

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-22-0804

Applicant: Surf City Partners, LLC

Agent: Keith Bohr
Jeff Bergsma, Team Design HB

Location: 21 and 22 Main Street, on the Huntington Beach Pier
Huntington Beach, Orange County

Project Description:

At **21 Main St.** (former fishing supply building) – interior modifications and addition of a 220 square foot kitchen and a 310 square foot outdoor restaurant dining area to an existing single story, 17 feet high, 820 square foot building to convert a former bait and tackle shop to a new restaurant/bar. Five, 4-seat tables are also proposed for general public use to the northeast of the restaurant building. No change in height is proposed.

At **22 Main St.** (existing public restroom building) – modifications to the existing single story, 17 feet high, 409 square foot public restroom building (currently providing seven separately accessed, gender neutral individual restroom stalls, one of which is ADA accessible), including addition of one separate 68 square foot public unisex ADA restroom, 60 square foot restaurant employee changing room/restroom/locker area, 220 sq. ft enclosed restaurant storage area with cooler, and addition of a new 53 square foot restaurant trash enclosure area. The existing public restroom layout would be remodeled into separate men’s (two stalls and two urinals) and women’s public restroom spaces (four stalls) with interior sinks, including an addition of 108 square feet. And addition of an 87 square foot bait shop. No change in building height is proposed.

Also proposed is the addition of three new 8 feet by 4 feet commercial carts (a fishing supply cart, a “walkable” food and beverage cart, and a restaurant merchandise cart) on the interior of the pier between the two structures.

Staff Recommendation: Approval with Special Conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed project is located on the Huntington Beach pier. The proposed development would convert an 820 square foot former bait, tackle, and sundries store (which closed in May 2023) into restaurant, add a 220 square foot kitchen and a 310 square feet of outdoor dining area (six, 4-seat tables), and remodel and add to the existing public restroom building. Three, 4 foot by 8 foot vending carts (96 square feet in total) are also proposed.

This project was originally scheduled before the Coastal Commission at its September 7, 2023 hearing. At that time, it was continued by the Commission with instruction for the applicant to work with Commission staff to reduce the project footprint's encroachment into unobstructed public pier area.

The project originally proposed two private, outdoor dining areas, one 320 sq. ft. and the other 310 sq. ft. The applicant has revised the proposed project to eliminate the 320 sq. ft. private outdoor dining area and to reduce the kitchen area from 250 square feet to 220 square feet at the proposed restaurant building. In place of the formerly proposed 320 square foot private restaurant outdoor dining area, the applicant is now proposing to place five, 4-seat tables, to be available to the general public, and not affiliated with the proposed restaurant. By eliminating the second restaurant outdoor dining area and reducing the size of the kitchen, the restaurant's proposed footprint will be reduced by 350 sq. ft. compared to the originally proposed footprint. In addition, staff is proposing conditions whereby the proposed 310 sq. ft. private restaurant outdoor dining area would also be deleted and replaced with public table seating area, not affiliated with the restaurant. The restaurant will also include a walk up take-away window. Thus, as conditioned, the building footprint would encroach 220 sq. ft. into unobstructed public pier area (for the kitchen) compared to the previous project's encroachment of 880 sq. ft. (for the larger kitchen and the two outdoor dining areas). The revised project, if conditioned as recommended, would represent a 660 sq. ft. reduction in the size of the encroachment area compared to the original proposal for the restaurant building.

Additions formerly proposed to the existing 409¹ square foot public restroom building totaled 480 square feet and included restaurant storage, two new private restroom stalls, and a trash enclosure area. Currently proposed changes to the public restroom building include a complete remodel and addition of 108 square feet to the existing public restrooms; addition of a new, separately accessed 68 square foot ADA public

¹ The previous square footage of the restroom building was identified as 750 sq. ft. However, the 750 sq. ft. figure is the area covered by the structure's existing roof, which extends beyond the interior by a significant amount, creating an open air, roofed area. The existing public restroom sinks and a drinking fountain are located in this open air, roofed area. The existing restroom building interior area totals 409 sq. ft.

restroom stall; addition of a new, 60 square foot restaurant employee changing room/restroom/locker area; addition of a new, 220 square foot restaurant storage area; and addition of a new 53 square foot trash enclosure area to serve the restaurant. Thus, as proposed, what was 409 square feet of interior, public restroom space and 341 square feet of covered public space would become 585 square feet of interior, public restroom space and 333 square feet of private interior restaurant-related space.

Importantly, the project has also been revised to add a new, permanent 87 square foot bait shop to the existing restroom building, at the southeastern (inland) side of the pier. The proposed bait shop would offer fishing pole rentals, bait and tackle. The restaurant operator will be responsible for operation of the bait shop for the life of the restaurant. The existing public drinking fountain in this area will be replaced with two new drinking fountains on the other side of the restroom building.

A major change from the previous project, in addition to the new bait shop, is that the applicant is now proposing to remodel the entire public restroom building to provide what is expected to be a safer, more secure public restroom facility, as explained later in this report. The remodeled restroom will include separate men's and women's restroom areas (as opposed to the existing seven separately accessible, gender-neutral individual stalls). The proposed remodeled restroom will have no exterior doors (though the interior individual stalls will have doors, but not floor to ceiling as the current stalls do), will have common areas with sinks inside the restroom, and a total of six individual stalls (four in the women's restroom and two in the men's with two urinals). Two of the stalls will be ADA compliant. Staff is recommending that the restroom remodel be conditioned to maintain the gender-neutral nature of the existing restrooms. This is to be accomplished by eliminating the interior wall that divides the men's and women's restrooms and eliminating the urinals.

The project also includes the addition of one separately accessed, public ADA restroom stall (68 sq. ft.) and one private employee ADA changing room/restroom/locker room. If conditioned as proposed by staff, however, the 60 sq. ft. employee changing room would also be public. Thus, instead of 585 feet of public interior space and 333 square feet of restaurant-related space, the division would be 645 square feet of public restroom space and 273 square feet of restaurant-related space. This will also bring the total number of public restroom stalls to 8, one more than currently exists.

In addition, the applicant proposes to place the wall of the remodeled restroom building 2 feet farther away from the pier railing compared to the formerly proposed restroom building modifications. However, it is important to be clear that the remodeled restroom building will still expand about 10 feet closer to the pier railing in this area than the existing restroom building, reducing the currently available public area from a width of about 22 feet, to about 12 feet. In this area, the applicant is proposing to place four 2-seat tables adjacent to the remodeled restroom building. These tables will be available to the general public, and not affiliated with the proposed restaurant. The public seating tables are to be placed immediately adjacent to the remodeled restroom building wall ([Exhibit 2](#)).

The total area to be added to the existing public restroom building is 596 square feet. Of that 596 square feet, if conditioned as proposed by staff, 323 square feet (just more than half) would provide public benefits. These include the increase to the remodeled public restroom area (108 sq. ft.), an additional, separate ADA public restroom stall (68 sq. ft.), the bait shop (87 sq. ft.), and by conditioning the project to require the employee changing room (60 sq. ft.) to be a publicly available restroom. The remaining 273 sq. ft. will be for private facilities to serve the restaurant. This represents a 157 sq. ft. reduction (as compared to the previous proposal) in the restroom building's private encroachment into unobstructed public pier area (480 sq. ft. formerly proposed – 273 sq. ft. currently proposed = 157 sq. ft. of private encroachment reduction).

As proposed, the project still includes three 8 ft. by 4 ft. vending carts, which would encroach a total of 96 sq. ft. into unobstructed public pier area. Originally these would have provided "walkable foods," fishing supplies, and the sale of merchandise promoting the restaurant. However, the project includes a walk-up take-away window and a bait shop, making two of the three carts unnecessary. The third merchandise cart provides no public benefit. Merchandise promoting the restaurant could be sold from within the interior of the restaurant. Thus, staff is proposing that the project be conditioned to eliminate all three carts as a means to further reduce private encroachment into unobstructed public pier area.

As currently proposed and if conditioned as recommended by staff, the total amount of new interior space that will constitute private encroachment into unobstructed public pier area will be 493 sq. ft. (220 sq. ft. restaurant kitchen + 220 sq. ft. restaurant storage area + 53 sq. ft. trash enclosure area = 493 sq. ft. private encroachment). The previously proposed new encroachment area beyond the existing pier buildings was 1,506 sq. ft. Thus, as revised by the applicant and conditioned, the area of new private encroachment into unobstructed public pier area would be reduced by 1,013 sq. ft.

In addition, the applicant is proposing a number of public benefits not included in the previous version of the project. These include the provision of tables and chairs for use by the general public (five 4-seat tables (320 sq. ft.) and four 2-seat tables (34 sq. ft.); [staff is also recommending conditions requiring an additional five, four-seat tables (320 sq. ft.)]; remodel and on-going maintenance/cleaning of the public restroom building; a new, permanent bait shop; and provision of four fishing pole holders and four fishing line recycling receptacles (locations to be determined, and subject to approval by the City) on the pier railings. The footprint of the remodeled restroom building will be set back two feet farther from the pier's edge compared to the previously proposed restroom revisions. This will allow for 12 feet of clear passage between the remodeled building and the edge of the pier. This is still a reduction in public area, but less than was previously proposed.

The applicant is also proposing to sponsor an on-going, twice a year (May and September) fishing derby for school-age youth who do not live near the coast. One of the applicants serves on the board of the Bolsa Chica Conservancy (BCC), which provides wetland tours, including for school groups from throughout Southern California.

The applicant proposes to work with the BCC and the City to maximize public outreach for the biannual fishing derby, with an emphasis on youth from less affluent communities.

In addition, the restaurant has already become a member of Surfrider Foundation's Ocean Friendly Restaurant Program. This program is a voluntary program in which members agree to reduce plastic pollution and prioritize sustainability practices.

Although the applicant has made a number of improvements in the project, staff is recommending special conditions to further reduce private encroachment and to increase public benefits and ensure they remain for the life of the proposed restaurant. Staff is recommending 11 special conditions. **Special Condition No. 1** formalizes the applicant's proposed public table seating areas and requires the additional public table seating area in place of the proposed private outdoor dining area. The special condition requires these public table seating areas to be publicly available with no requirement to purchase anything from the restaurant, prohibits restaurant table service at any of these tables, and requires that the table seating areas be maintained in good condition by the restaurant operator for the life of the restaurant. **Special Condition 2** requires that the table seating areas include signage to make the public aware of their availability. **Special Condition No. 3** requires that the walk-up window offer walkable take-away food and beverage options to the general public, during all hours the restaurant is open, for the life of the restaurant.

Special Condition No. 4 requires that the restroom remodel retain the gender-neutral nature of the existing public restrooms, that the employee changing room be available to the general public, and that no restroom area be available solely for restaurant patrons and/or employees. It also requires written approval of the proposed public restroom remodel from the City. The City's review is currently underway. **Special Condition No. 5** requires a Bait Shop Management Plan, including requirements that the bait shop, at a minimum, be open no later than 7 am and during all hours the restaurant is open. It also requires that the primary focus of the bait shop remain the sale and rental of fishing supplies, and requires that details of how the bait shop will be operated be provided. Similarly, **Special Condition No. 6** requires a written plan describing how the proposed biannual fishing derby will operate and remain for the life of the restaurant.

Special Condition No. 7 requires revised project plans that reflect changes required to the proposed project including elimination of the proposed private outdoor dining area and placement of the public table seating area instead; required revisions to the public restroom remodel; acknowledging the employee changing room will be a public restroom; providing a floor plan for the bait shop; and elimination of all three vending carts. **Special Condition No. 8** requires the applicant to remain in annual good standing in Surfrider's Ocean Friendly Restaurants Program (or acceptable similar program) for the life of the restaurant. **Special Condition 9** requires that future changes require a CDP.

Special Condition No. 10 requires recordation of a lease restriction imposing the Special Conditions of this CDP as long as either the permit or the development it authorizes remains in existence. **Special Condition No. 11** requires the applicant to submit the proposed lease between the City and the applicant, prior to it being finalized, for confirmation that the requirements of this CDP have been incorporated into the lease and that nothing in the lease conflicts with this CDP.

The subject site's location on the Huntington Beach Pier is seaward of the mean high tide line. Thus, it falls within the Commission's retained permit jurisdiction. The Coastal Commission is the permit-issuing authority for the proposed project and the Chapter 3 policies of the Coastal Act are the standard of review. The City's LCP may be used as guidance. Commission staff is recommending Approval with **Special Conditions** of the coastal development permit application. The motion to adopt the staff recommendation is on **Page 8**.

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EXHIBITS

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Project Plans
- Exhibit 3 – HNB Conditional Use Permit
- Exhibit 4 – CSLC Lease (pages 1 & 2 only)
- Exhibit 5 – Photos

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-22-0804 pursuant to the staff recommendation.

Staff recommends a **YES** vote. 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 the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development 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 and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. 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 that the 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. Public Table Seating Required.

A. Public Table Seating Required. By acceptance of this permit, the permittee agrees it shall provide the five, 4-seat public tables and four, 2-seat public tables as proposed by the applicant and shown on the 10/27/2023 project plans ([Exhibit 2](#) of this staff report) for the life of the proposed restaurant. In addition, the permittee agrees it shall also provide an additional five, 4-seat public tables in the area adjacent to and south/southwest of the restaurant building (towards the seaward end of the pier) for the life of the proposed restaurant. All of these public table seating areas shall remain open and available for the general public use with no requirement for restaurant purchase or other restriction and shall be signed consistent with the requirements of **Special Condition 2**, below.

B. Public Table Seating Location. Both public seating areas nearest the restaurant shall not encroach onto the pier beyond a line extending from and parallel to the kitchen wall at the interior of the pier and its intersection with lines extending from and parallel to the nearest diagonal wall at the pier edge of the restaurant building. The public table seating proposed adjacent to the restroom building (four, 2-seat tables) shall be placed immediately adjacent to the wall of the restroom building as shown on the project plans received on 10/27/2023 ([Exhibit 2](#) of this staff report).

C. Table Seating Public Availability. The permittee shall not impede or discourage the public from using the public outdoor seating areas authorized by this permit in any manner. Placement of posts, dividers, fence, ropes, or similar devices around any part any of the public seating areas or placement of any seating area on an elevated platform or foundation shall not occur. Further, any reference to the private restaurant, including logos, shall not be printed on flags, tables, chairs, umbrellas, or any other feature located in the public seating area. In addition, no restaurant table service shall occur at the public outdoor seating areas.

D. The outdoor seating areas authorized by this permit shall be limited to the five, 4-seat tables required by this special condition; and the additional five, 4-seat tables and four 2-seat tables proposed by the applicant, required by this permit, and shown on the project plans received on 10/27/2023 ([Exhibit 2](#) of this staff report).

E. All public seating table areas shall be maintained by the permittee in good condition for the life of the restaurant that is the subject of this CDP.

F. The approved public table seating shall be reflected on the revised project plans required by **Special Condition No. 7**.

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

2. Signage Plan Announcing Public Availability of Table Seating.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a signage plan for the placement of signs near and on the tables in the approved public outdoor table seating areas, identifying the following:

- 1) clearly stating that the outdoor seating area is available for general public use;
- 2) the location of each sign on a site plan;
- 3) the size (with dimensions clearly labeled) of each sign;
- 4) the wording of each sign;
- 5) the size (with dimensions clearly labeled) of lettering for each sign;
- 6) the materials to be used for each sign. These materials shall be weather resistant and durable for the expected conditions;
- 7) methods for securing the signs;
- 8) the applicant's affirmative agreement that if signs are lost, damaged, removed or otherwise no longer able to serve their intended purpose, the sign(s) shall be replaced by the permittee.

B. The signs shall be large enough and located in conspicuous places to ensure that the pier pedestrian traffic within the vicinity of the project is clearly aware of the location and public nature of the outdoor table seating areas.

C. All signage in the proposed project area subject to this coastal development permit shall be, at a minimum, printed in English and Spanish, as well as in another non-English language commonly spoken in Orange County.

D. The signage shall be installed and maintained by the permittee for the life of the project.

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

3. Walk Up Window Service.

A. By acceptance of this permit, the permittee agrees that the restaurant shall incorporate a walk-up, to-go window, offering lower cost “walkable” foods such as, but not limited to, coffee, hot chocolate, corndog on a stick, big soft pretzels, hot dog/sausage on a bun, snow cones, ice cream bars and cold soft drinks.

B. The walk-up window shall be available to the general public for to-go service. Walk-up window patrons may use the public table seating areas, but no restaurant service of any kind may occur.

C. The window shall be located as depicted on the project plans received on 10/27/2023 at plan note 15 “pick-up window” on Plan Sheet A2 and shall be depicted on the revised project plans required by **Special Condition No. 7** below.

D. Walk-up, to-go window service shall be available at a minimum during all hours of restaurant operation for the life of the approved restaurant.

E. The applicant shall undertake development consistent with the above requirements. Any proposed changes to the above requirements shall be reported to the Executive Director. No changes to the above requirements shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Public Restroom Alterations.

A. PRIOR TO ISSUANCE OF THE CDP, the applicant shall submit for the review and approval of the Executive Director, evidence of written approval by the City of Huntington Beach of the restroom remodel plan (identified as Alt. [Alternative] B on the plans received on 10/27/2023, Plan Sheet A3.2 [Exhibit 2](#)), revised as described below in subsection C of this Special Condition. Such approval shall be in writing and may use Appendix B of the CDP application form or may be in the form of a letter written on City letterhead, and shall also include an Approval in Concept stamp signed by appropriate City staff on the revised project plans required by **Special Condition No. 7** below.

B. Proposed restroom remodel plan (identified as Alt. [Alternative] B on the project plans (received on 10/27/2023, Plan Sheet A3.2 [Exhibit 2](#)) shall be in substantial conformance with the project plans with the following revisions:

- 1) The gender-neutral nature of the public restroom building shall be retained. This shall be accomplished by removing the proposed interior dividing wall and removing the proposed urinals.
- 2) The stand-alone, separately accessed restroom stall labeled “Employee Changing Room” (plan note 4 on plan sheet A3.2) shall be available to the general public for the life of the restroom facility and shall not be limited to restaurant employees and/or patrons, for the life of the restroom facility.

- 3) As proposed, the stand-alone, separately accessed restroom stall labeled "Public Unisex ADA Restroom" (plan note 1 on plan sheet A3.2) shall remain available to the public as proposed by the applicant, for the life of the restroom facility.
- 4) As proposed by the applicant, no fewer than eight restroom stalls shall be provided. All restroom stalls shall be open to the general public and shall not be restricted in use. Sole use by restaurant employees and/or patrons only is prohibited.
- 5) All square footage areas described on all project plans shall be accurate.
- 6) Dimensions shall be correctly labeled on all project plans.

D. As proposed by the applicant, maintenance, including assuring cleanliness and usability of the entire, remodeled public restroom facility, shall be the responsibility of the restaurant operator for the life of the approved restaurant. The restaurant operator shall maintain the restrooms, at a minimum, every thirty minutes as proposed by the applicant. However, nothing in this permit shall require the permittee to be responsible for plumbing, electricity, roof or structural elements of the restroom building, which shall remain the responsibility of the City of Huntington Beach.

E. PRIOR TO ISSUANCE OF THE CDP, the applicant shall submit for the review and approval of the Executive Director, a formal written agreement between the applicant and the City of Huntington Beach identifying the division of responsibility for on-going maintenance of the public restroom building. Such agreement shall identify the restaurant operator as responsible for maintenance, including cleanliness and usability of the entire public restroom facility, for the life of the approved restaurant. Responsibilities other than and in addition to maintaining cleanliness and usability, shall be assigned in this agreement. This required agreement may be a stand-alone document and/or included in the permittee's lease with the City of Huntington Beach.

F. The public restroom facility maintenance shall be carried out in conformance with the approved agreement. Any proposed changes to the above requirements shall be reported to the Executive Director. No changes to the above requirements shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Bait Shop Management Plan.

A. PRIOR TO ISSUANCE OF THE CDP, the applicant shall submit, for the review and approval of the Executive Director, a Bait Shop Management Plan that identifies the following:

- 1) minimum hours the bait shop will be open, including daily times by which the bait shop will be open. At a minimum the bait shop shall be open no later than 7 am and during all hours of restaurant operation;
- 2) floor plans in sufficient detail to provide a reasonable understanding of how the bait shop will operate;

- 3) the expected bait shop offerings for sale and/or rent;
- 4) written acknowledgement that the primary focus of the bait shop shall always be provision fishing supplies, including bait, at affordable cost; and that sale of live bait is preferred;
- 5) the bait shop shall offer fishing supplies for sale and rent to the general public. Fishing supplies offered shall include, but are not limited to, fishing poles (rod and reel), fishing line, a range of types of fishing hooks, fishing lures, sinkers, and bait, including live bait daily. The fishing supplies offered shall be useful to catching the types of fish typical in the Huntington Beach pier area and to pier fishing generally;
- 6) written acknowledgement that the bait shop shall be open and operated by the restaurant operator for the life of the restaurant approved by this permit;

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

6. Biannual Fishing Derby

A. PRIOR TO ISSUANCE OF THE CDP, the applicant shall submit, for the review and approval of the Executive Director, a written plan describing the proposed biannual fishing derby. The required plan shall provide the following details describing how the derby will be carried out, including, but not limited to the following information:

- 1) methods of outreach to environmental justice communities. Consideration should be given to outreach to schools, parks, and after-school organizations serving youth of color, LGBTQIA youth, neurodivergent youth, and individuals with disabilities, with culturally appropriate messaging;
- 2) consideration should also be given to how participants would travel to the pier for the derby and what types of travel assistance may be offered;
- 3) outreach shall be conducted in English and Spanish, as well as in other non-English languages spoken in Orange County;
- 4) measures to assure the fishing derby will be carried out biannually for the life of the approved restaurant;
- 5) expected/potential funding sources and/or partnerships;
- 6) a preliminary draft schedule for the day of the event;
- 7) identification of specific responsibilities, how they will be carried out, and by whom;
- 8) a requirement for submittal of an annual report, which shall provide details including, but not limited to, i) the outreach methods employed; ii) sample outreach materials; iii) a list of organizations contacted for support of the derby, with the results stemming from that contact; iv) organizations and partnerships who participated in the derby, and their contributions; and iv) the number of participants in the derby. The annual report shall be submitted to the Executive Director no later than January 30th, for the preceding calendar year.

9) any other information that demonstrates the event can reasonably be expected to occur twice annually in the future for the life of the restaurant, and that it will continue to serve its intended purpose. The intended purpose identified by the applicant, and required by this permit, is to promote and make accessible pier fishing on the Huntington Beach pier to members of environmental justice communities, especially youth.

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

7. Revised Project Plans.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, two (2) full sized paper sets of revised project plans as well as electronic copies (including, but not necessarily limited to, site plans, floor plans, roof plans, and elevations), in substantial conformance with the plans received 10/27/2023, [Exhibit 2](#)), but which shall incorporate the following revisions:

1. Public Seating

a) The proposed outdoor patio dining associated with the restaurant has been deleted. In its place, five, 4-seat table seating areas available for general public use as described in **Special Condition No. 1** above shall be shown on the revised project plans.

b) All of the public table seating areas shall be located as described in **Special Condition No. 1** above and shall be shown on the revised project plans.

c) A plan note shall state that the public table seating areas authorized by this permit shall not be converted to the exclusive use of restaurant patrons or restaurant service and shall remain available for general public use without any requirement for restaurant purchase, for the life of the restaurant approved by this permit.

2. Walk-Up Window To-Go Service

A walk-up window offering to-go food and beverage service as described in **Special Condition No. 3** above shall be identified on the revised project plans.

3. Public Restroom

a) the public restroom remodel shall be as described in **Special Condition No. 4** above and shall be shown on the revised project plans;

b) the separately accessed, stand alone restroom stall currently labeled as "Employee Changing Room" shall be re-labeled to acknowledge that it shall be available to the general public as described in **Special Condition No. 4** above;

- c) a plan note shall be included on the revised project plans stating that all restrooms are available to the general public;
 - d) a plan note shall be included on the revised project plans stating that the public restrooms shall be gender neutral;
 - e) two public drinking fountains, as depicted on the project plans, shall continue to be depicted on the revised project plans.
4. Bait Shop
The revised project plans shall include floor plans for the proposed bait shop. These plans shall provide sufficient detail to convey a reasonable understanding of how the bait shop will operate.
5. Fishing Pole Holders & Fishing Line Recycling Receptacles
The types and locations of the proposed (minimum of four each) fishing pole holders and fishing line recycling receptacles on the pier railings shall be identified on the revised project plans.
6. Delete Proposed Carts.
All three of the proposed 8-foot by 4-foot carts shall be deleted from the revised project plans.
7. All square footage areas described on all project plans shall be accurate.
8. Dimensions shall be correctly labeled on all project plans.

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

8. Ocean Friendly Restaurant Program.

By acceptance of this permit, the applicant agrees on behalf of itself and assigns, to remain in annual good standing in Surfrider's Ocean Friendly Restaurants Program (or similar program acceptable to the Executive Director) for the life of the approved restaurant. Evidence of current good standing in the program shall be posted in a location in the restaurant visible to restaurant patrons. The permittees shall operate the restaurant in accordance with Surfrider's Ocean Friendly Restaurants Program (or accepted similar program), for the life of the approved restaurant.

9. Future Permit Requirement.

This permit is only for the development described in coastal development permit (CDP) 5-22-0804. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by the CDP 5-22-0804.

Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDP 5-22-0804 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP 5-22-0804 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

10. Lease Restriction

A. By acceptance of this permit, the permittee acknowledges and agrees that, pursuant to this permit, (1) 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 (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing the Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property.

B. PRIOR TO 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 Surf City Partners LLC and the City of Huntington Beach, incorporating all of the above terms of subsection A of this condition, and (2) a written agreement by the City of Huntington Beach, in a form and content acceptable to the Executive Director, providing that upon termination of the applicant’s sublease of the property that is the subject of this coastal development permit, the City of Huntington Beach agrees (i) to be bound by the Standard and Special Conditions referenced in subsection A of this condition if it becomes the owner of the possessory interest in such property, and (ii) to include a provision in any subsequent sublease of such property requiring the sublessee to submit a written agreement to the Commission, for the review and written approval of the Executive Director, incorporating all of the Standard and Special Conditions.

11. Project’s Pier Sublease

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval, and prior to finalizing the lease between the City of Huntington Beach and the applicant for use of the two subject buildings at 21 and 22 Main Street, the lease shall be submitted for the review and approval of the Executive Director for confirmation that the requirements of approved CDP No. **5-22-0804** have been incorporated into the lease and confirmation that nothing in the lease conflicts with approved CDP **5-22-0804**.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The proposed project is a request to create a new restaurant on the Huntington Beach pier by converting the former “Let’s Go Fishing” bait, tackle and sundries building (21

Main St.) and the existing public restroom building (22 Main St.) to restaurant and restaurant support uses. The proposed project has been revised so that it now also includes public benefits, including remodeling and addition to the existing public restroom intended to make it safer and more secure, and the provision of outside table seating area available to the general public with no connection to the proposed restaurant. This includes five 4-seat tables in the area of the formerly proposed 320 square foot, private outdoor dining area, and four 2-seat tables. The 2-seat tables are to be located adjacent to the proposed restaurant storage area to be added to the restroom building immediately adjacent to the remodeled restroom building wall. In addition, the applicant is proposing to maintain/clean the remodeled and enlarged (by 108 sq. ft.) public restroom during all restaurant operating hours for the life of the proposed restaurant. As proposed by the applicant, restroom maintenance will occur every 30 minutes.

The pier is located at the terminus of Main Street, seaward of Pacific Coast Highway ([Exhibit 1](#)). Both buildings are located seaward of the mean high tide line. The building at 21 Main Street is located on the northwest side of the pier, and 22 Main Street is located on the southeast side of the pier. The pier is an integral component of the City's main visitor serving core and included in the Downtown Specific Plan (DSP). The DSP is part of the City's Local Coastal Program (LCP). The pier is land use designated Commercial Visitor – Design Overlay – Specific Plan, and zoned Specific Plan 5. Specific Plan 5 is the Downtown Specific Plan.

Changes proposed to the former bait, tackle and sundries shop include interior remodeling to convert the existing building into a restaurant and bar, addition of a 220 square foot kitchen area, and addition of 310 square foot outdoor dining area with six, 4-seat tables. The combined encroachment into public pier area from this work would be 530 square feet. Also near the restaurant, in the area that was formerly proposed as a second private outdoor dining area, the applicant is instead proposing to provide and maintain five, 4-seat tables for use by the general public. This table seating area will have no affiliation to the proposed restaurant, other than being maintained by the restaurant operator.

The maximum occupancy for the new restaurant will be 73 people (including a maximum interior dining occupancy of 49; and a maximum outdoor dining occupancy of 24). Compared to the formerly proposed project, the dining occupancy is reduced by 24 due to the conversion of the previously proposed 320 square foot, second outdoor dining area from exclusive use by restaurant patrons to general public seating area. The proposed outdoor dining area will be surrounded by 3 feet, 4-inch-high solid walls, topped with 3 feet, 4-inch-high bird safe transparent walls. There will be 2 feet, 4 inches of open area between the top of the outdoor dining area walls and the outdoor dining area roof. The outdoor dining area would be covered with fabric awning, solar panels, and tinted polycarbonate roof panels. The existing building will retain the existing, solid roofing ([Exhibit 2](#)). The proposed kitchen will also include solid roofing to match the existing structure's roof. The proposed outdoor dining and kitchen area would encroach into unobstructed pier area currently available to the general public for public use.

Additions formerly proposed to the 409² square foot public restroom building totaled 480 square feet and included restaurant storage, two new private restroom stalls, and a trash enclosure area. Currently proposed changes to the public restroom building include a complete remodel and addition of 108 square feet to the existing public restrooms, addition of a new, separately accessed 68 square foot ADA public restroom stall, addition of a new 60 square foot restaurant employee changing room/restroom/locker area, addition of a new 220 square foot restaurant storage area, and addition of a new 53 square foot trash enclosure area to serve the restaurant.

In addition, the project has been revised to add a permanent 87 square foot bait shop to the existing restroom building, at the southeastern (inland) side of the pier. The new bait shop would be created by enclosing open, unobstructed, public area on the southeastern side of the restroom building. It would be triangular in shape, enclosed on one side by a roll-up door, on another side by a wall with a door in it, and on the third side, by the restroom building's southeastern wall. The proposed bait shop would offer fishing pole rentals, bait and tackle. The restaurant operator will be responsible for operation of the bait shop for the life of the restaurant. The existing public drinking fountain in this area will be replaced with two new public drinking fountains on the other side of the restroom building.

The current proposal includes a remodel of the entire public restroom building, intended to provide what is expected to be a safer, more secure public restroom facility. The remodeled restroom is proposed to include separate men's and women's restroom areas (as opposed to the existing seven separately accessible individual gender-neutral stalls). The proposed remodeled restroom will have no exterior door (though the individual stalls will have doors, but not floor to ceiling as the current stalls do) and will have gender specific common areas with sinks inside the restroom, and a total of seven individual stalls (four in the women's restroom and two in the men's with two urinals).

The total area to be added to the existing public restroom building is 596 square feet. Of that 596 square feet, as conditioned, 323 square feet will provide public benefits. These include the increase to the remodeled public restroom area (108 sq. ft.), an additional, separate ADA public restroom stall (68 sq. ft.), the bait shop (87 sq. ft.), and by conditioning the project to require the employee changing room (60 sq. ft.) to be a publicly available restroom. The remaining 273 sq. ft. will be private encroachment to serve the restaurant. This represents a 157 sq. ft. reduction in the restroom building's private encroachment into unobstructed public pier area (480 sq. ft. formerly proposed – 273 sq. ft. currently proposed = 157 sq. ft. of private encroachment reduction).

² Previously the square footage of the restroom building was identified as 750 sq. ft. However, the 750 sq. ft. figure is the area covered by the structure's existing roof. The existing public restroom sinks and a drinking fountain are located in this open air, roofed area. The existing restroom building interior area totals 409 sq. ft.

In addition, three, 4 feet by 8-foot carts are also proposed, one near the proposed restaurant building, and two near the restroom building. All three carts are proposed to be located on the interior pier area between the two buildings ([Exhibit 2](#)). The length and width of the carts includes any handles and wheels. The maximum height of all three carts is 6 feet, excluding any canopies, umbrellas, or transparent enclosures. The three carts would be located within area that is currently available to the general public for public access. One cart would offer fishing supplies, including fishing pole rentals and bait. Another cart would offer “walkable foods,” including items such as coffee, corndog on a stick, big pretzels, hot dog/sausage on a bun, snow cones, ice cream bars and cold soft drinks. The third cart would offer branded merchandise to promote the proposed restaurant, including items such as tee shirts, hats, and water bottles.

Currently there is 30 feet of clear passage between the two pier buildings, through the center of the pier. This will be reduced to 26 feet of clear passage, and further reduced by the presence of the three carts. Both buildings are currently shaped like elongated diamonds ([Exhibit 2](#)). The building at 21 Main Street (proposed restaurant) is set back 10 feet from the perimeter of the pier. With the proposed development, this ten feet of clear public pedestrian passage will remain ten feet wide. The building at 22 Main Street (the public restroom building) is currently setback approximately 22 feet from the perimeter of the pier along the “flat” side of the diamond shape, and setback approximately 15 feet along the angled walls leading to the “point” of the “diamond.” With the proposed development, the existing 22-foot setback width will be reduced to 12 feet along the “flat” side of the building. The existing 15-foot-wide area along the angled walls leading to the “points” of the “diamond” would be reduced to 12 feet at the seaward end of the “diamond” and would taper from 15 feet to 12 feet at the landward end. ([Exhibit 2](#)). The previously proposed project would have reduced these areas to 10 feet. Four, two-seat tables for public use are proposed along the “flat” outboard side of the diamond shape of the building.

The pier and pier buildings are owned by the City of Huntington Beach. The Huntington Beach pier is located over sovereign land managed for the State by the California State Lands Commission (CSLC). The area beyond the mean high tide line over which the pier extends is leased to the City by the CSLC, via Lease No. 06616.1 ([Exhibit 4](#)). The lease allows “the operation and maintenance of an existing public municipal pier and related concessions,” ... “with the additional consideration being the public’s use and benefit.” The lease is valid for 25 years, running from June 21, 2018 through June 20, 2043. The lease area is subject to the Public Trust. The City would need to obtain a lease amendment and an endorsement of sublease from CSLC for the proposed project. That process is underway. In an informal discussion with Coastal Commission staff, CSLC staff indicated they have no major concerns with the proposed project.

The City of Huntington Beach Zoning Administrator conditionally approved Conditional Use Permit 22-012 on July 27, 2022 ([Exhibit 3](#)). The City approved the CUP subject to 14 conditions, including: project design changes (that do not affect the proposed footprint), hours of operation and alcohol use, conditions imposed by the Coastal Commission be adhered to, provision of a parking plan, provision of detailed plans for

the proposed carts, requirement that one of the three carts provide bait, tackle and fishing related supplies year-round, evidence from a structural engineer that the pier can support the additional load, compliance with approved plans and conditions, building spoils be disposed of appropriately, requirements of the Fire Department, Community Development Department, and Public Works Department be printed on the project plans, the approval will expire within two years unless extended, and that substantial changes to the project will require an amendment.

The subject site is located within the City of Huntington Beach, which has a certified Local Coastal Program (LCP). The LCP is comprised of the Land Use Plan (LUP), which is the Coastal Element of the City's General Plan; and the Implementation Plan (IP) which includes the City's Zoning Code and a number of Specific Plans, including the Downtown Specific Plan (DSP). However, due to the project location seaward of the mean high tide line, the project is within an area of the Commission's retained permit jurisdiction. Thus, the standard of review is the Chapter 3 policies of the Coastal Act, and the City's certified LCP provides guidance.

B. Public Access & Recreation

Coastal Act Section 30210 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 30213 states:

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

Section 30220 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 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 30234.5 states:

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

Section 30604(h) states:

When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

The City's certified Local Coastal Program Land Use Plan/Coastal Element includes the following policies:

C 2 Provide coastal resource access opportunities for the public where feasible and in accordance with the California Coastal Act Requirements.

C 2.5 Maintain and enhance, where feasible, existing shoreline and coastal resource access sites.

C 2.5.1 Require that existing public access to the shoreline and Huntington Harbour waterways be maintained and enhanced, where necessary and feasible, notwithstanding overriding safety, environmental or privacy issues.

C 2.6 Promote and provide, where feasible, additional public access, including handicap access, to the shoreline and other coastal resources.

C 3 Provide a variety of recreational and visitor commercial serving uses for a range of cost and market preferences.

C 3.1 Preserve, protect and enhance, where feasible, existing public recreation sites in the Coastal Zone.

C 3.2 Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low cost facilities and activities.

C 3.2.1 Encourage, where feasible, facilities, programs and services that increase and enhance public recreational opportunities in the Coastal Zone.

C 3.2.2 Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. On oceanfront, waterfront or nearshore areas or lands designated for visitor uses and recreational facilities, an assessment of the availability of lower cost visitor uses shall be completed at the time of discretionary review and an in-lieu fee in an amount necessary to off-set the lack of the preferred lower cost facilities in or near Huntington Beach shall be imposed.

C 3.2.4 Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including but not limited to, shops, restaurants, hotels, motels, and day spas.

C 3.4 Encourage and protect water oriented recreational activities that cannot readily be provided at inland water areas.

C 3.4.1 Provide opportunities for recreational fishing and support facilities on the Huntington Beach Municipal Pier.

C 3.4.3 Require that any plans for restoration or replacement of the Municipal Pier include the following provisions:

- a) Areas for recreational fishing and support facilities.
- b) Unobstructed public views seaward from the end of the Pier.
- c) Significant opportunities for unobstructed public views of the shoreline.
- d) Limit Pier access to pedestrians and trolley type transit.
- e) Maintain a minimum of 70 percent of the total area of the Pier as public open space and ensure that adequate pedestrian flow is maintained along the Pier length.
- f) Provide adequate handicap access.
- g) Limit building heights on the pier to a maximum of 2 stories (35 feet).
- h) Require that public access be maintained around the entire perimeter of the pier.

In addition, the LCP IP includes the Downtown Specific Plan (DSP). The subject site is included within District 6 of the DSP (District 6 Pier & Pier Related Commercial). The DSP defines the purpose of District 6 as:

3.3.6.1. Purpose

This district is intended to insure that the majority of the pier will remain open and accessible to the public at all times at no charge for strolling, fishing, and/or observation. Commercial uses on and alongside the pier that will enhance and expand the public's use and enjoyment of this area may also be permitted. Uses are encouraged that capitalize on the views available from the pier and the unique recreational or educational opportunities it affords. The main thoroughfare of the pier should remain clear for public safety.

Section 3.3.6.6 Maximum Site Coverage of the DSP states:

- 1) No maximum site coverage shall be required, except that no more than 25% maximum of the pier shall be covered by any building or roofed structure.
- 2) 25% maximum of the perimeter of the pier shall be covered with building or other roofed structures.

Section 3.3.6.13 Public Open Space of the DSP states:

Promotion and retention of public open space, pedestrian access, and public views shall be major considerations of development in this district. Free and clear public pedestrian access along the outer (seaward) perimeter of the pier shall be maximized and, at minimum, a 10-foot wide area shall be maintained

for public access between the outer (seaward) perimeter of the pier and any development, with the exception of the area of the lifeguard tower. In particular, the required setback area along the pier's perimeter shall be maintained at all times at the seaward end of the pier beyond any outdoor dining or other use that is or may be established.

In addition, all new development shall provide sufficient clear width along the length of the pier for public access and emergency and service vehicles. Public walkways along the pier edge or around the perimeter of new development must be provided.

The City's certified LUP includes public access and recreation policies that mirror the public access and recreation policies of the Coastal Act. Both the Coastal Act and the LUP require maximum public access, and that public recreational opportunities be protected and encouraged. The DSP requires a *minimum* 10-foot clear public pedestrian passage along the perimeter of the pier and limits overall site coverage on the pier to a *maximum* of 25% by any building or roofed structure. Both the City's LCP and the Coastal Act require that high priority be given to public access and recreation along the coast, particularly to water-oriented recreational uses, including fishing, as well as other types of lower cost access and recreation uses and activities. The LCP tailors that requirement in ways that apply specifically to the City's pier.

LUP Policy 3.2 requires that new development and uses provide a variety of recreational facilities for a range of income groups, including low-cost facilities and activities. LUP Policy C 3.2.1 encourages facilities, programs and services that increase and enhance public recreational opportunities in the coastal zone. LUP Policy C 3.2.2 also requires that lower-cost visitor and recreational facilities be protected, encouraged, and where feasible, provided. These LUP policies and others mirror Coastal Act policies that require and encourage lower-cost recreational opportunities and public access. Public fishing opportunities, and fishing support facilities, are high priority, lower cost recreational uses that are specifically recognized and protected by Coastal Act section 30234.5 and by LUP policies C 3.4.1 and C 3.4.3.

The primary concern with increasing the square footage of development on the pier is the resulting decrease in undeveloped, open pier area available to the general public for walking and enjoying open views. Another concern is private commercialization of public open space. Another potential issue raised by the proposed project is conversion of a lower cost recreational support facility, in this case replacing the former bait, tackle and sundries shop with a non-lower cost restaurant. This raises a concern because pier fishing is a relatively lower cost recreational activity that can be enjoyed by many people, including environmental justice communities. The Coastal Act and LCP policies cited above are intended to protect public access and lower cost recreational activities, such as pier fishing, and lower cost recreational support facilities, such as bait shops.

The currently proposed project would increase the existing 1,229 square foot combined building footprints by 1,222³ square feet, almost doubling the existing combined footprint of 1,229 square feet (820 sq. ft. former bait and tackle shop + 409 sq. ft. restroom building). This currently proposed project is a reduction in added footprint compared to the project as originally proposed. The originally proposed project would have added 1,506 square feet of new area. As currently proposed, the applicant has reduced encroachment into public pier area by 284 square feet. It should be noted that the correction in the amount existing square footage of the existing public restroom building from 750 sq. ft to 409 sq. ft. means the previously reported expansion of 1,506 sq. ft. may have been underreporting the expansion by about 300 sq. ft.

Importantly, of the 1,506 sq. ft. expansion area of the formerly proposed project, none provided a public benefit. The currently proposed project includes a number of public benefits that were not previously proposed. Perhaps most significant is that the revised project now includes an 87 sq. ft. bait shop. The bait shop would be added to the existing public restroom building on the landward side. It would be located under the existing roof, but the area would be newly enclosed. The bait shop would offer, for sale or rental, fishing poles, bait and tackle. The addition of the permanent (as opposed to a cart) bait and tackle shop addresses the concern of the loss of a lower cost recreational support facility (the former bait and tackle shop). In order to gain a better understanding of how the proposed bait shop would operate, and to ensure that it will remain available for the life of the proposed restaurant, **Special Condition No. 5** requires a Bait Shop Management Plan. This plan would describe how the bait shop would operate, including hours of operation, a bait shop floor plan, and written acknowledgement that the focus of the bait shop must always remain provision fishing supplies, including bait, at a reasonable cost.

Another public benefit to be provided by the currently proposed, revised project is the remodeling the existing public restroom building to improve safety and security. The proposed remodel will be a complete redesign of the existing restroom and will result in an expansion of 108 sq. ft. The applicant indicated that the current restroom layout (separately accessed, completely enclosed, individual stalls) has caused problems. For further information, the applicant recommended speaking with the City of Huntington Beach Public Works Beach Operations Supervisor. Staff contacted the supervisor to hear what the issues with the current restroom design are. The supervisor said all the City's beach restrooms have the same design and they all raise the same issues, including the restroom on the pier. The issues arise when "vagrants and drug users" move into the individual stalls and stay for extended periods, including up to the whole day. Objects such as bicycles are placed to block the door so that even beach

³ Proposed Increased Project Footprint: 220 sq. ft. kitchen; 310 sq. ft. outdoor dining; 220 sq. ft. restaurant storage area; 60 sq. ft. employee changing room; 108 sq. ft. expansion of existing public restroom; 87 sq. ft. bait shop; 68 sq. ft. new, separate entry, single public restroom stall; 96 sq. ft. vending carts; and 53 sq. ft. restaurant trash enclosure.

operations staff with keys cannot get into the public restroom stalls. While locked in the stalls, the beach operations manager reported, activities occur including drug use, graffiti, damage to the restrooms, and illicit encounters. Beach operations staff go by the pier restrooms for cleaning and maintenance about 4 to 8 times a day. If anyone is locked in for an extended period, the staff try to convince them to leave. However, the need to call the police to address the issue occurs about 1 to 4 times a week. But there are still issues even after the stall is vacated, such as those described above. According to the beach operations supervisor, it is the City's plan to replace all the beach restrooms with designs similar to the currently proposed revisions to the restrooms on the pier, but that replacement process is expected to take quite a while to get to final implementation. With the revised restroom design, no one will be able to lock themselves in and occupy the restroom for extended periods. So, the proposed public restroom remodel and addition will provide a public benefit.

However, the current restroom design provides for gender neutral access to the restrooms. The proposed restroom design will not. Gender neutral restroom access provides the most restroom access for the most people. In order to retain the current gender-neutral nature of the existing restrooms, **Special Condition No. 4** requires that the gender neutral nature of the restrooms be retained. This can be accomplished by removing the proposed interior dividing wall and removing the proposed urinals.

Another public benefit of the currently proposed, revised project is the addition of one additional, separately accessed ADA accessible restroom stall. This proposed stall is wider than the existing stalls and the issues associated with the current, narrower restroom design are not expected to occur (it will be more difficult to block the door from the inside). In addition to this new stall, the project also proposes an employee changing room which includes a toilet, sink, and employee lockers. It will also be ADA accessible. Because it is also wider than the current restroom stalls, issues associated with the narrower stalls are not expected with this restroom either. If this restroom were also made available to the general public instead of being solely available to restaurant employees, that would be a significant public benefit. It has not been demonstrated that employees must have separate facilities. Employees could still use this room for changing (it is a lockable, single stall). And, as proposed, all the restrooms will be maintained/cleaned every thirty minutes. **Special Condition No. 4** and **Special Condition No. 7**, require that the employee changing room be made available to the general public and shall not be limited to restaurant employees and/or patrons, for the life of the restroom facility. With these changes, the public restroom facility would increase the number of stalls available to the general public from 7 stalls to 8.

Special Condition No. 4 also requires written approval from the City, the owner of the public restrooms, of the proposed restroom remodel, as conditioned. The City's review is currently underway, and City staff have indicated that "In our first pass, the revisions are generally consistent with the approved CUP and CDP in that they are in substantial conformance with the original approval" and "I don't envision a scenario where the City does not provide an approval in concept for the revised project; we may have additional comments but would not deny the revisions."

Another public benefit provided by the currently proposed, revised project is the provision of public table seating. Five, 4-seat tables are proposed in the area of the formerly proposed outdoor dining patio. Four, 2-seat tables are proposed adjacent to the remodeled public restroom building, in the area between the restroom building and the pier edge. These table seating areas are proposed for use by the general public, with no requirement for restaurant purchase or other restrictions. The addition of public table seating is a public benefit. **Special Condition No. 1** requires that the tables and chairs be maintained in good condition by the permittee for the life of the proposed restaurant. In addition, **Special Condition No. 1** requires these public table seating areas shall remain open and available for the general public use, with no requirement for restaurant purchase or other restriction and that restaurant table service be prohibited at these tables, for the life of the proposed restaurant.

Private encroachment into public pier area can be further reduced by eliminating the proposed restaurant outdoor dining area. Eliminating the outdoor dining area would remove 24 outdoor restaurant seats. However, 49 indoor dining seats would remain. If the private outdoor dining area were removed, it could also be replaced with five, 4-seat public table seating areas, a further public benefit to offset the loss of public space resulting from the proposed project. **Special Condition No. 1** and **Special Condition No. 7** require that the private outdoor restaurant dining area be eliminated and that public table seating be placed in the area instead. **Special Condition No. 1** requires that these tables and chairs be provided and maintained in good condition by the restaurant operator for the life of the proposed restaurant. **Special Condition No. 1** also requires that the public table seating areas be limited in area to just the area of the two former private outdoor restaurant dining areas and to the area immediately adjacent to the public restroom building for the two seat tables. This will ensure that the tables, though public, do not interfere with continued free pedestrian passage on the pier. **Special Condition No. 2** requires that signage be provided to make the public aware of the public nature of the table seating areas. These additional public table seating areas will provide significant public benefits.

The proposed project plans identify a restaurant “pick up window” ([Exhibit 2](#), Plan Sheet A2, Plan Note 15). Providing a public walk-up window for “walkable foods” would provide a public benefit in a number of ways. To-go foods are generally less expensive than food in a sit-down, table service restaurant. People at the pier may just want something easy to eat or sip while strolling the pier and taking in the sights. The applicant has indicated that one of the proposed carts would offer “walkable foods,” which the applicant described as offerings such as coffee, hot chocolate, corndog on a stick, big soft pretzels, hot dog/sausage on a bun, snow cones, ice cream bars and cold soft drinks. These were identified by the applicant as being lower cost. Offering lower cost food and beverage options serves a wider range of the public than just the sit down, table service restaurant alone. **Special Condition No. 3** requires that the walk-up window service be available to the general public for to-go service, and that walk-up window patrons may use the public table seating areas, but no restaurant table service of any kind may occur. **Special Condition No. 3** also requires window service to be available during all hours of restaurant operation for the life of the approved restaurant.

By providing the “walkable foods” at the takeout window rather than at one of the proposed carts, encroachment into the public area of the pier is further reduced, while still providing the public benefit of lower cost, casual food options.

The applicant has also newly proposed to sponsor a biannual fishing derby. The twice a year (May and September) fishing derby is intended primarily for school age youth from environmental justice communities. One of the applicants serves on the board of the Bolsa Chica Conservancy (BCC), which provides wetland tours, including for school groups from throughout Southern California. The applicant proposes to work with the BCC and the City to maximize public outreach for the biannual fishing derby. Implementing such a program would provide a pleasant public benefit, especially for those who may not otherwise spend much time on the coast. However, the details of the proposed fishing derby provided so far are sparse. **Special Condition No. 6** requires submittal of a plan that outlines in better detail how this program will be carried out over the life of the restaurant.

Finally, the project still proposes three 8 ft. by 4 ft. vending carts. These are proposed to provide: fishing supplies, walkable foods, and merchandise promoting the proposed restaurant. Now that the project includes a permanent bait shop, there is no need for the fishing supply cart. Likewise, with a walk-up window for to-go foods, there is also no longer a need for the “walkable foods” cart. Lastly, there isn’t justification to allow encroachment onto public pier area for the sole purpose of selling merchandise promoting the restaurant. If that is desirable to the applicant, that can occur from within the restaurant. There is no public benefit derived from the sale of private promotional items. **Special Condition No. 7** requires that all three of the proposed carts be eliminated from the project plans. This will help to further reduce private encroachment into public pier area.

The proposed project also includes the provision of four fishing pole holders and four fishing line recycling receptacles, which help to encourage and support continued fishing on pier. This also represents a public benefit of the proposed project.

With the changes proposed by the applicant to the original project plan, and as conditioned, the proposed project’s encroachment into public pier area will be reduced from 1,506 sq. ft. to 1,222 sq. ft. Moreover, of the 1,222 sq. ft. of increased footprint resulting from the project, that will be reduced further as conditioned. As described earlier, the project is conditioned to eliminate the restaurant’s private outdoor dining patio (310 sq. ft.) and to eliminate the three carts (a total of 96 sq. ft.) from the project, a total reduction of 406 sq. ft. Furthermore, of the 1,222 sq. ft. of encroachment, as conditioned, a significant amount of that encroachment will serve a public benefit. This includes the public restroom expansion (108 sq. ft.), a new, ADA public restroom single stall (68 sq. ft.), and converting the private employee changing room to a public restroom (60 sq. ft.), for a total area of 236 sq. ft. In addition, the project as proposed and conditioned will provide ten 4-seat and four 2-seat public table seating areas, which are also public benefits.

The Coastal Act and LCP require promotion of lower cost recreational activities and uses that support those activities. Pier fishing is one of those activities. With the project revision to provide a permanent bait shop as part of the project, that preferred lower cost recreational activity support use will be protected. In addition, elimination of both private restaurant outdoor dining areas, the conflict between anglers and diners is reduced. The public table seating areas will not be enclosed by a roof and windows, and the tables and chairs could be used by the anglers. In addition, there will be less area along the pier railing that is immediately adjacent to upscale dining. Such adjacency can discourage anglers from fishing from that area, but that concern has been reduced with the project revisions.

Although the area between the public restroom building and the pier edge will be reduced from approximately 20 feet in width to about 12 feet, 12 feet will still remain. The area between the angled walls of the public restroom building and the pier railing will also be 12 feet wide on the seaward side of the building and will taper from 15 to 12 feet at the landward end, where before both were 15 feet wide. However, the clearance along the perimeter of the pier next to the public restroom building will still slightly exceed the minimum clearance allowed by the LCP of 10 feet.

Finally, the Downtown Specific Plan, which is part of the LCP, requires no more than 25% maximum of the pier shall be covered by any building or roofed structure, meaning that at least 75% of the pier must remain open and undeveloped. The applicant has stated that the area of the pier that is open and undeveloped now is approximately 88%. With the proposed project, the applicant states that the percent open undeveloped area will decrease to 87%. As conditioned to eliminate the restaurant's outdoor private dining area and vending carts, the percent coverage of the pier would be further reduced.

To sum up, as conditioned, the proposed public enhancements (approximately 630 sq. ft. of public table seating area near the restaurant building and approximately 34 sq. ft. of public table seating area near the restroom building) and 732 sq. ft. of public restroom additions and improvements, totaling approximately 1,362 sq. ft. of public enhancements, adequately offset the private encroachments comprised of the 220 sq. ft. kitchen addition, 220 sq. ft. of restaurant storage area, and 53 sq. ft. of restaurant trash enclosure area (totaling 493 sq. ft. of private expansion area). In addition, the proposed use, a restaurant, is a visitor serving use, which is a use encouraged by the Coastal Act and LCP. Therefore, the proposed project, as conditioned, is consistent with the public access and recreation policies of the Coastal Act and LCP.

Environmental Justice

Coastal Act Section 30604(h) states:

When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

The Commission's Environmental Justice Policy states:

Understanding that even nominal costs can be barriers to access preserving and providing for lower-cost recreational facilities is also an environmental justice imperative. This includes recreational opportunities such as parks, trails, surf spots, beach barbecue and fire pits, safe swimming beaches, **fishing piers**, campgrounds, and associated free or low-cost parking areas. [emphasis added]

Environmental justice concerns stem from the historic and on-going inequitable distribution of public access and recreation benefits in general, and along the coast of California specifically. Throughout California's history, low-income communities, communities of color, and other marginalized populations, generally referred to here as "environmental justice communities," have faced disproportionate social and physical barriers that disconnect them from coastal access and recreational opportunities. Equitable coastal access and recreation opportunities for all populations have not been realized due to historic and social factors, such as discriminatory land use and economic policies and practices.⁴ Spatial analysis of 2010 Census data shows a majority of Californians (70.9%) live within 62 miles of the coast, but populations closest to the coast are disproportionately white, affluent, and older than those who live farther inland.⁵ Ensuring maximum and equitable public access to the California coastline (as required by Coastal Act Sections 30210 and 30213) is consistent with the environmental justice principles reflected in Coastal Act Section 30604(h).⁶ The Commission adopted an environmental justice policy in March 2019, committing to consider environmental justice principles, consistent with Coastal Act policies, in the agency's decision-making process and ensuring coastal benefits are accessible to everyone. In approving the policy, the Commission recognizes that equitable coastal access is encompassed in, and protected by, the public access policies of Chapter 3 of the Coastal Act. Taking an environmental justice approach to coastal policy requires a fundamental re-thinking of who is connected to the coast, and how.

Historic inequalities, as well as California's growing population, changing demographics, socio-economic forces, judicial decisions, and policy choices continue to shape development patterns and population shifts that widen the disparity gap. Not only is equitable access to the coast for all Californians essential, so is protecting coastal natural resources for future generations. People become engaged in the protection of the coast when they have a connection with the coast. Robust public access and

⁴ Robert Garcia & Erica Flores Baltodano, Free the Beach! Public Access, Equal Justice, and the California Coast, *Stanford Journal of Civil Rights and Civil Liberties*. Pages 143 (2005)

⁵ 39 Reineman, et al., Coastal Access Equity and the Implementation of the California Coastal Act, *Stanford Environmental Law Review Journal*, v. 36. Pages 96-98. (2016)

⁶ Government Code Section 65040.12(e) defines environmental justice as "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies."

environmental justice policies thus bolster the Coastal Commission's mission to protect and enhance the coast for present and future generations.

The Coastal Act and LCP policies cited earlier require a variety of recreational uses for a range of cost and market preferences. Offering lower-cost recreational uses increases public opportunities in the coastal zone, especially for many environmental justice communities who have historically been denied access to uses within the coastal zone due to historic and social factors. Moreover, the access to these lower-cost recreational opportunities can increase the mental and physical well-being of these communities.

Fishing on piers is recognized as a lower-cost recreational activity, given that fishing on public piers in ocean or bay waters in California (such as the Huntington Beach pier) does not require the purchase of a fishing license. Moreover, the gear required to fish from a pier may be obtained for a reasonable cost and can provide ample recreation and sustenance. The accessibility and low-cost of pier fishing may be an alluring practice for low-income and environmental justice communities in urban settings. Studies have shown that in Southern California pier fishers have a higher representation of immigrant communities, people of color, and those who speak English as a second language than the local population.⁷ In one study, an overwhelming majority expressed that the reason that pier angling was important to them was that the activity was free.⁸

Coastal Act and LCP policies require that public access be maintained and enhanced. The project as initially proposed raised issues regarding public access and the protection and promotion of lower cost recreational activities (such as pier fishing) and of lower cost recreational support uses (such as the conversion of the former bait and tackle shop to a restaurant). However, the revised project as conditioned, has addressed some of these issues. Most importantly, the revised project includes a bait shop, which promotes the lower cost pier fishing recreational activity. The project now includes a biannual fishing derby intended to reach out to environmental justice communities, hoping to encourage visits to the pier. And, with elimination of the private outdoor dining areas, the potential for conflicts between anglers and diners is reduced, as 34 linear feet along the pier perimeter will no longer be adjacent to diners. The upgrades to the public restroom facilities will benefit anglers as well as the general public. Some anglers have raised concerns about modifications to the bathrooms impacting the de facto wind shelter provided by the restroom building. However, the development should not alter the wind shelter effect of the building post-construction. Though the area in the lee of the restroom building will be narrowed from 20 feet wide to

⁷ Pitchon, A., & Norman, K. (2012). Fishing off the dock and under the radar in Los Angeles County: Demographics and risks. *Bulletin, Southern California Academy of Sciences*, 111(2), 141-152.; Steinberg, Steven J., Moore, Shelly, *San Diego Fish Consumption Study, SCCWRP*, (2017)

⁸ Quimby, B., Crook, S. E., Miller, K. M., Ruiz, J., & Lopez-Carr, D. (2020). Identifying, defining and exploring angling as urban subsistence: Pier fishing in Santa Barbara, California. *Marine Policy*, 121, 104197

12 feet wide. Likewise, the public table seating will be available for anglers and those who accompany them as well as general public visitors to the pier. Finally, this project will provide four fishing pole holders and four fishing line recycling receptacles, another benefit to anglers.

The revised and conditioned project can improve public access amenities and existing lower-cost recreational activities, such as pier fishing, thus minimizing impacts to access for lower-income communities.

C. Public Views

Coastal Act section 30251 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 landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The LCP LUP also includes the following visual resources policies:

C4 Preserve and, where feasible, enhance and restore the aesthetic resources of the City's coastal zone, including natural areas, beaches, harbors, bluffs and significant public views.

C 4.1 Provide opportunities within the Coastal Zone for open space as a visual and aesthetic resource.

C 4.1.1 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 public views to and along the ocean and scenic coastal areas.

C 4.2 Promote the protection of the Coastal Zone's visual and aesthetic resources through design review and development requirements.

C 4.2.1 (in pertinent part) Ensure that the following minimum standards are met by new development in the Coastal Zone as feasible and appropriate:

- a) Preservation of public views to and from the bluffs, to the shoreline and ocean and to the wetlands.
- ...
- b) Evaluation of project design regarding visual impact and compatibility.

C 4.2.2 Require that the massing, height, and orientation of new development be designed to protect public coastal views.

Regarding protection of public views, LCP IP DSP requires, for projects on the pier:

3.3.6.8 Maximum Building Height

- 1) 25' and 2 stories above the pier level.
- 2) 1 story maximum building height on the pier, excluding the end of the pier café
- 3) No maximum building height shall be required for lifeguard towers or other facilities necessary for public safety; however, adverse impacts to public views should be avoided to the maximum extent feasible.
- 4) Development proposals shall include a public view analysis.
- 5) Public views shall be considered and maximized.

Scenic public views exist from, along and to the Huntington Beach pier. The pier and the views from it and toward it are major visitor draws to the area. Scenic views from the pier are available along the pier's perimeter, as well as along the central area of the pier looking up the pier and out to sea, as well as on the return trip looking back toward land. Both sides of the pier offer views of the ocean, up and down the coast, and of the surf line and beach. Coastal Act Section 30251 requires that scenic and visual qualities such as these be protected as a resource of public importance. The requirements of Section 30251 are mirrored in LUP Policy C 4.1. LUP Policy C4 also requires that significant public views be preserved. LUP Policy C 4.1 requires the provision of open space within the coastal zone as a visual and aesthetic resource. Although often it is natural spaces that are considered open space, the pier also provides an open space experience where the public can walk above the ocean and take in the sights, sounds, and smells of the shore. In addition, LUP policies C 4.2.1 and C 4.2.2 require that scenic public views be protected through project design, including through consideration of massing, height, and orientation of new development.

Both the Coastal Act and the LCP require that scenic public views be protected. According to the Visit Huntington Beach Surf City USA website,⁹ the pier "symbolizes the heart of Huntington Beach and is the most photographed spot in town. Our pier's location allows visitors and locals alike to experience the breathtaking views amidst the sounds of crashing waves and ocean breeze." The popular pier location offers scenic views from the pier, as well as being a scenic view itself.

The proposed project's expansion into public open areas, as described above, will reduce public views. The proposed kitchen and public restroom expansion will narrow views down the pier's central corridor. Currently the central corridor is thirty feet wide and includes views of the ocean on both sides of the pier end restaurant, and in

⁹ <https://www.surfcityusa.com/things-to-do/attractions/huntington-beach-pier/>

addition, views of Catalina Island are visible to the right of the pier end restaurant (looking seaward). However, these views will remain once a pedestrian is past the kitchen and restroom. Likewise, public views will be impacted by expansion of the restroom building toward the outer pier edge. Nevertheless, public views will continue to be available on the pier. An open interior corridor down the pier of 26 feet clear will remain. The pier width, except at the “pop-outs” is 30 feet. As conditioned, with the exception of the kitchen, the proposed restaurant building will retain its current footprint. And seaward views including those to Catalina Island will continue to be available from walkways along the perimeter of the pier. So the impacts to public views due to the project are somewhat mitigated.

The Coastal Act and LCP require that scenic public views, such as those along, to and from the pier, be protected. The proposed project will result in some impacts to public views, but significant scenic public views will remain. Therefore, the project is consistent with Section 30251 of the Coastal Act and with the LCP policies that also require protection of public views.

D. 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 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.

Coastal Act Sections 30230 and 30231 require protection of marine resources and, where feasible, the restoration of marine resources, as well as the maintenance of the biological productivity of coastal waters. The City’s certified LCP also includes a number of similar policies that protect marine resources and water quality, such as C 6.1.2 and C 6.1.3 which mirror Coastal Act sections 30203 and 30231.

The proposed restaurant has potential to create pollution in the form of trash and debris from single use plastic foodware and packaging which could enter coastal waters near

the subject site. The applicant has sought and received membership in Surfrider's Ocean Friendly Restaurant Program. This Surfrider Program requires its member restaurants to use only reusable foodware for onsite dining, offer paper straws only upon request, not use expanded polystyrene (aka Styrofoam), not use plastic bags for takeout or to-go orders, provide single-use utensils, straws, condiments, and other accessory items only upon request, not sell beverages in plastic bottles, and proper recycling practices must be followed. **Special Condition No. 8** requires the applicant to remain a member in good standing annually in the Surfrider Program or other acceptable marine debris reduction program to reduce waste and single-use plastics. By incorporating these waste reduction practices into the daily activities of the proposed restaurant, the project minimizes impacts on the marine environment. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. Lease Restriction

To ensure all lessees are bound to the conditions of this permit, **Special Condition No. 10** requires all parties (the applicant sublessee and the City of Huntington Beach lessee/lessor) to record a lease restriction. The lease restriction shall reference all special conditions of this permit and impose them as irrevocable covenants, conditions, and restrictions on the use of the subject properties. Any future lessees, assigns, and/or successors-in-interest shall also be bound by the permit conditions while the proposed development remains in existence. Thus, as conditioned, any prospective future lessee(s) will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land.

F. Local Coastal Program (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit must be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The City of Huntington Beach's LCP was effectively certified in 1985 and has been updated since. However, the subject site's location seaward of the mean high tide means that it is located in the Commission's retained permit jurisdiction. Thus, the Chapter 3 policies of the Coastal Act are the standard of review for coastal development permits in the area. The City of Huntington Beach certified LCP may be used as guidance where appropriate. As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act.

G. California Environmental Quality Act (CEQA)

The City of Huntington Beach is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmental Quality Act (CEQA). The City determined that in accordance with CEQA, the project is Categorically

Exempt pursuant to 15301 of the CEQA Guidelines because the project would not add more than 50% of the floor areas of two existing structures before the proposed additions. Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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.

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. As conditioned, there are no feasible alternatives to the proposed project that would lessen its impacts on the environment. The proposed project has been conditioned to be consistent with the public access and recreation and water quality policies of the Coastal Act. As conditioned, the proposed project is consistent with the public access and recreation, public views, and priority of use policies of the Coastal Act. There are no mitigation measures available which would substantially lessen significant adverse effects the project may have on the environment.

Therefore, the Commission finds that there are no feasible alternatives available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act and CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application No. 5-22-0804 file.

Coastal Development Permit files 5-90-490 (City of Huntington Beach); 5-92-304 (City of Huntington Beach); and 5-93-294 (City of Huntington Beach).

City of Huntington Beach Local Coastal Program