

**CALIFORNIA COASTAL COMMISSION**

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# Th5b

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## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 6-19-0282

**Applicant:** Shoreline Mission Bay, LLC

**Agent:** Bradley Schnell

**Location:** 2688 East Mission Bay Drive, Mission Bay, San Diego, San Diego County (APN: 760-036-03)

**Project Description:** Convert 310 sq. ft. of an existing 4,565 sq. ft., 2-story public facility (previously the Mission Bay Visitor/Information Center) into a coffee/juice bar.

**Staff Recommendation:** Approval with Conditions

## SUMMARY OF STAFF RECOMMENDATION

The proposed project requires a coastal development permit because it involves a change in the intensity of use of the building. The area to be converted to a coffee/juice bar is a small portion of the former Information Center for Mission Bay Park that was most recently used for a vending machine area, storage space, and bathroom, but has been closed to the public since 2010. A majority of the proposed work will consist of interior renovations to the existing space. No expansion of the existing building is proposed. Staging will take place on-site on the lawn area immediately adjacent to the existing building. This small visitor-serving operation is not anticipated to draw additional members of the public to Mission Bay Park, as it would be located among existing park amenities that serve visitors already in the Park; thus no additional parking is needed to serve the use at this time.

6-19-0282 (Shoreline Mission Bay, LLC)

**Special Condition #1** requires the applicant to submit final plans in substantial conformance with the preliminary plans showing depicting the staging area on the lawn area adjacent to the existing building. **Special Condition #2** notifies the applicant that any future or additional conversions require a coastal development permit. **Special Condition #3** requires the applicant to acknowledge the hazards present onsite, assume the risk of such hazards, and accept full liability for developing in a hazardous location.

Commission staff recommends **approval** of coastal development permit application 6-19-0282 as conditioned.

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### **APPENDICES**

Appendix A – Substantive File Documents

### **EXHIBITS**

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Aerial Photo](#)

[Exhibit 3 – Site Photos](#)

## **I. MOTION**

### **Motion:**

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

## **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 permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## **III. SPECIAL CONDITIONS**

This permit is granted subject to the following special conditions:

1. **Submittal of Final Plans.**
  - (a) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of

the Executive Director, final plans that are in substantial conformance with the plans prepared by Playground Design, LLC, dated 4/1/19.

- (b) 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 an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
2. **Future Development.** This permit is for the conversion of 310 square feet of an existing 4,565 square foot public facility into a coffee/juice bar. All other development proposals for the site, including but not limited to conversion of the existing building to other uses, shall require review and approval by the Coastal Commission by applying for an amendment to this permit, unless the Executive Director determines that no amendment is legally required. Future development of or restriction of use of the 86-space parking lot adjacent to the existing building also requires a separate coastal development permit or amendment by the Coastal Commission or its successor in interest.
3. **Assumption of Risk, Waiver of Liability, and Indemnity Agreement.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs, (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

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

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

Mission Bay Park is a public park and recreation area of statewide and national significance. It was created prior to the Coastal Act and is built primarily on filled tidelands granted to the City of San Diego by the state. The park overall includes both active and passive public recreational venues, multiple commercial and non-profit leaseholds, wildlife refuges, least tern nesting sites, and undeveloped land. The subject site, 2.15 acres in size, is located in the northeastern portion of Mission Bay Park in the City of San Diego and was previously the location of the Mission Bay Visitor/Information Center ([Exhibit #1](#)).

Constructed in 1969, the 4,565 sq.ft., 44-ft. tall Mission Bay Visitor/Information Center (Visitor Center) was at one time a visitor-serving resource for members of the public, providing directions to other visitor-serving destinations within San Diego. The center also sold tickets, assisted with hotel reservations, rented out equipment for water activities in the bay, and ran a small snack bar. In 1985, a 310 sq.ft. addition was made to the northwest portion of building for storage space, a portion of which was later used for vending machines and converted into a bathroom facility ([Exhibit #3](#)). In 1997, the Commission approved the installation of an unstaffed cellular communication facility, consisting of two panel antennas in the roof of the existing building and construction of a 220 sq.ft. addition to house electronic equipment (CDP #6-97-020). In the last two decades, the public's reliance on the Visitor Center's services dwindled as information/visitor resources became accessible from more convenient sources, such as Internet websites and apps, reducing the need for people to use the Visitor Center. The Visitor Center was eventually closed in 2010, and there is no public use of or access to any portion of the building. In 2019, the current applicant received an exemption from permit requirements for the repair and maintenance of the existing building's roof (6-19-0060-X).

The proposed project would convert the area of the 310 sq.ft. addition into a coffee/juice bar. According to the City of San Diego, the existing building is currently being considered for eligibility as a historic structure under the City of San Diego, California Register of Historical Resources, and National Register of Historic Places. However, since the proposed conversion would take place to the non-historic 1985 addition, the historic nature of the structure would be unaffected. Almost all of the work will consist of interior renovations; no outdoor dining areas or expansion of the existing building is proposed.

Public parking reservoirs surround the site, including the De Anza Boat Launch public parking lot to the north of the site and a smaller public parking reservoir to the south. An 86-space parking lot, located next to the existing building, has been used by members of the public to access nearby park amenities since the Visitor Center closed in 2010. The proposed development will result in a change in the intensity of use, from an unused a portion of the vacated building to a coffee/juice bar; however, this small conversion will result in a visitor-serving use that will be accessory to existing public park amenities, such as the nearby grassy park areas, playground, walkway, and basketball court. This small coffee/juice bar is not anticipated to be a visitor destination by itself and will more likely serve members of the public that are already at the Park for recreational activities. Thus, this limited use of the property is not anticipated to increase the demand for parking in this area.

Future proposals for improvements at this site that result in a more substantial change in the intensity of use of the vacated building will likely increase the demand for parking to serve that use. Inadequate parking can interfere with public access opportunities, especially if nearby public parking reservoirs are usurped by the tenants and patrons. Thus, future proposals will be required to evaluate and provide adequate parking for patrons and tenants of the site that does not result in any impacts to public parking spaces. **Special Condition #2** notifies the applicant that any future development or

restriction of use of the 86-space parking lot requires a coastal development permit or amendment to this permit.

The subject site is located approximately 150 feet away from the waters of Mission Bay. Between the water and the project site is a public accessway that provides continuous access near the shoreline in this part of Mission Bay. Sea level rise is expected to exacerbate existing coastal hazards by raising mean water levels and extending flood zones inland. A preliminary review of the site through the CoSMoS “Our Coast Our Future” (OCOF) web tool shows that with 125 centimeters of sea level rise, during a 100-year storm event, some of the seaward portions of the driveway that loops around the existing building are projected to be flooded to depths of up to one meter, for as long as twelve to fifteen hours. Additionally, portions of Mission Bay Drive, which provides vehicular access to the site, are within the model’s range of uncertainty for flooding. According to the 2018 OPC sea level rise projections, the above scenario could occur on-site as soon as 2075.

While the public accessway and driveway would be periodically subject to flooding pursuant to the conditions described above, the building itself and the areas immediately adjacent to it are outside of the model’s range of uncertainty for flooding for the conditions described above. The proposed project is to convert an area within an existing building; no demolition, expansion, or reconstruction is proposed. Nothing in the current proposal would result in any further seaward expansion of the existing building or increase the risk to property or life in an area that will be subject to flood hazards in the near future. However, future proposals to modify the existing building footprint may trigger the need for sea level rise adaptation strategies designed to move the development away from hazards or relocate the development due to loss of access to the site via Mission Bay Drive. Nevertheless, because substantial flooding is expected to occur on the subject site in the relatively near future, **Special Condition #3** requires the applicant to acknowledge the hazards present onsite, assume the risk of such hazards, and accept full liability for developing in a hazardous location.

All construction staging will take place on the lawn area adjacent to the existing building, and no public parking will be occupied for construction activities ([Exhibit #2](#)). **Special Condition #1** requires the applicant to submit final plans in substantial conformance with the preliminary plans depicting the staging area on the lawn area adjacent to the existing building. **Special Condition #2** notifies the applicant that any future or additional conversions require a coastal development permit or amendment to this permit.

An existing public walkway, located outside of the project site, runs north-south west of the project site and provides waterfront access and views of the bay. Because all staging will occur on-site in the small lawn area adjacent to the existing building, public access along this walkway will not be impacted by the proposed development.

Mission Bay Park is an area of both original and deferred certification, where the Commission retains jurisdiction and Chapter 3 policies of the Coastal Act are the standard of review. The Commission has certified the Mission Bay Park Master Plan as the LUP for Mission Bay Park and uses the Master Plan as guidance.

**B. PUBLIC ACCESS/PARKING**

The proposed conversation will create a visitor-serving use in Mission Bay Park. As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

**C. COASTAL HAZARDS**

The development is located in an area that may be subject to coastal hazards. As conditioned, the risks of property damage or loss arising from such hazards will be borne by the applicant and not the public. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30253 of the Coastal Act.

**D. BIOLOGICAL RESOURCES**

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized.

The proposed development will not have an adverse impact on any sensitive habitat, and will not result in erosion or adverse impacts to water quality, as adequate drainage controls will be provided. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

**E. COMMUNITY CHARACTER/VISUAL QUALITY**

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area and will not impact public views. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

**F. LOCAL COASTAL PLANNING**

The LUP for the Mission Bay Park LUP segment of the City of San Diego LCP was certified on May 11, 1995, but no implementation plan has been developed as yet, 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 and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

**G. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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 City of San Diego exempted this project as requiring only ministerial review.

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 future development of the site, will avoid or minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

(G:\Reports\2019\6-19-0282 Shoreline Mission Bay, LLC (Coffee\_Juice Bar Conversion) stf rpt.docx)