

CALIFORNIA COASTAL COMMISSION

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W18e

ADDENDUM

April 13, 2021

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W18e, Application No. 5-20-0397 (SVBSM LLC) for the Commission meeting of April 14, 2021.**

I. CORRESPONDENCE RECEIVED; STAFF'S RESPONSE TO THE CORRESPONDENCE:

Two letters (via email) were received and published under the "Correspondence" tab for this item (after the 7 letters of support from non-profit organizations). One letter was received from the Surfrider Foundation Los Angeles Chapter expressing concerns about the proposed project, suggested modifications to improve public access at the proposed development, and suggested modifications to the marine debris reduction program special condition. One letter was received from UNITE HERE Local 11, dated February 9, 2021 (same letter that was submitted for the February hearing for this item), expressing concerns about the membership-based restaurant/facility not being a compatible use with the Coastal Act's requirement to maximize coastal access; that the mitigation proposed of "in-kind" payments such as contributing a skill is not a substitute to an accessible, visitor-serving use, such as a regular restaurant; and that the applicant hasn't demonstrated that it would be infeasible to operate as a regular restaurant.

The letter from Surfrider Foundation Los Angeles Chapter raises the following contentions: 1). The Certified Land Use Plan (LUP) is not the standard of review, so the Commission must evaluate this project for consistency with the public access and environmental justice policies of the Coastal Act; 2). The "in-kind" payment is not really realistic as the applicant doesn't detail how many of the "in-kind" payments they will accept or how individuals will seek out this option in the first place; 3). Surfrider urges the Commission to make the applicant restructure the business plan to a non-

membership based model, have free community events or open the facility up to the public on the weekends, or, if the applicant can't do any of these things, then they should pay in-lieu mitigation fees to fund local public access enhancement in the region; 4). Surfrider suggests that we should add more specificity to the Marine Debris Reduction Special Condition (**Special Condition 3**) to clarify that to “participate in a Marine Debris Reduction Program” means that the applicant must meet all mandatory criteria for the program and be fully certified.

Commission staff has the following responses to the Surfrider Foundation letter:

1). The staff report, dated 4/1/21, addresses Chapter 3 policies and states that the Santa Monica LUP is used as guidance for determining consistency with the Coastal Act. It is correct that the project should be found consistent with public access and environmental justice policies of the Coastal Act, and the Commission may appropriately rely on the Santa Monica LUP as guidance when evaluating the project's consistency with Chapter 3 of the Coastal Act 2). As indicated in the staff report, the applicant is committed to creating a diverse membership base including an outreach and advertisement effort to reach a broad group of individuals, including persons from minority groups. It is correct that the applicant does not mention how many of these “in-kind” payments will be accepted in lieu of paying the membership fee; 3). Commission staff asked the applicant if they would make the rooftop or portions of the facility open to the public and the applicant declined to do so; 4). The intent of Special Condition 3 is that the applicant adheres to all the requirements of the selected marine debris reduction program and becomes a fully certified member of the program. Commission staff agrees that more specificity should be added to **Special Condition 3** (Marine Debris Reduction Program). The changes are addressed in the **Section II: CHANGES TO THE STAFF REPORT** below.

The letter from UNITE HERE Local 11 raises the following contentions: a membership-based restaurant is not a compatible use with the Coastal Act's requirement to maximize coastal access; that the mitigation proposed of "in-kind" payments such as contributing a skill is not a substitute to an accessible, visitor-serving use, such as a regular restaurant; and the applicant hasn't demonstrated that it would be infeasible to operate as a regular restaurant. In response, Commission staff would note that the subject site is currently a non-visitor serving use as it is office space and unutilized rooftop area, while the proposed restaurant/facility would increase coastal recreation and access benefit and provide limited recreational opportunities. Although the use of the restaurant is limited to members and their guests, the restaurant/facility will improve recreational opportunities near the coast and does not interfere with public use of, or access to, the beach.

After the deadline for submittal, Commission staff received approximately 90 emails from members of the public in opposition to the project for substantially the same issues that were raised in the UNITE HERE Local 11 letter and two letters in support of the project. These email correspondences are on file and available in the South Coast District Office.

II. CHANGES TO THE STAFF REPORT

This addendum modifies the staff report dated April 1, 2021 adding the following modifications on pages 9, 10, and 21. Language to be added to the staff report is shown in underlined text and language to be deleted is identified by ~~strikethrough~~.

- a. **On page 9 and 10 of the staff report, Special Condition 3 shall be modified as follows:**

3. Marine Debris Reduction Program. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a robust and comprehensive plan to reduce waste and single-use plastic foodware and packaging. The plan shall include at a minimum, all of the following, and the applicant shall implement the approved version of the plan:

A. The applicant shall install and maintain smoke-free signage in all rooms of the proposed development.

B. The applicant shall install and maintain educational signage that promotes and encourages the use of reusable items (instead of single-use items)

C. Adhere to the following criteria:

i. Only use reusable foodware (including dinnerware, drinkware, silverware, and ramekins/containers) for onsite dining.

ii. Only provide paper straws, or straws made from naturally occurring materials or reusables, upon request.

iii. Prohibit the use of expanded polystyrene (aka Styrofoam).

iv. Prohibit the use of plastic bags on-site or for takeout/to-go orders.

v. Only provide single-use utensils, straws, condiments, and other accessory items upon request for takeout/to-go orders.

vi. Prohibit the sale of beverages in plastic bottles.

vii. Follow proper recycling practices.

~~C-D.~~ Participate in a Marine Debris Reduction Program such as the ReThink Disposable Program (RTDP), ~~or~~ Surfrider's Ocean Friendly Restaurants (OFR), or a substantially similar program, meet all mandatory criteria of the selected program and become a fully certified member of the selected program. Within 6 months of the completion of the proposed development, the applicant shall participate in an established program to reduce waste and single-use plastic foodware and packaging on-site and for takeout orders. The applicant shall be responsible for the fees needed to participate in the program.

~~D. E.~~ The applicant shall provide an annual report for the review and approval of the Executive Director of the Coastal Commission, program scope and metrics, and total impact of the program. The report shall be provided annually, no later than January 30th, for the preceding calendar year and shall be provided for the lifetime of the development.

~~E. F.~~ No changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required.

- b. **On page 21 of the staff report, the second paragraph shall be modified as follows:**

The applicant is proposing to participate in Surfrider's Ocean Friendly Restaurants program, and at a minimum, eliminate expanded polystyrene use (a.k.a. Styrofoam), follow proper recycling practices, only use reusable tableware for onsite dining, only provide disposable utensils for takeout food upon request, prohibit the use of plastic bags, and only provide paper straws or straws made from naturally occurring materials/reusables upon request. Therefore, to ensure that the applicant protects marine resources and water quality, **Special Condition 3** requires the applicant to participate in a marine debris reduction program, meet all mandatory criteria of the selected program, and become a fully certified member of the selected program to reduce waste and single-use plastic foodware and packaging on-site and for takeout orders.