

**CALIFORNIA COASTAL COMMISSION**

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**STAFF REPORT: REGULAR CALENDAR****Application No.:** **6-20-0053****Applicant:** **Northeast MB, LLC****Agent:** Bonnie Neely**Location:** 2727 De Anza Rd, Mission Bay Park, San Diego (San Diego County) APN: 760-035-01-00**Project Description:** Demolish vacant mobile homes and convert approximately 150 mobile home sites to recreational vehicle spaces, upgrade utilities for use by recreational vehicles, and repair landscaping, streets, and waterfront bicycle and pedestrian path.**Staff Recommendation:** Approval with conditions.

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**SUMMARY OF STAFF RECOMMENDATION**

The applicant proposes to demolish vacant mobile homes at the former De Anza Cove Mobile Home Park on De Anza Cove in Mission Bay Park in the City of San Diego and convert approximately 150 mobile home sites located within the northern segment of the mobile home park into RV spaces, accompanied by upgrades to existing utility hookups on the sites and repairs to internal roads, landscaping, and waterfront pedestrian and bicycle path, as part of an expansion of the existing approximately 250-space Mission Bay RV Resort located in between the vacant mobile homes. The combined site of the Mission Bay RV Park and the adjacent De Anza Mobile Home Park to its north and south totals approximately 70 acres, though roughly half of the acreage would be used under the expanded RV use and the remaining half cleared of structures would remain vacant and fenced off from the public.

Mission Bay Park is the largest municipal aquatic park in the country, consisting of approximately 4,235 acres in roughly equal parts land and water, with 27 miles of shoreline, 19 of which are sandy beach with 8 officially designated swimming areas. De Anza peninsula contains approximately 6,759 feet of shoreline, with the majority consisting of a rip rap revetment as well as a sandy beach and swim area located on the east side at the western end of De Anza Cove, adjacent to a public parking lot. The proposed development is seen by the City as an interim use to expand public benefit of the currently vacant and inaccessible portions De Anza peninsula while the City continues its local planning efforts on the De Anza Revitalization Plan, a multi-year update and amendment to the Mission Bay Park Master Plan to redevelop the De Anza Cove area into a mix of new habitat and recreational space.

Due to the currently vacant and fenced off nature of prime waterfront land occupied by the mobile homes, it does not serve any public benefit and instead impedes the ability of the public to visit this portion of the shoreline. The proposed conversion of some of the mobile home sites into RV sites will expand an existing public use that provides waterfront overnight accommodations at a cost equal to or lower than many other overnight accommodations in the project vicinity, as well as repair and realign undermined segments of an existing waterfront public pedestrian and bicycle path. However, the continued closure of approximately 35 acres of the peninsula to public access, despite being cleared of vacant structures under the proposed development, would exacerbate a significant public access loss despite the reason for the closure, the currently condemned vacant mobile homes, being removed. Additionally, while the proposed development would add a public pedestrian and bicycle path in the northern portion of the site, it leaves a 450-foot long gap between the path segments across the western end of the existing RV leasehold, instead detouring the public on a half-mile loop inland, around the leasehold through fenced alleyways, if they wish to continue along the waterfront on the other side. Further, the relatively isolated nature of De Anza Peninsula and continuation of fencing off the portions that remain vacant in this comparatively isolated corner of Mission Bay Park creates the risk of the proposed RV resort expansion appearing to privatize this segment of park area and discouraging public access. The continued fencing of large portions of the peninsula will also obstruct significant coastal views that could be restored once the mobile homes are removed.

Given the project site's waterfront location and proximity to habitat areas in adjacent Rose Creek and nearby Kendall Frost Reserve, the demolition of so many vacant structures and intensification of use of this area for RV operations raises concerns of potential impacts to biological resources, water quality, and visual resources caused by the spillover of light, debris, runoff, and visual impediments. The expansion of RV spaces could introduce new light sources that could encroach into adjacent park and water area. The demolition of scores of vacant structures surrounded by water raises the risk of debris entering the bay.

Separately, violations of the Coastal Act and the City of San Diego LCP exist on the subject property including, but not necessarily limited to, installation and maintenance of signs restricting public access and other physical items of development, and use of security guards that all have the effect of blocking, impeding, and/or discouraging public

access to De Anza Cove Beach, the public parking lot there, and public tidelands. The violations also include other actions such as labeling on the Mission Bay RV Resort website that the required public parking area was for “guest” parking. All of these actions had the effect of changing the intensity of use of beaches, public parking areas, and public tidelands, and of access thereto.

In 2019, the City entered into a four-year lease agreement (“the 2019 Lease”) with Northeast MB, LLC with the possibility of a one-year extension. This lease includes requirements to provide public access to the beach, as well as public access to bike and pedestrian paths, and a requirement to provide a public parking area within the Mission Bay RV Resort parking lot. The subject property has since been managed by Terra Vista Management, Inc. (“TVM”), the same manager as Campland on the Bay, the neighboring leased RV resort in Mission Bay (“Campland”).

The 2019 Lease requires TVM, as the manager, to provide public access to the designated public parking area, as well as the beach and bike and pedestrian boardwalk within the subject property. The lease also requires TVM to post signs identifying the area as owned by the City and available for public use. In addition, the lease requires that all signs be approved by the City and requires compliance with all applicable laws. In addition to the requirements of the 2019 Mission Bay RV Resort Lease, the public trust tidelands grant from the state to the City also reserves to the public the right to fish here.

However, TVM did not post any of the required access signs identifying the area as City-owned and open to the public, and instead maintained signs that had the effect of blocking public access to the public parking areas. These signs discouraged public access for those wishing to park to access the beach and the trail, or to fish. Moreover, TVM also maintained several other physical items of development directly blocking public parking spots at Mission Bay RV Resort.

After receiving reports of public access violations here and at Campland, Commission staff visited both properties and confirmed the existence of the violations. On June 26, 2020, the Commission sent a Notice of Violation letter to TVM, informing them of the violations and other violations of the Coastal Act. On August 20, 2020, TVM filed this CDP application to redevelop De Anza Cove as part of their lease with the City of San Diego. The Executive Director of the Commission then sent TVM a Notice of Intent to Issue a Cease and Desist Order and Administrative Penalty on February 18, 2021. This letter provided TVM with notice that the Executive Director intended to address the violations through a formal hearing before the Commission. Commission Enforcement staff and TVM have been working cooperatively over the last several months in an attempt to resolve these violations amicably through the “Consent Order” process and such action will likely come before the Commission at a subsequent hearing.

In order to maximize public access and reduce potential impacts to the greatest extent feasible. **Special Condition No. 1** requires several revisions to the project plans to restore and expand public access: demolition of private encroachments onto the public beach and deletion of the RV spaces proposed to replace them, connection of the public pedestrian and bicycle path through the existing RV facility, extension of a public

pedestrian and bicycle path along the entire extent of De Anza Bay Drive, relocation of the public pedestrian and bicycle path closer to the shoreline through the public parking lot, and removal of the fencing around the portions of the peninsula that will be vacant of structures and not used for RV operations. **Special Condition Nos. 1 & 2** require the submittal of final construction plans and final construction staging and storage plans to ensure that neither the final development nor the work to convert the spaces will encroach into adjacent park land or public parking. **Special Condition No. 2** also requires final landscape plans and lighting plans to ensure that no invasive plants that could impact adjacent habitat are used and that external lighting is shielded and aimed away from open water areas. **Special Condition No. 3** requires final construction pollution prevention plans to ensure that all debris material is retained and prevented from entering coastal waters, and that machinery is used and maintained in a manner that avoids spills of hazardous materials. **Special Condition No. 4** requires the submittal of final post-development runoff plans to demonstrate how runoff will be retained, treated, and infiltrated on-site to the greatest extent feasible to reduce the volume of runoff entering coastal waters. **Special Condition No. 5** requires the substantial amount of demolition material that will be generated by the conversion to be disposed of at a legal site outside of the coastal zone. Because De Anza peninsula is surrounded on three sides by coastal waters, **Special Condition No. 6** requires the applicant to assume the risk of coastal hazards and waive liability, while **Special Condition No. 7** requires the applicant and successors to waive their right to shoreline protection. Because this corner of Mission Bay Park is relatively isolated compared to the rest of the park and the configuration of De Anza peninsula contributes to an appearance of privatization that discourages public access, **Special Condition No. 8** requires the submittal of a final public access plan detailing the public's rights of access to the public parking lot and waterfront path on the peninsula, a signage plan informing the public of their access rights around the peninsula, as well as the removal of encroaching fences and docks on the public beach. Finally, because the City of San Diego views this development as an interim use while they finalize the long-term, permanent redevelopment of De Anza peninsula, **Special Condition No. 9** places a fixed duration on this permit until June 30, 2027 so as to coincide with the expiration of the applicant's lease with the City and ensure that the authorized development does not become an impediment to future efforts to expand public park space on the peninsula.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-20-0053, as conditioned. The motion is on page 4. The standard of review is Chapter 3 of the Coastal Act.

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## EXHIBITS

- [Exhibit 1 – Vicinity Map](#)
- [Exhibit 2 – Leasehold Boundary](#)
- [Exhibit 3 – Aerial View](#)
- [Exhibit 4 – Location of Required Public Access Signage](#)
- [Exhibit 5 – Site Photos](#)
- [Exhibit 6 – Project Plans](#)

## I. MOTION AND RESOLUTION

### **Motion:**

I move that the Commission approve Coastal Development Permit 6-20-0053 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. 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 Commissioners present.

### **Resolution:**

The Commission hereby approves the Coastal Development Permit for the proposed project 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

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 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

#### 1. Submittal of Revised Final Plans

a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the review and written approval of the Executive Director, a full-size set of the following revised final plans, modified as required below.

- i. Final construction plans that conform with the plans submitted to the Commission, titled “Mission Bay RV Resort Coastal Development Plan,” submitted to the Commission on January 29, 2020, except that they shall be modified as required below:
  - A. The existing private structure between De Anza Bay Drive and the sandy beach at the east boundary of the leasehold shall be demolished along with all accessory structures adjacent to or encroaching onto the public beach, including, but not limited to, the retaining walls, dock, and chain link fence.
  - B. The recreational vehicle spaces numbered 145, 146, and 147 on the construction plans and proposed for the space described in Section (i)(A) above between De Anza Bay Drive and the sandy beach shall be deleted from the project.
  - C. Public pedestrian and bicycle access shall be provided along or west of Rose Creek Shore Drive, connecting the public path on Circle Drive and Shore Drive. Permanent opening of no less than 16 feet wide shall be created in the existing perimeter fence on the north and south sides of the Mission Bay RV Resort to accommodate the access along or west of Rose Creek Shore Drive.
  - D. A demarcated public pedestrian and bicycle path shall be provided along the entire length of De Anza Bay Drive on the shoreline side from De Anza Road to Shore Drive.
  - E. A demarcated public pedestrian and bicycle path shall also extend from De Anza Bay Drive along the shoreline edge of the adjacent public parking lot, and connect to the Shore Drive pedestrian and bicycle path via a new, formal connection no less than 16 feet wide in the southern wall at the eastern end of the public parking lot.
  - F. Once construction of the approved development is completed, all fencing shall be deleted around all portions of the peninsula not operating as an RV facility, allowing public access into the vacant segments of the peninsula.

- b) All revised plans shall be prepared and certified by a licensed professional or professionals as applicable, based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports.
- c) The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed deviations.

## **2. Submittal of Final Construction Staging and Storage, Landscaping, and Lighting Plans**

- a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a full-size set of the following final plans:
  - i. Final construction staging and storage plans that site all construction staging and storage and worker parking outside of public parking, beach area, and coastal waters,
  - ii. Final landscaping plans prepared by a licensed landscape architect or a qualified resource specialist who shall certify in writing that the final landscape plans are in conformance with the following requirements:
    - A. It shall include a planting schedule that indicates that the planting plan shall be implemented within sixty (60) days of completion of construction. Within ninety (90) days of completion of construction, the Permittee shall submit for the review and written approval of the Executive Director a landscaping implementation report, prepared by a licensed Landscape Architect or qualified resource specialist that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The implementation report shall include photographic documentation of plant species and plant coverage.
    - B. All cut and fill slopes shall be stabilized with planting at the completion of final grading. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
    - C. To minimize the need for irrigation all landscaping shall consist of primarily native drought tolerant plants, as listed by the California Native Plant Society. (See <http://www.cnps.org/cnps/grownative/lists.php>.) Some non-native drought tolerant non-invasive plants may be used within 30 feet of

habitable structures. Use of turf irrigated with potable water shall be minimized and irrigated with micro-spray systems. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the site.

- D. All landscaped areas on the project site shall be maintained in a litter-free, weed-free, and healthy growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements. The Permittee shall submit for the review and written approval of the Executive Director two landscaping monitoring reports for the review and written approval of the Executive Director. The first monitoring report shall be submitted three years from the date of the issuance of the coastal development permit for the demolition and RV park expansion, and the second monitoring report shall be submitted five years from the date of issuance of the coastal development permit for the demolition and RV park expansion. The landscaping monitoring reports shall be prepared by a licensed Landscape Architect or qualified resource specialist that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring reports indicate the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the Permittee shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised or supplemental landscaping plan must be prepared by a licensed Landscape Architect or qualified resource specialist and shall specify measures to remediate those portions of the approved landscaping plan that have failed or are not in conformance with the original approved plan.

- E. The use of rodenticides containing any anticoagulant compounds is prohibited.

- F. All irrigation systems shall limit water use to the maximum extent feasible. Use of reclaimed water for irrigation is encouraged. If permanent irrigation systems using potable water are included in the landscape plan, they shall use water conserving emitters (e.g., microspray) and drip irrigation only. Use of reclaimed water ("gray water" systems) and rainwater catchment systems are encouraged. Other water conservation measures shall be considered, including use of weather-based irrigation controllers.
- iii. Final lighting plan for all night lighting impacts associated with the proposed development. The final lighting plan shall at a minimum include the following:
  - A. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed three feet in height above finished grade, are shielded and directed downward, and generate the same or fewer lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized in writing by the Executive Director.
  - B. Security lighting attached to the structures shall use a control device or automatic switch system or equivalent functions to minimize lighting and is limited to same or fewer lumens equivalent to those generated by a 60-watt incandescent bulb. The control system shall include controls that automatically extinguish all outdoor lighting when sufficient daylight is available.
  - C. The minimum necessary to light entry areas, driveways, and pedestrian paths with the same or fewer lumens equivalent to those generated by a 60-watt incandescent bulb. This lighting shall be shielded and directed downward.
  - D. No lighting around the perimeter of the site, no lighting directed onto beach or open water areas, and no lighting for aesthetic purposes is allowed.
- b) The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

### **3. Construction Pollution Prevention Plan.**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the written approval of the Executive Director, a Construction Pollution Prevention Plan that demonstrates that all construction,

including, but not limited to, clearing, grading, staging, storage of equipment and materials, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:

a) **General Construction-Phase Best Management Practices**

- i. Best Management Practices (BMPs) designed to minimize adverse impacts resulting from construction and demolition activities shall be implemented prior to the onset of such activity, including BMPs to minimize erosion and sedimentation, minimize the discharge of pollutants and non-stormwater runoff, and minimize land disturbance and soil compaction, as applicable. The plan shall specify the description and location of all BMPs to be implemented during construction and demolition.
- ii. Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and staff training), to protect coastal water quality.
- iii. All BMPs shall be maintained in a functional condition throughout the duration of the construction and demolition activities and shall be promptly removed when no longer required.
- iv. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, interception of rainfall, pollutant uptake, shading of waterways, and erosion control.
- v. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.

b) **Minimize Erosion and Sediment Discharge.** During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:

- i. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.
- ii. Grading shall be avoided during the rainy season (from November 15th to April 15<sup>th</sup>), unless the Executive Director grants an exemption or extension.

- iii. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
  - iv. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sand bag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sediment from construction-related activities from entering coastal waters or the storm drain system.
  - v. Tracking control BMPs (such as a stabilized construction entrance/exit, or street sweeping) shall be installed or implemented as needed to prevent vehicles leaving the construction area from tracking sediment off-site.
  - vi. To minimize wildlife entanglement and plastic debris pollution, the use of temporary erosion and sediment control products that contain plastic netting (such as fiber rolls, erosion control blankets, and mulch control netting) shall be prohibited. Heavy-duty silt fences reinforced by plastic or metal netting shall also be prohibited. Only products that contain natural-fiber netting, or that do not contain netting, shall be allowed.
- c) **Minimize Discharge of Construction Pollutants.** The discharge of other pollutants resulting from construction and demolition activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:
- i. **Stockpile and Debris Management**
    - A. All stockpiles, demolition and construction materials, debris, and waste shall be covered during rain events, protected from stormwater runoff using temporary perimeter barriers, and located a minimum of 50 feet from coastal waters and storm drain inlets.
    - B. Demolition or construction waste and debris shall be removed from work areas as soon as feasible, to prevent the accumulation of debris, sediment, and other pollutants that may potentially be discharged into coastal waters or the storm drain system. Adequate disposal facilities shall be provided for solid waste produced during demolition or construction activities.

- C. Trash receptacles shall be provided on-site and covered during rain events, and all trash shall be disposed of in the proper trash and recycling receptacles by the end of every construction day.
- D. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.

**ii. Spill Prevention and Equipment Maintenance**

- A. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of construction products or materials that may have adverse environmental impacts. The discharge of any construction products or materials into coastal waters, drainage courses, or the storm drain system shall be prohibited.
- B. Leaks or spills of fuel, oil, grease, lubricants, hydraulic fluid, chemicals, preservatives, paints, or other construction products or materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as feasible.
- C. Construction vehicles operating at the project site shall be inspected daily to ensure there are no leaking fluids and shall be serviced immediately if a leak is found.
- D. Fueling and maintenance of construction equipment and vehicles shall be conducted off-site, if feasible. Any fueling and maintenance of mobile equipment conducted on site shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets (unless these inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other pollutants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
- E. Equipment, machinery, and vehicles shall be washed only in designated areas specifically designed to contain runoff and prevent discharges into storm drain inlets. Thinners, oils, and solvents shall not be discharged into the sanitary sewer or storm drain systems.

**iii. Control of Non-Stormwater Runoff**

- A. Runoff control BMPs (such as a concrete washout facility or a dewatering tank) shall be installed or implemented to retain, infiltrate, or treat non-stormwater runoff resulting from demolition and construction activities.
- d) **Additional BMPs for Construction Adjacent to Coastal Waters.** The permittee shall implement additional BMPs to protect coastal water quality during demolition and construction activities taking place adjacent to Mission Bay, if there is a potential for demolition or construction debris, materials, or chemicals to enter coastal waters, including:
  - i. No construction equipment, debris, or materials shall be allowed on the beach or shoreline at any time.
  - ii. Tarps or similar devices shall be used during demolition or construction activities adjacent to Mission Bay to capture and remove debris, oil, grease, rust, sawdust, fine particles, and spills to prevent these materials from entering coastal waters.
  - iii. Vegetable oil-based hydraulic fluids shall be used in heavy equipment used adjacent to coastal waters, if feasible, for demolition and construction activities lasting one week or longer. Standard hydraulic fluids are based on petroleum products, and due to their high aquatic toxicity, they pose a risk if leaked or spilled in or near sensitive aquatic habitats. Vegetable oil-based hydraulic fluids are formulated for rapid biodegradability and low aquatic toxicity, and do not bioaccumulate in aquatic organisms.
  - iv. Biodiesel fuel shall be used in heavy equipment used adjacent to coastal waters, if feasible, for demolition and construction activities lasting one week or longer. Diesel fuel may leak or spill from heavy equipment and vehicles used in construction and demolition, and where these activities take place near coastal waters, diesel poses a risk of aquatic toxicity. Biodiesel is a non-petroleum alternative fuel that is less toxic than diesel fuel and can be used in construction equipment and vehicles operating near sensitive aquatic habitats.
- e) **Construction Site Map and Narrative Description.** The Construction Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:

- i. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
- ii. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
- iii. A description of the BMPs that will be implemented to minimize erosion and sedimentation, minimize the discharge of other pollutants resulting from construction and demolition activities, and control non-stormwater runoff. Include calculations that demonstrate proper sizing of BMPs, as applicable.
- iv. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and staff training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.

#### **4. Post-Development Runoff Plan**

- a) **Water Quality and Hydrology Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a Water Quality and Hydrology Plan that demonstrates that the project complies with the following requirements for post-development protection of coastal water quality:

- i. **Use a Low Impact Development Approach to Stormwater Management.** Use a Low Impact Development (LID) approach to stormwater management to replicate the site's pre-development hydrologic balance, by implementing site design strategies that reduce runoff, integrated with small-scale, distributed Best Management Practices (BMPs) to retain stormwater runoff close to the source.

The project shall comply with the following LID Site Design strategies and BMPs:

- A. Minimize disturbance of coastal waters and natural drainage features such as stream corridors, rivers, wetlands, natural drainage patterns, drainage swales, groundwater recharge areas, floodplains, and topographical depressions.

- B. Minimize removal of native vegetation, and plant additional non-invasive vegetation, particularly native plants that provide water quality benefits such as transpiration, interception of rainfall, pollutant uptake, shading of waterways to maintain water temperature, and erosion control.
- C. Maintain or enhance on-site infiltration of runoff to the greatest extent appropriate and feasible. Use strategies such as avoiding building impervious surfaces on highly permeable soils; avoiding unnecessary soil compaction; amending soil if needed to enhance infiltration; directing runoff to permeable landscaped areas; and installing an infiltration BMP (e.g., rain garden or bioretention system).
- D. Minimize the addition of impervious surfaces, and where feasible increase the area of pervious surfaces in redevelopment. Use strategies such as minimizing the footprint of buildings; minimizing the footprint of impervious pavement; and installing a permeable pavement system where pavement is required.
- E. Disconnect impervious surface areas from the storm drain system, by interposing permeable areas between impervious surfaces and the storm drain system. Design curbs, berms, and similar structures to avoid isolation of vegetative landscaping and other permeable areas and allow runoff to flow from impervious pavement to permeable areas for infiltration. Use strategies such as directing roof-top runoff into permeable landscaped areas; directing runoff from impervious pavement into distributed permeable areas (e.g., turf, medians, or parking islands); installing a vegetated swale or filter strip to intercept runoff sheet flow from impervious pavement; and installing a rain barrel or cistern to capture and store roof-top runoff for later use in on-site irrigation or plumbing. Convey runoff from impervious surfaces into permeable areas in a non-erosive manner.
- F. Where appropriate and feasible, direct stormwater runoff from all impervious surfaces (e.g., parking areas and driveways, roofs, walkways, and patios) to, in order of priority, a) landscaped areas or open spaces capable of infiltration; b) earthen-based infiltration BMPs (such as a bioretention basin) c) manufactured infiltration BMPs (such as a permeable pavement system) or rainwater harvesting BMPs (such as a cistern); d); flow-through biofiltration

BMPs (such as a vegetated swale or green roof); and if infiltration is not feasible, e) proprietary filtration systems (such as an inlet filter) or runoff flow control systems (such as a stormwater detention vault).

- G. Implement Runoff Control BMPs that are sized and designed to retain on-site (by means of infiltration, evaporation, uptake by plants, or harvesting for later on-site use) the runoff produced by the 85<sup>th</sup> percentile 24-hour design storm, to the extent appropriate and feasible. Examples include a bioretention basin, rain garden, permeable landscaped area, permeable pavement system, and cistern.
  - H. If the proposed development will not retain on-site the runoff produced by the 85<sup>th</sup> percentile 24-hour design storm using an LID approach, an alternatives analysis shall be conducted. The alternatives analysis shall demonstrate that on-site runoff retention is maximized to the extent appropriate and feasible, and there are no appropriate and feasible alternative project designs (such as a reduction in impervious surface area) that would enable on-site retention of the design storm runoff volume.
  - I. Where on-site infiltration is not appropriate or feasible, use alternative BMPs to minimize post-development changes in runoff flows. Alternative BMPs shall also be used where infiltration BMPs are not adequate to treat a specific pollutant of concern attributed to the development, or where infiltration practices would conflict with regulations protecting groundwater. Examples include an evapotranspiration BMP that does not infiltrate into the ground but uses evaporation and uptake by plants to reduce and attenuate runoff flows (e.g., a vegetated “green roof,” flow-through planter, biofiltration basin, or retention pond); a rainwater harvesting BMP to capture and store runoff for later use in landscape irrigation (e.g., a rain barrel or cistern); directing runoff to an off-site infiltration facility; or a BMP to reduce runoff flow rate (e.g., a manufactured stormwater detention vault) prior to directing runoff to the storm drain system.
- ii. **Implement Treatment Control BMPs if Necessary.** Treatment Control BMPs are structural systems designed to remove pollutants from runoff by processes such as gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or other physical, biological, or chemical process. Examples

include vegetated swales, bioretention basins, and storm drain inlet filters. Runoff Control BMPs that promote infiltration or evapotranspiration may also provide Treatment Control.

- A. Implement a Treatment Control BMP (or suite of BMPs) that is sized and designed to remove pollutants of concern from any portion of the runoff produced by the 85<sup>th</sup> percentile 24-hour design storm that will not be retained on-site.
  - B. Where infiltration BMPs are not adequate to remove a specific pollutant of concern attributed to the development, an effective Treatment Control BMP (or suite of BMPs) shall be required prior to infiltration of runoff, or else an alternative BMP that does not involve infiltration shall be substituted for the infiltration BMP.
  - C. If flow-based BMPs are implemented to remove pollutants of concern or to slow and attenuate runoff flows, size and design these BMPs to treat the runoff flow produced by the 85<sup>th</sup> percentile 1-hour storm event, multiplied by a safety factor of two.
- iii. **Implement Source Control BMPs.** Appropriate and feasible long-term Source Control BMPs, which may be structural features or operational practices, shall be implemented to minimize the transport of pollutants in runoff from the development by controlling pollutant sources and keeping pollutants segregated from runoff. Use strategies such as covering outdoor storage areas; using efficient irrigation; proper application and clean-up of potentially harmful chemicals and fertilizers; and proper disposal of waste.
- iv. **Avoid Adverse Impacts from Stormwater and Dry Weather Discharges.** The adverse impacts of discharging stormwater or dry weather runoff flows to coastal waters, intertidal areas, beaches, bluffs, or stream banks shall be avoided, to the extent feasible. The project shall comply with the following requirements:
- A. New outfalls discharging stormwater or dry weather runoff to coastal waters shall be prohibited, and runoff shall be directed inland to the storm drain system or to an existing outfall. If no storm drain system or existing outfall is present, runoff shall be directed to an existing drainage channel. Runoff shall not be allowed to sheet flow to the beach or the bay.
  - B. Runoff shall be conveyed off-site or to drainage systems in a non-erosive manner. If runoff flows to a natural stream channel or

drainage course, determine whether the added volume of runoff is large enough to cause erosion.

- C. Protective measures shall be used to prevent erosion from concentrated runoff flows at stormwater outlets (including outlets of pipes, drains, culverts, ditches, swales, or channels), if the discharge velocity will be sufficient to potentially cause erosion. The type of measures selected for outlet erosion prevention shall be prioritized in the following order, depending on the characteristics of the site and the discharge velocity: (1) vegetative bioengineered measures (such as plant wattles); (2) a hardened structure consisting of loose materials (such as a rip-rap apron or rock slope protection); or (3) a fixed energy dissipation structure (such as a concrete apron, grouted rip-rap, or baffles).
  - D. Design and manage the development to minimize discharge of dry weather runoff to coastal waters, to the maximum extent feasible. For example, use efficient landscape irrigation techniques, and design vehicle washing areas to convey wash water to vegetated areas, infiltration system, or the sanitary sewer system to minimize off-site runoff.
- v. **Manage BMPs for the Life of the Development.** Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and staff training) to keep the water quality provisions effective for the life of the development.
  - vi. **Site Plan and Narrative Description.** The Water Quality and Hydrology Plan shall include a site plan and a narrative description addressing, at a minimum, the following required components:
    - A. A California-licensed professional (e.g., Registered Professional Civil Engineer, Geotechnical Engineer, Geologist, Engineering Geologist, Hydrogeologist, or Landscape Architect) qualified to complete this work shall be in responsible charge of preparing the Water Quality and Hydrology Plan.
    - B. A site plan, drawn to scale, showing the property boundaries, building footprint, runoff flow directions, relevant drainage features, structural BMPs, impervious surfaces, permeable pavements, and landscaped areas.

- C. An estimate of the proposed changes in (1) impervious surface areas on the site, including pre-project and post-project impervious coverage area and the percentage of the property covered by impervious surfaces; (2) the amount of impervious areas that drain directly into the storm drain system without first flowing across permeable areas; and (3) site coverage with permeable or semi-permeable pavements.
- D. A polluted runoff and hydrologic characterization of the existing site (e.g., potential pollutants in runoff, soil properties, infiltration rate, depth to groundwater, and the location and extent of confining layers such as bedrock), as necessary to design the proposed BMPs.
- E. A description of the BMPs that will be implemented, and the Low Impact Development approach to stormwater management that will be used. Specify the number, location, size, design, and stormwater management function of all BMPs. Include a schedule for installation or implementation of all post-development BMPs.
- F. Supporting calculations demonstrating that all required Runoff Control and Treatment Control BMPs shall be sized, designed, and managed to infiltrate, retain, or treat, at a minimum, the runoff produced by the 85<sup>th</sup> percentile 24-hour storm event for volume-based BMPs, or the 85<sup>th</sup> percentile 1-hour storm event (multiplied by a safety factor of two) for flow-based BMPs, to the extent appropriate and feasible. Indicate the values used in the calculations, and the source of data for each variable.
- G. If the 85<sup>th</sup> percentile 24-hour design storm runoff volume cannot be retained on site using an LID approach, an alternatives analysis shall demonstrate that no feasible alternative project design would substantially improve runoff retention.
- H. Runoff from all new and/or replaced impervious and semi-pervious surfaces shall be addressed in the plan. For sites where the area of new and/or replaced impervious and semi-pervious surfaces is greater than or equal to 50% of the pre-existing impervious and semi-pervious surfaces, runoff from the entire developed area, including the pre-existing surfaces, shall be addressed in the plan.
- I. A description and schedule for the ongoing management of all post-development BMPs, including operation, maintenance, inspection,

and staff training, that will be performed for the life of the development, if required for the BMPs to function properly.

- b) The permittee shall undertake development in accordance with the approved Water Quality and Hydrology Plan, unless the Commission amends this permit or the Executive Director determines issues a written determination that no amendment is legally required for any proposed minor deviations.

## **5. Disposal of Graded Spoils and Hazardous Materials**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall identify the location the location for the disposal of all excess graded spoils and hazardous materials. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or its successor in interest.

## **6. Assumption of Risk, Waiver of Liability and Indemnity**

- a) By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, erosion, and earth movement, all of which will may worsen with future sea level rise; (ii) to assume the risks to the Permittee 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.
- b) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit: (1) a copy of a recorded lease agreement, in a form and content acceptable to the Executive Director, between the applicant and the City of San Diego incorporating all of the above terms of subsection (a) of this Special Condition and of Special Condition No. 7, and (2) a written agreement by the City of San Diego, in a form and content acceptable to the Executive Director, providing that upon termination of the applicant's lease of the property that is the subject of this coastal development permit, the City of San Diego agrees (i) to be bound by the terms of subsection (a) of this condition and of Special Condition No. 7 if it becomes the owner of the possessory interest in such property, and (ii) to include a provision in any subsequent lease of such property requiring the lessee to submit a written agreement to the Commission, for the review and written approval of the Executive Director, incorporating all of the terms of subsection (a) of this Special Condition and Special Condition No. 7.

## 7. No Future Bluff or Shoreline Protective Device.

- a) By acceptance of this Permit, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 6-20-0053 including, but not limited to, the RV facilities in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- b) By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that they are required to remove all or a portion of the development authorized by this permit and restore the site, if:
  - i. The City or any government agency with jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, flooding, erosion, bluff retreat, landslides, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices;
  - ii. Essential services to the site (e.g. utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
  - iii. Removal is required pursuant to LCP policies for sea level rise adaptation planning; or
  - iv. The development requires new or augmented shoreline protective devices that conflict with applicable LCP or Coastal Act policies.
- c) Approval of CDP No. 6-20-0053 does not allow encroachment onto public trust lands. Any future encroachment onto public trust lands shall be removed unless authorized by the Coastal Commission.

## 8. Public Access Plan

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a final public access plan describing the manner in which the public shall be informed of their right to access and manner of use of existing and new public amenities. The plan shall contain, at a minimum:

- a) A signage plan identifying the location, design, size, and content of public access signs in and around the project site informing the public of their right of access to the project site. The signs shall be located as depicted in Exhibit 4, and at a minimum shall be located:

- i. at the vehicular entrance to the Mission Bay RV Resort on De Anza Road,
  - ii. at the pedestrian entrance to the Mission Bay RV Resort on De Anza Road,
  - iii. at the inland extent of the sandy beach immediately south of the pedestrian entrance on De Anza Road,
  - iv. at the pedestrian entrance at the northwest corner of the project area along North Mission Bay Drive, near the Mike Gotch Memorial Bridge,
  - v. at the easternmost point of De Anza peninsula, adjacent to the intertidal beach area located there.
  - vi. at the public parking lot located adjacent to the sandy beach area at the west end of De Anza Cove.
  - vii. at the northwest corner of the original Mission Bay RV Resort leasehold at the end of Rose Creek Shores Drive.
  - viii. At the southwest corner of the original Mission Bay RV Resort leasehold at the end of Rose Creek Shores Drive.
- b) No sign under the approved Public Access Plan shall measure less than two feet by three feet and all signs shall be made of material capable of withstanding long exposure to the elements. If any of the signs are damaged or missing for any reason, they shall be replaced by the applicant within thirty (30) days.
- c) All signs under the approved Public Access Plan shall contain information approved by the Executive Director informing the public of their right of access, and applicable hours of the access according to the subsections of this Special Condition, and the contact information of the relevant local and state authorities in the event that public access is not granted.
- d) The public parking lot located adjacent to the sandy beach area at the west end of De Anza Cove shall not be used by residents of Mission Bay RV Resort or its successor in interest, nor shall it be used for any operation related to the Mission Bay RV Resort.
- e) The public parking lot located adjacent to the sandy beach area at the west end of De Anza Cove shall be open to public parking every day between 4 AM and 2 AM.

- f) A public pedestrian and bicycle path shall be provided and demarcated on Circle Drive, Shore Drive, Rose Creek Drive, De Anza Bay Drive, and the waterfront boundary of the public parking lot. The public pedestrian and bicycle path shall be adjacent to the shoreline wherever feasible.
- g) The waterfront public pedestrian and bicycle path shall be open to the public 24 hours a day year-round.
- h) Fences and gates shall be prohibited on the waterfront public pedestrian and bicycle path. All existing gates or fences shall be removed.
- i) If at any time during the duration of this permit the public pedestrian and bicycle path along the perimeter of De Anza peninsula becomes undermined for whatever reason, it shall be redesigned and relocated inland a sufficient distance to provide safe continued public use without reliance on shoreline protection. If necessary, any adjacent RV spaces or facilities related to the RV resort's operation shall be modified to accommodate the inland movement of the public path.
- j) The existing fence and dock encroaching onto the public sandy beach at the southern end of De Anza Road shall be removed.
- k) The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

## 9. Duration of Permit

- a) The operation of the development authorized in this coastal development permit is authorized until June 30, 2027. Any operation of the development authorized by the permit by the applicant or their successor in interest beyond that date shall require a new coastal development permit or an amendment to this permit, unless the Executive Director determines in writing that a new permit is not required.
- b) By acceptance of this permit, the applicant agrees, on behalf of itself and all successor and assigns, that, at least ninety (90) days prior to termination of the lease term described in subsection (a) (i.e. March 30, 2027), the applicant shall submit a new coastal development permit application to i) remove all improvements within the lease area; or ii) maintain the improvements for a new term limit.

## IV. FINDINGS AND DECLARATIONS

### A. Project Description and Background

The applicant proposes to demolish vacant mobile homes at the former De Anza Cove Mobile Home Park on De Anza Cove in Mission Bay Park in the City of San Diego and convert approximately 150 mobile home sites located within the northern segment of the mobile home park into RV spaces, including upgrading existing utility hookups on the sites, repairing internal roads, installing new landscaping, and repairing, realigning, and extending a public waterfront pedestrian and bicycle path located around the perimeter of the peninsula. The existing community recreation building, laundry facility, and swimming pool that previously served the mobile homes will be retained and renovated to serve the new RV spaces. The project represents an interim expansion of the existing approximately 250-space Mission Bay RV Resort currently located in between the existing vacant mobile homes ([Exhibit 2](#)). The combined site of the Mission Bay RV Park and the adjacent mobile home sites to its north and south totals approximately 70 acres, though roughly half of the acreage would be used under the expanded RV use and the remaining half cleared of structures would remain vacant and fenced off from the public.

The City has indicated that the proposed development is considered an interim use to allow the public access to and the benefit of portions of the currently vacant and inaccessible De Anza peninsula while the City continues its local planning efforts on the De Anza Revitalization Plan, a multi-year update and amendment to the Mission Bay Park Master Plan to redevelop the De Anza Cove area into a mix of new habitat and recreational space. At that time, the subject site could remain as the proposed use, or be redeveloped for alternative uses consistent with the updated, certified Mission Bay Park Master Plan.

#### History

In the late 1940s, dredging and filling operations began converting the tidal marsh of what was historically known as False Bay into Mission Bay Park. Twenty-five million cubic yards of sand and silt were dredged to create the landforms of the park, which now is almost entirely artificial. The state leased the historic tidelands property that is now De Anza peninsula to the City as a part of Mission Bay Park.

In the 1950s, the City leased the land on De Anza peninsula to be used by visitors for travel trailer purposes, and the Mission Bay RV Resort and now vacant De Anza Mobile Home Park were constructed. In the late 1970's, the City began to question whether it was legal to have permanent residents in Mission Bay Park. At that time, the state passed a law ensuring that people could live in the mobile homes until a 50-year state tidelands lease expired in 2003. When the City moved to cease residential use in 2003 in order to eventually redevelop the peninsula into more open park space, the residents filed a class action lawsuit and obtained a court injunction to remain in their residences

during the course of litigation, which was not concluded until 2014.<sup>1</sup> Subsequent to settling the suit, the mobile home residents moved out over the ensuing year and the property and structures therein have remained vacant and fenced off since, with the Mission Bay RV Resort, an adjacent public parking lot, and part of the waterfront public pedestrian path remaining open on the peninsula.

The applicant, who also operates the neighboring 45-acre Campland on the Bay RV resort across Rose Creek to the west of De Anza peninsula ([Exhibit 2](#)), agreed with the City of San Diego in 2019 to take over the lease of the Mission Bay RV Resort after the previous operator ceased operation, and agreed to expend up to \$8.2 million to remove the vacant mobile homes and convert a portion into new RV spaces, which would be reimbursed by the City in the form of rent credits applicable to both the Mission Bay RV Park and Campland on the Bay. By the terms of the lease, the longest possible extent of the existing lease, if the City were to grant all the lease extensions under its discretion, would be through June 2027.

In July 2020, in anticipation of redevelopment of the site for RV use, the applicant received a permit exemption from the Commission for the partial renovation, repair, and demolition of abandoned accessory structures and support facilities that previously served the mobile home residents (CDP Exemption No. 6-20-0022-X). To date, the exempted work has not yet been conducted.

### Land Use Plan

Approximately one half of Mission Bay Park was once state tidelands. Mission Bay Park currently has a certified Land Use Plan, the Mission Bay Park Master Plan, that was first certified in 1994 and was last updated in 2002. Within the master plan is a section entitled “De Anza Special Study Area” that envisions De Anza peninsula as a “flexible planning area in which a number of potential uses, both public and private, can be accommodated under varying intensities and configurations,” though the site is still subject to the goals and objectives established by the master plan. However, the City has not fully certified Mission Bay Park to incorporate it into the certified LCP. Thus, the project site, like Mission Bay Park as a whole, is within an area of retained jurisdiction and deferred certification where the Chapter 3 policies of the Coastal Act are the standard of review with the City’s certified LCP used as guidance.

## **B. Public Access and Recreation**

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

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<sup>1</sup> *Aglio v. City of San Diego*, Case No. 37-2007-00081994-CU-EI-CTL.

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 relevant 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.

[...]

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states:

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

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30214 of the Coastal Act states, in relevant part:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

[...]

Section 30220 of the Coastal Act states:

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

Section 30221 of the Coastal Act states:

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

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Mission Bay Park is the largest municipal aquatic park in the country, consisting of approximately 4,235 acres in roughly equal parts land and water, with 27 miles of shoreline, 19 of which are sandy beach with 8 officially designated swimming areas. De Anza peninsula contains approximately 6,759 feet of shoreline, with the majority consisting of a rip rap revetment as well as a sandy beach and swim area located on the east side at the western end of De Anza Cove, adjacent to a public parking lot.

Since being constructed with dredged material in the 1950's, De Anza Peninsula has been completely developed, with approximately two-thirds of the 76-acre peninsula covered by the now vacant De Anza Mobile Home Park, and one-third covered by the Mission Bay RV Resort, and the remainder consisting of the aforementioned public parking lot and beach ([Exhibit 2](#)). The Mission Bay Park Master Plan has a section entitled "Recreational Vehicles," identifying Campland on the Bay to the west and the subject Mission Bay RV Resort (called "De Anza Trailer Resort" in the master plan) as the two overnight recreational vehicle facilities within the park, with the latter anticipated to be abandoned in 2003 as part of the eventual redevelopment of De Anza special study area (due to a lawsuit filed by residents that year, the site was not vacated until

starting in 2014). The master plan recognized the RV facilities as essential to Mission Bay Park for providing access to the water to a sector of the population that cannot afford hotel accommodations or prefer the flexibility of a motor home, and are therefore integral to the park's recreational matrix.

During the operation of the De Anza Mobile Home Park, in addition to the public parking and beach on the peninsula, the public had access to the mobile home area and could walk and bike along the waterfront, though the path stopped at the boundaries of the Mission Bay RV Resort. Since the cessation of residential use in 2014, the mobile homes have been vacant, and the northern and southern mobile home areas are fenced off from all public access due to the attractive nuisance the abandoned structures represent. The existing Mission Bay RV Resort is surrounded by its own chain link fencing, as well, with a vehicular entrance on the east side adjacent to the public parking lot, and coded pedestrian gates for its clients on the west end next to the existing public path.

At this time, the mobile home park occupies prime waterfront land in one of the most popular coastal destinations in the city but has been inaccessible to the public for years. The proposed demolition of the vacant mobile homes and conversion of some of the sites into 150 additional RV spaces as an interim use represents an expansion of public access opportunity along the coast, both for recreation and overnight accommodation, compared to the existing condition. However, despite demolishing all of the vacant mobile home structures within the mobile home park, the proposed development would still maintain fencing around the cleared 35 acres of the peninsula that would not be used for the expanded RV operations, keeping the public out of them.

Due to its age and years of being exposed to boat wakes from nearby Fiesta Bay, portions of the existing waterfront public pedestrian and bicycle path have become undermined. As part of the proposed development, the public access path will be repaired, realigned, and expanded. In order to restore safe use of the path, the proposed development will relocate the undermined portions of the public path along the southern shore of De Anza peninsula approximately sixteen feet landward so as to not rely on new shoreline armoring. However, while the development would restore and expand public access along the shoreline of the peninsula, there are sizeable detours within the proposed alignment, and the path does not follow the coast in all the areas where it is feasible.

As it currently exists, Shore Drive is a public pedestrian and bicycle access path that loops around the southern portion of the De Anza peninsula. The shoreline path offers sweeping views of De Anza Cove to the east and Mission Bay to the south and west. However, when the path reaches the southern boundary of the current Mission Bay RV Resort leasehold, it terminates at a coded gate serving resort residents. The public is required to detour inland to the east for approximately 700 feet between tall fences on either side of the path back to De Anza Bay Drive and the public parking lot ([Exhibit 5](#)). Under the proposed development, the Shore Drive access path would remain as a loop, requiring the public to walk back east with fencing on either side blocking views of the bay and beyond. While the public can currently bike or walk into the peninsula on the east side via De Anza Bay Drive and connect to Shore Drive to loop around the

southern portion of the site, there is no public access available through or past the existing Mission Bay RV Resort on the west side of the peninsula along Rose Creek.

The applicant proposes to expand public access by creating a 16-foot wide opening in the fence at the northern project boundary on North Mission Bay Drive and improve a bicycle and pedestrian path from that opening south to Circle Drive on the west. Like the Shore Drive path, there would be no access from Circle Drive through or past the Mission Bay RV Resort. Instead, Circle Drive turns east at the fence surrounding Mission Bay RV Resort. The applicant is proposing to fence the inland side of Circle Drive. Like on the south side, of the existing Mission Bay RV Resort, the public on Circle Drive would walk east between two tall fences all the way back to De Anza Bay Drive. The applicant's proposal leaves a gap of 450 feet between public waterfront paths, preventing continuous public access around the De Anza peninsula. Instead of removing the gates, proposed development would require the public to follow an approximately half-mile detour around the RV Resort surrounded by tall chain-link fences in order to continue along the water, which would be a substantial impediment to its use.

The applicant has previously advised the Commission staff there is a security risk in allowing the public to walk through the RV Resort property unrestricted. While there is an existing approximately 3-foot wide path along the shoreline west and outside of the existing RV sites, the path is in significant disrepair and is currently closed to all access. The applicant indicates that to make it safe for public access, the westernmost RV sites would have to be reconfigured and moved back from the shoreline. Therefore, in order to provide continuous public access around the entire De Anza peninsula, the Commission imposes **Special Condition No. 1** requiring the applicant to provide permanent openings in the fence on the north and south sides of Rose Creek Shore Drive and allow public pedestrian and bicycle access along Rose Creek Shore Drive connecting to Circle Drive to the north and Shore Drive to the south. Although this stretch of access would not be located directly along the shoreline, simply opening the fencing and allowing pedestrians and bicyclists to share the existing Rose Creek Shore Drive to traverse this portion of the peninsula would provide continuous access along the north side now. In the future, however, if the applicant undertakes redevelopment of the Mission Bay RV Resort site, any improvements should include reconfiguration of the RV sites to provide dedicated pedestrian and bicycle access directly along the shoreline. **Special Condition No. 1** also requires the applicant to remove and fences around all portions of the peninsula not operating as an RV facility, allowing public access into the vacant segments of the peninsula, following completion of construction.

The applicant also proposes to formalize a bicycle path along a portion of De Anza Bay Drive. The bike path would extend on the inland side of De Anza Bay Drive between Shore Drive and Circle Drive ([Exhibit 6](#)). A significant portion of De Anza Bay Drive would not have a formalized bicycle path, and users would be forced to cross the road to reach the public beach and public parking lot at the western end of De Anza Cove. In order to maximize public access to and along the shoreline, **Special Condition No. 1** requires the applicant to submit revised plans relocated the bicycle path on De Anza Bay Drive to the east along the shoreline along the entire length of De Anza Bay Drive

between De Anza Road and Shore Drive. In addition, a bicycle and pedestrian path shall be demarcated along De Anza Bay Drive along the shoreline edge of the public parking lot and connect to the Shore Drive pedestrian and bicycle path through a new connection in the southern wall at the eastern end of the parking lot.

Because RV parks tend to offer overnight accommodations that are lower in cost than other accommodations such as hotels and resorts, they are important recreational amenities that allow a greater range of the public to visit the coast for an extended period. In order to understand how the existing and expanded Mission Bay RV Resort fits into the overall market of accommodations in the general area, the applicant undertook a survey of accommodations to determine the range of pricing. A survey of some of the hotels in Mission Bay Park and Pacific Beach found prices ranging from \$83 per night at the some of the motels to \$200 per night at the resorts. At Campland on the Bay, the only other RV Park in this area of the coastal zone, prices range from \$55 - \$364 dollars per day in the winter and \$60 - \$473 per day in the summer, depending on location and vehicle size. In comparison, the Mission Bay RV Resort charges \$75 – \$105 per day in the winter and \$105 - \$140 per day in the summer, depending on location and vehicle size. Thus, the rates for RV overnight accommodations at Mission Bay RV Resort are within the range of prices available in the general vicinity and lower than those found at neighboring Campland on the Bay, which means that the expansion of the Mission Bay RV Resort will substantially increase the inventory of waterfront RV opportunities for the public seeking accommodations other than hotels.

Mission Bay Park is one of the most popular coastal destinations in the City of San Diego for both residents and tourists. The adjacent community of Pacific Beach, with its walkable visitor commercial districts, beach boardwalk, and Crystal Pier, is also a highly visited coastal destination. Because Mission Bay Park has substantial water areas, and Pacific Beach is bordered on two sides by water, traffic often becomes congested at multiple bottlenecks. De Anza peninsula is located at the northeast corner of Mission Bay Park, near where Mission Bay Drive intersects with Grand Avenue and Garnet Avenue. These two intersections represent the primary eastern entrances to the Pacific Beach community and often rank among the busiest intersections in the City, operating at Levels of Service (LOS) of E and F during peak hours. Additionally, De Anza peninsula and the adjacent park space is served by a single two-lane road: North Mission Bay Drive, which then intersects with De Anza Road to enter the project site and public parking facilities.

Given the existing traffic conditions and their potential to dissuade the public from accessing this segment of the coast, the applicant submitted a July 2020 “De Anza Traffic Memo” analyzing existing traffic conditions and the effect the proposed expansion of RV spaces might have on them. The traffic memo conservatively assumed full occupation of all 150 new spaces and estimated that the proposed development would generate 150 average daily trips (ADT) with 32 trips during the AM peak hours and 41 during the PM peak hours. As comparison, the traffic memo estimated that the previous mobile home park generated 835 ADT, substantially greater than the anticipated development, though it must be noted that the currently vacant mobile homes are producing no ADT.

In analyzing whether the proposed development would cause substantial adverse impacts to existing traffic conditions, the traffic memo identified the LOS of the major street segments and intersections to the northeast of De Anza peninsula, along Mission Bay Drive, Grand Avenue, and Garnet Avenue, where the worst traffic currently exists and the threshold for significant impacts is lowest. The traffic memo concluded that the anticipated traffic arising from the new 150 RV spaces would neither increase the traffic volume of the street segment nor the length of wait times at the intersections that would trigger substantial adverse impacts. Regarding analyzing the development's impact on vehicle miles traveled (VMT), because the proposed development is anticipated to produce 150 ADTs, the traffic memo looked to the "City of San Diego Preliminary Draft Transportation Manual," which has screening criteria exempting "small project," defined as a project generating less than 300 ADT per day, from needing to do a VMT analysis. Thus, the proposed development is not expected to contribute to substantial adverse traffic impacts that would dissuade public access to the area.

While the boundaries of the leasehold encompassing the existing Mission Bay RV Resort and vacant mobile homes encompass approximately 70 acres of the 76-acre De Anza peninsula, the peninsula also contains a public parking lot adjacent to a public beach at the west end of De Anza Cove. The northeastern boundary of De Anza peninsula is fenced and walled off from the adjacent park space, and in order to access the public parking lot, one must enter through the driveway on De Anza Road past the RV park office and the vacant mobile homes and drive down De Anza Bay Drive until you reach the public spaces further south. This can create the appearance of a privatized beach area and keep the public from learning of the existence of the public lot. Furthermore, there is a chain-link fence and dock on the public beach near the resort entrance that preclude the public from walking along the beach onto the peninsula from the adjacent park areas, further creating the appearance of a private beach ([Exhibit 5](#)). Discussions with city staff managing Mission Bay Park indicate that the park managers are not aware of the origins of the encroaching dock and fence; the City has no issue with their removal. As proposed, the project would replace existing development along the bayfront in this area with three RV sites. The operation of private development on and adjacent to the public beach in this area would further exacerbate the appearance of a private beach. Therefore, **Special Condition No. 1** requires the applicant to remove the private encroachments currently on the beach and delete the RV spaces that would have replaced those encroachments.

In order to ensure that the proposed development does not adversely impact public access in this highly popular coastal area and instead serves as a viable public resource, **Special Condition No. 1** requires the submittal of final construction plans to ensure that the mobile homes are converted to the proposed RV spaces and not into other uses and that the expansion does not encroach beyond the project boundaries into other park land. **Special Condition No. 2** also requires submittal of final construction staging and storage plans to confirm that all staging and storage during the demolition and conversion occurs within the leasehold boundaries and not within the adjacent park land or public parking.

Due to the presence of existing encroachments on public park area and the existing difficulty the public has in learning about the park amenities, which may be exacerbated by the substantial expansion of RV spaces, **Special Condition No. 8** requires the submittal of a final public access plan requiring removal of the encroaching development on the beach and a signage plan around and within the project area to better inform the public of their rights of access. The applicant has requested that public access to the shoreline pedestrian path be limited to the hours of 4 AM to 2 AM, consistent with the hours that public parking lots on De Anza Cove are open. While the City does restrict parking in public parking lots in Mission Bay Park, public access to the shoreline by foot or by bike is unrestricted. Therefore, **Special Condition No. 8** clarifies that parking in the public parking lot is restricted between the hours of 2 AM and 4 AM consistent with the surrounding public parking lots, but public access to all public access paths and vacant areas not operating as an RV facility shall be available 24 hours a day. **Special Condition No. 6** requires that the public access plan be recorded against the current lease and that the City agree to incorporate the public access plan into future leases. Thus, as conditioned, can the proposed development be found to maximize public access and conform to Chapter 3 of the Coastal Act.

## C. Biological Resources

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (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 De Anza peninsula was constructed from dredged fill material along with the rest of Mission Bay Park in the 1940s and 1950s. The existing Mission Bay RV Resort and adjacent vacant De Anza Mobile Home Park occupy almost the entirety of the De Anza peninsula, with the remainder consisting of a public parking lot and public beach. Except for the aforementioned beach area at the western end of De Anza Cove, the shoreline of De Anza peninsula consists of rip rap revetment and retaining walls along an adjacent public pedestrian and bicycle path. The interior of De Anza peninsula consists of paved internal circulation roads serving the vacant mobile homes with related unmaintained landscaping, some communal laundry and community facilities that served the mobile homes, and the RV resort. De Anza peninsula thus does not contain sensitive habitat resources within the project area.

While De Anza peninsula does not contain sensitive habitat resources, it is adjacent to Rose Creek and its estuary, as well as future potential habitat restoration spaces both on and next to the peninsula. The Mission Bay Park Master Plan designated De Anza peninsula as the “De Anza Special Study Area” (SSA) for its eventual redevelopment

subject to the goals and objective of the master plan. Among the recommendations for the SSA in the master plan, it is stated that the “SSA shall not be developed to the detriment of existing and/or future adjacent habitat areas. Foremost in consideration should be the extent to which the SSA can contribute to the Park’s water quality. In fact, additional wetlands creation must be considered as part of the SSA.” Furthermore, the master plan states that the “SSA should facilitate the implementation of hydrologic improvements aimed at safeguarding the viability of marsh areas in its vicinity.”

The City envisions the new lease granted to the applicant to redevelop the vacant mobile home park into more RV spaces as an interim use while the City continues its internal process to draft and obtain authorization for the eventual De Anza Redevelopment Plan for the long term design and use of the peninsula, as demonstrated by lease expiring in June 2027 at the latest. Furthermore, the master plan identifies all the land west of Rose Creek currently occupied by Campland on the Bay as being restored to up to eighty acres of functional wetland habitat, with all development therein ceasing operation and being demolished.

While the City is currently studying both the conversion of Campland on the Bay to wetlands and the De Anza Redevelopment Plan for the SSA area, both projects are at the local level, with no definite timeline for their completion and submittal to the Commission for certification known at this time. However, in the interim, given the location of De Anza peninsula, it is important to ensure that the proposed development does not adversely impact the habitat that is already present in the general vicinity, such as the nearby Kendall Frost Reserve to the west of Campland on the Bay, or preclude the future restoration of the Campland site and De Anza Peninsula to wetlands at a future point in time. **Special Condition No. 2** requires the submittal of a final landscaping plan that does not use invasive plants that may degrade nearby habitat areas, as well as a final lighting plan that utilizes shielded, downward facing lighting and does not utilize lighting along the perimeter of the peninsula that would illuminate the coastal waters.

As the peninsula is prime waterfront land in a popular coastal destination, the City is still analyzing the feasibility of various combinations of uses, such as habitat restoration, recreational open space, continued RV overnight accommodation, and visitor-serving concessions such as a food stand. Because this development is envisioned by the City of San Diego as an interim use while it finalizes the De Anza Redevelopment Plan to convert the peninsula into additional recreational open space and habitat, it is important to ensure that the Commission’s action does not create an expectation of permanent future approval for this development, does not predispose selection of any specific final design, or impede the ability of the City to implement the final selected design that will subsequently be certified by the Commission due to this area being state permit jurisdiction. Thus, **Special Condition No. 9** places a limit on the duration of this permit and operation of the development it authorizes until June 30, 2027, to coincide with the longest possible duration of the lease between the applicant and the City of San Diego. In order to ensure a timely disposition of the development beyond the term of this permit, **Special Condition No. 9** requires the applicant to return to the Commission at least ninety days prior to the end of the lease term to submit a follow-up coastal

development permit application to either remove improvements on the site to facilitate future redevelopment of the peninsula or to maintain the improvements. Thus, as conditioned, the proposed development can be found in conformance with the habitat protection policies of the Coastal Act.

## **D. Marine Resources and Water Quality**

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Mission Bay is a Section 303(d) listed body of water under the Clean Water Act, with bacteria/pathogens, nutrients, and heavy metals identified as water quality problems for which Total Maximum Daily Loads (TMDLs) for various pollutants such as nutrients and heavy metals have been established. Due to its location adjacent to the mouth of Rose Creek, which drains a substantial portion of the City of San Diego waterways located outside of the coastal zone, combined with the muted tidal flushing arising from being in the opposite corner from the bay's entrance channel, the water quality of De Anza Cove and adjacent water segments tends to be poorer quality compared to the western portions of the bay closer to the ocean. Additionally, testing of the vacant mobile homes revealed that they contain significant quantities of asbestos within them.

Under existing conditions, the project site drains toward De Anza Cove through a combination of sheet flow, catch basin inlets, storm drains, and outlets into the cove. Because of the proximity to coastal waters of the proposed development's

approximately 30 acres of impervious surfaces being demolished and replaced as part of the conversion from mobile homes to RV spaces, the Commission's water quality staff consider this project to be of concern. As the proposed project will substantially increase the active use of De Anza peninsula and introduce a large number of vehicles and camping use, which may introduce pollutants such as vehicle fluids and trash, it is recommended that the project retain on-site the stormwater runoff from the 85<sup>th</sup> percentile 24-hour design storm to the greatest extent technically feasible, and treat any of the design storm runoff that cannot be feasibly retained onsite. Implementation of runoff Control BMPs that are sized and designed to retain on-site by means of infiltration, evaporation, uptake by plants, or harvesting for later on-site use the runoff produced by the 85<sup>th</sup> percentile 24-hour design storm, to the extent appropriate and feasible, is recommended. Examples include a bioretention basin, rain garden, permeable landscaped area, permeable pavement system, and cistern. Regarding the portion of runoff produced by the 85<sup>th</sup> percentile 24-hour design storm that will not be retained on-site, examples of measures that could treat such runoff include vegetated swales, bioretention basins, and storm drain inlet filters. The Commission's water quality staff, upon reviewing the proposed development and recommending the above measures, believes the project can be found to reduce water quality impacts to the greatest extent feasible.

In order to ensure that the conversion of the vacant mobile homes into RV spaces does not produce debris and pollution that could enter the adjacent bay, **Special Condition No. 3** requires the submittal of a final construction pollution prevention plan adhering to the listed measures to control the spread of debris and its prompt removal if it enters coastal waters, as well as the operation and maintenance of construction equipment during the conversion. **Special Condition No. 4** requires the submittal of a final post-development runoff plan that adheres to listed measures to capture, retain, and treat runoff on-site to the greatest extent feasible to limit the amount of runoff flowing into coastal waters. Additionally, because the presence of asbestos in the mobile homes, the applicant has coordinated with the County of San Diego Air Pollution Control District to remove asbestos off-site over the course of demolition, **Special Condition No. 5** requires that all excess grading material or hazardous material taken off-site must be disposed at a legal site outside the coastal zone. Thus, as conditioned, the development can be found in conformance with the water quality policies of the Coastal Act.

## E. Coastal Hazards

Section 30253 of the Coastal Act states:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or

surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.

(d) Minimize energy consumption and vehicle miles traveled.

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

De Anza peninsula contains approximately 6,759 feet of shoreline, with site elevations up to 13 feet above mean sea level (MSL). The western and southern bay facing sides of De Anza peninsula are protected by a rip rap revetment, while the eastern cove facing side is protected by rip rap along its southern half and has a sandy beach on the northern half adjacent to the public parking lot.

The applicant submitted a coastal hazards analysis by GeoSoils, Inc. dated January 6, 2020. The analysis found that the waterfront public pedestrian and bicycle path along the southern boundary of De Anza peninsula was undermined in sections up to 20 feet long in various places along the southern shoreline of De Anza peninsula. Due to being located in the northeast corner of Mission Bay Park, opposite from the park's entrance channel to the ocean at the southwest corner of the park, De Anza peninsula, and eastern Mission Bay Park as a whole receive muted tidal action compared to the western portions of the park. Much of the erosion along the southern shore of De Anza peninsula is attributed to boat wakes arising from activity in adjacent Fiesta Bay, the largest water segment of Mission Bay Park and the primary site for motorized recreational boating.

Utilizing records from the nearest National Oceanographic and Atmospheric (NOAA) National Ocean Survey tidal data station at La Jolla approximately 5 miles to the north, the highest historical water elevation, including El Niño effects, is approximately 4.9 feet MSL, while the top of slope adjacent to the shoreline is above 7 feet MSL. As such, the proposed development is at an elevation that would not be exposed to coastal flooding under current conditions.

Because shoreline development will be exposed to potential coastal hazards not just under current conditions, but as well as changed conditions over its economic life, the best available science should be used to anticipate sea level rise and any related impacts. Because the applicant's lease only runs through 2027, the coastal hazard analysis looked to sea level rise projections for the year 2030. Utilizing the Ocean Protection Council's 2018 Sea Level Rise Guidance Update, the 0.5% probability "medium-high risk aversion" projection anticipates sea level rise will be up to 0.9 feet in the year 2030, accounting for a high water elevation between 5.3 feet MSL and 5.8 feet MSL, still below the 7 feet MSL elevation of the project area.

Due to the aforementioned location of De Anza peninsula relative to the ocean and the consequent muted wave action, the largest risk of overtopping in future conditions is from boat wakes. Utilizing the US Army Corps of Engineer's Automated Coastal Engineering System, the coastal hazard analysis anticipated that the maximum wave runup under current extreme bay water level conditions is approximately 0.7 feet above historical high water. Assuming boating activity remains consistent in the future, this would still be below the project site's elevation, though if overtopping did occur, it would be occasional and limited due to the short duration of passing boat activity as opposed to consistent overtopping during a storm event.

De Anza peninsula and the adjacent parkland to the north are mapped by the Federal Emergency Management Agency's Flood Maps Service Center's maps as being in the "0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile (Zone X)." This is considered to be the 500-year floodplain, and thus, the project site is not located in the base 100-year flood zone defined by FEMA.

The United States Geological Survey (USGS) has also developed a model called the Coastal Storm Modeling System (CoSMoS) for assessment of coastal areas to vulnerabilities to sea level rise and 100-year storm events. The CoSMos modeling shows that even with 0.5 meters (1.8 feet) of sea level rise, well above the 0.9 sea level rise anticipated under the medium-high projection of the Ocean Protection Council's 2018 Sea Level Rise Guidance Update, the project site would not flood during a 100-year storm event.

The project will remove existing above-grade residential structures and replace them with at-grade RV parking spaces, which impact hydrology substantially less than existing conditions and are better suited to withstand flooding events. Additionally, as part of the improvement of the former mobile home park into RV spaces, the waterfront public pedestrian and bicycle path will be repaired and, where it is currently undermined by bay waters, it will be relocated landward a sufficient amount to continue to provide safe use by the public without reliance on shoreline protection.

Thus, due to the short economic life of the proposed development, the location of the project site above both existing and projected sea level rise for the year 2030, as well as experiencing muted tidal action due to its location opposite from Mission Bay Park's entrance channel, the risk of coastal hazards and sea level rise posing substantial risk to public safety and development is low. Nevertheless, because the project site is located on a coastal peninsula, **Special Condition No. 6** requires the applicant to assume the risk of coastal hazard and waive liability and to record the assumption of the risk condition against the current lease and that the City agree to incorporate the assumption of risk in future leases. While the De Anza peninsula is protected by a rip rap revetment constructed prior to the Coastal Act and no work or expansion of the revetment is proposed with this development, **Special Condition No. 7** waives the right of the applicant and its successors in interest to future shoreline protection and further states that, should conditions change such that further use of the development is prohibited by order of the appropriate government agency, operation shall cease and

development that is at risk possibly removed. Thus, as conditioned, can the proposed development be found consistent with Chapter 3 of the Coastal Act.

## F. Visual Resources/Community Character

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

De Anza peninsula is located in the northeast corner of Mission Bay Park and projects out into the bay waters. It is highly visible to park visitors, though due to distance and fencing, the dilapidated nature of the vacant mobile homes mostly becomes apparent when viewed from public spaces within or adjacent to the peninsula, such as the public beach along De Anza Cove. The proposed project will remove all of the vacant mobile homes and replace them with at-grade RV spaces, repair the internal roads and public waterfront path, and restore the landscaping. The new RV development will be substantially at-grade and, even when occupied by visitors parking in the spaces, should provide greater visual permeability than the existing mobile homes. **Special Condition No. 1** requires the applicant to eliminate three proposed RV sites on the bayfront, ensuring that the RV development will not block any existing coastal views. The extension of the shoreline path around the entire peninsula required by **Special Condition No. 1** will also provide new public viewing opportunities. Although the project will remove significant visual blight from acres of parkland, the applicant proposes to leave vacant and fence off significant portions of the site. The fences will obstruct public views across the peninsula. To restore significant coastal views throughout the peninsula, the Commission imposes **Special Condition No. 1** requiring the removal of fences around all portions of the peninsula not operating as an RV facility following completion of construction.

While the project will remove the only residential development from Mission Bay Park, the mobile homes have been vacant starting in approximately 2014, and no other part of Mission Bay Park contains residential development. The overwhelming character of Mission Bay Park is one of open space, habitat, and recreation, and the replacement of the mobile homes with additional RV spaces for public visitation will bring De Anza peninsula into greater conformity with the overall park character.

In order to ensure that the visual benefits of the proposed development are implemented, **Special Condition No. 1** requires final construction plans detailing the final design of the approved RV spaces and related repairs to the existing infrastructure so that it does not exceed authorized heights and footprints. **Special Condition No. 2**

also required a final lighting plan to ensure that the new lighting erected to serve the new RV spaces will be shielded and downward facing so as to not spillover outside the leasehold boundaries and encroach into other park areas, potentially marring their scenic quality. Thus, as conditioned, the proposed development can be found consistent with the visual resource policies of the Coastal Act.

## **G. Unpermitted Development**

Violations of the Coastal Act and the City of San Diego LCP exist on the subject property including, but not necessarily limited to, installation and maintenance of signs restricting public access and other physical items of development, and use of security guards that all have the effect of blocking, impeding, and/or discouraging public access to De Anza Cove Beach, the public parking lot there, and public tidelands. The violations also include other actions such as labeling on the Mission Bay RV Resort website that the required public parking area was for “guest” parking. All of these actions had the effect of changing the intensity of use of beaches, public parking areas, and public tidelands, and of access thereto.

In 2019, the City entered into a four-year lease agreement with Northeast MB LLC with the possibility of a one-year extension. This lease includes requirements to provide public access to the beach, as well as public access to bike and pedestrian paths, and a requirement to provide a public parking area within the TVM, the same manager as Campland.

The 2019 Lease requires TVM, as the manager, to provide public access to the designated public parking area, as well as the beach and bike and pedestrian boardwalk within the subject property. The lease also requires TVM to post signs identifying the area as owned by the City and available for public use. In addition, the lease requires that all signs be approved by the City and requires compliance with all applicable laws. In addition to the requirements of the 2019 Mission Bay RV Resort Lease, the public trust tidelands grant from the state to the City also reserves to the public the right to fish here.

However, TVM did not post any of the required access signs identifying the area as City-owned and open to the public, and instead maintained signs that had the effect of blocking public access to the public parking areas. These signs discouraged public access for those wishing to park to access the beach and the trail, or to fish. Moreover, TVM also maintained several other physical items of development directly blocking public parking spots at Mission Bay RV Resort.

After receiving reports of public access violations here and at Campland, Commission staff visited both properties and confirmed the existence of the violations. On June 26, 2020, the Commission sent a Notice of Violation letter to TVM, informing them of the violations and other violations of the Coastal Act. On August 20, 2020, TVM filed this CDP application to redevelop De Anza Cove as part of their lease with the City of San Diego. The Executive Director of the Commission then sent TVM a Notice of Intent to Issue a Cease and Desist Order and Administrative Penalty on February 18, 2021. This letter provided TVM with notice that the Executive Director intended to address the

violations through a formal hearing before the Commission. Commission Enforcement staff and TVM have been working cooperatively over the last several months in an attempt to resolve these violations amicably through the "Consent Order" process and such action will likely come before the Commission at a subsequent hearing.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act and the San Diego City LCP. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal permit. In fact, approval of this permit is possible only because of the conditions included herein and failure to comply with these conditions would also constitute a violation of this permit and of the Coastal Act. Accordingly, the applicant remains subject to enforcement action just as it was prior to this permit approval for engaging in unpermitted development.

The subject permit will issue upon Commission approval, with all Special Conditions required to be fulfilled prior to issuance of the CDP, as required by **Special Condition No. 8** unless the Commission imposes earlier deadlines pursuant to a Commission-issued Order. Failure to comply with the terms and conditions of this permit may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act. Only as conditioned is the proposed development consistent with the Coastal Act.

## **H. Local Coastal Program**

Section 30604(a) also 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 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.

## **I. 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 deemed this exempt from CEQA pursuant to California Code of Regulations, Title 14, Sections 15301, 15302, 15303, 15304, 15311, and 15323 [CEQA Guidelines]. In addition to, and as an alternative grounds for CEQA compliance, the City completed a CEQA Section 15162 consistency evaluation relative to the Environmental Impact Report (EIR) No. 91-0898/SCH No. 93041010 for the 1994 Mission Bay Park Master Plan Update.

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 construction staging and storage, lighting, water quality, coastal hazards, and public access will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Mission Bay Park Master Plan Updated; Adopted August 1994, as amended as of July 2002
- City of San Diego Preliminary Draft Transportation Manual, dated June 20, 2020 ([https://www.sandiego.gov/sites/default/files/draft\\_city\\_of\\_san\\_diego\\_tsm\\_062020.pdf](https://www.sandiego.gov/sites/default/files/draft_city_of_san_diego_tsm_062020.pdf))
- De Anza Traffic Memo by Urban Systems Associates, Inc., dated July 29, 2020
- “Coastal Hazard Discussion for Mission Bay RV Resort Improvements, by GeoSoils, Inc., dated January 6, 2020.