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Filed: 6/5/23
270th Day: 3/1/24
Staff: M. Lasiter -SD
Staff Report: 10/26/23
Hearing Date: 11/17/23

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-22-0996

Applicant: City of San Diego

Agent: Eriberto J. Valdez, Jr.

Location: El Carmel Place, Mission Bay Park, San Diego, San Diego County.

Project Description: Replace 1,055 sq. ft. existing restroom with a new restroom and showers, resurface and restripe 1,485 sq. ft. parking lot, replace approximately 1,038 sq. ft. of sidewalks and construct approximately 502 sq. ft. of new sidewalks, remove one palm tree, and replace lighting, landscaping, and utilities.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed project is to update a public restroom facility and adjacent sidewalks and parking lots to comply with Americans with Disabilities Act (ADA) requirements. The project site is adjacent to a public recreation area located at El Carmel Place in Mission Bay Park.

The project location on existing public parkland adjacent to the beach and bay waters creates the potential for adverse impacts to public access, water quality, and coastal hazards. To address these potential impacts, **Special Condition No. 1** requires final

plans. **Special Condition Nos. 2 and 3** require the submittal of construction and permanent BMP plans, respectively, to demonstrate that the development will not lead to increased runoff into adjacent bay waters. **Special Condition No. 4** requires the City to accept the risk of constructing the restroom adjacent to coastal waters, while **Special Condition No. 5** prohibits any future shoreline protection for the restroom, requiring its removal should it be at risk in the future.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-22-0996 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 – Location Map](#)

[Exhibit 2 – Site Plan](#)

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I. MOTION AND RESOLUTION

Motion:

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

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

III. SPECIAL CONDITIONS

1. Submittal of Final Plans.

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 final plans that substantially conform with the plans submitted to the Commission, titled El Carmel Comfort Station Improvements, and dated June 1, 2022.

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.

2. Construction and Pollution Prevention Plan.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a final Construction and Pollution Prevention. The final Plan shall demonstrate 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. **Protect Public Access.** Construction shall protect and maximize public access, including by:

1. Construction shall not occur between Memorial Day weekend and Labor Day, inclusive, of any year unless, due to extenuating circumstances (such as tidal issues, extensive delays due to severe weather, or other environmental concerns) the Executive Director provides written authorization for such work.
2. Staging and storage of construction equipment and materials (including debris) shall not take place on the beach. Staging and storage of construction equipment and materials shall occur in inland areas at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible. Upon a showing of infeasibility, the applicant may submit a request for review and written approval to the Executive Director for staging and storage of construction equipment and materials closer than 50 feet from coastal water, drainage courses, and storm drain inlets. Construction is prohibited outside of the defined construction, staging, and storage areas.
3. All construction methods to be used, including all methods to keep the construction areas separated from public recreational use areas (e.g., using unobtrusive fencing or equivalent measures to delineate

construction areas), shall be clearly identified on the construction site map and described in the narrative description (see Section H).

4. All beaches, beach access points, and other recreational use areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach.
5. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.

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:

1. 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.
2. 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.
3. 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 sedimentation of coastal waters.
4. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.
5. Runoff control BMPs (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area) that will be implemented during construction to retain, infiltrate, or treat stormwater and non-stormwater runoff.

C. Minimize Discharge of Construction Pollutants. The discharge of other pollutants resulting from construction 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:

1. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:
 - a) Covering stockpiled construction materials, soil, and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers.
 - b) Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on site.
 - c) Proper disposal of all wastes; providing trash receptacles on site; and covering open trash receptacles during wet weather.
 - d) Prompt removal of all construction debris from the beach.
 - e) Detaining, infiltrating, or treating runoff, if needed, prior to conveyance off-site during construction.
2. 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 not take place on the beach and shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those 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 contaminants. 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.

D. Minimize Other Impacts of Construction Activities. Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:

1. 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, vegetative interception, pollutant uptake, shading of waterways, and erosion control.
2. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.

3. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.

E. Construction In, Over, or Adjacent to Coastal Waters and Habitat.

Construction taking place in, over, or adjacent to coastal waters and habitat shall protect the coastal waters and habitat by implementing additional BMPs, including:

1. No construction equipment or materials (including debris) shall be allowed at any time in coastal waters.
2. Construction activity shall not be conducted below the mean high tide line, unless tidal waters have receded and the area is part of the authorized work area.
3. All work shall take place during daylight hours, and lighting of the beach and bay area is prohibited.
4. All construction equipment and materials placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction equipment and materials shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exceptions shall be for erosion and sediment controls and/or construction area boundary fencing, where such controls and/or fencing are placed as close to the base of the seawall/bluff as possible and are minimized in their extent.
5. Tarps or other devices shall be used to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills to protect the quality of coastal waters.
6. All erosion and sediment controls shall be in place prior to the commencement of construction, as well as at the end of each workday. At a minimum, if grading is taking place, sediment control BMPs shall be installed at the perimeter of the construction site to prevent construction-related sediment and debris from entering the ocean, waterways, natural drainage swales, and the storm drain system, or being deposited on the beach.
7. Only rubber-tired construction vehicles shall be allowed on the beach; the only exception shall be that tracked vehicles may be used if the Executive Director agrees that they are required to safely carry out construction. When transiting on the beach, all construction vehicles shall remain as

high on the upper beach as possible and shall avoid contact with ocean waters and intertidal areas.

8. All debris resulting from construction activities shall be removed from the beach within 24 hours of deposition.
 9. If preservative-treated wood is used, appropriate BMPs shall be implemented that meet industry standards for the selection, storage, and construction practices for use of preservative-treated wood in aquatic environments; at a minimum, those standards identified by the Western Wood Preservers Institute, et al. in *Treated Wood in Aquatic Environments: A Specification and Environmental Guide to Selecting, Installing and Managing Wood Preservation Systems in Aquatic and Wetland Environments* (2012) or current revision thereof (<http://www.wwpinstitute.org/documents/TWinAquaticEnvironments-withLinks12.20.12.pdf>). The preservative-treated wood shall be certified by a third party inspection program, as indicated by the presence of a BMP Quality Mark or Certificate of Compliance, to have been produced in accordance with industry BMP standards designed to minimize adverse impacts in aquatic environments.
- F. Manage Construction-Phase BMPs.** Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.
- G. Construction Site Map and Narrative Description.** The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
1. 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).
 2. 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.
 3. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
 4. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection,

maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.

- H. **Construction Site Documents.** The Construction and Pollution Prevention Plan shall specify that copies of the signed CDP and the approved Construction and Pollution Prevention Plan be maintained in a conspicuous location at the construction job site at all times and be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction and Pollution Prevention Plan, and the public review requirements applicable to them, prior to commencement of construction.
- I. **Construction Coordinator.** The Construction and Pollution Prevention Plan shall specify that a construction coordinator be designated who may be contacted during construction should questions or emergencies arise regarding the construction. The coordinator's contact information (including, at a minimum, a telephone number available 24 hours a day for the duration of construction) shall be conspicuously posted at the job site and readily visible from public viewing areas, indicating that the coordinator should be contacted in the case of questions or emergencies. The coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
- J. **Progress Reports.** Every two months, the permittee shall submit a reports reflecting progress and status of the project, including an identification of any outstanding issues that may have arisen since the last progress report, or are anticipated to arise in the foreseeable future.

The permittee shall undertake development in accordance with the approved Construction-Phase Pollution Prevention Plan, unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.

3. Post-Development Runoff Plan.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a final Post-Development Runoff Plan. The final Post-Development Runoff Plan shall demonstrate that the project complies with the following requirements:

- A. **Low Impact Development Strategies.** The project shall comply with the following Low Impact Development standards:
 - 1. 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.

2. 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.
 3. Maintain or enhance appropriate on-site infiltration of runoff to the greatest extent feasible. Use strategies such as avoiding building impervious surfaces on highly permeable soils; amending soil if needed to enhance infiltration; and installing an infiltration Best Management Practice (BMP) (e.g., a vegetated swale, rain garden, or bio retention system).
 4. Minimize the addition of impervious surfaces, and where feasible increase the area of pervious surfaces in re-development. 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.
 5. 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 surfaces; and installing a rain barrel or cistern to capture and store roof-top runoff for later use in on-site irrigation.
 6. Where on-site infiltration is not appropriate or feasible, use alternative BMPs to minimize post-development changes in runoff flows, such as installing an evapotranspiration BMP that does not infiltrate into the ground but uses evapotranspiration to reduce runoff (e.g., a vegetated "green roof," flow-through planter, or retention pond); directing runoff to an off-site infiltration facility; or implementing BMPs to reduce runoff volume, velocity, and flow rate before directing runoff to the storm drain system.
- B. 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.

C. **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:

1. New coastal bluff outfalls discharging stormwater or dry weather runoff shall be prohibited, and runoff shall be directed inland to the storm drain system or to an existing outfall. Runoff shall not be directed to the beach or the ocean.
2. 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 trigger erosion.
3. 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).
4. The discharge of dry weather runoff to coastal waters shall be minimized, to the greatest extent feasible. Use strategies such as efficient irrigation techniques that minimize off-site runoff.

D. **Manage BMPs for the Life of the Development.** Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and training) to keep the water quality provisions effective for the life of the development.

E. **Site Plan and Narrative Description.** The Post-Development Runoff Plan shall include a site plan and a narrative description addressing, at a minimum, the following required components:

1. 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.
2. Identification of pollutants potentially generated by the proposed development that could be transported off the site by runoff.

3. 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 number 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.
4. A description of the BMPs that will be implemented, and the Low Impact Development approach to stormwater management that will be used. Include a schedule for installation or implementation of all post-development BMPs.
5. A description and schedule for the ongoing management of all post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development, if required for the BMPs to function properly.

The permittee shall undertake development in accordance with the approved Post-Development Runoff 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.

4. Assumption of Risk, Waiver of Liability, and Indemnity Agreement.

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, landslide, erosion, and earth movement, many of which will 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.

5. No Future Bluff or Shoreline Protective Device.

A. By acceptance of this Permit, the applicant agrees, on behalf of itself 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. 6-22-0996 including, but not limited to, the restrooms, showers and sidewalk, including in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, landslides, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this Permit, the applicant hereby waives, on

behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.

- B. By acceptance of this Permit, the applicant further agrees, on behalf of itself all successors and assigns, that the landowner shall remove the development authorized by this Permit, including the restrooms, showers, and sidewalk, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above, or if any public agency requires the structures to be removed. If any portion of the development at any time encroaches onto public property, the permittee shall either remove the encroaching portion of the development or apply to retain it. Any application to retain it must include proof of permission from the owner of the public property.
- C. Prior to removal/relocation, the permittee shall submit a Removal/Relocation Plan to the Executive Director for the review and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/relocated and the affected area restored so as to best protect coastal resources, including Mission Bay. In the event that portions of the development fall to the bay or beach before they are removed/relocated, the landowner shall remove all recoverable debris associated with the development from the bay and beach and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The City of San Diego proposes to replace an existing restroom and associated sidewalks, lighting, and landscaping; resurface and restripe 1,485 sq. ft. of the adjacent parking lot; install utility improvements to service the restroom and future electric vehicle charging station; and remove one palm tree. The project site is located on and adjacent to a sandy beach at El Camel Place in Mission Bay Park ([Exhibit 1](#)) near the San Diego Rowing Club and Mission Bay Yacht Club. The purpose of the project is to upgrade the project site for compliance with Americans with Disability Act (ADA) standards. **Special Condition No. 1** requires the submittal of final plans.

The site is within an area of original jurisdiction where the Chapter 3 policies of the Coastal Act are the standard of review with the City's certified LCP used as guidance.

B. Biological Resources

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

The proposed restroom will replace an existing restroom that is located adjacent to Mission Bay and on and adjacent to a sandy beach that is used for public recreation activities. **Special Condition Nos. 2 and 3** require the submittal of construction and permanent BMP plans, respectively, to demonstrate that the development will not lead to increased runoff into adjacent bay waters. No sensitive habitat is located at the project site.

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

C. Community Character/Visual Quality

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

D. Public Access/Parking

The proposed project would encroach 12 ft. seaward onto a sandy beach to accommodate new showers and ADA-compliant walkways. However, in this case, the proposed improvements would allow for increased services to the public at the site, especially members of the public who are disabled and the applicant has provided evidence that the proposed size and configuration of the restroom and associated improvements is the minimum necessary to accommodate ADA standards.

In addition, the City will occupy up to four public parking spaces for staging and storage during construction of the project; however, the remainder of the El Carmel Place park and parking lot area will remain available to the public during construction and the City will install temporary restrooms for public use. The City has also agreed to conduct all work outside the summer season, when visitation to Mission Bay is heaviest.

Thus, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

E. Coastal Hazards

The development is located in an area that may be subject to coastal hazards, as it is on and adjacent to the sandy beach along Mission Bay Park. In addition, while the proposed restroom will be substantially the same size as the existing restroom, it will be located approximately 12 feet closer to the shoreline in order to allow for ADA compliant doors and sidewalks. However, the portion of the restroom that would encroach

seaward consists of sidewalks and outdoor showers only which can accommodate periodic flooding.

While Mission Bay Park receives muted tidal and wave action in comparison to nearby Mission Beach to the west, due to the general low elevation of Mission Bay Park, sea level rise projections show that under future scenarios much of the park will be exposed to increased flood risk. **Special Condition No. 4** requires the City to accept the risk of constructing the restroom next to coastal waters, while **Special Condition No. 5** prohibits any future shoreline protection for the restroom, requiring its removal should it become at risk. Thus, as conditioned, the risks of property damage or loss arising from such hazards will be borne by the applicant and not the public.

Therefore, the Commission finds that the development, as conditioned, conforms to Section 30253 of the Coastal Act.

F. Local Coastal Planning

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

G. California Environmental Quality Act

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of San Diego found the project to be categorically exempt under Sections 15301, 15302, and 15303 of CEQA.

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 final plans, construction and permanent BMPs, coastal hazard risk and shoreline protection 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.