

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370
FAX (619) 767-2384



Th12a

Filed: 3/30/21
180th Day: 9/26/21
Staff: C. Boyle-SD
Staff Report: 5/20/21
Hearing Date: 6/10/21

STAFF REPORT: AMENDMENT

Application No.: 6-13-022-A2

Applicant: Orange Avenue Real Estate Holdings, LLC

Agent: Jim Walsh

Location: 535 Florence Street; 500 & 536 13th Street, Imperial Beach, San Diego County. (APN 626-192-03 & -05; 616-021-13 & -14)

Original Project Description: Conversion of two existing warehouse buildings into a 50-bed hostel, community room, public restrooms, commercial retail/café, and other eco-tourist related uses on a 2.12-acre site located immediately south of the Bayshore Bikeway

Proposed Amendment: Replace the hostel, community room, and 6,383 sq. ft. retail uses in the approximately 15,200 sq. ft. western warehouse with up to 15,200 sq. ft. of retail use or a mix of retail and up to 10,000 sq. ft. of restaurant/microbrewery use.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

In June 2013, the Coastal Commission approved Coastal Development Permit (CDP) No. 6-13-022 for the conversion of two existing warehouse buildings into a variety of tourist-commercial related uses including a 2-story, 50-bed hostel, a 928 sq. ft.

community room, and approximately 18,983 sq. ft. of retail commercial space, as well as exterior improvements including publicly accessible decks, tables, seat walls and a fire pit, an ADA accessible observation deck, and bicycle parking. A portion of the site is within the City's coastal development permit jurisdiction, and a portion is within the Commission's jurisdiction; at the applicant's and City's request, the Commission issued a consolidated permit for the development.

Despite several years of effort, the original permit applicant was unable to secure a hostel operator for the space. In 2017, the Commission approved CDP Amendment No. 6-13-022-A1 to eliminate the hostel, community room, and retail space in the western building and replace it with approximately 15,200 sq. ft. of microbrewery, restaurant, and event space. However, that amendment expired before the owner commenced the development authorized in the amendment. Therefore, the currently authorized uses in the western building are the hostel, community room, and 6,383 sq. ft. of retail commercial space approved in the original permit.

The proposed amendment would modify the uses in the western building to replace the hostel and community room uses with a to-be-determined mix of retail and restaurant/microbrewery uses. The applicant proposes to fill the space with approximately 15,200 sq. ft. of retail use or a mix of up to 10,000 sq. ft. of restaurant/microbrewery use and retail in the approximately 15,200 sq. ft. building. No changes to the eastern building or the exterior of the property as described in the original permit are proposed.

The hostel approved by the original CDP No. 6-13-022 would have provided lower-cost overnight accommodations, a high-priority use under the Coastal Act. However, as the Commission found in its 2017 approval of Amendment No. 6-13-022-A1, construction of a hostel on the subject site was not a requirement for redevelopment of the site, or mitigation for any other project. The subject site was previously developed with legal non-conforming warehouse uses, and zoned "Two-Family Detached Residential." In 2013, the site was rezoned and designated in the certified LCP as "Commercial/Recreation-Ecotourism" (LCPA 6-IMB-MAJ-1-12), which allows for a variety of visitor and non-visitor-serving commercial retail and recreational uses. Retail and restaurant/microbrewery are permitted uses in this land use designation, and are visitor-serving uses. The proposed change in use will not have any impacts on the sensitive habitat, water quality, or recreational resources at the nearby South Bay Salt Ponds and Bayshore Bikeway.

The proposed change in use will have different parking requirements. However, the parking demand for the western building cannot be calculated until the owner acquires tenants. Therefore, staff is recommending **Special Condition No. 8**, which requires the applicant to submit final plans for the western building detailing the square footage of all uses and that demonstrate that the parking demand generated by both the western and eastern buildings will not exceed the total number of parking spaces available to serve the entire site. The eastern and western buildings share parking resources but are now owned by two separate entities. In order to prevent the shared parking spaces from being assigned for exclusive use by occupants of either building, **Special Condition**

6-13-022-A2

Orange Avenue Real Estate Holdings, LLC

No. 9 requires all available parking at the site to be shared among and equally available to all of the patrons, employees, and other users of the buildings.

Commission staff recommends approval of coastal development permit amendment 6-13-022-A2 as conditioned. The motion is on page 5. The standard of review is Chapter 3 of the Coastal Act, with the City's certified LCP used as guidance.

TABLE OF CONTENTS

I. STANDARD CONDITIONS	5
II. SPECIAL CONDITIONS	6
III. FINDINGS AND DECLARATIONS.....	7
A. Project History and Amendment Description	7
B. Visitor-serving Commercial/Lower-Cost Facilities	8
C. Public Access and Recreation	10
D. Local Coastal Planning	13
E. California Environmental Quality Act.....	14
APPENDIX A – CONDITIONS OF APPROVAL.....	15
APPENDIX B – SUBSTANTIVE FILE DOCUMENTS.....	19

EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Site Plan, CDP No. 6-13-022](#)

[Exhibit 3 – 2016 Hostel Outreach](#)

[Exhibit 4 – 2020 Hostel Outreach](#)

MOTION AND RESOLUTION

Motion:

I move that the Commission approve the proposed amendment to Coastal Development Permit 6-13-022-A2 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 amendment for the proposed project and adopts the findings set forth below on grounds that the development as amended and conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

I. 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 of 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.

II. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

NOTE: Appendix A, attached, includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by all subsequent amendments, including this amendment no. 6-13-022-A2. All of the Commission's adopted special conditions and any changes in the project description proposed by the applicant and approved by the Commission in this or previous actions continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on amendment no. 6-13-022-A2 are shown in the following section. Within Appendix A, changes to the previously approved special conditions are also shown in ~~strikeout~~/underline format. This will result in one set of adopted special conditions.

1. [Special Condition No. 1 of CDP No. 6-13-022 remains unchanged and in effect]
2. [Special Condition No. 2 of CDP No. 6-13-022 remains unchanged and in effect]
3. [Special Condition No. 3 of CDP No. 6-13-022 remains unchanged and in effect]
4. [Special Condition No. 4 of CDP No. 6-13-022 remains unchanged and in effect]
5. [Special Condition No. 5 of CDP No. 6-13-022 remains unchanged and in effect]
6. [Special Condition No. 6 of CDP No. 6-13-022 remains unchanged and in effect]
7. [Special Condition No. 7 of CDP No. 6-13-022-A1 is not in effect]
8. **Final Plans and Parking Analysis.** PRIOR TO CONSTRUCTION at 535 Florence Street, the applicant shall submit final plans that identify the square footage of the proposed uses at 535 Florence Street and demonstrate that the total parking demand of 535 Florence Street and 500 & 536 13th Street is no greater than the 86 parking spaces available to serve the entire site.

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

9. **Shared Parking.** All available parking at 535 Florence Street and 500 & 536 13th Street shall be shared among and equally available to all of the patrons, employees, and other users of the buildings, and no parking spaces shall be assigned for exclusive use, with the exception of required ADA parking.

III. FINDINGS AND DECLARATIONS

A. Project History and Amendment Description

Project History

The proposed project involves the “adaptive reuse,” or conversion, of two existing warehouse buildings into eco-tourist related uses on a 2.12-acre site located in the City of Imperial Beach, immediately south of the Bayshore Bikeway and the salt ponds located in the San Diego National Wildlife Refuge ([Exhibit 1](#)).

The subject site consists of four lots. The two southern lots are fully developed with one building each. The two lots located north of the warehouses and south of the Bayshore Bikeway were previously vacant and undeveloped except for an existing bike path spur located across the northeast corner of the site that provides access to the Bayshore Bikeway from the terminus of 13th Street. The existing warehouses were constructed sometime between 1964 and 1980.

The site was the subject of a Local Coastal Program (LCP) Amendment approved by the Commission in March 2013 to rezone and redesignate this site from Two-Family Detached Residential to a new land use category and zone entitled Commercial/Recreation-Ecotourism (C/R-ET). This designation/zone, which applies only to the lots comprising the subject site, is intended to provide land that meets the demand for goods and services required primarily by the recreational and ecotourist visitor, including pedestrian-oriented, small-scale visitor-serving retail and services such as specialty stores, shops, eating and drinking establishments (such as restaurants and cafés), recreational uses, fitness, athletic and health club uses, and visitor accommodations (such as hostels, hotels, and motels). Other non-visitor-serving uses such as professional offices and live/work units are also permitted.

In June 2013, the Commission approved coastal development permit (CDP) number 6-13-022, which authorized conversion of the western warehouse building into a 2-story, 50-bed hostel, 928 sq. ft. community room, and approximately 6,383 sq. ft. of retail commercial space; conversion of the eastern warehouse building into 12,600 sq. ft. of retail commercial and a public restroom; construction of a new deck on the north side of the buildings, with tables, seat walls and a fire pit; an ADA-accessible observation deck; and landscaped area, as well as native, non-invasive, drought-tolerant vegetation throughout the site ([Exhibit 2](#)).

After the original permit was approved in 2013, the owner, Bikeway Village, LLC, commenced development in the eastern building and surrounds. The owner spent several years attempting to secure a hostel operator for the western building but was unable to do so. The Commission approved CDP Amendment No. 6-13-022-A1 in February 2017, which replaced the hostel and retail uses in the western warehouse with an approximately 15,200 sq. ft. restaurant, microbrewery, and event space. The applicant for the proposed amendment, Orange Avenue Real Estate Holdings, LLC, acquired the western building with plans to implement the uses authorized by Amendment No. 6-13-022-A1. However, the slowing craft beer industry prevented the

applicant from successfully expanding their operations to the subject building. The applicant spent two years seeking other tenants or buyers for the western building but was unable to find interested restaurants or breweries. As a result, they did not commence development in the western building before the permit amendment expired in 2019. Therefore, the currently authorized uses are the 50-bed hostel, community room, and 6,383 sq. ft. of retail space originally approved in CDP No. 6-13-022. The applicant's marketing efforts have yielded interest from retailers and smaller scale restaurants/breweries, but neither the uses approved by CDP Amendment No. 6-13-022-A1 nor the uses originally approved by CDP No. 6-13-022 allowed for such uses to share the building. The applicant asserts that the site continues to be unsuitable for hostel development (described in detail in Section B. Visitor-serving Commercial/Lower-cost Facilities) and is proposing the subject amendment to modify the project's uses.

Amendment Description

The proposed amendment would authorize a to-be-determined mix of retail and restaurant/microbrewery uses, to provide the applicant more flexibility in marketing and enable them to attract a mix of tenants that would not otherwise fit the scope of the currently-approved uses. The applicant is seeking authorization for retail uses throughout the approximately 15,200 sq. ft. western building, or a mix of retail and up to 10,000 sq. ft. of restaurant/microbrewery use. No changes are proposed in the eastern warehouse building, to the exterior of the site, or to the parking included in the original permit.

The majority of the proposed project area is within the Commission's original jurisdiction. However, a portion of the previously-proposed new parking spaces on 13th Street are located within the City's coastal permit jurisdiction. The City and the applicant agreed to a consolidated permit, and thus the Commission issued the permit for the entire project. Therefore, the standard of review for the project and this amendment is the Chapter 3 policies of the Coastal Act, with the City's certified LCP used as guidance.

B. Visitor-serving Commercial/Lower-Cost Facilities

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...

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.

6-13-022-A2

Orange Avenue Real Estate Holdings, LLC

In addition, there are numerous relevant policies in the certified LCP, which is used for guidance:

Policy L-6 and L-9 state:

L-6 Tourist Commercial Uses

Imperial Beach should provide, enhance and expand tourist commercial uses to the extent that they can be compatible with the small beach oriented town character of the City.

L-9 Lower Cost Visitor and Recreational Facilities

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

Policies P-1, P-2 and P-7 state:

P-1 Opportunities For All Ages, Incomes, and Life Styles

To fully utilize the natural advantages of Imperial Beach's location and climate, a variety of park and recreational opportunities for residents and visitors shall be provided for all ages, incomes and life styles...

P-2 Ocean and Beach Are The Principal Resources

The ocean, beach and their environment are, and should continue to be, the principal recreation and visitor-serving feature in Imperial Beach. Oceanfront land shall be used for recreational and recreation-related uses whenever feasible.

P-7 Increase Tourist Related Commercial Land Uses

The City and its business community should take direct action to increase the amount of tourist-oriented businesses both along the beachfront, South San Diego Bayfront and inland areas.

Pursuant to the public access, recreation, and visitor-serving policies of the Coastal Act, and particularly Section 30213, the Commission has the responsibility to ensure that a range of affordable facilities be provided in new development along coastal waters. The requirement of the Commission, based upon multiple precedents, is that developers of sites suitable for overnight accommodations, particularly sites that have been designated for hotel uses, will provide facilities that serve people with a range of incomes [HNB-MAJ-2-06 (Huntington Beach Timeshares); A-6-PSD-8-04/101 (San Diego Lane Field); A-5-RPV-2-324 (Rancho Palos Verdes-Long Point); RDB-MAJ-2-08 (Redondo Beach); SBV-MAJ-2-08 (Ventura); 5-98-156-A17 (Long Beach Pike Hotel); LOB-MAJ-1-10 (Long Beach Golden Shore)]. The Commission has also held several workshops (December 2014, March 2015, November 2016) to discuss strategies for protecting and promoting lower cost overnight accommodations.

Prior to the 2017 CDP Amendment No. 6-13-022-A1, Commission and City staff worked with Bikeway Village, LLC for several years to encourage the successful placement of a hostel in Bikeway Village. In November 2015, Commission and City staff jointly wrote to

the owner stating that a hostel is the primary goal for the western building and an important feature for both the City and the Commission, and that every effort to secure a hostel must be taken before any discussion of a new proposal should begin.

To verify their multi-year effort to secure a hostel for the 2017 Amendment, Bikeway Village, LLC provided a letter from a representative of Hostelling International and a summary of outreach conversations with other regional hostel operators ([Exhibit 3](#)). In summary, the hostel operators interviewed did not believe that the subject site would provide a suitable location for a hostel because it is too far removed from public transit, airports, shopping, and other attractions. When Amendment No. 6-13-022-A1 expired and the authorized uses in the western building reverted to the hostel, community room and retail uses approved in the original CDP No. 6-13-022, the current applicant sought input from Hostelling International and other hostel operators on the suitability of the site for hostel use. These new outreach conversations confirmed that the site is still not a suitable hostel location ([Exhibit 4](#)). Thus, the proposed amendment would allow the existing warehouse building to be redeveloped with retail, restaurant, and microbrewery uses.

The hostel would have provided lower-cost overnight accommodations, a high-priority use under the Coastal Act. However, as the Commission found in 2017 when it approved Amendment No. 6-13-022-A1, the existing permit does not require the applicant to build a hostel; it was part of the initial project description. In terms of the proposed replacement use, under the Coastal Act, retail, restaurants, or microbreweries are also visitor-serving uses, which serve as amenities to support coastal visitors and activate a coastal destination. The proposed use is consistent with the City's certified LCP policies that encourage and support visitor-serving uses, especially in the Commercial/Recreational-Ecotourism zone.

The proposed retail and restaurant/brewery uses will provide an attractive amenity for both public users of the Bayshore Bikeway and the patrons of the proposed project. The bike path improvements and public overlook associated with the project as originally approved will continue to provide further low/no-cost public access and recreation benefits.

Therefore, the proposed amendment can be found in conformance with the Coastal Act and certified LCP.

C. 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 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 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for high intensity uses such as high-rise office buildings...

Section 30253 of the Coastal Act states, in part:

New development shall: [...]

(d) Minimize energy consumption and vehicle miles traveled. [...]

The subject site is located immediately south of the Bayshore Bikeway. As originally approved and amended, the north side of the development is oriented towards the bike path, and offers a publicly accessible passive recreational area for bicyclists and pedestrians. Access to the development from the bike path is provided on paths on both the east and west side of the site. However, because the site is so close to a main accessway to the Bayshore Bikeway, it is particularly important that the uses on the site provide adequate parking to serve their demand, and ensure that patrons of the businesses do not occupy parking intended to serve the public accessing the shoreline.

Prior to the work authorized in the original CDP 6-13-022, the warehouses had approximately 47 on-site parking spaces, including spaces on the western side of the western building next to Florence Street, between the buildings, and on the eastern side of the eastern building next to 13th Street. The City of Imperial Beach indicated that most of the parking spaces that served the warehouses, including the parking between the buildings and on the east side of the building next to 13th Street, were actually within public street right-of-way. Typically, the Commission requires that development maintain adequate off-street parking to ensure there are no unintended spillover effects that could adversely affect public access opportunities. However, in the case of the proposed project, most if not all of the existing parking historically used by the warehouses was actually within public right-of-way. In addition to these nominally "private" parking spaces, there were also approximately 15 existing public parking spaces on the east side of 13th Street, north of Cypress Avenue, which were used by people accessing the Bayshore Bikeway.

The original project was approved with a parking arrangement that allowed for some shared use of parking between the public and the private development. As approved by the Commission, the City was to continue to allow the street rights-of-way to be used for parking for the project. The existing on-site parking spaces on the west side of the building and in the redeveloped “motor court” between the buildings were approved to remain. The 14 existing private parking spaces on the east side of the eastern building were redesigned to be safer for bicyclists by shifting the spaces further east. The original project also proposed to create approximately 31 additional parking spaces in the public right-of-way along the east side of 13th Street, south of Cypress Avenue. Because these were new spaces being created as a result of the redevelopment of the warehouse, these new spaces were “credited” as available to the hostel/retail project, but as conditioned, could not be reserved for exclusive private use. Thus, in total, the approved project had 78 spaces (47 + 31) available to serve the site.

The applicant for the proposed amendment has indicated that there are now 86 existing parking spaces available to serve both buildings. There are 52 spaces available “on-site”: 14 spaces on the east side, 14 on the west, and 24 between the two buildings. In addition, 34 (not 31) new shared public spaces were created alongside 13th Street ([Exhibit 2](#)). The originally approved plans for the eastern building include approximately 8,300 sq. ft. of retail net floor area. The LCP requires 1 parking space per 500 sq. ft. of net floor area for retail uses. Therefore, 17 parking spaces are required for the retail uses in the eastern building, leaving 69 spaces available to serve the western building.

The applicant is requesting authorization to fill the approximately 15,200 sq. ft. western building with all retail, or some mix of retail and up to 10,000 sq. ft. of restaurant and microbrewery uses. As described above, the LCP requires 1 parking space per 500 sq. ft. of net floor area for retail uses and 1 parking space per 75 sq. ft. of net floor area plus one space per two employees at largest work shift for restaurants. However, microbrewery is not a clearly defined use in the City of Imperial Beach’s LCP. A microbrewery differs from a traditional restaurant in that the entire building is not devoted to the service of food, but typically requires a fairly large area devoted to the manufacturing of alcohol products. Thus, the City’s parking requirements for restaurants (1 space per 75 sq. ft. of floor area) would result in a much higher parking requirement (approximately 133 spaces for 10,000 sq. ft.) than likely appropriate for the proposed use. Section 19.48.06 of the LCP states that for uses not specifically defined, the most comparable use or professionally accepted standards should be used to determine parking requirements. As microbreweries have become more common, other cities throughout the region have updated their regulations to include and accommodate microbreweries. Staff reviewed regulations for the cities of Long Beach, Carlsbad, and Oceanside and found that these jurisdictions calculate parking requirements for the restaurant/tasting room portion and the brewery production space separately since their intensity of use is substantially different. Staff concluded that the City of Oceanside’s requirement of 1 space per 800 sq. ft. of gross floor area devoted to production activities would be appropriate to apply to a brewery use at this site.

If the applicant were to fill the entire 15,200 sq. ft. building with retail uses, the LCP would require 31 spaces for the western building; this is an overestimation because the

net floor area would be less than 15,200 sq. ft. If the applicant were to put in a 10,000 sq. ft. traditional restaurant and 5,200 sq. ft. of retail uses, approximately 145 parking spaces would be required, far exceeding the 69 spaces currently available. Thus, a 10,000 sq. ft. traditional restaurant would not be an appropriate use for the site.

The applicant has asserted that the limited uses in the original and amended CDPs have prevented them from obtaining prospective tenants/buyers. The proposed amendment would provide the applicant with flexibility to implement a mix of retail, restaurant, and microbrewery uses that meet the goals of the Commercial/Recreation-Ecotourism zone. However, without a site plan detailing the area of building devoted to each use, Commission staff are unable to confirm that the proposed development conforms with the LCP's parking requirements and thus would not adversely impact public access and recreation. Therefore, **Special Condition No. 8** requires the applicant to submit final plans detailing the square footage of each proposed use and demonstrate that the parking required for the uses in both the western and eastern buildings do not exceed the 86 spaces available to serve the entire site, prior to construction of any tenant improvements. Any changes in the approved final plans, including to the mix of uses, will require the applicant to report those change to the Executive Director, and may require the applicant to apply for a permit amendment.

Although the two warehouse buildings are now separately owned, they share parking. Changes in configuration of the eastern building that would increase net floor area committed to retail use would increase the parking requirements for the eastern building. Any change in the density or intensity of use of the eastern building would require the owner of the eastern building to apply for a permit amendment. Given the split in ownership and shared parking resource, the Commission encourages both warehouse owners to join in any future permit application. In order to prevent parking spaces from being assigned for exclusive use by the occupants of either building, **Special Condition No. 9** requires all parking at the site to be shared among and equally available to all of the patrons, employees, and other users of the buildings. As conditioned, the project will provide visitor-serving uses compatible with the public access and recreational resources nearby, consistent with the Chapter 3 policies of the Coastal Act.

D. Local Coastal Planning

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.

As noted, the subject site is zoned and designated for commercial/recreation-ecotourism uses. The proposed pedestrian-oriented, small-scale visitor-serving commercial retail and recreational uses are consistent with this designation. As described above, the proposed project has been conditioned to avoid impacts on public access, and will be consistent with all of the applicable Chapter 3 polices as well as with the certified LCP. Therefore, the Commission finds that proposed project, as

conditioned, will not prejudice the ability of the City of Imperial Beach to continue to implement its certified LCP.

E. 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 Imperial Beach found that the proposed work does not require CEQA review because the building already exists and future interior work will likely be ministerial.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing public parking, 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 – CONDITIONS OF APPROVAL

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 of 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

SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

Permit No. 6-13-022

1. **Open Space Restriction.** No development, as defined in Section 30106 of the Coastal Act shall occur in the area generally described as the northeast corner of the parcel APN #616-021-10 from the parcel line west to the area shown as the limit of work, as depicted in an exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, except for optional planting and/or maintenance of native coastal sage scrub vegetation.

PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director and, upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit #2 attached to this staff report.

2. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

3. Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval by the Executive Director, final site, building, and parking plans for the proposed development that have first been approved by the City of Imperial Beach. Said plans shall be in substantial conformance with the plans submitted with this application by RECON and Studio E Architects dated October 2011, and shall include the following:

- a. The parking located on the east side of 13th Street shall be available for public parking.

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

4. Import of Graded Materials. PRIOR TO THE ISSUANCE OF THE OF COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location from which the graded material will be imported. 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 successors in interest.

5. Final Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final drainage and runoff control plan documenting, graphically and through notes on the plan, that runoff from the roof, parking areas, and other impervious surfaces will be collected and directed into pervious areas on the site (landscaped areas) for infiltration and/or percolation in a non-erosive manner, prior to being conveyed off-site.

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

6. Landscape Plans. By acceptance of this permit, the applicant agrees to the following:

a. Landscaping on the site shall emphasize the use of drought-tolerant native species. Use of drought-tolerant, non-invasive ornamental species and lawn area is allowed as a small component. No plant species listed as invasive by the California Native Plant Society, the California Invasive Plant Council, 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 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized.

b. The planting plan shall be implemented within 60 days of completion of construction.

c. All required plantings shall be maintained in good growing condition, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.

d. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

e. Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies 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.

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

Permit No. 6-13-022-A1 (expired)

7. Future Development. This permit is only for the development described in coastal development permit (CDP) #6-13-022-A1. Except as provided in Public Resources Code section 30610 and applicable regulations, for any future development as defined in PRC section 30106, including, but not limited to, the conversion of the proposed microbrewery into a traditional restaurant or any other change in the

density or intensity of use, the applicant shall apply for an amendment to CDP #6-13-022 from the California Coastal Commission, unless the Executive Director determines that an amendment is not legally required.

Permit No. 6-13-022-A2

8. **Final Plans and Parking Analysis.** PRIOR TO CONSTRUCTION at 535 Florence Street, the applicant shall submit final plans that identify the square footage of the proposed uses at 535 Florence Street and demonstrate that the total parking demand of 535 Florence Street and 500 & 536 13th Street is no greater than the 86 parking spaces available to serve the entire site.

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

9. **Shared Parking.** All available parking at 535 Florence Street and 500 & 536 13th Street shall be shared among and equally available to all of the patrons, employees, and other users of the buildings, and no parking spaces shall be assigned for exclusive use, with the exception of required ADA parking.

6-13-022-A2

Orange Avenue Real Estate Holdings, LLC

APPENDIX B – SUBSTANTIVE FILE DOCUMENTS

- City of Imperial Beach Local Coastal Program