 6,000 sq.ft. of sandy beach, being arranged in a linear strip approximately 20 feet in width and a maximum of 300 feet in length. The applicant proposes to provide these amenities seasonally, operating on weekends from mid-May to mid-June and from Labor Day to the end of September, and daily from mid-June to Labor Day. No program is proposed between the end of September and mid-May of the

following year. The current application is for a two-year program, consistent with the contract given the applicant by the California Department of Parks and Recreation (State Parks), who owns and operates Torrey Pines State Beach. The equipment will be transported from the South Torrey Pines parking lot to the beach site using a small motorized vehicle called a “mule” which is the same type of vehicle used by State Parks on the beach.

These amenities are proposed to be available to both hotel guests and the general public, and, as proposed, may be reserved up to one month in advance by either group. The beach chairs and umbrellas are free, and, if there are any unreserved sets on any given day, these will be made available on a first-come, first-serve basis to anyone. The cabanas are also available to each group and may also be reserved, but a \$100 daily rental fee is charged for their use, such that hotel guests are more likely to avail themselves of this service than the general public. The food and beverage service, which includes both full lunches and snacks (no hot food), is available to anyone. The proposal includes a beach shuttle service from The Lodge at Torrey Pines to transport hotel employees, hotel guests, and members of the public to the beach daily. The facilities are proposed to be set up at approximately 8:00 a.m. each morning and removed at approximately 7:30 each night. The chairs and cabanas will be stored in two storage trailers proposed to occupy three parking spaces along the southern edge of the South Torrey Pines State Beach parking lot.

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 30221**

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

**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 an existing public beach, a portion of the southern extent of Torrey Pines State Beach. It is a widely popular beach, attracting local, regional, and even international visitors. However the area south of Lifeguard Station One is not used nearly as intensely as the area to the north. The specific proposed project location is approximately 100 yards south of the lifeguard station, or approximately a quarter mile south of the southern edge of the South Torrey Pines parking lot. The facilities will occupy an approximately 20-foot wide linear area no more than 300 feet in length (approximately 6,000 sq.ft.), and, per the State Parks' approval, all amenities and

personnel must remain at least 60 feet from the toe of the bluff. In addition, the facilities will typically be placed approximately 100 feet landward of the mean high tide line, although that, of course, varies daily. Operations are expected to be interrupted, or cancelled, on days of very high tides, where not enough beach will be available for the proposed beach amenities.

The applicant is a resort hotel located on the bluffs overlooking this area of beach, although there is no direct access to the beach from the hotel. However, the hotel proposes to operate a beach shuttle for guests, and anyone else who has reserved the facilities, to minimize the number of cars parking in the public beach parking lots. The applicant proposes to operate the program pursuant to a concessions contract with State Parks incorporating the applicant's Beach Access Program Operations Plan. Although the applicant expects the facilities to be used primarily by hotel guests, any member of the public can use or reserve the chairs at no charge, or reserve one of the cabanas, which rent at \$100 a day for both hotel guests and the public alike. Cabana reservations are taken until 6 p.m. the evening before the reserved date, and only as many cabanas as have been reserved, plus the service cabana, are proposed to be set up each day of the program. The applicant also proposes that not all ten sets of chairs may be set up each day, with only five sets set up on weekdays.

As mentioned previously, the chairs, cabanas, umbrellas and food service equipment are proposed to be kept in two 8' by 20' storage containers in the South Torrey Pines parking lot. As proposed, the storage units will occupy approximately three existing public parking spaces within the lot, and will remain in that location throughout the months the program is in operation. The equipment will be transported to and from the storage units daily by a small motorized vehicle called a "mule." Such trips are proposed during only two periods each day, one to set up the facilities in the morning and the other to take them down and return them to storage in the evening.

While the proposed facilities are a hotel amenity, they are also proposed as a public amenity. The public is as free to reserve the facilities, or to occupy unreserved beach chairs, as any hotel guest. Public benefits of such a program include use of beach equipment not otherwise provided to the public, availability of limited food and beverage service where none now exists, and potential use of the proposed beach shuttle service, which will benefit the public as a whole by reducing the number of cars needing space in the public parking lot. Parking stalls in the public lot are at a premium during the summer months, when the proposed program will be in effect. For these reasons, the Commission finds it appropriate that the proposed facilities should be allowed within the public beach.

However, because this is primarily a private operation on a public beach, several significant public access issues are raised. Although the facilities are proposed to be available to anyone, it is critical that they not present a "private" appearance, such that the general public would hesitate to use them. As proposed, when traveling along the beach from the South Torrey Pines parking lot, the public must pass the cabanas first, in order to reach the free beach chairs and umbrellas. The project must be conditioned to



ensure that the public retains the ability to access and enjoy the beach areas north, south, and seaward of the facilities. Appropriate signage must inform the general public that the facilities are for public use, and it must describe ~~how to reserve the facilities and~~ how the public may avail themselves of the beach shuttle service. Use of public parking spaces for the storage of the beach equipment must not usurp use of the parking lot by the general public, and motorized vehicles on the beach must not interfere with the public's recreational enjoyment of the beach.

The proposed program operated during part of the summer of 2006, with permission of State Parks. It was reported to Commission enforcement staff by members of the public, and the applicant was made aware that a coastal development permit was required. By that time, the summer season was over and the equipment removed, so the applicant has submitted the subject coastal development permit application to operate the program for the next two summers. The main concerns raised by the public were the frequency of motorized vehicles on the beach during prime beach hours, the appearance of a private operation on the public beach, and the visual impact of the cabanas viewed against the pristine bluffs in this area of the shoreline.

Special Condition #1 addresses most of the identified concerns and will assure that the amenities are available and used by the public to the greatest degree possible. The condition requires that the applicant submit a revised operations plan incorporating a number of additional provisions. First, the proposed beach equipment arrangement must be reversed, by placing the chair/umbrella units to the north within the proposed site, and placing the cabanas to the south. Thus, people parking in the beach parking lot can readily avail themselves of these free beach amenities, without having to pass the row of cabanas to reach them. Second, usurpation of public parking space in the South Torrey Pines parking lot must be minimized to the extent possible. It appears there are some areas of the parking lot adjacent to the paved parking area, where it may be possible to locate the storage containers, thus occupying no, or fewer, marked parking stalls. However, even if the storage containers do occupy three existing public parking spaces, this should not result in an adverse impact, as it is at least partially offset by the proposed beach shuttle from the hotel.

The condition further requires that the full ten sets of free chair/umbrella units and all ten cabanas, including the service cabana, be set up daily every day the program operates, rather than just on weekends. ~~Since cabanas must be reserved by 6:00 p.m. the day before the proposed use, only as many cabanas as are reserved need be set up daily, along with the service cabana, that will have snacks available for public purchase. No advance reservation system is allowed, with all equipment available on a first come, first serve basis to both hotel guests and the general public. Once the equipment is set up each day, anyone can rent a cabana, either at the beach location itself or at the hotel concierge desk, or occupy a beach chair/umbrella set.~~ Consistent with Commission actions on temporary events on public beaches, this condition requires that no more than 25% of the site should be occupied by fee-based facilities (i.e., cabanas; however, the service cabana is not included in the 25% limitation). In addition, as currently proposed, motorized vehicles may only operate twice daily to set up and remove the beach amenities. The proposed

times for these trips are around 8:00 a.m. and 7:30 p.m., when public use of the beach is minimal. Should the need arise to deliver food or other supplies to the service cabana during the day, this condition requires that these items must be transported on foot from the parking lot. In addition, the proposed beach shuttle from The Lodge at Torrey Pines to the South Torrey Pines parking lot must operate daily, or be available for operation should anyone wish to avail themselves of that service, each day the program is in operation.

Special Condition #2 further emphasizes that the proposed facilities are all available for public use on a first come, first served basis. Special Condition #3 requires the placement of signs to make sure the public is aware of the proposed amenities and how to secure the cabana rentals. Small-scale signs are required to be placed at either end of the proposed linear beach amenity site, as well as on the parking lot kiosk. Also, Special Condition #4 stipulates that all proposed facilities are to be removed from the beach overnight and stored in the appropriate containers. Finally, Special Condition #5 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. This provides the opportunity to analyze any unexpected impacts of the proposed program before authorizing the program to continue in future years.

Moreover, there will be plenty of room for the public to pass and repass while the program is in operation. The cabanas, and other equipment, are set up in an area that is further from the parking lot than the more popular areas of the beach, and thus, is less heavily used by the public. No areas will be “roped off” or delineated for exclusive use by hotel guests. Also, there is nothing that would stop any member of the public from setting up such a cabana, or other recreational equipment, on their own anywhere on the beach

In summary, the proposed hotel amenity and public concession on a public beach raises a number of serious issues, primarily concerning public access. Most important is that the public not be unduly disturbed by these operations, and that they are aware that use of the amenities is not restricted to guests of The Lodge at Torrey Pines. The proposed site is in a portion of Torrey Pines State Beach less heavily used by the public than areas to the north that are directly adjacent to the public parking lot. The program, however, is proposed to operate during the summer season when all areas of the beach receive their highest use. Special Condition #1 establishes restrictions limiting disturbance to the general public from this operation. The proposed operation will provide some offsetting benefits to the general public. The applicant is offering new amenities not previously available to the general public in this location, including limited food and beverage service that includes everything from fresh fruit, snacks and drinks to full cold lunches available for purchase daily while the program is in operation. In addition, the applicant’s proposed beach shuttle service will reduce the number of vehicles belonging to Lodge guests now using the South Torrey Pines parking lot, making more parking spaces available there for the general public; this will help offset the use of a few parking spaces by the Lodge to store the beach equipment. 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 entire California coastline is a scenic resource, but the proposed site is a location often seen on calendars and postcards. Here, the bluffs are roughly 300 feet high, nearly vertical, and topped with the greenery of the Torrey Pine forest. Because of concerns over bluff stability, the proposed beach amenities must be located at least sixty feet from the toe of the bluffs, per State Parks' requirements. The proposed beach cabanas are eight feet square and nine feet in height, and are made of green and cream striped canvas. The beach chair sets (two chairs, an umbrella and a side table) will each occupy an area approximately six feet by eight feet. The umbrellas and chair seats are dark green, and the rest of the furniture is natural wood tone.

Assessing potential visual impacts can be somewhat subjective, as what offends one person may please another. There is no question that the proposed amenities, particularly the cabanas, will be very visible on the beach, especially when viewed against the backdrop of the bluffs. Although they are temporary, being placed and removed daily throughout the summer season, they will be on the beach below the bluffs during most daylight hours when the greatest number of people are using the beach. Views of these bluffs are of regional and even statewide significance, but a nine-foot structure at the base of a 300' bluff would not appear too significant from offshore. The significance increases when viewed directly from the adjacent beach, where the cabanas would be in the forefront, obscuring portions of the base of the bluffs. However, the majority of people in very close proximity to the proposed beach amenities would be those actually using the amenities or purchasing food items from the service cabana. Moreover, some would view the beach equipment as a normal part of a popular swimming and surfing beach. Beach chairs and umbrellas brought by members of the public are found all along Torrey Pines State Beach, and small tents to provide shade for young children and infants have become popular as well. Although actual cabanas are not typical, they are allowed.

Special Condition #3 requires submittal of a signage program. While signage is necessary to make the public aware of both the availability of the beach equipment and how to ~~reserve it~~ rent the cabanas, the signage is required to be of limited dimensions to minimize visual concerns. Only one small sign is required at either end of the proposed facilities to notify persons approaching from either the north or south. In addition, a similar sign is required to be posted conspicuously at the parking lot kiosk. The

condition prohibits any signage on the cabanas or umbrellas, such that they will not be used as advertising venues.

The Commission acknowledges that the proposed development will be visible. However, the impact will be both temporary (summer months only) and intermittent (only portions of each day), and most of what will be seen can be seen on a daily basis along any San Diego County beach. The Commission further acknowledges that the proposed facilities will provide a new amenity to the general public, as well as to guests of the Lodge at Torrey Pines, and also notes the beneficial impacts of the proposed beach shuttle. Therefore, the Commission finds that the temporary and intermittent visual impacts of the proposed beach facilities are not significant from a statewide perspective, and are offset by the recreational and access enhancements of the proposal. Also, the required signage shall be the minimum necessary to advise the public of the availability of these facilities and services. Moreover, the activity is limited to the summers of 2007 and 2008 only, without further review by both State Parks and the Coastal Commission. If the experienced impacts of the proposed development are different or greater than currently anticipated, permits for future operations can be denied. Thus, the Commission finds the proposal, as conditioned, consistent with Section 30251 of the Coastal Act.

4. Unpermitted Development. Unpermitted development occurred on the subject site during the summer beach season in 2006 including, but not limited to, the placement of beach chairs, umbrellas, and cabanas, along with limited food and beverage service on the public beach. While the applicant had the approval of State Parks for these activities, they did not have the required coastal development permit. This application seeks approval for these same activities from mid-May to the end of September during 2007 and 2008.

To ensure that the matter of unpermitted development is resolved in a timely manner, Special Condition #6 requires that the applicant satisfy all conditions of this permit, which are prerequisite to the issuance of this permit within 90 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Although development has taken place prior to submittal of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

5. Local Coastal Planning. The City of San Diego has a fully-certified LCP and issues its own coastal development permits in 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 University Community Plan area, and that plan encourages public access to the beach, including the

provision of support facilities. 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.

6. 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.

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 public access, 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.

6-07-025

ATTACHMENT 1: LOCATION MAP

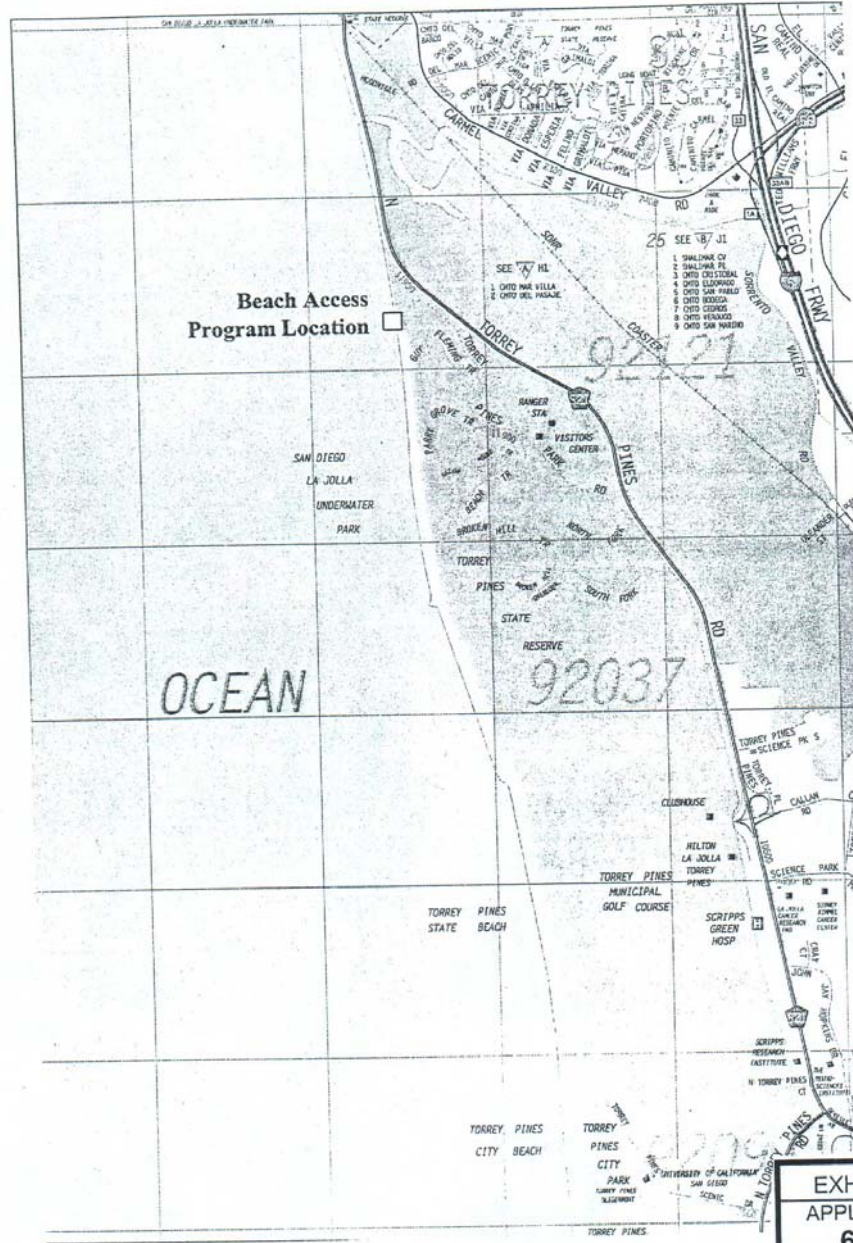


EXHIBIT NO. 1
APPLICATION NO.
6-07-025
Location Map
California Coastal Commission

6-07-025

ATTACHMENT 3: SITE PLAN (N.T.S.)

