

**CALIFORNIA COASTAL COMMISSION**

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



# Th20a

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-23-0574

**Applicant:** Symphony Asset Pool XV, LLC

**Agent:** Steve Thomas

**Location:** 3146 Mission Blvd, Mission Beach, San Diego, San Diego County (APN: 760-217-65-00)

**Project Description:** Interior and exterior remodel of Building 7 at Belmont Park to construct approx. 370 sq. ft. of new indoor and outdoor bar space and convert 212 sq. ft. of retail into storage space.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The proposed development is to remodel the western end of Building 7 within Belmont Park, currently used as an arcade, to construct an approximately 400 sq. ft. indoor-outdoor bar ("Barcade") and convert 270 sq. ft. of interior space into a storage area. The applicant is also proposing to implement various public access improvements to remediate violations of a previous coastal development permit related to the roof deck atop Building 7. Coastal Development Permit Amendment No. 6-86-396-A12 authorized the construction of a roof deck and renovation of interior space atop Building 7 to create an event space above the site of the proposed Barcade development. A condition of approval requires implementation of a public access signage plan informing the public that the roof deck was open to public access when not being rented for private events. However, in March 2023, Commission staff determined that the public access signage had been removed and had been missing for some length of time. After discussions

with the applicant, the required signage has been reinstalled. To mitigate the impacts to public access and recreation during the time which the public was not able to ascertain the availability of these roof deck for public access, the applicant has proposed to incorporate the following measures into the proposed development: 1) placement of no less than three bar-height tables with umbrellas and ten chairs on the roof deck for public use; 2) any gates on the access stairs to the roof deck must have programmable locks that open no later than 6 AM and close no earlier than Belmont Park's operating hours; 3) permanent placement of additional public access signs, with a barcode that leads members of the public to the public access amenities on the Belmont Park website, including the schedule and public hours of the roof deck; and 4) a plan for Commission staff review and approval to make the roof deck available at discounted to non-profit and environmental justice entities; and creation of a dedicated public access page on the Belmont Park website that clearly identifies all areas that are free and available to members of the public. These are described in and required by **Special Condition No. 6** of this permit.

An updated survey of the current amount of leasable space within Belmont Park and the number of parking spaces that leasable space determined that, including the proposed Barcade area, the total amount of leasable space is approximately 97,000 square feet (both restaurant and commercial retail). Applying the restaurant and commercial retail ratios produces a parking requirement of 321 parking spaces, which is just within the limit of the parking supply. Thus, no impact to public parking area expected.

The proposed Barcade would be located on the ground floor of the westernmost face of Building 7, located at the north end of Belmont Park adjacent to the north parking lot. The western face is currently a solid wall with windows, which would be converted into an indoor-outdoor open-air bar that will not be between members of the public looking west toward the beach from within Belmont Park. The bar will be relatively small compared to the overall size of Building 7 and will not detract from the architectural character of the park. The bar will also be consistent with the recreational character and use of Belmont Park, in line with the other eating and drinking establishments, many of them larger. **Special Condition No. 1** will ensure that the development is constructed to approved plans that conform to the characteristic architecture and uses of Belmont Park.

As designed, the Barcade will take what is currently a solid wall with windows and change it into an interior-exterior open bar, so it will not serve as future armoring of Belmont Park. Furthermore, the site is not currently relying on shoreline armoring to be safe from wave action. Nevertheless, as stated before, sea level rise projects will increase flood risk to this site, and thus **Special Condition No. 5** notifies the permittee that acceptance of this permit assumes the risk and liability from present and future coastal hazards.

The proposed site of the Barcade is already developed with Building 7, which is surrounded by a sidewalk. The Barcade will be installed in the western façade of Building 7, so it will not increase the amount of impermeable surface area at Belmont Park. Because the construction of the Barcade will involve demolition and storage of

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construction material, **Special Condition No. 2** requires adherence to water quality protection measures to prevent and limit spills and runoff from entering coastal waters.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-12-0574, as conditioned. The motion is on page 5. The standard of review is Chapter 3 of the Coastal Act and the City of San Diego Local Coastal Program.

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## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 6-23-0574 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

### Resolution:

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

## II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind

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

### **III. SPECIAL CONDITIONS**

#### **1. Final Plans.**

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, the following:

- a) Final construction plans approved by the City of San Diego that are in substantial conformance with the plans prepared by Local Architecture dated July 15, 2023.
- b) Construction staging and storage plans identifying the location and size of all areas used for such purposes during construction. Staging and storage shall be located outside of the public parking lot.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

#### **2. Construction Pollution Prevention Plan**

- a) Construction Responsibilities and Debris Removal
  - i. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;
  - ii. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
  - iii. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
  - iv. Demolition or construction debris and sediment shall be removed from work areas that may be susceptible to discharge into coastal waters each

day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;

- v. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- vi. The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- vii. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- viii. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- ix. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- x. The discharge of any hazardous materials into any receiving waters is prohibited;
- xi. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- xii. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants

associated with demolition or construction activity, shall be implemented prior to the on-set of such activity;

- xiii. BMPs shall be maintained in a functional condition throughout the duration of construction activity.

b) Drainage and Water Quality

- i. During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site onto the beach or coastal waters.
- ii. All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to enter the coastal waters;
- iii. A drainage system that collects and reduces the amount of runoff that leaves the site shall be installed and maintained on the project site;
- iv. All runoff leaving the site shall be directed away from the coastal waters and into the municipal storm drain system.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

- 3. **Timing of Development.** No construction shall take place for the project from Memorial Day Weekend to Labor Day of any year. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes (e.g., no street closures or use of public parking as staging areas).
- 4. **Written Agreement. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the permittee shall submit a written agreement, in a form and content acceptable to the Executive Director, that acknowledges and accepts the timing of development approved pursuant to Special Condition No. 2 and provide a weekly construction schedule to confirm that no construction will occur from Memorial Day Weekend to Labor Day.
- 5. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (ii) to assume the

risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

## 6. Public Access Improvement Plan

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, in a form and content acceptable to the Executive Director, plans and a written report documenting that the following public enhancement measures have been implemented:

- a) No fewer than ten (10) bar-style chairs, five (5) bar-style tables, and five (5) table umbrellas have been placed on the roof deck atop Building 7, where they shall remain for public use so long as a private event is not occurring. The required furniture shall be returned to the deck within 24 hours of the end of a private event.
- b) Gates may be placed at either of the two entry stairways to the roof deck atop Building 7; however, any locks on the gates must have automated programming to unlock no later than 6 AM and lock no earlier than close of operations at Belmont Park. Any gates located at either entryway must be propped, latched, or locked in an open position during Belmont Park hours of operation when the roof deck is not being used for an event.
- c) A public access signage program that includes signage placed at each stairway identifying the public access to the roof deck, and a minimum of four placed around Belmont Park informing visitors of public access opportunities, with a link to the Belmont Park website containing that information as well. The program shall indicate the text, size, and location of each sign.
- d) Updates to the Belmont Park website that advertise and detail the discount venue rental and park pass program for non-profit organizations.

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

## **IV. FINDINGS AND DECLARATIONS**

### **A. Project Description and Background**

The proposed development is to remodel the western end of Building 7 within Belmont Park, currently used as an arcade, to construct an approximately 400 sq. ft. indoor-outdoor bar (“Barcade”) and convert 270 sq. ft. of interior space into a storage area. The project site is Belmont Park, a leasehold on public land adjacent to the Mission Beach Boardwalk in the Mission Beach community of the City of San Diego. Belmont Park is bounded to the north by Ventura Place, to the east by Mission Boulevard, to the South by the parking lot for Mission Bay Park, and to the west by the Mission Beach Boardwalk and the beach. Today, Belmont Park is comprised of the Plunge pool building and attached athletic facility, which is surrounded by seven structures, various amusement rides (roller coaster, carousel, etc.), and public parking lots.

The applicant is also proposing to implement various public access improvements to remediate violations of a previous coastal development permit related to the roof deck atop Building 7, such as placing tables and chairs for public use. As discussed below under Section B. History, Coastal Development Permit Amendment No. 6-86-396-A12 authorized the construction of a roof deck and renovation of adjacent interior space atop Building 7 to create an event space above the currently proposed Barcade development. Special Condition No. 2 of that permit amendment required the installation of a signage plan around Building 7 informing the public that the roof deck was open to public access when not being rented for private events.

As described in greater detail below in Section G. Unpermitted Development, in March 2023, Commission staff determined that the public access signage had been removed and was missing for some length of time. After discussions with the applicant, the required signage was reinstalled. To mitigate the impacts to public access and recreation during the time which the public was not able to ascertain the availability of these roof deck for public access, the applicant has proposed to install new public access signs, place information on the Belmont Park website about public access opportunities, offer discounts for non-profit organizations, and install new public furniture. Special Condition No. 6 describes the public access program proposed by the applicant which has been incorporated into the subject project.

Belmont Park is bisected in such a manner that the approximately western half of the site is located within an area of the Commission’s original jurisdiction and the eastern half is located within the City of San Diego’s permit jurisdiction, the latter of which is also within the Commission’s area of appeal jurisdiction. The specific site of the proposed bar is within the half of Belmont Park within the Commission’s jurisdiction. Therefore, the Chapter 3 policies of the Coastal Act are the standard of review for the project, with the certified LCP used as guidance.

## **B. History**

Mission Beach Park was originally developed in 1925 by John D. Spreckles and included in its original construction the Plunge pool area. Buildings within Belmont Park were constructed in the Spanish Eclectic architectural style reflecting the motifs of the 1915 Pan American Exposition that was held in San Diego. Approximately 10 acres of the total 18.7-acre site was once the "Belmont Amusement Park" site. Over the years the site came into ownership by the City of San Diego as four separate parcels.

In 1973, the Plunge building and pool was designated by the City of San Diego's Historical Resources Board (HRB) as having historic quality, and in 1984 the state Office of Historic Preservation determined that the entire Belmont site, then consisting mostly of the Plunge pool building, a roller rink, and the Giant Dipper roller coaster, were eligible for the National Register of Historic Places. However, while the Giant Dipper roller coaster was eventually listed on the National Register of Historic Places, neither the Plunge building nor pool were listed.

In January 1983, the Coastal Commission approved the Mission Beach Park General Development Plan. That plan called for retention of the entire Plunge building and addressed retention of the roller rink building. The swimming pool portion of the Plunge building had remained operational throughout the years, but the roller rink building was not used at the time. The remainder of the site (excluding the roller coaster, which had been leased to the Save the Coaster Committee and was being restored) was designated for landscaping, parking, restrooms, lifeguard services, etc. The plan did allow for limited commercial uses within the existing Plunge building.

On November 15, 1984, the Coastal Commission approved the Mission Beach Precise Plan and Planned District Ordinance as Land Use Plan and Implementation Plan elements, respectively. The previous approval of the Mission Beach Park General Development Plan was not altered in that action.

In 1985, a project was locally approved by the city to demolish the historic Plunge building, maintain the pool, and demolish the roller rink. As part of the certified Environmental Impact Report (EIR), mitigation required that the existing Plunge and roller rink buildings be professionally photographed and sketched, that important architectural features be incorporated in the subsequent reconstruction, and that signage be integrated into the project to educate the public regarding Belmont Park's history.

After the City's approval, on September 10, 1986, the Coastal Commission approved CDP No. 6-86-396 for the Belmont Park site, located on 6.7 acres of the 18.7-acre Mission Beach Park. The CDP included the removal of the roller rink building and portions of the Plunge building, renovation and rehabilitation of the Plunge swimming pool, pool room, and existing restrooms and lifeguard facilities, and new construction of a variety of public and private improvements. A Plunge annex building (housing lockers, restrooms, a meeting room, and fitness center), additional restrooms, a beach police patrol room, parking lot restriping, bus stop upgrades, and construction of a pedestrian

overpass over Mission Boulevard were all approved as public improvements. Private improvements included the construction of 70,000 square feet of leasable commercial area in seven buildings. All conditions of CDP No. 6-86-396 were satisfied and the permit was issued to the applicant in January, 1987. The remaining 12 acres in the southern portion of the park, which includes the subject parking lot, were retained by the City to continue to serve as a parking lot and passive-use park, which had been approved by the Commission as CDP No. 6-82-543 on January 28, 1983, with the permit issued the following month.

In August 2013, the Commission approved CDP Amendment 6-86-396-A12, authorizing the construction of three rooftop decks of 2,437 square feet, 3,992 square feet, and 4,993 square feet on existing Buildings 5, 7, and 8, respectively, and remodel and addition of approximately 1,467 square feet of interior space to the athletic facility in Building 8. As a condition of permit amendment, approved public access signage informing the public of their right to use the roof deck above Building 7 was required to be installed in designated locations around Building 7, which is the site of the currently proposed development.

### **C. Public Access and Recreation**

The following Coastal Act policies are most pertinent to this issue, and state in part:

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

[...]

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Section 30213 of the Coastal Act states, in part:

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

[...]

Section 30604 of the Coastal Act states, in part:

[...]

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200). 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.

Mission Beach is one of the most heavily used public beach areas in the City of San Diego. The community includes a large number of beach cottages and multi-family residences, and many residents are short-term vacationers, especially during the summer. Besides the permanent and temporary residents, many of whom come from out of state, the area is also a popular day-use destination point for San Diego County residents. Because people come from both within and outside of the community, and much of the local population is somewhat transient, all forms of access (pedestrian, private vehicle, and public transit) must be considered.

Mission Beach Park, in which Belmont Park is located, is one of the largest pieces of public land adjacent to the ocean within the urbanized part of San Diego. Belmont Park is located between the first road and the sea, with the Mission Beach Boardwalk and beach abutting the property to the west, open grassy area and public parking lots to the south and east, and visitor commercial and residential along the north. The Coastal Commission, in the approving CDP No. 6-86-396 for the reconstruction of Belmont Park in the 1980s, applied the Beach Impact Area (BIA) parking standards certified in the land use plans for the surrounding beach communities. These standards require one

parking space for every 200 gross square feet of restaurant (including outdoor eating areas) and one parking space for every 400 gross square feet of retail commercial (or take-out food services with no seating area). In approving the original development, the Commission explicitly exempted the Plunge building and the attached athletic facility from the parking requirements. All on-site parking at Belmont Park is required by the CDP to be maintained free of charge on a first-come, first-serve basis, regardless of whether the visitors are going to Belmont Park or the adjacent beach.

While the original underlying CDP did also permit the restriping of the public parking lot across Mission Boulevard at Bonita Cove so as to add 200 additional off-site parking spaces, the Commission did not count this parking towards the total parking the development needed to provide for the on-site uses. This is because these are public lots, and restriping to gain additional spaces is an option the City can exercise at any time. At most, the 200 additional spaces were treated as partial mitigation for the traffic impacts the reconstruction of Belmont Park would bring.

When Belmont Park was first approved by the Commission, the total number of parking spaces provided on site was 366. However, over the years the addition of trash enclosures and dedication of parking for the adjacent lifeguard station reduced the total number to 321 spaces. This current supply is divided between the 251 spaces in the north lot and the 70 spaces in the east lot (the parking lot south of Belmont Park, while used by many visitors to Belmont Park, is not included in the park leasehold and does not count towards any of the on-site parking supply).

After discussions with Commission staff, the applicant conducted an updated survey of the current amount of leasable space within Belmont Park and the number of parking spaces that leasable space requires under the underlying permit's parking formula. The applicant's survey found that, including the proposed Barcade area, the total amount of leasable space is approximately 97,000 square feet (both restaurant and commercial retail). Applying the restaurant and commercial retail ratios produces a parking requirement of 321 parking spaces, at the limit of the parking supply. The proposed Barcade dining area does not include the public seating area to be installed on the roof deck of Building 7 under this permit, and the applicant confirmed to the Commission that food and drink service will not be extended to the rooftop but will be confined to the ground floor Barcade. Thus, no further parking is required for this project.

In addition to being a destination itself, Belmont Park serves as a flow through area for visitors to the surrounding parks and beaches. Many people walk through Belmont Park to access the north, south, or east parking lots, or to reach the boardwalk and beach. The proposed Barcade will not alter or impede this physical public access to and through Belmont Park or surrounding area, as it will occupy a small portion of the western end of Building 7.

Regarding traffic, Mission Beach is a narrow strip of land extending south as a peninsula from the community of Pacific Beach to the entrance of Mission Bay. The community is accessed from Pacific Beach to the north or by Mission Bay Park from the

east. The only major north-south road is Mission Boulevard, which bisects the peninsula, and the only major intersection is where Mission Boulevard meets West Mission Bay Drive, at the northeast corner of Belmont Park.

Traffic circulation in the Mission Beach community has always been strained, especially in the peak summer months. In past decades the San Diego Police Department closed parts of the area to traffic once capacity was reached, and while subsequent traffic improvements have partially alleviated the pressure, the level of service of the adjacent intersection of Mission Boulevard and West Mission Bay Drive is still chronically poor. For this reason, past permits for new development within Belmont Park have been required to address the issue of increased intensity of use and whether new improvements would significantly increase the number of vehicle trips into the area as well as the potential adverse impacts such development may have on traffic circulation in this near shore, visitor-destination area.

While the applicant is proposing to expand the available pool of leasable square footage for the new Barcade, the expansion is minimal compared to what is currently on site at the park. Half of the new bar area and its related storage room will be located within the existing square footage of Building 7. Only 200 square feet of the bar area will be outside the building and constitute an expansion of its footprint. In light of the approximately 97,000 square feet of leasable space at Belmont Park used for parking calculations, this minimal expansion is not expected to be a primary driver for new visitors to the park that would substantially increase traffic.

To ensure impacts to public access are avoided, **Special Condition No. 1** requires the applicant to submit and adhere to final approved plans so as to ensure that development will install the approved amount of square footage, which the Commission has determined can be supported by existing on-site parking, as well as a staging and storage plan that will avoid occupying public parking. **Special Condition No. 3** prohibits development activity from occurring during the busy summer season between Memorial Day weekend and Labor Day so as to maximize public parking during the periods of heaviest public use. **Special Condition No. 4** requires the submittal of a written agreement acknowledging and accepting the timing limits required in Special Condition No. 2. Finally, **Special Condition No. 6** details the public access improvements required to address past Coastal Act violations, as described in greater detail in the "Unpermitted Development" section below.

In summary, the Commission finds the proposed Barcade will not result in adverse impacts to public access. The expanded square footage is minimal and will have sufficient parking; no development will occur during the busy summer tourist season and approved construction plans will ensure that development does not occupy public parking. Therefore, the Commission finds that all public access concerns associated solely with development approved herein are adequately addressed, and that the proposed development, as conditioned, is consistent with the cited policies of the Coastal Act.

## D. Visual Resources and Community Character

Section 30251 of the Act addresses scenic and visual qualities, and states, in part:

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 and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In conformance with this policy, the certified Mission Beach Precise Plan states in its Community Plans Element the following goals:

To enhance the quality of the physical environment of Mission Beach by upgrading the existing community and encouraging attractive development in the future.

To identify and preserve those features that are conducive to the attractiveness of Mission Beach.

To eliminate both visual and non-visual nuisances in Mission Beach.

Views to and along the shoreline for public areas shall be protected from blockage by development or vegetation.

Section 132.0505 of the San Diego Municipal Code (SDMC) addresses building heights in the Coastal Overlay Zone, as mapped in Section 132.0402 (both sections being part of the City's certified LCP). Section 132.0505 states, in relevant part:

(a) Notwithstanding any section to the contrary, no building or addition to a building shall be constructed with a height in excess of thirty feet within the Coastal Zone of the City of San Diego.

Belmont Park is in a visually prominent setting, located at the very heart of Mission Beach at the main intersection where the public first enters the community, within a City-owned public park that abuts the beach. When the current development in Belmont Park was approved by underlying CDP No. 6-86-396, the City required at that time that all the new structures be designed to coordinate with the architectural style of the then existing Plunge building (Spanish Colonial Revival), and additionally that, to the extent feasible, all architectural embellishments from the demolished buildings be reused or casting be made. However, the Commission at that time noted that specific design features are not generally a Coastal Act issue, except as they relate to the conformity of new development with the surrounding neighborhood. Nevertheless, as part of the

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Belmont Park project approved under that original 1986 CDP, the original Plunge building was demolished and reconstructed, incorporating the Spanish Colonial Revival architecture style of the original building, as did the seven new buildings surrounding the Plunge (the demolished roller rink was never replaced).

The proposed Barcade would be located on the ground floor of the westernmost face of Building 7, located at the north end of Belmont Park adjacent to the north parking lot. The western face is currently a solid wall with windows, which would be converted into an indoor-outdoor open-air bar that will not block public views west toward the beach from within Belmont Park. The bar will be relatively small in size compared to the overall size of Building 7 and will not detract from the architectural character of the park. The bar will also be consistent with the recreational character and use of Belmont Park, in line with the other eating and drinking establishments, many of them larger. **Special Condition No. 1** will ensure that the development is constructed to approved plans that conform to the characteristic architecture and uses of Belmont Park.

Thus, because proposed Barcade will conform with the community character of the area and not visually impact public views of the coast, it can be found consistent with Chapter 3 of the Coastal Act and the certified Local Coastal Program and approved as conditioned.

## **E. Coastal Hazard**

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

Section 30253 of the Coastal Act states:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.
- (d) Minimize energy consumption and vehicle miles traveled.
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational use.

Belmont Park is a beachfront recreational park development consisting of several structures and open spaces containing visitor-serving eateries, retail stores, and amusement rides, bordered on the west by the Mission Beach boardwalk and approximately 3-foot-tall parapet wall. Building 7, the westernmost face of which the proposed Barcade would be constructed, is approximately 170 feet from the beach and at least 250 feet from the ocean. While much of the Mission Beach community, including Belmont Park, is expected to experience increased flood risk from future sea level rise, the current site of the proposed Barcade does not experience flooding and is located back from the western boundary of the park, toward the center of the leasehold. While the boardwalk and western boundary of Belmont Park can experience wave action during extreme storm events, the park in general, including Building 7, does not.

As designed, the Barcade will take what is currently a solid wall with windows and change it into an interior-exterior open bar, so it will not serve as future armoring of Belmont Park. Furthermore, the site is not currently relying on shoreline armoring to be safe from wave action. Nevertheless, as stated before, sea level rise projects will increase flood risk to this site, and thus **Special Condition No. 5** notifies the permittee that acceptance of this permit assumes the risk and liability from present and future coastal hazards. Thus, as conditioned, can the development be found consistent with Chapter 3 of the Coastal Act and approved.

## **F. Water Quality**

Section 30231 of the Coastal Act states:

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

The Mission Beach community, within which Belmont Park is located, is a low-lying peninsula bordered by coastal waters on three sides. As such, runoff from properties

there enters the municipal storm water system that flows directly into the Pacific Ocean or Mission Bay. Belmont Park is a large, multi-acre facility visited by millions of people every year, and its substantially impermeable surfacing means substantial amount of runoff can flow from the site into the municipal system and subsequently coastal waters, thus it is important that new development there does not exacerbate existing impacts.

The proposed site of the Barcade is already developed with Building 7, which is surrounded by a sidewalk. The Barcade will be installed in the western façade of Building 7, so it will not increase the amount of impermeable surface area at Belmont Park. Because the construction of the Barcade will involve demolition and storage of construction material, **Special Condition No. 2** requires adherence to water quality protection measures to prevent and limit spills and runoff from entering coastal waters. Thus, as conditioned, the development can be found consistent with Chapter 3 of the Coastal Act and approved.

## G. Unpermitted Development

Coastal Act violations have occurred on the subject site, including failure to comply with signage requirements of a previously issued coastal development permit. Coastal Development Permit Amendment No. 6-86-396-A12 authorized the construction of a roof deck and renovation of interior space atop Building 7 to create an event space above the site of the proposed Barcade development. Special Condition No. 2 of that permit amendment required implementation of a public access signage plan around Building 7 informing the public that the roof deck was open to public access when not being rented for private events.

Commission Enforcement staff discovered in March 2023 that required public access signage informing the public of the availability of the roof deck at Building 7 was missing.

At the direction of Commission staff, the applicant reinstalled public access signage as required by CDP Amendment No. 6-86-396-A12. However, the matter of the impact on public access during the absence of the signage remained to be resolved. After discussions with the applicant, several measures to enhance public access at Belmont Park were identified by Commission staff, and the applicant agreed to incorporate the measures into the proposed development. These measures include: 1) installation of a time lock at the gate for the roof deck that will ensure opening of the gate from no later than 6 AM until close of operations at Belmont Park; 2) opening a second staircase to the roof deck to be used for public access; 3) permanent placement of public access signs that are double-sided and easily visible in four prominent locations at the park, in addition to existing sign locations, with a barcode that leads members of the public to the public access amenities on the Belmont Park website, including the schedule and public hours of the roof deck; the locations must be approved by Commission staff; 4) placement of three tables with three umbrellas and ten chairs on the roof deck for public use; 5) submittal of a plan for Commission staff review and approval to make the roof deck available at discounted cost to non-profit and environmental justice entities; and

creation of a dedicated public access page on the Belmont Park website that clearly identifies all areas that are free and available to members of the public.

Upon issuance of the permit, the subsequent performance of the work authorized by the permit in compliance with all of the terms and conditions of the permit will result in the resolution of the violation described above.

Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violation (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of the development undertaken on the subject site without a coastal permit, or of any other development, except as otherwise expressed herein. In fact, approval of this permit is possible only because of the conditions included herein, and the applicant's presumed subsequent compliance with said conditions, and failure to comply with these conditions in conjunction with the exercise of this permit would also constitute a violation of this permit and of the Coastal Act. Accordingly, the applicant remains subject to potential enforcement action for engaging in unpermitted development.

## **H. Local Coastal Planning**

Belmont Park is located within the Mission Beach segment of the City of San Diego's certified LCP, and is bisected in such a manner that the western half is located within an area of the Commission's original jurisdiction and the eastern half is located within the City of San Diego's permit jurisdiction, the latter half of which is within the Commission's appeal jurisdiction. However, the specific site of the proposed development within Belmont Park is in the portion of the property within the Commission's permitting jurisdiction. Therefore, Chapter 3 policies of the Coastal Act are the standard of review, with the City's LCP used as guidance.

The project site is currently zoned "OS" for Open Space and the plan designation is Public Park in the certified Mission Beach Precise Plan and Planned District Ordinance. According to the Mission Beach Land Use Plan (Precise Plan), where the City finds it appropriate, commercial-recreation uses can be found consistent with the park designation. The proposed remodel and public access improvements to the existing building do not raise any conflicts with these designations and can be found consistent with all applicable policies of the Coastal Act. In addition, as an enhancement to existing recreational activities in Belmont Park, the proposed development is also consistent with the visitor-serving uses in the area, consistent with the policies of the certified LCP and Coastal Act policies. Therefore, the Commission finds that approval of the permit, as conditioned, should not result in any adverse impacts to coastal resources nor prejudice the ability of the City of San Diego to continue to implement its fully certified LCP for the Mission Beach area.

## **I. California Environmental Quality Act**

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

The proposed project has been conditioned to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing final plans, staging and storage, and construction timing will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

- Coastal Development Permit No. 6-86-396-A12