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original staff report

CCCC0914

W14a

4465 Ocean Boulevard #62  
San Diego, CA 92109  
September 30, 2014

DOCKET# W14a  
OPPOSED

California Coastal Commission  
C/O San Diego Coast District  
7575 Metropolitan Drive #103  
San Diego, CA 92108-4421

RECEIVED

OCT 01 2014

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

RE: Permit Number 6-12-061, Grand & Strand LLC  
Hearing October 8, 2014

My wife and I have reviewed the subject Coastal staff report as presented on <http://www.coastal.ca.gov/mtgcurr.html>. We note significant factual errors in the staff report, which we now call to the Commission's attention. If you approve this permit, at least do it based on an **accurate** staff report. With all the verbal promises and unenforced conditions, the **bottom line** is that, in this **parking starved area**, the applicant wants to **again increase** his **servicing capacity** while **reducing** his **parking capacity**.

On page 10 of the report, staff **incorrectly** cites Table 142-05D of §142.0530 of the San Diego Land Development Code as applicable to the premises of the Shore Club. By any reasonable standard we can perceive, the primary use of the premises is an eating and drinking establishment, so parking standards are based on §142.0530(b) and the correct table is 142-05E. For zoning CV-1-2 in a transit oriented zone, the correct minimum number of parking spaces is 4.3/1000 sqft. of the eating and drinking establishment. Before the new construction:

eating & drinking	4456 sqft x 4.3 = 20 spaces
non-eating & drinking	3674 sqft x 2.1 = 8 spaces
total required	= 28 spaces (conforming)

After the proposed construction:

eating & drinking	6351 sqft x 4.3 = 28 spaces
non-eating & drinking	3674 sqft x 2.1 = 8 spaces
total required	= 36 (non-conforming)

Over time, "transit oriented zone" applied to this area of Pacific Beach has become a misnomer. Since the transit zone concept was introduced, public bus service to this area has been reduced (bus line 81 is gone). Pacific Beach has virtually no bus service after midnight. Generally, the Shore Club clientele do not take the bus to their evening entertainment. They depend on cars and cars depend on parking.

The conclusion by staff, that valet parking (Transportation Demand Management program) will mitigate Shore Club parking impact, is problematic. While I can offer no conclusive evidence, my thirty years of observing traffic from my condo at Crystal Pier overlooking Garnet and the 710 Beach Club, suggests unanticipated consequences may exacerbate parking difficulties in the surrounding area.

1 Letters of Opposition 205

The western-most half block of Garnet Avenue dead-ends at the boardwalk and Crystal Pier. Here vehicles must make a U-turn, mixing with the boardwalk traffic of pedestrians, skateboards, bicycles, etc. Serious accidents are rare due to the slow speeds. The 710 Beach Club has no on-site parking, its once rear parking lot now occupied by a fenced storage yard and the Tower 23 Hotel. This half-block of Garnet, 710 Beach Club on the northside, our condo building on the south, has thirteen on-street, two hour parking spaces. A few of those precious spaces are regularly used by 710 Club employees. When the meter-maid chalks employees' tires, the employees come out, remove the chalk and/or trade parking spots with another employee parked on the other side of the street! Except on the busiest beach days, pay parking lots are available one block away. We cannot see the dead-end of Grand Avenue in front of the Shore Club, but the traffic pattern is similarly complex and convoluted.

The clientele of the Shore Club and the 710 Beach Club are similar, young with unrealistic attitudes of privilege and rights. A vocal group at a Pacific Beach planning committee claimed they had a constitutional right to drink alcohol on the beach. Such folk also believe they have the right to free parking even if it is in the driveways or on the lawns of Pacific Beach residents. Personally, since my mint 1963 Corvette was stolen and destroyed when parked by a valet at an exclusive Philadelphia restaurant, I have never, NEVER again turned my car over to a valet. Just try to get me to give my keys to valet at any of the nearby bars' parking lots where too many of the valets appear to be stoned.

Even on normal traffic days, most of the on-street parking is full. Rather than paying to park, people idle, double-parked on Garnet, often waiting many minutes for a space to open. Street blockage makes normal congestion worse as vehicles maneuver around the U-turn. Individuals with cell phones stand in a vacated space to block access until their friends arrive. Aggressive drivers attempt to out-manuever competitors when a space opens. Every week, we see intense verbal "parking space rage," although we cannot recall seeing any physical assaults over a parking space. Although the Pacific Beach parking mess can't hold a candle to massive freeway jams, we are sure dedicated environmentalists would lament the wastage of human time and added atmospheric contaminants.

Somewhere, somehow, this madness of over-expansion and over-saturation of alcohol outlets in Pacific Beach must stop. Governmental agencies charged with upholding laws and regulations protecting citizens from related crime and nuisances, including the issue of parking, have failed.

*Jon I. Fellers*

Jon I. Fellers

*F. Eleanor Fellers*

F. Eleanor Fellers

September 27, 2014

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

**Faulds Bookkeeping & Tax**

1380 Gamet Ave. #E280  
San Diego, CA 92109

RECEIVED

SEP 30 2014

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Re: Permit Number 6-12-061  
Grand & Strand LLC  
Hearing - 10/8/14 @ 9am

To Whom It May Concern:

As I am unable to attend the meeting that will be held in the City of Newport Beach on 10/8/14, I would like to provide my written statement with regard to my protest and this project.

I feel the community as a whole is being done a great disservice by not having this subject be reviewed here locally. The decision to hold this meeting several hours away keeps persons with a vested interest in this discussion - and there are many who would attend!

This proposed project takes place at the water's edge in the heart of Pacific Beach, a town that I have lived in or been a part of for 60 years. The previous operations were a fine dining establishment with a valet parking component. As years progressed, this property has changed from a dining establishment to a very popular late night destination with the problems that bring (and no valet parking).

Our coastal 'strip' and the lack of parking (public or private) is an increasing problem. The new addition of this establishment will impact the community, but even more problematic, the visitors. The area just cannot support the parking needs even before this project is added!

Please consider the entire block involved with this large expansion as it relates to the impact this will have on the community and visitors. Require stipulations that will enhance this block rather than destroy the beautiful coastline for years to come. I sincerely hope that in the review of this project the area north of Crystal Pier was observed. This area was an improvement that has made a difference!

Signed,

  
Diane Faulds

Fax - (619) 767-2384

PAGE 1 OF 2

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Agenda# W14a  
Permit# 6-12-061  
Scott Chipman  
OPPOSED

## San Diegans for Responsible Planning

To: California Coastal Commission

October 2, 2014

RE: Grand and Strand

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OCT 03 2014

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

The process of this development is a case study in how a coastal community can be abused by official agencies that are tasked with protecting communities and the coastal areas.

In this case the California ABC has allowed a dramatic expansion of a restaurant operating like a bar in the highest crime census track in the region in direct opposition to its own mission statement.

The city of San Diego initially rejected the project on multiple occasions as there was not sufficient parking in the plan. And the Land Development Code and the Community Plan, approved and endorsed by the coastal Commission, both have provisions that no project is allowed to reduce parking. It was clear to us who have served on the local planning group and followed development in this area, that after multiple conversations with the developers the city was somehow convinced to use the wrong parking table (for mixed use). The parking table for mixed use should not be used when the primary use is a food or beverage establishment. Instead, the parking table for restaurants should have been applied. This was not an inadvertent error. Concerned citizens repeatedly contacted the city's Development Services Department and received no response.

Next the Coastal Commission rubber stamped city staff's recommendation. There appears that there was no real investigation or questioning by the Coastal Commission of city staff as to what their original determination of parking was and how they were able to justify reversing that determination 180 degrees to not just require no additional parking but to require 3 less parking spaces.

Having showed this determination to a local land use expert consultant his response was, "This is serious. If this determination holds it will mean that any bar or restaurant could close down one of its parking spaces and make it a gift shop and be allowed to expand and reduce its parking."

This current decision doesn't pass the smell test. How can an establishment in a busy coastal zone expand capacity by 68% and be allowed to reduce parking by more than 10%? That "smell" should have increased the commission's curiosity and investigation

as well as their coming to a different conclusion about the amount of parking this project should require.

The staff report references the problems related to traffic and parking in this busy popular area but then ignores the idea that this expansion and reduction in parking might be inappropriate for the area. The staff report also cites an illegal unpermitted paid parking meter system that was to be removed before project approval. The report also cites that paid parking discourages use of the on-site parking. However, the report then somehow concludes that a paid valet parking system is the preferred method for solving the problem of inadequate parking. It needs to be understood that when parking is not available at the "bars" or on the nearby streets then that overflow parking ends up in the nearby residential neighborhoods. There is virtually nowhere in Pacific Beach that there aren't residences within 200' of the business district. Any problems associated with the business district at 11pm to 3 or 4 am become problems in the neighborhoods especially because of the business district overflowing its parking into these neighborhoods.

Another consideration that does not seem to have been addressed is employee parking. An investigation by Voice of San Diego, "The Bars That Can't Count," exposed that the PB Shore Club, while reporting they only have 3 employees for their BID taxes, actually have 70 employees (see attached). What is the plan for employee parking? The managers have commented that because of the serious crime (including high numbers of sexual assaults) in the area the management is concerned about forcing their female employees to park long distances away from their work place. Much of the "over flow" parking from late-night bar operations requires patrons (and employees) to park in the nearby neighborhoods. These poorly lit nearby neighborhoods are where many of the sexual assaults occur. With 20-30 employees per shift it is conceivable that most of the parking could be taken by employees. What is the Coastal Commission going to require to ensure that that does not happen?

Additionally, the fact that there has been a hearing on the valet parking seems to be an admission that the commission understands that the parking being provided is not adequate and is likely not consistent with the land development code and community plan. It is disappointing that a hearing was held without notifying approximately 60 interested parties. What is an interested party list for if not to notify those parties of hearings? This is of serious concern and adds to the public's opinion that the community has and is being abused by official agencies.

It is also disappointing that it took a lawsuit for the Coastal Commission to take another look at the parking. The valet program is a band aide to a serious injury to the community. We would hope you would look again at what you have done before institutionalizing this injury.

**Conclusion:**

There has been a serious mistake made in the parking calculations and this can set a precedent that will have the potential for multiple serious deviations from the policies

that are intended to protect coastal communities. The Coastal Commission report is internally inconsistent in its findings and should develop revised findings that match the information within report.

**Suggested Requirements:**

- **Review and revise the findings to be consistent with the parking problems identified within the staff report.**
- **Require an unpaid valet parking plan with 36 spaces for all business hours (this is the least that should be required)**
- **Require an employee parking plan that has an official rental agreement on where employees will park and how many spaces they will need by shift.**

Respectfully Submitted,

Scott Chipman  
San Diegans for Responsible Planning  
2247 Emerald St.  
San Diego, CA 92109  
619 990 7480

## The Bars That Can't Count in PB

Voice of San Diego; Posted: Thursday, February 23, 2012 3:30 pm

By Sandy Coronilla

[http://www.voiceofsandiego.org/this\\_just\\_in/article\\_139df81a-5e64-11e1-b6e7-001871e3ce6c.html](http://www.voiceofsandiego.org/this_just_in/article_139df81a-5e64-11e1-b6e7-001871e3ce6c.html)

Attachment: [http://www.voiceofsandiego.org/pdf\\_d1e8e69c-5e76-11e1-a093-001871e3ce6c.html](http://www.voiceofsandiego.org/pdf_d1e8e69c-5e76-11e1-a093-001871e3ce6c.html)

When the Pacific Beach Shore Club registered for its business license, it told the city of San Diego it had three employees.

The booming bar and restaurant, just steps from the beach, actually has 70.

With two full bars, 21 televisions, and wild midweek goldfish races, the Shore Club may employ just three janitors to clean up afterward. *There is no mistaking that this is a large beach ensemble, with plans to expand.*

By underreporting the number of employees on its business tax certificate, the Shore Club saved \$441 a year.

The beach area's business improvement district, Discover Pacific Beach, also assesses local businesses based partly on employee counts. The improvement district is currently more than \$20,000 in the red, making the annual \$90 the Shore Club shortchanged it a sweet, if small, stash of cash.

The figure might be pocket change for most businesses but it puts owner Doug Sodomowicz in a tough spot.

He sits on the board of Discover Pacific Beach, and is specifically tasked with bringing about an increase in the economic well-being of residents, employees and businesses.

Last month we wrote about problems in the Discover Pacific Beach organization uncovered by a city audit, including the underreporting of employees in a number of local businesses.

Now, we've received the list of 23 businesses. Current and former board members' businesses accounted for more than half of the six-fold increase in employees discovered by the audit.

Sodomowicz isn't alone. The board's president, Eric Lingenfelder, oversees Tavern by the Beach and Brewley's Pint, which reported a total of 20 employees but actually have 69. Todd Brown's Bub's Dive Bar reported four but actually has 50; he's the board's former vice president.

In essence, by understating their employee counts, the three board members shorted the city out of business tax fees (a total of \$1,133), and their own business improvement district out of assessments designed to help improve conditions in the district (a total of \$450).

The total sums aren't large, but they show how, up until last year, employee counts were entirely dependent on the honor system.

There are two ways in which underreporting of employees are detrimental to the city's finances and to the improvement districts themselves.

Businesses pay fees to the city based on their employee counts. Small businesses with 12 employees or fewer pay a small flat rate of \$34, while those with 13 or more pay a \$125 flat fee plus an additional \$5 per employee. Any employee working less than 10 hours weekly is not counted.

Businesses in improvement districts also assess themselves based partly on employee counts. The city auditor's investigation, which was sparked by a whistleblower complaint, only looked into 23 of the more than 1,200 businesses included within Pacific Beach's improvement district.

Bars by the beach are big business.

It's no small feat getting small business owners to talk on the record in Pacific Beach.

Lingenfelder, Sodomowicz and Brown all didn't respond to numerous attempts for comment.

Within the district, there's a rift between alcohol and entertainment-related businesses and small businesses and residents who claim the community is struggling with high crime rates due to drunken fights and residential burglaries. Some business owners complain that bars and restaurants run the business district.

Discover Pacific Beach Executive Director Sara Berns says small businesses like retail don't have the time, or the people resources to get involved in the improvement district. They're in the thick of running their businesses daily and don't have many employees to designate as representatives for community involvement.

This results in an abundance of representation in Discover Pacific Beach by bars, restaurants and resorts.

Crystal Pier Hotel owner Bill Allen says he's simply too old now to deal with the absurdity going on in the improvement district, but he was willing to go on the record.

Allen, whose family has owned the hotel for half a century, says Pacific Beach has been going downhill for the past 10 years. He blames neighborhood bars, especially Shore Club, which is a block away from his hotel. Allen says bars in the area make enormous amounts of money by over-serving alcohol to patrons. Rowdy and inebriated, beachgoers have even caused Allen to have to comp rooms in his hotel because of guest complaints.

"They have no respect for the citizens in this community," Allen said. "They're the kind of people you just want to hit 'delete' and have them out of your life."

Sandy Coronilla reports on local government and education for [voiceofsandiego.org](http://voiceofsandiego.org). She is on the Armen E. Keteyian Scholarship for Investigative Reporting. You can contact her directly at [sandy.coronilla@voiceofsandiego.org](mailto:sandy.coronilla@voiceofsandiego.org) or 619.325.0528.

RECEIVED

OCT 03 2014

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Agenda # W14a  
Permit # 6-12-061  
Marcie Beckett  
OPPOSED

Date: October 3, 2014  
From: Marcie Beckett, 4110 Bayard Street, San Diego CA 92019  
To: California Coastal Commissioners

Re: Grand & Strand LLC (PB Shore Club), Coastal Commission Hearing, October 8, 2014

Dear Commissioners,

**PB Shore Club should be required to offer FREE valet parking in order to maximize utilization of its parking lot and reduce the negative impacts caused by patrons parking in the nearby residential neighborhoods.** Other nearby restaurants offer free valet parking (see evidence below).

**PB Shore Club should be required to offer 36 spaces of free valet parking to its customers at ALL times that the PB Shore Club is open for business.** The City applied the wrong parking requirement and you went along with the City's mistake. The result is a restaurant expanding its occupancy by 68% and its square footage by 43%, yet reducing its parking from 29 to 26 spaces, and certainly not providing the 36 spaces that the land development code actually requires for a restaurant of this size. If the proper code had been applied, this restaurant would have to provide 36 parking spaces all the time, therefore, the 36 valet parking spaces should be provided at all the times the PB Shore Club is open for business.

#### Survey of Valet Parking at Pacific Beach Restaurants

On June 18, 2014, I surveyed Pacific Beach restaurants that provide valet parking and found that two near the PB Shore Club offer free valet parking and three others offer \$3 valet parking.

#### **Summary:**

1. American Firehouse Eatery has **free valet parking** (722 Grand Avenue, across street from PB Shore Club)
2. JRDN Restaurant has **free valet parking** (723 Felspar Street, ocean front, 3 blocks from PB Shore Club)
3. World Famous has **\$3 valet parking** (711 Pacific Beach Drive, ocean front, 4 blocks from PB Shore Club)
4. The Patio has **\$3 valet parking** (4445 Lamont Street, 1 mile from PB Shore Club)
5. Mizu Sushi in Mission Beach has **\$3 valet parking** (850 W. Mission Bay Drive, 1.5 miles from PB Shore Club)

#### **Evidence:**

1. American Firehouse Eatery has free valet parking (722 Grand Avenue, across street from PB Shore Club) (2 hours of complimentary (free) valet parking for customers).



Online Search: Amercian Firehouse Eatery Valet (excerpts)

1. Firehouse American Eatery - **Pacific Beach** - San Diego, CA ...

[www.yelp.com](http://www.yelp.com) › Restaurants › American (Traditional)

Rating: 3.5 - 538 reviews - Price range: \$\$

Totally appreciated the **FREE valet parking** in this area, that was a nice perk. ... not care what locals think of their **restaurant** due to their proximity to the **beach**.

2. JRDN Restaurant has free valet parking (723 Felspar Street, ocean front, 3 blocks from PB Shore Club) (3 hours of free valet parking for customers).

Online Search: Pacific Beach restaurants with valet parking (excerpts)

1. JRDN - **Pacific Beach** - San Diego, CA | Yelp

[www.yelp.com](http://www.yelp.com) › Nightlife › Bars

Rating: 4 - 581 reviews - Price range: \$\$\$

Validated **valet parking** for up to 3 hours enables you to take a little ... that I am, I hate eating in **Pacific Beach** as there are no **restaurants** that look interesting ..

1. JRDN Restaurant - San Diego, CA | OpenTable

[www.opentable.com](http://www.opentable.com) › ... › Pacific Beach restaurants

Rating: 4.2 - 128 reviews - Price range: \$31 to \$50

Parking: Valet; Parking Details: Our parking garage offers **valet parking**. Upon dining ... JRDN Restaurant - Best **Restaurants** in **Pacific Beach**. Diner Reviews.

3. **World Famous has \$3 valet parking (711 Pacific Beach Drive, ocean front, 4 blocks from PB Shore Club) (\$3 valet parking for customers, 2-hour limit).**



Online Search: World Famous Pacific Beach Valet

1. **World Famous Restaurant - San Diego, CA | OpenTable**

[www.opentable.com](http://www.opentable.com) > ... > Pacific Beach restaurants

Rating: 4.3 - 55 reviews - Price range: \$30 and under

**World Famous - Best Restaurants in Pacific Beach** .... The valet parking was a plus as down in that area finding parking is always a challenge!..we will certainly ...

2. **World Famous is our favorite Pacific Beach restaurant ...**

[www.tripadvisor.com](http://www.tripadvisor.com) > ... > World Famous

Rating: 5 - Review by a TripAdvisor user - Jul 24, 2011

**World Famous is our favorite Pacific Beach restaurant.** .... They have Valet Parking (which is key in this area), a lively fun atmosphere and excellent food.

4. **The Patio has \$3 valet parking (4445 Lamont Street, 1 mile from PB Shore Club) (\$3 valet parking for customers).**

Online Search: Pacific Beach restaurants with valet parking (excerpts)

1. **The Patio - Pacific Beach - San Diego, CA | Yelp**

[www.yelp.com](http://www.yelp.com) > Restaurants > Breakfast & Brunch

Rating: 4 - 545 reviews - Price range: \$\$

The only downside is the lack of parking, but that is expected in crowded PB. ...

\$3 valet and think it's worth it so you're not cruising around looking for parking or ...

**5. Mizu Sushi in Mission Beach has \$3 valet parking (850 W. Mission Bay Drive, 1.5 miles from PB Shore Club)**

Online Search: Pacific Beach restaurants with valet parking (excerpts)

**3. Mission Beach Restaurants and Places to Eat**

[www.socalbeachmag.net/beachrestaurants/missionbeachrestaurants.html](http://www.socalbeachmag.net/beachrestaurants/missionbeachrestaurants.html)

Mizu Sushi is the best sushi **restaurant** in **Mission Beach** with the best **dining ... Valet parking** out front is \$3.00 and reservations are nice but not necessary. ... Shoot some pool, play darts, dance, eat or watch a ball game at the **most popular**

Sincerely,



Marcie Beckett  
4110 Bayard Street  
San Diego CA 92109

RECEIVED

OCT 03 2014

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Agenda Item 14a  
Permit Number 6-12-061  
San Diegans for Responsible Planning  
Opposed to Permit

KEVIN K. JOHNSON, APLC

KEVIN K. JOHNSON  
JEANNE L. MacKINNON  
HEIDI E. BROWN

A PROFESSIONAL LAW CORPORATION  
ATTORNEYS AT LAW  
600 WEST BROADWAY, SUITE 225  
SAN DIEGO, CALIFORNIA 92101

TELEPHONE (619) 696-6211  
FAX (619) 696-7516

October 3, 2014

**VIA HAND DELIVERY**

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

Re: Permit Number 6-12-061  
Our file no.: SAV. 806

Dear Members of the California Coastal Commission:

This firm represents San Diegans for Responsible Planning. The revised findings and conditions are internally inconsistent and are not specific enough to ensure that a valet program will be effective.

The findings, for example, conclude that charging for parking can deter customers from actually parking on the premises. Accordingly, they should specifically provide that the Shore Club cannot charge for valet parking.

In addition, the valet parking service should be offered year around and during all hours that the business is open. The valet should be specifically required to confirm that individuals parking their vehicles are customers of the Shore Club or another business on site.

October 3, 2014

Further, employees should not be allowed to park on site and there should be convenient off site parking for the employees.

The valet program should be required to provide a parking space equivalency of 36 spaces, the number of spaces required by a properly interpreted San Diego Municipal Code.

Thank you for your attention to these matters.

Very truly yours,  
**KEVIN K. JOHNSON, APLC**

A handwritten signature in blue ink that reads "Kevin K. Johnson" followed by a stylized flourish.

Kevin K. Johnson

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370



# W14a

Staff: A. Llerandi-SD  
Staff Report: 9/17/14  
Hearing Date: 10/8-10/14

## REVISED CONDITIONS AND FINDINGS

**Application No.:** 6-12-061

**Applicant:** Grand & Strand, LLC

**Agent:** Architect Mark D. Lyon, Inc.

**Location:** 4315 Ocean Boulevard, Pacific Beach, San Diego,  
San Diego County (APN No. 423-111-1600)

**Project Description:** Construct a 1,895 square foot second-floor outdoor dining patio with glass siding and removal of an unpermitted automated payment machine and signage at an existing mixed-use building.

**Staff Recommendation:** Approval with Conditions

---

## STAFF NOTES

Staff recommends the Commission adopt the following revised findings in support of the Commission's action on July 11, 2013. In its action, the Commission approved the permit with the addition of Special Condition No. 4, which requires a Transportation Demand Management program that includes implementation of an on-site valet parking program and installation of additional bicycle racks. The amended motion begins on Page 4. The addition of Special Condition No. 4 begins on Page 5. Findings to support this modification can be found starting on Page 10.

Commissioners on Prevailing Side: Bochco, Brennan, Garcia, Kinsey, McClure, Mitchell, Vargas, and Zimmer, and Chair Shallenberger

The Commission originally approved these revised findings on February 13, 2014. The San Diego Superior Court has directed the Commission to hold a new public hearing on

the revised findings because the Commission did not provide adequate public notice for the original hearing on the revised findings.

**SUMMARY OF COMMISSION ACTION**  
**SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending approval of this project, with conditions. The proposed project is to construct a 1,895 square foot second-floor outdoor dining patio with glass siding and removal of an unpermitted automated payment machine and signage from the adjacent parking lot. The project site is the PB Shore Club bar and restaurant, an existing restaurant in a two-story mixed-use building (with first floor visitor commercial retail), located at the corner of Ocean Boulevard and Grand Avenue, adjacent to the Pacific Beach boardwalk and beach.

The proposed project raises issues of intensity of use and parking, visual impacts, biological resource impacts, and community character. Intensity of use and parking issues arise due to potential for increased dining space to affect traffic and parking in the surrounding area. Visual resource issues arise due to project site's proximity to the beach and the fact that the proposed dining patio will obstruct some ocean views from a public alleyway. Biological resource issues arise due to the risk of bird-strike from the placement of glass paneling in a previously unobstructed visual area. Community character issues arise from the expansion of late-night dining in a popular and developed tourist area.

~~Recommended~~ Special conditions include requiring the applicant to adhere to final construction plans so as limit impacts to views and birds, and timely adherence to permit conditions so as to remove the unpermitted development and mitigate impacts to public access, and implementation of a Transportation Demand Management program to maximize utilization of the on-site parking lot through use of an on-site valet parking program during peak use periods and installation of additional bicycle racks. The Commission added the condition requiring the furnishing of on-site valet parking in recognition of the location of the subject property adjacent to a popular beach and boardwalk area and the fact that maximizing on-site parking efficiency would help address potential parking impacts to the surrounding area.

Commission staff recommends ~~approval of~~ coastal development permit amendment 6-12-061, as conditioned.

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**EXHIBITS**

- Exhibit 1 – Location Map
- Exhibit 2 – Aerial View
- Exhibit 3 – Current Site Photo
- Exhibit 4 – Rendering of Rear Patio
- Exhibit 5 – Rendering of Front Patio
- Exhibit 6 – Transcript of July 13, 2013 Hearing

## I. MOTION AND RESOLUTION

### **Motion:**

*I move that the Commission adopt the revised findings in support of the Commission's action on July 11, 2013, concerning approval of Coastal Development Permit No. 6-13-061.*

Staff recommends a YES vote. Passage of this motion will result in adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members of 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 Bochco, Brennan, Garcia, Kinsey, McClure, Mitchell, Vargas, Zimmer, and Chair Shallenberger

### **Resolution:**

*The Commission hereby adopts the revised findings set forth below for Coastal Development Permit No. 6-12-061 on the ground that the findings support the Commission's decision made on July 11, 2013, and accurately reflect the reasons for it.*

### **Motion:**

*I move that the Commission **approve** Coastal Development Permit No. 6-12-061 pursuant to staff recommendation.*

~~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:**

~~*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

This permit is granted subject to the following 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 applicant 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 of 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

## III. SPECIAL CONDITIONS

The permit is subject to the following conditions:

1. **Final Plans.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final project and BMP plans. Said plans shall be in substantial conformance with the plans drafted by Architect Mark D. Lyon, Inc. and submitted by Justine Nielson on May 17, 2013.

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

2. **Condition Compliance.** WITHIN 60 DAYS OF COMMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions of the subject permit that the applicant is required to satisfy prior to issuance of this permit.

3. **Automated Payment Machine Condition Compliance.** WITHIN 30 DAYS OF COMMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence that all unpermitted existing pay machine(s) and related signage have been removed. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.
  
4. **Transportation Demand Management (TDM) Program.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit a Transportation Demand Management Program to the Executive Director for review and written approval. Said program shall include, at a minimum, the following provisions:
  - a. Provision of on-site valet service that will facilitate maximum parking efficiency while not deterring use of on-site parking by patrons, subject to a plan that has been reviewed and approved by the City of San Diego;
  
  - b. Provision of on-site bike racks available to the general public.

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

#### **IV. FINDINGS AND DECLARATIONS**

##### **A. PROJECT DESCRIPTION/HISTORY.**

The proposed project is to construct a 1,895 square foot second-floor outdoor dining patio with glass siding and removal of an unpermitted automated payment machine and signage from the on-site parking lot. The project site is the PB Shore Club bar and restaurant, an existing 4,456 square foot restaurant in a two-story, 23'1" high mixed-use building, with the restaurant situated on the second floor and a 3,283 square foot visitor retail business on the first floor. Adjacent to the mixed-use building on the same lot is a small, one story, 391 square foot visitor commercial beach equipment rental business. The proposed second-floor dining patio would be located outside of and connected to the restaurant on the south while being supported by ground-floor columns. The subject lot is located at the southeast corner of Ocean Boulevard and Grand Avenue, adjacent to the Pacific Beach boardwalk and beach.

The PB Shore Club is located in Pacific Beach, a popular beach community within the City of San Diego, just a few blocks west of Mission Boulevard, the main north-south coastal access route through this area. Adjacent to the PB Shore Club is the Pacific Beach boardwalk and the sandy beach. These areas are popular destinations with both locals and tourists, and during the summer tourist season the volume of usage of the area is very high, with bikers and pedestrians passing through the area in addition to drivers parking nearby or unloading passengers. The San Diego Lifeguard Services have a regional station building located across the boardwalk from PB Shore Club from which they organize their patrols, monitor the beach, and provide medical services. Due to its location, the PB Shore Club is a high priority visitor serving use on an oceanfronting site adjacent to the beach and a popular tourist destination, and consistently sees high public usage throughout the year.

The project site is located in an area of original jurisdiction of the Coastal Commission, as such, the standard of review for the proposed development is Chapter 3 of the Coastal Act, with the City of San Diego's certified LCP used as guidance.

##### **B. PUBLIC ACCESS/PARKING.**

The following Coastal Act policies are most pertinent to this issue, and state in part:

Section 30210 of the Coastal Act states:

*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 of the Coastal Act states:

*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 of the Coastal Act states, in part:

- (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. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

[...]

- (c) *Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

Section 30213 of the Coastal Act states, in part:

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

[...]

Section 30604 of the Coastal Act states, in part:

[...]

- (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 PB Shore Club is located at the corner of Grand Avenue and Ocean Boulevard, where Grand Avenue ends at the Pacific Beach boardwalk and life guard station. The area is used heavily by the public, both local and tourist, for beach access and viewing.

High volumes of pedestrians, bikers, skate boarders, and vehicles come to the area to either pass through, visit the beach, or to drop off/pick up passengers. Public space and public parking are at a premium, with demand usually outstripping supply.

Additionally, the Pacific Beach area in general has long experienced issues related to providing sufficient parking to both public and private uses. Many businesses in the Pacific Beach area are previously conforming regarding parking ratios, and some rent spaces from nearby businesses that have excess parking, though the opportunities for that are rare. The surrounding residential streets experience high levels of visitor parking as people either cannot find parking by the beach or wish to avoid paid parking, and thus park in front of the homes and walk to the beach area.

The Pacific Beach Community Plan, the certified LUP for the area, general identifies the area within three blocks of the water, which includes the project site, as being within the “Beach Impact Area” (BIA) of the City of San Diego’s certified LCP. The City’s LCP in turn defines the BIA as being part of the Parking Impact Overlay Zone, which is designed to provide supplemental parking regulations for specified coastal, beach, and campus areas that have parking impacts. The project site is also located within the certified LCP’s Transit Overlay Zone, the purpose of which is to provide supplemental parking regulations for areas receiving high levels of transit service.

The Pacific Beach Community Plan has several provisions allowing alternative parking ratios for development located within transit oriented areas. The Community Plan states that for development in the coastal zone, development shall provide parking in accordance with Appendix I of this plan, unless developed as a transit-oriented development through a discretionary process. The Community Plan goes on to delineate some of the standards that signify a transit-oriented development, including, but not limited to: minimizing building setbacks, bringing buildings close to sidewalks; located parking to the rear of lots, off of the alleys; articulate building facades to provide variety and interest through arcades, porches, bays, and particularly balconies, which minimize a walled effect and promote activity on the street; promote activity on balconies through such means as outdoor seating for restaurants, orient primary commercial building entrances to the pedestrian-oriented street, as opposed to parking lots, provide bicycle racks, etc. The existing and proposed development contains a majority of these features and thus promotes a pedestrian and transit-oriented character.

Currently, the project site has 29 off-street parking spaces located in an on-site parking lot for use by the patrons of the mixed use building and neighboring commercial beach rental business located in the adjacent parking lot. These 29 parking spaces currently meet and exceed the certified LCP’s parking requirements and thus are not non-conforming. Due to the placement of support structures for the second floor outdoor patio and bringing the parking lot up to compliance with the Americans with Disabilities Act, the total number of parking spaces will drop from 29 to 26 upon completion of the project. These spaces serve the mixed-use building containing the PB Shore Club and first-floor retail as well as a separate beach equipment rental store also located on the lot.

Currently the mixed-use building has 4,456 square feet of restaurant use (the PB Shore Club) and 3,283 square feet of retail. The separate beach equipment rental store is 391 square feet. The City's Land Development Code, the certified IP for its LCP, lists the parking ratios required of non-residential uses in Section 142.0530. Table 142-05D of that section establishes the required ratios for retail sales, commercial service, and mixed-use developments in a single structure that include an allowed use from at least two of the following categories: retail sales, commercial services, and offices. The project site is zoned as CV-1-2 (Commercial Visitor), which, in the Transit Overlay Zone, has a required parking ratio of 2.1 parking spaces for every 1,000 square feet of floor area in a mixed-used building. Applying the regulatory ratio to the existing square footage, the existing development is required to provide 17 parking spaces, while the proposed square footage of the outdoor dining patio will require an additional 4 parking spaces, for a total of 21 parking spaces. This number is below the 26 spaces the applicant will offer once the proposed development is completed. Thus, adequate on-site parking will be provided for the proposed development.

While the subject property has an on-site parking lot with sufficient parking to support the proposed development under the certified LCP, the popularity of the Pacific Beach community with beachgoers and other visitors highlights the need to ensure that parking impacts to the surrounding area are minimized and alternative transportation options are encouraged. Valet parking is an effective method for maximizing on-site parking due to the greater parking density and efficiency that can be achieved for a given space under such programs. For example, the valet parking attendants can use the space behind each parking space, which is usually left vacant to permit drivers to back out of the parking space, to park additional cars. Thus, the implementation of such a program, especially for a site located directly adjacent to the beach and boardwalk, during the busiest periods of the weekends, holidays, and summer, would allow the applicant to park more vehicles on site than the proposed 26 parking spaces. In requiring such an on-site valet program, the Commission's intent is to make achieving such parking efficiency a common occurrence and to ensure the valet parking program is structured in such a way, in regards to cost and timing, as to not deter patrons from making use of it. For example, while the Commission believes the use of valet parking can maximize parking supply, fees for valet parking can also deter patrons from utilizing the on-site parking and thus lead to off-site parking impacts.

Additionally, because the community of Pacific Beach is relatively flat and the subject property is located adjacent to the boardwalk and close to local transit, biking is already a popular method of travel for visitors and residents alike. Currently, public bike racks exist in the local surrounding area and are heavily used by visitors, sometimes beyond capacity. The provision of additional bike racks on the subject property would further encourage alternative transportation to the subject property and surrounding area.

In addition to meeting applicable parking ratios, the applicant is proposing removal of an unpermitted automated payment machine and related signage from the on-site parking lot. The automated payment machine and signage advertised public beach parking for an hourly rate, regardless of whether the person was patronizing the commercial establishments. In addition to being unpermitted, the applicant was told that such usage

of the on-site parking lot was counter to the intent and requirements of applicable parking ratios. Parking ratios are provided for in land use regulations because various types of development can be anticipated to need various amounts of parking spaces in order to service employees, patrons, and deliveries. Municipalities encourage sufficient off-street parking so as to mitigate traffic and parking impacts to surrounding businesses and residences. When a development sells its parking for purposes other than those related to the permitted business, there is no longer an assurance that the parking needs of the business will be met by the supply of on-site parking. This in turn can lead patrons, employees, and deliveries to then park in public spaces, adding to traffic congestion and displacing members of the public who wish to access the coast and park in free public parking. By removing the unpermitted payment machine and signage, as proposed with this application, these adverse impacts to public access are avoided.

To ensure that the applicant conducts development in a manner consistent with these findings, **Special Condition No. 1** requires the applicant to adhere to final plans that are in substantial conformance with the plans approved by the Commission as part of this application submittal. **Special Condition No. 4** requires the applicant to implement a Traffic Demand Management program that utilizes on-site valet parking and bike racks in a manner that encourages their use by patrons so as to minimize parking impacts to the surrounding community by maximizing on-site placement of vehicles and encouraging alternative methods of transportation.

In summary, the Commission finds the proposed outdoor dining patio and removal of the unpermitted automated payment machine will not result in adverse impacts to coastal access. Parking will remain adequate for approved uses. Therefore, the Commission finds that all access and resource concerns associated solely with development approved herein are adequately addressed, and that the proposed development, as conditioned, is consistent with the cited policies of the Coastal Act.

### **C. VISUAL RESOURCES/COMMUNITY CHARACTER**

Section 30251 of the Act addresses scenic and visual qualities, and states, in part:

*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 public views to and along the ocean and scenic coastal areas and, where feasible, to restore and enhance visual quality in visually degraded areas...*

The PB Shore Club is a second-floor restaurant located in a two-story mixed-use building at the southeast corner of Grand Avenue and Ocean Boulevard. Adjacent to and west of the building is the Pacific Beach boardwalk and the beach beyond. The restaurant itself faces to the west and north, giving patrons inside close and direct views to and along the boardwalk and beach. The purpose of the proposed project is to create a second-floor outdoor dining patio to further expand ocean view dining capacity.

The outdoor patio is proposed to be built in the open space to the south of the mixed use building between the PB Shore Club and the neighboring two-story building (currently a Joe's Crab Shack restaurant), supported by columns over existing ground floor parking spaces. Currently, this area is part of the open air, at-grade parking lot for patrons of the mixed-use building, and provides a 36 foot, seven inch wide view corridor to the beach from the public alleyway to the east of the property. This alleyway is used by the public to walk, bike, or drive through the area while looking for parking or to access some of the restaurants and hotels in the area.

In order to gain local approval for the proposed dining patio, the applicant had to obtain an Alcohol Beverage Control (ABC) license, Condition No. 8 of which prohibits any internal sound system used by the restaurant from being audible 50 feet outside the premises in all directions. As such, the applicant originally proposed installing glass paneling only in the front of the dining patio, to give patrons ocean views, while installing a solid wall in the rear of the patio so as to help meet the ABC license's noise condition. While the Commission may consider noise impacts if noise from the proposed development will have an impact on coastal resources, the Commission's purview of noise impacts does not extend to noise impacts on the human population. In this case, the noise wall is not proposed as mitigation for impacts on coastal resources but rather mitigation for noise impacts on the human population. Thus, the Commission's main concern with the proposed noise wall involves mitigating the wall's impacts on visual resources, not mitigation of noise impacts. Because of the impacts to public views of the ocean, Commission staff held discussions with the applicant to consider alternative designs. Thus, the applicant is now proposing installation of 6-foot high glass panels on a 2-foot high wooden base along the rear of the dining patio, in addition to the glass paneling being installed in the front of the patio. This will mitigate impacts to public visual views by preserving more of the "open sky" view presently available across the premises and lessen the walling off effect on the boardwalk area. Furthermore, the applicant also revised the structural design of the ground floor support columns to utilize stronger, denser (and thus thinner) material so as to allow more see-through across the ground floor parking lot.

In relation to the surrounding community character, this stretch of the Pacific Beach boardwalk, as is almost the entirety of the boardwalk, is fully developed with visitor serving retail, commercial, and lodging of comparative size and scope. In addition to neighboring bars and restaurants, the boardwalk is home to multiple beach cottage rentals, motels, beach equipment rental facilities, retail establishments. The expanded size and make-up of the PB Shore Club after construction of the outdoor dining patio will be similar to other nearby establishments that offer outdoor dining with ocean views.

**Special Condition No. 1** ensures the implementation of these mitigating measures by requiring the applicant to submit final plans in substantial conformance with those approved by the Commission in the submitted application. In summary, the Commission finds that the construction of the second-floor outdoor dining patio as proposed will not result in substantial adverse impacts to public views across the site. The use of alternative materials such as glass paneling and denser, thinner support beams will maximize the amount of light and views through the site that can occur. Therefore, the

Commission finds the proposed development, as conditioned, consisted with Chapter 3 of the Coastal Act.

#### **D. BIOLOGICAL RESOURCES**

Section 30240 of the Coastal Act states:

[...]

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The PB Shore Club is a second-floor restaurant located in a two-story mixed-use building at the southeast corner of Grand Avenue and Ocean Boulevard. Adjacent to and west of the building is the Pacific Beach boardwalk and the beach beyond. The restaurant itself faces to the west and north, giving patrons close and direct views to and along the boardwalk and beach. The purpose of the proposed project is to create a second-floor outdoor dining patio to further expand ocean view dining capacity.

While the beach by the PB Shore Club is not designated as sensitive habitat for any particular bird species, the area does contain a significant number of birds of various types due to the presence of ocean, sand, and food – man-made or otherwise – in such close proximity. The proposed glass walls and railings at this oceanfront location raise concerns related to the risk of bird strikes to the walls and railings. Glass walls are known to have adverse impacts upon a variety of bird species; birds can strike glass walls, causing their death or stunning them, exposing them to further hazards. Birds strike the glass because they either do not see the glass or there is some type of reflection on the glass that attracts the birds (such as the reflections of trees, bushes, or water). Some type of treatment that reduces the potential for bird strikes is typically required when glass walls are allowed on oceanfront locations.

After discussion with Commission staff, the applicant is now proposing the installation of UV glass along the front and rear of the outdoor dining patio. Because birds are able to see light in the ultraviolet wavelength while humans cannot, the UV glass being proposed has a patterned, UV reflective coating which is visible to birds while invisible to the human eye. This is a superior alternative to other bird strike measures, such as stickers, because it has come to the Commission's attention that stickers have a tendency to fall off from glass walls over time due to exposure to the elements. Furthermore, the use of stickers is difficult for Commission staff to enforce on a consistent basis.

To ensure that the applicant constructs the proposed development in conformance with approved methods, **Special Condition No. 1** requires the applicant to submit and adhere to revised final construction and site plans that are in substantial conformance with Commission-approved plans. Thus, as proposed and conditioned, impacts to water

quality are avoided or mitigated and the proposed project can be found in conformance with the policies of Chapter 3 of the Coastal Act.

#### **E. UNPERMITTED DEVELOPMENT**

Development has occurred on the subject site without required coastal development permits, including, but not limited to, installation of an automated payment machine and related signage in the on-site parking lot. After discussion with Commission staff, the applicant is now proposing with this application to remove the unpermitted development. To ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition No. 2** requires that the applicant satisfy all conditions of its permit that are prerequisite to the issuance of this permit within 60 days of Commission action, or within such additional time as the Executive Director may grant for good cause. **Special Condition No. 3** requires that the applicant remove all unpermitted pay machines and related signage within 30 days of Commission action so as to ameliorate the unpermitted parking situation in a timely manner.

Although development occurred prior to the submission of the 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 these permit applications does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject sites without a coastal permit.

#### **F. LOCAL COASTAL PLANNING**

Section 30604(a) requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The City of San Diego has a certified LCP and issues permits for development in its area of jurisdiction. However, the subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act as well as with the certified LCP which the Commission uses as guidance in this area. Approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Pacific Beach community.

#### **G. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The City of San Diego is the lead agency for purposes of CEQA review for this project, and the Coastal Commission is a responsible agency. 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 and visual quality, 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.





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SEE 1248 MAP

RAND McNALLY

EXHIBIT NO. 1  
 APPLICATION NO.  
**6-12-061**  
 Location Map



4315 Ocean Blvd, San Diego, CA 92109, USA

Mission Blvd

Thomas Ave

Grand Ave

Ocean Blvd

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EXHIBIT NO. 2  
APPLICATION NO.  
**6-12-061**  
Aerial View



EXHIBIT NO. 3  
APPLICATION NO.  
**6-12-061**  
Current Site Photo



N.T.S.

ED ALLEY VIEW (REAR) REVISED 5/16/2013

EXHIBIT NO. 4  
APPLICATION NO.  
**6-12-061**  
Rendering of Real



BOARDWALK VIEW (FRONT) REVISED 5/16/2013

N.T.S.

EXHIBIT NO. 5  
APPLICATION NO.  
**6-12-061**  
Rendering of Front

CALIFORNIA COASTAL COMMISSION

JULY 2013 AGENDA (PARTIAL)  
CITY OF VENTURA  
CITY HALL - COUNCIL CHAMBERS  
501 Poli Street  
Ventura, California 93011

July 11, 2013

REPORTER'S TRANSCRIPT OF PROCEEDINGS:

Application No. 6-12-061 (Grand & Strand, LLC, San Diego)  
[ADDENDUM] Application of Grand & Strand, LLC to  
construct 1,895 sq.ft. second-floor outdoor deck addition  
to existing restaurant and remove unpermitted automated  
parking payment machine and associated signs, at 4315  
Ocean Blvd., Pacific Beach, San Diego, San Diego County.

Reported By: Antonia Sueoka, RPR, CSR No. 9007  
(Transcribed From Digital Recording.)

EXHIBIT NO. 6
APPLICATION NO. <b>6-12-061</b>
July 13, 2013 Transcript
 California Coastal Commission

1 VENTURA, CALIFORNIA, JULY 11, 2013

2 - - -

3 MS. SARB: And that takes us to Item 17B, and I  
4 do have a PowerPoint on this item, please.

5 This is Permit Number 6-12-61. The applicant is  
6 Grand & Strand. There is an addendum that includes  
7 several letters of support for this item and a number of  
8 letters of opposition, and then there's been some  
9 additional letters of support and opposition distributed  
10 to you today.

11 This -- slide one shows -- this is the  
12 construction of an 1895-square-foot outdoor second-floor  
13 dining patio attached to an existing second-floor  
14 restaurant known as the PB Shore Club. And this site is  
15 located at the boardwalk in Pacific Beach at the terminus  
16 of Grand Avenue, which is a major coastal access route.

17 This is a very popular visitor serving  
18 destination. The site is designated as Zone CV for  
19 commercial visitor/tourist-oriented uses, and, as I said,  
20 it's immediately adjacent to the boardwalk and the beach.

21 The existing restaurant is on the left -- this  
22 slide is taken from the boardwalk looking east -- is  
23 4,456 square feet on the top floor, and there's a  
24 3200-square-foot visitor serving retail use on the bottom  
25 floor, and there's also a 391-square-foot beach equipment

1 rental business on this site.

2 I'm going to go back to this slide and show that  
3 the alley adjacent to the project is here, and then  
4 Mission Boulevard is here, and it's a major coastal  
5 access route in this area.

6 Again, this is a view looking east where the --  
7 the deck will be constructed across here.

8 And this is a view taken from the alley where it  
9 shows that the deck will be here. The staff is concerned  
10 about maintaining the openness of this area. This is not  
11 a white water view, but there is a horizontal view of the  
12 ocean here. There is also not a direct view to the ocean  
13 from Mission Boulevard, which is further inland of this  
14 site. And, again, that is the major coastal access route  
15 in this area.

16 This is a view again looking west that shows the  
17 rendering of the patio. It's taken from the alley, and  
18 you'll see through this opening you can see -- through  
19 the open -- well, hold on.

20 Oh, I'm sorry.

21 This is the rendering of the patio, and you'll  
22 see the glass paneling that allows the patrons to look  
23 out over the beach towards the ocean. This is looking  
24 east.

25 And then this is a slide, again, of a rendering

1 looking west from the alley. Working with Commission  
2 staff, the applicant replaced the original solid rear  
3 wall with glass panels so -- to -- it could preserve more  
4 of the open sky view of the corridor and allow more  
5 natural light to shine through.

6 The first floor supports where narrowed in width  
7 so as to minimize the impacts to see through from the  
8 public alley toward -- towards the ocean. And these  
9 panels are also proposed with UV reflective coating.  
10 This is visible by birds but not by humans, and that's to  
11 help prevent bird strikes.

12 Staff is recommending approval of the project  
13 with conditions. Again, I draw your attention to the  
14 addendum and the letters of opposition. They are  
15 primarily due to the type of clientele that is drawn to  
16 this beach-front area given the number of successful  
17 alcohol-serving restaurants that are there, and from our  
18 perspective, this is a priority use of ocean front land.  
19 It is consistent with the commercial visitor zoning. Use  
20 of alcoholic beverages are not regulated by the  
21 Commission.

22 The parking is also raised as a concern, and  
23 that was something that was closely reviewed by staff.  
24 The City of San Diego LCP provides a transit overlay zone  
25 in this area due to the proximity to Mission Boulevard,

1 which is served by transit.

2 The existing mixed-use development meets the  
3 criteria for pedestrian orientation to allow the  
4 application of the overlay parking standards, which are  
5 2.1 spaces for every 1,000 square feet. There is  
6 sufficient parking on the site to meet this standard for  
7 the existing uses and the proposed deck.

8 In our review, we did discover that the existing  
9 parking was being offered for charge to the general  
10 public for beach parking. And this photo shows the  
11 unpermitted automatic pay machine that's in the on-site  
12 parking lot. It's not authorized, and it is being  
13 proposed for removal now.

14 The required on-site parking is to serve the  
15 demand for the parking for the on-site uses, and that is  
16 to prevent the use of the street parking so that that can  
17 remain available and open to the general public and beach  
18 users. The permit is conditioned to require removal of  
19 that payment sheet -- machine within 30 days of approval  
20 of the permit.

21 I believe the conditions are acceptable to the  
22 applicant, and I'll conclude my comments at this time.

23 CHAIRWOMAN SHALLENBERGER: All right. Thank  
24 you.

25 Are there any ex parties on this item?

1           Seeing none, I'll open the public hearing, and  
2 call Robin Madaffer. And I believe -- are you speaking  
3 on behalf of the applicant? Is that accurate?

4           MS. MADAFFER: Yes, I am.

5           CHAIRWOMAN SHALLENBERGER: All right. And also  
6 Barrett Rinzler is here. Is he going to be speaking or  
7 just for questions?

8           MS. MADAFFER: Barrett is going to be  
9 speaking.

10          CHAIRWOMAN SHALLENBERGER: Okay.

11          MS. MADAFFER: All three owners are here, and  
12 they'll all be speaking.

13          CHAIRWOMAN SHALLENBERGER: All right. And how  
14 much time would you like altogether?

15          MS. MADAFFER: Oh, altogether? Three, six,  
16 nine -- 12 minutes?

17          CHAIRWOMAN SHALLENBERGER: You have 15.

18          MS. MADAFFER: All right. I'll take it.

19          Good morning, again. Robin Madaffer, this time  
20 representing the Pacific Beach Shore Club, as we  
21 mentioned, who are the owners of -- which are here today.

22          Staff did an excellent job describing what the  
23 project is. Next slide, please.

24          So I don't want to spend a whole lot of time on  
25 that, except to offer ourselves for any questions

1 specifically. But what is before you today is a coastal  
2 permit to construct 1895-square-foot second-floor outdoor  
3 dining patio, and -- and this is important for the  
4 restaurant because just about every other restaurant in  
5 this vicinity has an outdoor patio.

6 Next slide, please.

7 As was mentioned, this is in the heart of PB.  
8 That's what we refer to Pacific Beach as in San Diego.  
9 And this particular restaurant is at the end of Grand  
10 Avenue right really at the heart of PB.

11 Next slide.

12 Consistent with that, the Community Plan land  
13 use map, which is the land use planned for this site  
14 designates this site, and you can see it's right there in  
15 the middle of the visitor serving commercial area.

16 Next slide, please.

17 Parking, obviously there's a -- there's an  
18 inconsistency or a -- or a balancing that needs to be  
19 done in this particular area. On the one hand, it's in  
20 the beach impact overlay zone; on the other hand, it's in  
21 the transit area overlay zone. One of those overlay  
22 zones wants to protect as much parking as possible, the  
23 other one wants to minimize parking because there's  
24 access to transit. And because of that, the Community  
25 Plan has some standards as to when the mixed-use parking

1 ratios do apply.

2 Next slide, please.

3 This is a mixed-use building, and the reason it  
4 is is because the ground floor is retail shops and the  
5 top floor is the restaurant. The characteristic of the  
6 transit-oriented development and the Pacific Beach  
7 Community Plan each one of them applied to this site  
8 which justifies the mixed-use parking ratio. There's  
9 minimal setbacks. The buildings are very close to the  
10 sidewalks. The parking lot is in the rear of the  
11 building adjacent to the alley. And, in fact, it's one  
12 of the only restaurants in this particular area that has  
13 its own parking lot.

14 I think most specifically relative to this  
15 particular coastal permit application is that promote  
16 activity on balconies through such means as outdoor  
17 seating. That is precisely what we're asking to do here  
18 today with this -- with this approval.

19 Next slide, please.

20 So the ratio under the Municipal Code for the  
21 mixed-use in a transit overlay zone for this type of  
22 building would require 21 spaces. What is being  
23 provided -- provided with this project is 26 spaces,  
24 which is 5 more than what is required. So we think we're  
25 balancing these two issues pretty well.

1 Next slide.

2 This is a picture of the PB Shore Club. Again,  
3 the top floor is the restaurant, and the bottom floor is  
4 the retail space.

5 Next slide.

6 Next slide. Because you've already seen these  
7 pictures, next slide.

8 As I mentioned, this is a completely developed  
9 area. These are pictures of other restaurants that are  
10 in the vicinity, other types of uses in the vicinity, and  
11 you can see the outdoor seating areas are commonplace.

12 When people come to PB, they most of the time  
13 want to sit outside and have a meal, have a drink,  
14 socialize with friends. That's visitors. That's  
15 residents. It's just about everybody. It's one of the  
16 gathering places, the hearts of the tourism for  
17 San Diego.

18 Next slide, please.

19 I want to just talk briefly about the history of  
20 the alcohol issue. Obviously we don't believe that this  
21 is an issue before you; however, we understand that  
22 you've received a lot of correspondence relative to this  
23 issue. So we thought we'd give you an overview of how we  
24 got here.

25 Uniquely, this ABC license, Alcohol Beverage

1 Control license, was issued in 1940. It's a completely  
2 unrestricted license. There are absolutely no conditions  
3 on it whatsoever. This area, or this space, has been a  
4 restaurant since anyone can remember.

5 In December of 2004, the owners went to the ABC  
6 to ask for permission to build the deck, to get the  
7 license for the deck in order to start this whole  
8 process. The San Diego Police Department protested that  
9 license and asked for them to agree to six conditions in  
10 order for them to be able to support it. And, in fact,  
11 PB Shore Club agreed to 14 conditions, and you can see a  
12 few of them there. But those are conditions on their ABC  
13 license that if they violated, they get their -- their  
14 alcohol permit suspended and subject to revocation.

15 In July 2012, that ABC license was issued for  
16 the deck. The -- the consequence of not building the  
17 deck would be that they would continue to operate the  
18 restaurant under their existing ABC license, which is  
19 completely unrestricted and has been since 1940.

20 I think they've shown good faith in agreeing to  
21 very specific conditions in order to manage the visual  
22 access, the noise, the -- the -- all kinds of issues  
23 associated with what -- what happens at the facility.

24 And so based on that, we would hope that you --  
25 getting that additional information, we would hope that

1 you would agree that those conditions are adequate. And  
2 as was mentioned before, we are in total agreement with  
3 all of the conditions that have been proposed by staff,  
4 including removal of the parking payment machine. That  
5 has actually been turned off and has not been used since  
6 about April, I think, and it will be removed as soon as  
7 we get back to San Diego.

8 So that's it for me. You can call Doug and --  
9 CHAIRWOMAN SHALLENBERGER: Okay.

10 MS. MADAFFER: Again, if you have any questions,  
11 I'm here.

12 CHAIRWOMAN SHALLENBERGER: Thank you very much.  
13 Whoever would like to come next and just put your name on  
14 the record.

15 MR. SONDOMOWICZ: My name is Doug Sondomowicz.  
16 I've been the operating partner at Pacific Beach Shore  
17 Club since we opened in 2007. I wanted to talk about  
18 what PC Shore Club and myself contribute to the community  
19 of PB. I have served on the board of directors of  
20 Discover PB, the BID for the last three years, and I'm  
21 also a member of the Hospitality Task Force, which is a  
22 group of bar, restaurant owners, and employees that clean  
23 the community, raise money for trash cans, listen to the  
24 community concerns, and find solutions.

25 PB Shore Club has been a huge contributor to the

1 community. This past year the community wanted to set --  
2 start a farmers' market, but didn't have the funds to  
3 start one. We donated the seed money, and it now has  
4 doubled the size in the last six months and has been  
5 profitable for the community.

6 For the second time in three years, we were told  
7 that the "Concerts on the Green," a summer concert series  
8 at Kate Sessions Park that attracts several thousand per  
9 event didn't have the funds to continue, so we donated  
10 about \$5,000 for the second time in three years.

11 This year will be the fourth year in a row that  
12 Pacific Beach Shore Club donated \$5,000 towards cardboard  
13 trash cans on the beach and bay for the three major  
14 holiday weekends: Labor Day, Memorial Day, and Fourth of  
15 July.

16 A couple of years ago, the annual Christmas  
17 parade was going to be canceled, but we stood up and  
18 donated \$10,000 to save the parade for the community.

19 The last five years, our annual golf tournament  
20 has raised over \$50,000 for local charities, which of  
21 that 10,000 went to the fire station across the street to  
22 remodel their kitchen, which is still in the process.

23 Over the last three years, Pacific Beach Shore  
24 Club has given away over 10,000 tacos to the four major  
25 San Diego Colleges to encourage the RADD Program, which

1 is a state-funded designated driver project.

2 We were also given an award by the state for  
3 being the most active business in San Diego supporting  
4 designated driver -- designated driving.

5 The list goes on, but I don't want to waste more  
6 of your time on this.

7 Please understand that our business is very  
8 competitive, and the six closest restaurant/bars to us  
9 all have open deck patios. Adding the deck will drive  
10 business and be a great experience for tourist and locals  
11 alike.

12 Thank you for your time.

13 CHAIRWOMAN SHALLENBERGER: Thank you.

14 MR. RINZLER: Good morning. My name is Barrett  
15 Rinzler. I'm the principal owner of the Shore Club.  
16 We -- we could have -- we did submit to you quite a few  
17 letters in support of us. We didn't want to bore you  
18 with the multitudes that we could have if we'd gotten our  
19 social media people involved because we think you guys  
20 have the idea, but we do have one letter--

21 CHAIRWOMAN SHALLENBERGER: We thank you for  
22 that.

23 MR. RINZLER: You're welcome. You're welcome.  
24 Yeah. There's like 15,000 of us. So we didn't think  
25 that would be appropriate, but --

1 CHAIRWOMAN SHALLENBERGER: No, we genuinely  
2 thank you.

3 MR. RINZLER: Okay. No problem.

4 CHAIRWOMAN SHALLENBERGER: Because it's happened  
5 to us before.

6 MR. RINZLER: No problem. Okay.

7 I do have one letter I'd like to read that was  
8 written by one of our patrons, and I think it kind of  
9 illustrates some points of what we do besides offer a  
10 restaurant and a bar to the community. So I'd like to  
11 just read that for you now.

12 This is from Captain Timothy Collins, U.S.  
13 Marine Corp. It says:

14 "I'm writing to you, the California Coastal" --  
15 "California Coastal Commission as a resident of Pacific  
16 Beach in support of the PB Shore Club expansion. It is  
17 not difficult to explain how much this place, quote,  
18 'where Grand meets the sand,' and its employees mean to  
19 me, my friends, and my family because it is so much more  
20 than just a beach bar.

21 "Since opening, the Shore Club and its employees  
22 have generously donated their time, space, and money to  
23 raise tens of thousands of dollars in support of the  
24 San Diego military community, local, and national  
25 veterans' causes. Some of these charities include the

1 Veterans Medical Research Foundation, the Travis Manion  
2 Foundation, First Marine Division Scholarship Fund, Toys  
3 for Tots, Wounded Warrior Project, and the MARSOC  
4 Foundation.

5 "Shortly after opening, the Shore Club inquired  
6 about which veterans' causes to donate a portion of their  
7 profits to from their annual Army/Navy game celebration,  
8 and then asked if we could do more if -- by allocating  
9 storage space for Toys and Tots donations.

10 "When our Naval Academy classmate and Navy SEAL  
11 Lieutenant Dan Snossen lost his legs in Afghanistan, the  
12 Shore Club helped raise money for his recovery. When  
13 Marine Captain Dan Bartle was killed in Afghanistan in a  
14 helicopter crash in 2012, the Shore Club hosted a  
15 fund-raiser that earned money -- raised money for his  
16 memorial.

17 "The stories of the Shore Club's positive impact  
18 on all of us are endless. PB Shore Club is more than  
19 just a beach bar. It's a place that our friends and  
20 family gather to enjoy best foods, drinks, and sunsets in  
21 Southern California. It's also a place for incredible  
22 philanthropy, generosity, and patriotism. It's a place  
23 where I can bring by best friends, as easy as I can bring  
24 my 65-year-old mother or my 89-year-old grandfather, and  
25 it's always the first place I bring visitors from out of

1 town.

2 "The expansion will not just increase the  
3 capacity, it will also increase the capacity of a venue  
4 that we use to raise money for local and national causes  
5 and help active duty military and veterans and the  
6 friends and family of servicemen wounded or killed in  
7 action.

8 "For all these reasons and so many more, I would  
9 urge you to approve the Coastal Commission permit to  
10 allow the Shore Club deck expansion."

11 Please don't hesitate to call him if you have  
12 questions.

13 CHAIRWOMAN SHALLENBERGER: Thank you very  
14 much.

15 MR. RINZLER: Thank you.

16 MR. RAMIREZ: Good morning. Commission, thank  
17 you for taking the time to listen to us. First, my name  
18 is Billy Ramirez. I'm one of the managing partners of  
19 the Pacific Beach Shore Club. Not only am I a managing  
20 partner, but I'm a local resident of Pacific Beach. I've  
21 lived in Pacific Beach for many, many years. I own  
22 property down there, and actually am partners in a couple  
23 other restaurants in Pacific Beach.

24 I'm not texting anybody. I'm actually taking  
25 some notes here.

1 I'm also involved heavily in the community.  
2 Being a local resident, I'm very proud to spend my  
3 time -- my free time that I have working with on -- I'm  
4 actually on the local planning group, Hospitality Task  
5 Force, which is a group of bars, restaurants, and other  
6 businesses that provide hospitality to visitors and  
7 locals.

8 I would like to encourage the committee to --  
9 the Commission to grant us our deck, and I appreciate  
10 your time.

11 CHAIRWOMAN SHALLENBERGER: Thank you, very much.

12 All right. Does that complete the applicant's  
13 presentation?

14 MS. MADAFFER: Yes.

15 CHAIRWOMAN SHALLENBERGER: All right. Thank  
16 you.

17 Marcie Beckett, followed by Kathleen Limpet.  
18 You will have three minutes a piece.

19 MS. BECKETT: Okay. Could we get 15 minutes  
20 like the applicant did?

21 CHAIRWOMAN SHALLENBERGER: No. You get three  
22 minutes a piece. That's how we --

23 MS. BECKETT: Okay.

24 CHAIRWOMAN SHALLENBERGER: -- (inaudible).

25 MS. BECKETT: I'm a lifelong Pacific Beach

1 resident. I live six blocks from the PB Shore Club. I'm  
2 opposed to this project because of its negative impacts  
3 on parking, public access, public safety, and community  
4 character. My letter and attachments are in your packet.  
5 I just want to highlight a few points.

6           Parking is inadequate and contrary to the  
7 Community Plan. Adding this deck will increase occupancy  
8 by 126 patrons. That's all day long, all night long.  
9 Currently they have a capacity of 186. After the deck is  
10 added, they'll have a capacity of 312, which is a  
11 68 percent increase, but they will be reducing their  
12 parking from 29 spaces to 26. This is contrary to the  
13 Community Plan.

14           The PB Community Plan, which is the local  
15 coastal land use program that has been approved by you,  
16 on Page 34 it says, "No reduced parking, such as shared  
17 parking, for mixed-use project in the beach impact area  
18 where the PB Shore Club is located."

19           For years the Shore Club has been illegally  
20 using their parking spaces for paid public parking. They  
21 should not be rewarded for this behavior by allowing them  
22 to expand and create more parking demand while providing  
23 fewer spaces.

24           The Shore Club is a restaurant that operates  
25 like a bar and encourages excessive drinking. Last year

1 they were cited by the ABC for overserving. The kitchen  
2 closes at 10 p.m. They used to have beer pong. Now they  
3 have goldfish races, daily drink specials, Daisy Duke  
4 contest. I gave you that DVD. I hope you watch it.

5 They -- that contest shows two women using a  
6 beer bong, women guzzling whiskey out of bottles,  
7 dancing. They're not supposed to have dancing. It shows  
8 people dancing. You can go on YouTube and find lots of  
9 videos of people dancing at Shore Club.

10 By allowing them to expand without providing  
11 adequate parking, what is going to happen is that  
12 there -- additional patrons, more patrons going into the  
13 neighborhoods to park their cars, and when they're  
14 finished, they leave the Shore Club inebriated, go into  
15 the neighborhoods disturbing the peace in the middle of  
16 the night, urinating, vandalizing, driving drunk, putting  
17 everybody at risk. It damages community character  
18 because we would like to be seen and be a place -- a nice  
19 place to live, but you can't do that when you have high  
20 crime and the negative impacts from places like Shore  
21 Club.

22 This area of the community already has very high  
23 crime, and this expansion will make it worse. Your  
24 Coastal Act requires you to make your decisions  
25 consistent with public safety needs.

1           Community groups have opposed -- opposed this  
2 project. In 2009, the Town Council board of directors  
3 voted unanimously against it 10 to 0. In 2010, the Town  
4 Council general membership voted against it 133 to 89.  
5 In 2009, the Planning Group narrowly approved it with the  
6 stipulation they keep 29 parking spaces, which they have  
7 not. So I urge you to oppose this project. It only is  
8 going to make the situation worse in Pacific Beach.

9           CHAIRWOMAN SHALLENBERGER: Thank you.

10          Kathleen Limpet.

11          MS. LIMPET: I have a copy (inaudible) of my  
12 comments.

13          Hi, Commissioners. The beaches are a public --

14          CHAIRWOMAN SHALLENBERGER: Your name for the  
15 record.

16          MS. LIMPET: Sorry?

17          CHAIRWOMAN SHALLENBERGER: Your name for the  
18 record.

19          MS. LIMPET: Oh. Kathleen Limpet.

20          The beaches are a public resource, and the  
21 Coastal Commission is the guardian of that resource. The  
22 freedom to enjoy the beach is nearly impossible anywhere  
23 near the Shore Club. Such operations whose business  
24 models promote heavy alcohol consumption result in  
25 patrons spilling out onto the boardwalk, streets, and

1 into nearby neighbors after hours of hard drinking from  
2 drinking games, bar crawls, and cheap drink specials.  
3 The result is a Doppler effect of problems for the  
4 community and its residents.

5 Law enforcement, local emergency rooms,  
6 emergency personnel, City maintenance, and nonalcohol  
7 licensed businesses are left to deal with the crime,  
8 assault, DUIs, traffic collisions, vandalism, litter, and  
9 vomit.

10 You're the safety net for protecting the urban  
11 environment in coastal areas. You can and should stop  
12 expansions of abusive businesses in coastal areas from  
13 putting the safety of community residents and their  
14 ability to enjoy -- enjoy public beaches at further risk.

15 The Shore Club's use of this coastal resource --  
16 resource usurps the rights of residents and beach-goers  
17 who enjoy the beach in any traditional sense. Patrons  
18 use up limited parking otherwise available to  
19 beach-goers. Public safety concerns preclude beach-goers  
20 and families from enjoying the nearby boardwalk and sand.  
21 The cacophony of entertainment, DJs, crowd noise for the  
22 Shore Club disturbs nearby residents and beach-goers  
23 alike.

24 The California legislature directs Coastal  
25 Commission to balance the use of coastal resources to

1 protect, maintain, and enhance and restore the overall  
2 quality of the coastal zone environment. How can  
3 allowing a noisy, crowded bar to nearly double in size,  
4 increase noise, interfere with beach and boardwalk  
5 enjoyment and gobble up limited parking fit into this  
6 directive?

7 The Shore Club is a poster child for an  
8 incompatible use. Their past and current behavior calls  
9 for service irresponsible business practices and  
10 inability to provide anywhere near the required parking  
11 that they need. They're all good reasons to deny this  
12 expansion.

13 The bar industry will tell you that the high  
14 crime in this area is because of the number of visitors.  
15 In fact, the number of violent crimes in Pacific Beach is  
16 more than six times that San Diego's top four tourist  
17 areas combined.

18 There are hundreds of community residents  
19 working to improve the operating standards of alcohol  
20 businesses in Pacific Beach. Please don't make their  
21 work more difficult by allowing businesses like the Shore  
22 Club to expand in a race to the bottom.

23 Please be the independent agency that you were  
24 created to be and not rubber-stamp the decisions of other  
25 agencies before you including your own. Thank you.

1 CHAIRWOMAN SHALLENBERGER: Thank you.

2 Robert Hall, and then it will be Scott Chipman.

3 MR. HALL: Hi, my name is Robert Hall. Thank  
4 you for letting us speak to you today, taking the time to  
5 consider this issue.

6 UNIDENTIFIED PERSON: (Inaudible).

7 MR. HALL: Thank you for giving us the time to  
8 speak.

9 I'm a regular beach user. I like walking on the  
10 beach, on the boardwalk. I like fishing. Two times last  
11 summer on weekend afternoons in -- directly in front of  
12 the Shore Club, I could hear -- I noticed that the steady  
13 dull roar of people's voices. They weren't cheering for  
14 a touchdown, or anything like that, just yelling, just  
15 constant den of people yelling.

16 Once I was at the water's edge, more than a  
17 hundred yards away -- I was fishing, in fact -- and all I  
18 could hear was "aah" behind me. Okay?

19 The other time I was walking on the boardwalk  
20 with a friend. When I got within 120 feet -- I measured  
21 it -- I had to raise my voice to be able to be heard by  
22 the person next to me because of the constant dull roar  
23 of people yelling inside this bar. The noise detracts  
24 from everyone's beach experience.

25 Now, out of town visitors who want to walk the

1 shore, they want to go to Crystal Pier. You saw it on  
2 the map up there. If it's after dark, I have friends  
3 come from out of town, I say, "We're not going there,"  
4 because we're not going to be exposed to the noise, the  
5 vulgar language, and the violent crime that occurs  
6 directly in the census tract.

7 I'm going to hold this up. You all have this.  
8 These are the most dangerous. The most violent crime  
9 census tracts in the city are both urban, downtown,  
10 homeless, gangs, drugs. This is Pacific Beach right at  
11 Number 3. Every year it's in the top three. Every year  
12 the community is in top three. This is that census  
13 track, just a few blocks around this location.

14 Oh, by the way, the little tiny line you can't  
15 see here, that's the average census tract.

16 Now, the mission of the Coastal Commission is to  
17 protect, serve, restore, enhance environmental and  
18 human-based resources of the California coast and ocean  
19 for environmentally sustainable and prudent use by  
20 current and future generations.

21 Sustainable and prudent use of the  
22 environmentally-based resource means keeping the beach  
23 and the ocean accessible for everyone to enjoy. We can't  
24 enjoy the beach with more noise, more rowdy behavior by  
25 drunken bar patrons. Adding 126 more seats to the bar

1 right on the beach is not consistent.

2 Sustainable and prudent use of human-based  
3 resources, meaning ensuring that people -- me, you,  
4 tourists, visitors -- of all ages can visit the beach,  
5 the boardwalk, the stores, the burger joints, the taco  
6 shops, the ice cream shops, and the other businesses in  
7 Pacific Beach. Adding 126 more seats to a beach-front  
8 bar while reducing the available parking will mean more  
9 cars will park off-site or not come to PB because you're  
10 going to have less beach -- less space for beach  
11 visitors.

12 This project just isn't consistent with the best  
13 uses of this coastal area. Thank you.

14 CHAIRWOMAN SHALLENBERGER: Thank you.

15 Scott Chipman. And Joe Weilding is here ceding  
16 his time to you; is that accurate?

17 MR. CHIPMAN: Yes. Joe Wilding.

18 CHAIRWOMAN SHALLENBERGER: Oh, Joe Wilding. All  
19 right.

20 MR. CHIPMAN: Thank you very much. Scott  
21 Chipman, 38-year Pacific Beach resident, four-term PTA  
22 president, Local Planning Group member. And I need to  
23 say up front, there's been flawed notice. I did not  
24 receive notice even though the local Commission admitted  
25 that I had been on the list, but never received any

1 notice, and Kathy Limpet never received any notice.

2 There's something very particular about the  
3 parking analysis in the Staff Report. Characterizing the  
4 Shore Club's retail restaurant/bar and rental shack as  
5 mixed-use is inaccurate. Use of the parking ratio table  
6 for mixed-use is incorrect because Section 142.0530B  
7 trumps "A" when it comes to eating and drinking  
8 establishments, and I provided those pages.

9 But in Section B, eating and drinking  
10 establishments, Table 142-05E establishes the ratio of  
11 required spaces to building floor area in the commercial  
12 zones, industrial zones, and planned districts shown for  
13 eating and drinking establishments that are the primary  
14 use on a premise.

15 The key phrase in Section B is eating and  
16 drinking establishments that are the primary use on a  
17 premise. Currently the retail is 3674 square feet. The  
18 restaurant and bar is 4456, and the addition is 1895  
19 square feet. Clearly the primary use is now food and  
20 drink and will be even much more so if the deck were to  
21 be approved.

22 Two things are important about Section B.  
23 First, Section B is intended to trump Section "A" when it  
24 comes to eateries. And the words "primary use" describes  
25 a combination of uses as in mixed-use. But where an

1 eatery bar is the primary use, you have to use the next  
2 table, 142-05E which requires 4.3 spaces per 1,000 square  
3 feet, not 2.1 in a CV-1-2 zone.

4 The food and drink primary use is substantially  
5 greater than the retail, currently 21 percent greater.  
6 With a new deck addition, 73 percent greater. So the  
7 existing Shore Club should have a parking requirement of  
8 35 spaces when you use that table.

9 The sanity check on this interpretation of the  
10 Code is simple. Using the table that the staff applied,  
11 any restaurant/bar could put in a little retail, like a  
12 gift shop, even smaller, or the size of a single parking  
13 space, and that would then allow them to use the  
14 mixed-use parking requirement of 2.1 rather than 4.3.

15 If the current calculation were to be approved,  
16 it would set a precedent that adding any amount of retail  
17 to a food and drink establishment would qualify as  
18 mixed-use no matter what the proportion.

19 In food and drink establishments, the primary  
20 use must determine the parking requirement. We believe  
21 you should be very uncomfortable with the current  
22 determination.

23 Now, noise, public access, and public safety.  
24 We have provided strong audio and video evidence and  
25 community member statements that this establishment

1 diminishes the quality of the environment, including the  
2 area of the boardwalk and the nearby beach. Access to a  
3 degraded environment is as serious as diminished access.

4 When community members, families, and tourists  
5 don't want to be at the beach near a noisy bar scene  
6 where their experience is diminished by amplified,  
7 unwanted music and crowd noise, then it is similar to  
8 reduced access.

9 It's interesting that the applicant emphasized  
10 their donations to the community. They are a small  
11 payoff. They also contribute crime and noise, and the  
12 reasons they focus on their donations is because they  
13 know their reputation for the business is a bad one in  
14 the community.

15 Police reports provided to you indicate serious  
16 noise violations and violent crime at the Shore Club.  
17 There were four calls for service on one day,  
18 December 10, 2011, prior to 8 p.m., including assault  
19 with a deadly weapon, five arrests for drunk in public,  
20 and arrests for disturbing the peace with violence, and  
21 quoting the responding officer, Pat Vincent,  
22 "Outrageously loud music." Because of the other more  
23 serious calls, it took an hour for the police to arrive.

24 During that hour and many other hours, the peace  
25 and the environment of the nearby beach and boardwalk

1 have been significantly degraded, and these incidents  
2 occurred while the applicant for expansion was in place  
3 consider -- and being considered, when you would expect  
4 the establishment to be on their best behavior.

5 In this census tract, the alcohol-related crime  
6 is 22 times the city average and the general crime is 6  
7 times.

8 The Coastal Act in Section 30210 includes the  
9 provision that Commission decisions shall be consistent  
10 with public safety needs. The vast majority of violent  
11 crime in this area are assaults or bar fights involving  
12 bar patrons on the street or boardwalk. Expanding this  
13 establishment would just make it worse. Increasing the  
14 patrons, not providing additional parking, expanding the  
15 noise, and the drunkenness and crime in this area further  
16 discourages the general use of this beach, boardwalk, and  
17 coastal area with -- of the public, and with a bar scene  
18 atmosphere, it is diametrically opposed to the ideals of  
19 the Coastal Act. You should deny the project.

20 And since the applicant brought up the ABC  
21 licenses, the donations to the community is a small  
22 payoff. Their license conditions are significantly  
23 insufficient to protect the community, and after one  
24 year, they can apply for variance to those, changes to  
25 those conditions. And what happens at midnight when 126

1 patrons need to come indoors, immediately the  
2 establishment is overcrowded. That -- those conditions  
3 are completely insufficient.

4 CHAIRWOMAN SHALLENBERGER: All right. Thank  
5 you.

6 I'll come back to staff for anything you'd like  
7 to add.

8 MS. SARB: Thank you, Madam Chair. I just --  
9 just would like to reiterate that parking was also the  
10 staff's primary concern, and we concurred with the City's  
11 analysis of how this particular project is in compliance  
12 with the transit overlay zone and the zoning that applies  
13 to the property.

14 We did get the revised design to address the  
15 views. We are remedying the violation associated with  
16 the unauthorized use of the parking fees in the parking  
17 lot. This is again a priority use under the Coastal Act.  
18 We think it is consistent with the community character in  
19 this popular visitor serving destination zone, and we do  
20 not identify any adverse impacts that aren't addressed to  
21 the conditions of approval. As I said, the Commission  
22 does not regulate the use of alcohol.

23 And that concludes my comments.

24 CHAIRWOMAN SHALLENBERGER: All right. Thank  
25 you. We'll come back to the Commission.

1 Commissioner Sanchez.

2 COMMISSIONER SANCHEZ: Thank you, Madam Chair.

3 Well, first of all, I spent a lot of time in PB  
4 and Mission Beach when I was growing up -- well, after  
5 turning 21, and the -- the -- the boardwalk is a  
6 wonderful place to be. You get to watch a lot of people,  
7 a lot of families, a lot of residents, and the thing is  
8 about PB and Mission Beach and our very special beaches  
9 in San Diego, a lot of people, a lot of visitors come,  
10 and unfortunately there's never ever as far -- and I'm  
11 57. It's -- there's never been enough parking. Parking  
12 is always gone into the residential areas. I would  
13 probably even what? 20, 30 years ago would have to park  
14 several blocks into residential, and, you know, you try  
15 to make sure that you don't impact residents and be  
16 quiet, but certainly parking -- this is a very, very,  
17 very popular place, and parking is a premium. Parking is  
18 a very, very big concern.

19 A thing that I really like about the way these  
20 communities are governed, they have self-government in  
21 the sense of being able to have these town councils and  
22 make recommendations to the City Council, and so I think  
23 it's very, very special that you have this kind of  
24 community.

25 I am troubled by the -- you know, and for me

1 it's -- I have to deal with the Coastal Act issues here.  
2 In terms of the intensity of use, I don't quite feel that  
3 1 -- 126 additional seats, be they bar stools, whatever,  
4 that -- that all you get is -- you know, need is four  
5 more.

6 I do feel that this parking is going to impact  
7 beach access because this parking situation is going to  
8 impact beach access in a very -- in a negative way. And,  
9 I mean, for able-bodied folks, great, you know, you can  
10 walk, you know, you can park a few blocks away, but I'm  
11 thinking in terms of families and those who are not able  
12 to walk as well that we still do need this.

13 You know, I understand that San Diego is trying  
14 to do better in terms of public transit, but they're  
15 not -- you know, we're not there yet, especially in these  
16 kind of areas where, again, they're very popular, but,  
17 you know, you still -- still need to be able to find  
18 parking. So I'm -- I am troubled by the -- by the ratios  
19 in the Staff Report. Now I have conflicting information  
20 that, in fact, it should have been 35 versus 26, which is  
21 this going to go from 29 to 26.

22 The -- the visuals I'm bothered by less, but I  
23 am in terms of the access. So I'm not sure if I can --  
24 that I can support staff's recommendation on this one.  
25 Thank you.

1 CHAIRWOMAN SHALLENBERGER: Commissioner Brennan.

2 COMMISSIONER BRENNAN: Thank you, Madam Chair.

3 I, too, have been a frequent visitor to that  
4 area. In fact, I think this Commission when we were down  
5 in San Diego had dinner not far from there at a  
6 restaurant called Saska's I think that doesn't have any  
7 parking. It's about, I think, 10, 12 blocks away.

8 Traditionally in that area it's been street  
9 parking. Obviously this goes back to the '40s, '50s,  
10 '60s. I think even when TD Hayes was a restaurant there,  
11 it was a little bit of a concern to always find parking  
12 and walking around.

13 Obviously it's starting to become -- well, it's  
14 not starting. It has been an entertainment zone for a  
15 long time. But what we're hearing here is from the  
16 residents, and rightfully so, some major concerns. There  
17 are management issues, and I think internally management  
18 issues that have to be addressed, and it's not  
19 necessarily, in my mind, a Coastal Commission concern.

20 The fact that I think the -- and I'm only  
21 talking to this because it's a big part of what I think  
22 we look at here, even though we don't consider it, and  
23 that is the fact that there's been a lot of police calls,  
24 there's been a lot of activity there. I think as we saw  
25 earlier, the opportunity for the Police Department to get

1 a nose in the tent on a liquor license is very, very  
2 difficult. They can do new licenses and overlays, but  
3 all these older licenses according to law are  
4 grandfathered in, so they don't have any nose in a tent.  
5 The opportunity to get a nose in the tent with this going  
6 forward, I think is a huge op -- huge opportunity for the  
7 community.

8 And I'm not saying for Pacific Beach. There's  
9 numerous communities using exactly this type of a program  
10 to be able to deal with some of the alcohol problems that  
11 they have. I say that some again in -- I think that  
12 perhaps the opportunity to look at it further when it  
13 comes back in a year is to maybe put tighter  
14 restrictions.

15 They're going to be serving food on that deck.  
16 They serve it -- food on that deck 8 o'clock in the  
17 morning in the restaurant. There's very few places that  
18 you can actually look at the ocean and do that. I can  
19 see the deck being an opportunity to do that for visitor  
20 serving use, but I think the management issues is really  
21 the key.

22 I think their ability to perhaps condition some  
23 of this on a maybe a 60/40 ratio, 60 percent food to 40  
24 percent liquor. That's what a number of restaurants --  
25 that's what a number of communities are doing.

1 Folks are buying a lot of old tired restaurants,  
2 are buying restaurants that are, truth of the matter is,  
3 there's not an awful lot of money in the food end of it;  
4 there's more money in the liquor end of it. So that's  
5 where everything ends up going. But there are  
6 opportunities to get a nose in the tent and address some  
7 of those management issues.

8 Now, getting back to my concern. I think while  
9 we have some concern, staff I think is using the City's  
10 guidelines. I'm wondering while -- the opportunity to  
11 maybe condition this with valet parking hadn't been  
12 talked about. The opportunity provides itself to add a  
13 lot more parking in that area and perhaps get beyond even  
14 just the 35 designated slots, and I'm wondering if we  
15 could ask that question of staff if that was con -- some  
16 consideration, and perhaps the applicant is willing to  
17 take that as a condition.

18 MS. SARB: Thank you, Commissioner Brennan.

19 No, I think it's a good idea. I'm not sure that  
20 we have talked to them about that or some of the other  
21 transportation demand measures, for instance, that we  
22 applied to the Harbor Side Restaurant and the previous  
23 permit. So I don't know if you want to get the applicant  
24 to the podium and see, you know, if that's something that  
25 could be incorporated here, or if it's something that we

1 should delay this project and talk about for future  
2 time.

3 COMMISSIONER BRENNAN: Okay. Well, I  
4 certainly -- I would be happy to go ahead if they want to  
5 look at the valet. That would solve my concern. Some of  
6 the other issues about the bikes and transportation  
7 management and the employee, I think they're getting  
8 a way -- they're finding their way there now because  
9 obviously there's -- it's a tough place to go, but  
10 perhaps if the applicant was willing to give an answer  
11 regarding the valet parking, that might help perhaps the  
12 discussion up here on the dais.

13 Madam Chair, (inaudible).

14 CHAIRWOMAN SHALLENBERGER: Would you like them  
15 to come forward?

16 COMMISSIONER BRENNAN: Yes. Please.

17 CHAIRWOMAN SHALLENBERGER: And we'll need you to  
18 put your name on the record. And, again, this is just  
19 not an opportunity to testify again --

20 MS. MADAFFER: I understand.

21 CHAIRWOMAN SHALLENBERGER: -- but to ask --  
22 answer the Commissioner's question.

23 MS. MADAFFER: I understand.

24 COMMISSIONER BRENNAN: Yeah. I appreciate you  
25 being here.

1           In regards to the valet parking on-site,  
2 obviously there's -- we know valet provides huge  
3 opportunities to increase parking. I'm wondering if  
4 that's a condition you are willing to put on the  
5 project.

6           MS. MADAFFER: Commissioner Brennan, Robin  
7 Madaffer representing the applicant.

8           It is certainly a condition that we would be  
9 willing do look into. We -- we -- obviously we would  
10 need to determine the feasibility of providing that  
11 additional parking off-site and -- and where exactly  
12 people would drop off because that could create other  
13 issues. But parking is -- is an issue for us, as well as  
14 everybody who visits PB, and so we're certainly willing  
15 to explore a condition relative to valet parking.

16           COMMISSIONER BRENNAN: And if I might, just a  
17 clarification. You said off-site. I get that,  
18 obviously, demand, but I'm wondering on-site.

19           MS. MADAFFER: There's no room for valet parking  
20 on-site. Would you -- are you suggesting like double  
21 parking people?

22           COMMISSIONER BRENNAN: Yeah. I mean, when you  
23 have the keys, that's what valets do. They're able to --  
24 I know that from my experience, we've been able to almost  
25 double (inaudible).

1 MS. MADAFFER: I think I misunderstood your  
2 question now, but now that you say it again, I think I'm  
3 understanding. So valet parking on-site so that you  
4 could use double parking in order to maximize the space  
5 to get more cars there.

6 COMMISSIONER BRENNAN: Right. Because they  
7 control the keys and they move the cars in and out,  
8 so ...

9 MS. MADAFFER: That seems like it would be a  
10 very easy thing for us to do, and we would certainly be  
11 willing to do that assuming it was, you know, regulatory  
12 and allowed.

13 CHAIRWOMAN SHALLENBERGER: Staff could  
14 incorporate.

15 COMMISSIONER BRENNAN: Staff, are you -- ability  
16 to perhaps incorporate that into a condition?

17 MS. SARB: We could do that. I think it would  
18 have to be reviewed and approved by the City. As she  
19 indicated, there could be a drop-off point circulation  
20 issue, although there is an alley, so it's quite  
21 possible.

22 COMMISSIONER BRENNAN: From my experience --  
23 well, again, I'm not a transportation engineer and the  
24 legalities of it, but it looks like it has all the  
25 trappings of being able to provide the ideal situation.

1 MS. SARB: We could add a condition that the  
2 applicant provide valet parking subject to a plan that is  
3 reviewed and approved by the City of San Diego.

4 COMMISSIONER BRENNAN: On-site valet parking.  
5 That would -- thank you.

6 MS. SARB: On-site valet parking.

7 COMMISSIONER BRENNAN: Thank you.

8 CHAIRWOMAN SHALLENBERGER: Commissioner Zimmer.

9 COMMISSIONER ZIMMER: In listening to the  
10 testimony, I, too, was concerned that whether these  
11 issues were Coastal Act issues, whether they're issues  
12 that the Commission can address. But I -- I have a  
13 question for staff and/or counsel here.

14 Section 30212.5 entitled Public Facilities  
15 Distribution states, "Wherever appropriate and feasible,  
16 public facilities, including parking areas or facilities,  
17 shall be distributed throughout an area at" -- "so as to  
18 mitigate against the impacts, social and otherwise of  
19 overcrowding or overuse by the public of any single  
20 area."

21 And so I guess my question to staff and/or  
22 counsel is, is this -- does this authorize us to look at  
23 these social impacts of overcrowding that has been  
24 alleged or the increase in intensity of use of this site?

25 MS. SCHMELTZER: For one, I think as a starting

1 point, I believe this is about public parking facilities,  
2 and I'm not sure that a private facility associated with  
3 a private business is exactly what is being referred to  
4 here that when planning for open public parking areas --  
5 public facilities including parking areas, that they  
6 would be distributed through an area. So I do think that  
7 it's a way to look at social impacts, but I think it's  
8 specifically directed at public facilities.

9 MR. LESTER: (Inaudible).

10 COMMISSIONER ZIMMER: Okay.

11 MR. LESTER: Madam Chair, I would also just add  
12 that social impacts related to the public access that is  
13 being distributed, so --

14 COMMISSIONER ZIMMER: So it's not helpful.  
15 Okay.

16 MR. LESTER: -- not necessarily drinking on a  
17 deck.

18 COMMISSIONER ZIMMER: Okay.

19 MS. SCHMELTZER: I agree with that.

20 COMMISSIONER ZIMMER: Thank you.

21 So the second question I had, and it may follow  
22 on comments that were made earlier is with respect to  
23 the -- to the staff's acceptance of the ratios that are  
24 in the City's -- is this a fully certified LCP and the  
25 ratios are in the implementation plan?

1           Those ratios are based on square footage  
2 formulas in terms of additions, and I'm just noticing  
3 that -- and I grant you it's a different area, but in the  
4 prior application where I asked the question about TDM,  
5 the Staff Report seemed to assume from an increase in  
6 1,888-square-foot deck that there would be impacts that  
7 had to be mitigated; whereas here we're relying strictly  
8 on a formula of square footage.

9           And so my question is are we bound by that  
10 formula? If they comply with the formula, and we -- if  
11 they comply with the formula, can we look further and  
12 look at the actual increase in intensity of use of the  
13 site which has been described as an increase from up to  
14 368 percent increase, so are we free to address that  
15 intensity of use increase and impose additional  
16 conditions based on that?

17           MS. SARB: I believe the answer would be, yes,  
18 if we felt that there was adverse impacts associated with  
19 just applying the ratios alone and that -- that we found  
20 that there wasn't adequate parking and provide -- or  
21 applying the ratios that are in the certified LCP.

22           In this case -- and I'll go back to your other  
23 question. The Harbor Side Restaurant in that case, they  
24 had no on-site parking at all, and so we felt that, you  
25 know, it was clear that any increase was just going to

1 exacerbate an existing bad situation.

2 Here this restaurant does have an on-site  
3 parking lot, and according to the transit overlay zone  
4 ratios, they have enough parking to serve the demand for  
5 the existing and the proposed restaurant addition. So we  
6 didn't identify that there was an exacerbation of an  
7 existing bad parking situation associated with this  
8 addition that would have to be mitigated by either  
9 additional parking or whatever other means.

10 COMMISSIONER ZIMMER: Okay. Well, so -- but  
11 now it's being suggested that we essentially add  
12 conditions related to valet parking. So are we adding  
13 those only because the applicant has stated they're  
14 willing to accept them, or because we think we can impose  
15 them based on a difference of opinion as to whether this  
16 increase intensity of use actually does exacerbate the  
17 parking issues in the area?

18 MS. SARB: Well, I will say that I think that  
19 we -- we can -- can find that any additional parking in  
20 this area where parking is impacted will be beneficial,  
21 and there is provisions in the Coastal Act to maximize  
22 public access to the coast. So there is a basis for  
23 supporting the requirement of additional parking in this  
24 particular case.

25 COMMISSIONER ZIMMER: Okay. Thank you.

1 CHAIRWOMAN SHALLENBERGER: Commissioner  
2 Bochco.

3 COMMISSIONER BOCHCO: Yes, Madam Chair.

4 I find the residents' arguments about  
5 interference with access very interesting. I know we  
6 don't regulate alcohol, and in some ways we don't even  
7 regulate behavior on the beach, but it is an interesting  
8 theory, and I would -- I would like to just get your  
9 opinion of it as staff that if there is so much negative  
10 activity, being whether it be drunken people, urinating  
11 people, yelling people, and crime, could that indeed  
12 qualify as an interruption of public access because it's  
13 made the access to that location of the beach  
14 intolerable?

15 It's a question I wanted your opinion on.

16 MR. LESTER: Yes, Commissioner Bochco,  
17 generally, you know, we have policies that require us to  
18 provide maximum public access consistent with public  
19 safety and protection of private property and natural  
20 resource areas from overuse. So we -- we do have our  
21 mandate qualified by certain also -- also general  
22 categories, and from time to time we will get asked to  
23 consider restrictions on public access based on certain  
24 kinds of social impacts, and we will ask for evidence of  
25 those impacts in order to consider the restrictions, most

1 commonly restrictions on parking, such as overnight  
2 parking, like in places like Venice.

3 COMMISSIONER BOCHCO: Right.

4 MR. LESTER: And from time to time, the  
5 Commission has approved restrictions based on substantial  
6 evidence that there's some problem that needs to be  
7 addressed, but we're always doing that with a keen eye  
8 towards making sure that public access is protected first  
9 and foremost appropriately taking into account those  
10 other potential impacts.

11 We also have the provision of the Coastal Act  
12 that acknowledges and maintains local government's  
13 ability to address a nuisance, a validly determined  
14 nuisance. And so if that happens to be the case, then we  
15 get into the intersection of when a nuisance is declared  
16 based on some activity or behavior that might be  
17 occurring and whether or not what the local entity is  
18 doing to address the nuisances, the minimum amount  
19 necessary to address that nuisance. Our position being  
20 that going beyond that would then trigger permit  
21 requirements under the Coastal Act.

22 So there are mechanisms to provide for that kind  
23 of response to potentially adverse or negative social  
24 behavior, but it -- it has to be taken into account  
25 relative to the restrictions being put in place and their

1 impacts on public access in our view.

2 COMMISSIONER BOCHCO: Okay. Thank you. I  
3 appreciate that.

4 I must say that reading these police reports of  
5 the one day that the gentleman provided for us is  
6 shocking. I mean, it's a terrible situation. So I don't  
7 really believe, having considered everything that I've  
8 heard and what our Executive Director Lester just said,  
9 that we are in a position to deny a permit based upon  
10 this kind of activity.

11 I mean, the Coastal Commission is always accused  
12 of trying to take too much jurisdiction, and so I don't  
13 want to fall into that trap of saying, "Well, we can  
14 govern everything that is not really a coastal issue."  
15 But if this isn't a nuisance, I don't know what is. I  
16 mean -- and I think that's up to the City. And I think  
17 nuisance lawsuits -- I'm not familiar, I've never been a  
18 part of that kind of thing, but I'm just actually shocked  
19 by what is presented here.

20 So I think, you know, the best case, you're not  
21 a very good neighbor, and the worst case, you're a  
22 nuisance, but I don't think that we can -- well, I don't  
23 feel that we can deny the permit on that basis.

24 MR. LESTER: I also just wanted to add and  
25 forgot to mention that, you know, there's a law

1 enforcement angle to this often, too. And we aren't a  
2 law enforcement agency, and we also try very hard to not  
3 have the lack of capacity to do enforcement of certain  
4 laws be a reason to restrict public access, which is the  
5 Coastal Act objective. So we don't want to see  
6 restrictions being used instead of what may be a law  
7 enforcement issue, recognizing there are issues there,  
8 too, with adequate resources to do that, but we need to  
9 be careful not to sacrifice state-wide policies on  
10 coastal access when there's inadequate enforcement.

11 CHAIRWOMAN SHALLENBERGER: Commissioner Groom.

12 COMMISSIONER GROOM: Thank you, Madam Chair.

13 I'd like to go back to the parking. With the  
14 addition of 1,895 square feet, how many parking spaces  
15 does that require?

16 COMMISSIONER ZIMMER: Four.

17 COMMISSIONER GROOM: But I want -- but I want to  
18 hear that again.

19 UNIDENTIFIED SPEAKER: Four (inaudible).

20 MS. SARB: Four.

21 COMMISSIONER GROOM: Four.

22 So what is the total parking now?

23 MS. SARB: The total parking outside is 29 and  
24 with this project it goes down to 26.

25 COMMISSIONER GROOM: So that was what I was

1 asking. Somehow that math doesn't work for me, that you  
2 expand and you get -- end up with less parking places.

3 MS. SARB: Right. But if you apply that transit  
4 overlay standard to the square footage of the existing  
5 uses, you come up with a requirement of a certain number  
6 of parking spaces.

7 COMMISSIONER GROOM: I guess I don't think  
8 that's a correct -- I guess I just don't think that's a  
9 correct policy, to expand and then be allowed to have  
10 fewer parking places. It doesn't make sense to me, but I  
11 under -- but those are the facts.

12 As -- the other question that I have is as to  
13 the reports that we've received, does this establishment  
14 have on-site security?

15 MR. LESTER: Ask someone to come up (inaudible).

16 MS. SARB: That would be a question for the  
17 applicant.

18 CHAIRWOMAN SHALLENBERGER: Would you like the  
19 applicant to speak?

20 COMMISSIONER GROOM: Yes. Thank you.

21 MS. MADAFFER: Robin Madaffer for the applicant.

22 Commissioner Groom, yes, the project site does  
23 have on-site security.

24 I also must clarify your previous question  
25 regarding the parking.

1 CHAIRWOMAN SHALLENBERGER: Actually, this is not  
2 the time for you to do additional testimony.

3 MS. MADAFFER: But there is a misunderstanding,  
4 and I would like for staff to clear up what would be --

5 CHAIRWOMAN SHALLENBERGER: Perhaps --

6 MS. MADAFFER: -- required.

7 CHAIRWOMAN SHALLENBERGER: Perhaps one of the  
8 Commissioners would ask you that question.

9 COMMISSIONER GROOM: So there is on-site  
10 security.

11 My -- my last question is if we do add a  
12 condition on valet parking, but it's subject to the  
13 City's approval of that, what happens if we approve this  
14 and we wanted the valet, and then the City says, "No, you  
15 can't have valet"?

16 MS. SARB: If we make it that they -- that prior  
17 to issuance they have to have an approved valet parking  
18 program that's approved by the City of San Diego and they  
19 can't get that, then they would have to come back for an  
20 amendment.

21 COMMISSIONER GROOM: Okay. Thank you.

22 CHAIRWOMAN SHALLENBERGER: Commissioner Garcia.

23 COMMISSIONER GARCIA: Thank you.

24 Just a question, and I didn't see it in the --  
25 in the staff Report. And I also, I think, have a

1 question for applicant, if that would ...

2 For the applicant, as far as the property  
3 itself, and this is going back to what Commissioner  
4 Brennan was talking about with -- with looking at parking  
5 and ways of ensuring that there is, you know, obviously  
6 access still, what -- what type of bike infrastructure  
7 currently is present at the -- at the restaurant?

8 MS. MADAFFER: It's an excellent question.

9 UNIDENTIFIED SPEAKER: Sorry. I need your name  
10 again.

11 MS. MADAFFER: Robin Madaffer for the applicant.  
12 I understand.

13 Robin Madaffer for the applicant.

14 Commissioner Garcia, this -- this property is in  
15 the transit area overlay zone. It's surrounded by public  
16 parking, bike racks. There are bike racks immediately  
17 across the street, as well as, I believe, very close to  
18 the alley.

19 There's also a bus stop on the corner which is,  
20 you know, less than a block away that serves three bus  
21 routes that connect throughout the city. So there is --  
22 there is a lot of alternatives that are consistent with  
23 the transit overlay zone which justifies the 21 required  
24 parking spaces under the Code, of which we're providing  
25 26, which is more than what is required.

1           COMMISSIONER GARCIA: Can I also, for the  
2 applicant as well, and maybe this will -- can be, you  
3 know, a condition through staff is I do -- I think  
4 that's -- that's important and everything, public  
5 transit.

6           I think when we look at projects like this,  
7 you've got to look at it from really a mobility point of  
8 view as well; what are all the other -- what is happening  
9 from a -- from a mobility standpoint, whether it's bike  
10 infrastructure, public transit, other public -- public  
11 parking lots that are in the area. And I would encourage  
12 the applicant to not -- I mean, I think public bike racks  
13 are great, but you find that establishments, whether it's  
14 retail or restaurants, they include bike infrastructure  
15 on-site at the restaurant in multiple -- the more bike  
16 infrastructure you include on-site, and if you include it  
17 in this project, you'll find they will be used and you'll  
18 have less people bringing -- taking cars, essentially.  
19 So you create multiple spaces for people, and so I would  
20 encourage that of the applicant.

21           I don't know that -- if I can -- if staff can  
22 make that a condition or not, but I would like to see  
23 bike infrastructure included as one of the -- is that  
24 possible?

25           CHAIRWOMAN SHALLENBERGER: You perhaps start by

1 asking the applicant if they would accept that.

2 COMMISSIONER GARCIA: Would you accept that?

3 MS. MADAFFER: As a matter of fact, I think once  
4 you -- we remove the paid to park space, there will be a  
5 space where we could provide bicycle parking spaces. And  
6 I'm getting a nod from the owners who are agreeing to  
7 that, yes.

8 MS. SARB: Staff could incorporate that into  
9 the -- the staff recommendation.

10 COMMISSIONER GARCIA: Thank you.

11 And then -- and this is something just for -- on  
12 this item for staff as well. Just in the future, I think  
13 when we look at particularly restaurant spaces and retail  
14 spaces when we do our conditions and we're looking at the  
15 mobility section of recommendations, I think we should  
16 always include bike infrastructure as a requirement for  
17 any establishment.

18 MS. SARB: I agree.

19 COMMISSIONER GARCIA: Okay. Thank you.

20 CHAIRWOMAN SHALLENBERGER: Commissioner  
21 Mitchell.

22 COMMISSIONER MITCHELL: I move that the  
23 Commission approve Coastal Development Permit 6-12-061.  
24 Pursuant to the Staff recommendation, I recommend a yes  
25 vote.

1 COMMISSIONER BRENNAN: Second.

2 CHAIRWOMAN SHALLENBERGER: Move by Commissioner  
3 Mitchell, seconded by Commissioner Brennan.

4 Would you like to speak to your motion?

5 COMMISSIONER MITCHELL: Yes.

6 I am also concerned by the issues that the  
7 residents have raised and the police reports, but I just  
8 don't find this to be our issue. I think it's -- it's  
9 sad that the City of San Diego is not addressing this  
10 because I think it's a real issue, and I know I was --  
11 when I was in San Diego recently, some friends from  
12 San Diego were driving me around, and they're like,  
13 "Yeah, PB is getting not good anymore," that the -- the  
14 crime issues, and they were -- they said, you know, it's  
15 not a place that you want to hang out because there is  
16 these crime issues, and it's, you know, deteriorated the  
17 community.

18 So I understand that, and I think it's a very  
19 real issue, but I just don't think that it's our issue,  
20 that it needs to be addressed with the, you know,  
21 San Diego City Council and the Police Department.

22 So given that -- I also do, though, like the  
23 idea of valet parking. I think that works everywhere.  
24 It gives people jobs and increases the capacity and  
25 everything else. So whatever the resolution on that is I

1 would support, so ...

2 CHAIRWOMAN SHALLENBERGER: Commissioner Brennan,  
3 to your second.

4 COMMISSIONER BRENNAN: Briefly. I think I spoke  
5 a lot before. I do think that -- I would hope that if  
6 this vote does pass, that management that is here today  
7 would realize their ability to be a better player.

8 I think certainly when you get into a business,  
9 I think 2007, and as I said, it was kind of anything goes  
10 there, but I think you have an opportunity to look at  
11 managing your business and being a better partner.

12 I heard some great testimonies about the great  
13 stuff you do around the community, but this is the  
14 community right here that I think you need to focus on  
15 and try to make -- be a better player.

16 I think the opportunity for access on this deck  
17 to have breakfast in it in the morning and look out I  
18 think is a coastal issue that I think I'm very please if  
19 this does pass in this regard.

20 I also wanted to let the residents know that  
21 somebody who has sitting just in this chair about two  
22 years ago just became your Planning Director for the City  
23 of San Diego on Monday, and he was very instrumental in  
24 working with the community in downtown Ventura on just  
25 some of the issues you have. Basically blending

1 restaurants and what -- what could better -- lack of a  
2 better word becomes an entertainment zone where you have  
3 residents, and we're trying to activate downtowns and do  
4 things to get more residents in there, but we're coming  
5 up against some of those concerns. So I would encourage  
6 you to work through that program, and Mr. Fulton was very  
7 instrumental in helping move some of that through this --  
8 through this community.

9 I also see that the community of Encinitas, and  
10 this is for the operators, I think has put a moratorium  
11 and is looking at cracking down on liquor licenses and  
12 actually hours of operation. So I think the realization  
13 is that you have an opportunity to manage your business  
14 and it's not just inside your four walls. It's what --  
15 how your business affects outside, and for somebody that  
16 held a liquor license almost 25 years, I recognize that  
17 it goes beyond the four walls. So I would hope that you  
18 can start setting an example, and also in your remodel  
19 and clean-up of the building will become much greater  
20 part of the community down there.

21 So thank you on both sides for being here,  
22 especially for the folks making the trip up from  
23 San Diego. Thank you.

24 CHAIRWOMAN SHALLENBERGER: All right. We have a  
25 motion before us. The maker and the second are asking

1 for a yes vote. I ask Ms. Miller to please call the  
2 role.

3 MS. MILLER: Commissioner Bochco?

4 COMMISSIONER BOCHCO: Yes.

5 MS. MILLER: Bochco, yes.

6 Commissioner Brennan?

7 COMMISSIONER BRENNAN: Yes.

8 MS. MILLER: Brennan, yes.

9 Commissioner Garcia?

10 COMMISSIONER GARCIA: Yes.

11 MS. MILLER: Garcia, yes.

12 Commissioner Groom?

13 COMMISSIONER GROOM: No.

14 MS. MILLER: Groom, no.

15 Commissioner Kinsey?

16 COMMISSIONER KINSEY: Yes.

17 MS. MILLER: Kinsey, yes.

18 Commissioner McClure?

19 COMMISSIONER MCCLURE: Yes.

20 MS. MILLER: McClure, yes.

21 Commissioner Mitchell?

22 COMMISSIONER MITCHELL: Yes.

23 MS. MILLER: Mitchell, yes.

24 Commissioner Sanchez?

25 COMMISSIONER SANCHEZ: No.

1 MS. MILLER: Sanchez, no.

2 Commissioner Vargas?

3 COMMISSIONER VARGAS: Yes.

4 MS. MILLER: Vargas, yes.

5 Commissioner Zimmer?

6 Zimmer yes?

7 COMMISSIONER ZIMMER: Yes.

8 MS. MILLER: Commissioner Shallenberger?

9 CHAIRWOMAN SHALLENBERGER: Yes.

10 MS. MILLER: Shallenberger, yes.

11 The vote is nine yes, two no.

12 CHAIRWOMAN SHALLENBERGER: The project passes as  
13 conditioned in the Staff Report and in this hearing.

14 Thank you very much.

15 UNIDENTIFIED MALE SPEAKER: Madam Chairman --  
16 Chairwoman, can we ask for the conditions to be repeated?

17 CHAIRWOMAN SHALLENBERGER: You can talk with  
18 staff on that, if you would like.

19 COMMISSIONER MITCHELL: Can I ask for  
20 the conditions be repeated, because I wanted to be clear  
21 what is in them as well so that was clear.

22 CHAIRWOMAN SHALLENBERGER: You may.

23 UNIDENTIFIED WOMAN COMMISSIONER: Seconded.

24 MS. SARB: We'll add a condition that calls for  
25 transportation demand measures that include valet parking

1 program on-site that is subject to review and approval by  
2 the City of San Diego. If approval is not obtained, that  
3 you have to come back as amended -- for an amendment to  
4 this permit, so that would come back to you, and also  
5 that they have to provide bike racks on-site.

6 CHAIRWOMAN SHALLENBERGER: All right. Project  
7 has been approved as conditioned. Thank you.

8 (End of audio recording for Item 17B.)

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STATE OF CALIFORNIA )  
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COUNTY OF SAN DIEGO )

I, ANTONIA SUEOKA, RPR, CSR No. 9007, certify that the foregoing is a correct transcription from the audible portions of the digital tape-recording.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this case is pending, and further that I am not financially or otherwise interested in the outcome of the action.

IN WITNESS THEREOF, I have subscribed my name this 25th day of November, 2013.

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Antonia Sueoka, RPR, CSR NO. 9007