

**CALIFORNIA COASTAL COMMISSION**

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# F15b

Filed:	08/19/25
180 <sup>th</sup> Day:	02/15/26
Staff:	ETP-LB
Staff Report:	11/24/25
Hearing Date:	12/12/25

## STAFF REPORT: REGULAR CALENDAR

<b>Application No.:</b>	<b>5-25-0253</b>
<b>Applicant:</b>	<b>Santa Monica Concessions, LLC</b>
<b>Agent:</b>	McCabe & Company
<b>Location:</b>	380 Santa Monica Pier, Santa Monica, Los Angeles County (APN: 4290-023-901, 4290-023-903)
<b>Project Description:</b>	The applicant seeks authorization for construction of a 680 sq. ft. bar and grill (Patio 66) and a 2,836 sq. ft. patio with perimeter fencing and installation of a new 28 ft. high gazebo within the existing leased portion of the Santa Monica Pier, that was previously constructed without the benefit of a coastal development permit
<b>Staff Recommendation:</b>	Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The project site ("Patio 66") is located at the end of the Santa Monica Pier and within the Santa Monica Pier subarea as outlined in the certified Santa Monica Land Use Plan (LUP). Patio 66 is immediately adjacent to the existing Coffee Bean & Tea Leaf and the Pacific Plunge roller coaster. The Pier is owned and operated by the City of Santa Monica, however, the applicant, Santa Monica Concessions, LLC is a subsidiary of EPR Parks, LLC, which has a lease with the City of Santa Monica to operate Pacific Park.

Pacific Park operations include the development of eateries on the Pier within the leased area.

The applicant seeks after-the-fact approval for the construction of a new 680 sq. ft. bar and grill ("Patio 66") that includes a 138 sq. ft. storage area, a 186 sq. ft. bar, and 226 sq. ft. kitchen, a new 2,836 sq. ft. seating area, and the installation of a 28-foot high gazebo structure that is directly above the seating area on the Santa Monica Pier. The applicant received local approval from the City of Santa Monica for the gazebo in 2015 and for Patio 66 in 2023. The applicant submitted a coastal development permit application for the bar/grill and seating area on March 30<sup>th</sup> 2023, but the application was ultimately closed due to inactivity, and a permit was not issued. An "after-the-fact" (ATF) permit is a coastal development permit authorizing development that has occurred in order to seek consistency with the Coastal Act. The Commission is required to review the development as if it were new and did not yet exist on the site.

The 28-foot tall gazebo structure covers the seating area on the Pier. The applicant has installed partitions to separate the new bar/grill and seating area from the main pedestrian walkways on the Santa Monica Pier and asserts that this separation is necessary to comply with alcohol sale regulations. That stated, the seating remains open to the public and free-of-charge. While the applicant has added lettering to the partitions to indicate to the public that the seating is available without the need for a purchase, the current size of said signage is small and may be difficult for pedestrians to see or be covered by plants or decoration. Additionally, the signage appears to be in English only, making it potentially inaccessible for non-English speakers.

There is no certified LCP for the area, but the Santa Monica LUP was certified in 1992 following the acceptance of suggested modifications from the Commission. Therefore, the standard of review is Chapter 3 of the Coastal Act, with the certified Santa Monica LUP providing guidance as to local area considerations. The primary coastal resource concerns raised by the project are public access, biological resources, water quality, and coastal hazards.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-25-0253, as conditioned with 6 special conditions for the 1) Plan Announcing Public Availability of Table Seating; 2) Transportation Demand Management Plan; 3) Marine Debris Reduction; 4) Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris; 5) Assumption of Risk, Waiver of Liability and Indemnity; and 6) Lease Restriction. As proposed and conditioned, Commission staff recommends the Commission find the project consistent with the Chapter 3 policies of the Coastal Act. The motion and resolution can be found on page 4.

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## EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Project Plans

Exhibit 3 – Current Public Seating Signage

Exhibit 4 – Gazebo Visual Analysis

Exhibit 5 – Current Bird Strike Prevention Decals

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 5-25-0253 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.

## **SPECIAL CONDITIONS**

### **1. 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 and the partition identifying the following:
  - i. clearly stating that the outdoor seating area is available for general public use;
  - ii. the location of each sign on a site plan;
  - iii. the size (with dimensions clearly labeled) of each sign;
  - iv. the wording of each sign;
  - v. the size (with dimensions clearly labeled) of lettering for each sign;
  - vi. the materials to be used for each sign. These materials shall be weather resistant and durable for the expected conditions;
  - vii. methods for securing the signs;
  - viii. 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 any other non-English language commonly spoken in Los Angeles County.
- D. The signage shall be installed and maintained by the permittee for the life of the project.

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.

- 2. Transportation Demand Management Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director a final transportation demand management plan. The plan shall apply to the permittee and any future successor or assigns to the permit.

- A. **Employee Education and Incentive Program** – All employees shall be informed of nearby public transit options to encourage the use of alternative means of transportation. Employees will be encouraged to use public transportation, bicycling, walking, etc. The permittee shall provide details of how employees will be made aware of existing programs, or how they will be encouraged to take public transit.
- B. **Employee Transit Pass Program** The permittee shall cover the full cost of a monthly transit pass for all employees/lessees of the proposed development who will be using transit to get to work or participate in a program that offers this to employees. The permittee shall provide the details of how employees will be offered transit passes or how the reimbursement program will work.

Any proposed changes to the approved Transportation Demand Management Plan shall be reported to the Executive Director. No changes to the programs shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 3. **Marine Debris Reduction.** By acceptance of this permit, the permittee acknowledges and agrees to adhere to the following criteria:
  - A. Only use reusable foodware (including dinnerware, drinkware, silverware, and ramekins/containers) for on-site dining, specifically prohibiting the use of single-use plastic cups, utensils or any other serviceware.
  - B. Prohibit the use of plastic straws and only provide reusable straws, paper straws, or straws made from naturally occurring materials, upon request.
  - C. Prohibit the use of expanded polystyrene items (aka Styrofoam).
  - D. Prohibit the use of plastic bags on-site or for takeout/to-go orders.
  - E. Only provide single-use utensils, straws, condiments, containers, and other accessory items made from naturally occurring materials upon request for takeout/to-go orders. Alternatively, implement a reusable take-out program.
  - F. Prohibit the sale of all beverages in plastic bottles.
  - G. Follow proper recycling (and composting, if available) practices.
- 4. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The permittee shall comply with the following construction-related requirements:
  - A. No demolition or construction materials, 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;
  - B. 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;
  - C. 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;

- D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- G. 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;
- H. All stockpiles 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;
- I. 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;
- J. The discharge of any hazardous materials into any receiving waters is prohibited;
- K. 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;
- L. 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; and
- M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- N. During construction of the project, no runoff, site drainage or dewatering shall be directed from the site into any street, alley or storm drain, unless specifically authorized by the California Regional Water Quality Control Board.

**5. Assumption of Risk, Waiver of Liability and Indemnity.**

- A. 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 applicants 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. 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 Santa Monica Concessions, LLC and the City of Santa Monica incorporating all of the above terms of subsection A of this condition, and (2) a written agreement by the City of Santa Monica 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 Santa Monica 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.

### **III. FINDINGS AND DECLARATIONS**

#### **A. Project Description and Site History**

The project site is located on the Santa Monica Pier and within the Santa Monica Pier subarea as outlined in the certified Santa Monica Land Use Plan (LUP) in the City of Santa Monica ("City"), Los Angeles County ([Exhibit 1](#)). The site is located at the end of the leased Pier footprint immediately adjacent to the existing Coffee Bean & Tea Leaf and the Pacific Plunge roller coaster. To the northwest is a public beach parking lot (1550 Pacific Coast Highway) directly adjacent to the Pier. On the Pier to the southwest is the Santa Monica Police sub-station and a plaza area, with a variety of food service, retail and recreational uses, including Pacific Park, an amusement park, and a fishing



pier and harbor office at the western end of the Pier. The National Historic Landmark Looff Hippodrome (Carousel) building is located to the northeast.

The Santa Monica Pier ("Pier") is located at the foot of Colorado Avenue. The Pier is a regional coastal visitor-serving recreational resource. According to the City of Santa Monica's certified Land Use Plan (LUP), the Pier attracts approximately 3 million visitors each year. The Pier provides primarily low-cost public recreational opportunities, including a carousel, amusement ride area, food service establishments, retail shops, and fishing. The Pier provides pedestrian access throughout its length and along its perimeter. The Pier is owned and operated by City. The applicant is Santa Monica Concessions, LLC, a subsidiary of EPR Parks, LLC. EPR Parks has a signed lease with the City to operate the Pacific Park area and the area of the project site. The proposed project is an after-the-fact approval request to convert a former seating and overflow area into a new 680 sq. ft. bar and grill ("Patio 66") that includes a 138 sq. ft. storage area, a 186 sq. ft. bar, and a 226 sq. ft. kitchen. The project scope also includes a new 2,836 sq. ft. seating area and retention of a 28-foot gazebo structure that was installed in 2015 without the benefit of a CDP, although the City approved the structure in 2015([Exhibit 2](#)). Staff were unable to confirm the existence of a CDP for the gazebo installation. The bar/grill and seating area received an Approval in Concept from the City of Santa Monica on April 22, 2023 and were built the same year.

The applicant previously submitted an application for the bar/grill and seating area on March 30<sup>th</sup>, 2023 (CDP Application No. 5-23-0290). Two notices of incomplete application were sent on May 2, 2023, and June 15, 2023, respectively. After receiving no response for ten months, a Notification of Returned Application was sent to the applicant on April 17, 2024, and the application was closed without a Commission action. The Notice of Returned Application notified that applicant that the proposed development could not take place without a CDP. A Notice of Violation dated February 11, 2025, was sent to the applicant detailing the extent of the unpermitted development and informing the applicant that a CDP was needed. The applicant responded via a letter dated February 21, 2025. Commission staff met with the applicant and representatives on March 6, 2025, and the present application submitted on March 27, 2025.

The applicant has undertaken constructing a new 680 sq. ft. bar and grill area and adding outdoor seating to a 2,836 sq. ft. to an existing space within the leased area located on the Pier deck, and a 28-foot-high gazebo structure encompasses the entire area above the seating area. The applicant has also installed partitions to distinguish the seating from the main pedestrian walkway, stating that the partitions are needed in this case as the bar serves alcoholic beverages and, thus, the area must be partitioned off from the public walkway. The partitions are a maximum of 72 inches tall and are comprised of a 24-inch planter portion made of faux wood located at the bottom and a transparent acrylic panel with a wave design etched into the materials at the upper portion. The applicant proposed bird-safe plexiglass through the use of decals and dark-sky compliant exterior lighting. That stated, the applicant proposes to make the seating open to the public and free-of-charge without any purchase required. The applicant

added lettering to some of the partitions to inform the public of the available seating. However, the size of said signage is small and may be difficult to pedestrians to see—especially in high foot traffic scenarios, may be covered by plants or decoration, and is only in English, making it potentially inaccessible for non-English speakers.

The applicant also proposes to participate in the City's emissions reduction program which provides public transit opportunities to employees of the restaurant.

### **Standard of Review**

In August 1992, the Commission certified the land use portion of the City of Santa Monica's Local Coastal Program (LCP). However, the City does not have a certified Implementation Plan and therefore does not have a fully certified LCP. Thus, the standard of review for this project is Chapter 3 of the Coastal Act, with the certified LUP used as guidance.

### **B. Development**

Section 30250 of the Coastal Act states, in pertinent part:

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30251 of the Coastal Act states, in pertinent 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 views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The Santa Monica certified LUP includes the following policies:

46. The scenic and visual qualities of the Coastal Zone shall be considered and protected as an important public resource. Public views to, from, and along the ocean, the Pier, Inspiration Point and Palisades Park shall be protected. Permitted development including public works of art shall be sited and designed to:

- a. protect views to and along the ocean and scenic coastal areas;
- b. minimize the alteration of natural landforms; and

c. be visually compatible with the character of surrounding areas and restore and enhance visual quality in visually degraded areas.

59. Uses on the Santa Monica Pier platform shall include amusements, visitor serving uses, fishing, public areas, facilities for administration of the Pier and adjacent water areas, cultural or visitors information uses, public parking and bed and breakfast uses above the ground floor. New development on the platform of the Pier added after the effective date of Proposition S shall not exceed 140,000 square feet. Lighting associated minimize impacts to surrounding residential uses. No residential uses shall be permitted on the platform of the Pier.

On other parcels zoned RVC in this subarea all of the above uses shall be permitted. Residential uses may be permitted on these other parcels provided such use is not located on the ground floor.

60. Building height shall not exceed 2 stories or 30 feet and the floor area ratio shall not exceed 1.0. Amusement rides shall not exceed a height of 115' above the Pier deck.

61. A 20 foot access land open to the public shall be provided around the perimeter of the pier.

Section 30251 of the Coastal Act requires consideration and protection of the scenic and visual qualities of coastal areas, and the City's LUP contains policies to implement and ensure that protection in Santa Monica's coastal zone.

The proposed development includes a 680 sq. ft. bar and grill that contains a 138 sq. ft. storage area, a 186 sq. ft. bar, and a 226 sq. ft. kitchen, a 2,836 sq. ft. seating area, and the installation of a 28 ft. high gazebo directly above the seating area. The bar/grill use is a visitor serving use as it pertains to Pier amenities and aligns with other food and beverage options including, but not limited to, Cosmic Funnel Cake, Smashie's Burgers, Scoops Creamery, The Coffee Bean & Tea Leaf, Mr. Nice Fry currently on the Pier. The development includes expanding an existing structure that houses The Coffee Bean & Tea Leaf and Scoops Creamery to accommodate the new kitchen and food preparation area and is similarly aesthetically designed.

The installed gazebo is 28 ft. high and covers the Patio 66 seating area. Despite the design, including weather shades to protect visitors from sun and rain, the majority of the design is open air and, consistent with the LUP policies that require protection of public visual resources, does not create any significant obstruction of ocean views from the perspective of pedestrians ([Exhibit 4](#)). The height and location of the gazebo also comply with LUP policies that restrict development height to a maximum of two stories or 30 ft. tall and location of development to locations that maintain a 20 ft. pedestrian walkway around the perimeter of the Pier.

In sum, the development is located within an existing leased area designated for Pier development and is compatible with the character and scale of the surrounding development. Thus, as proposed and conditioned, the project will conform to Section

30250 and 30251 of the Coastal Act regarding protection of scenic and visual qualities of coastal areas and LUP policies 46, 59, 60, and 61 of the Santa Monica LUP.

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

Section 30013 of the Coastal Act states:

The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, [subdivision \(a\) of Section 11135 of the Government Code](#) and [subdivision \(e\) of Section 65040.12 of the Government Code](#) apply to the commission and all public agencies implementing the provisions of this division. As required by [Section 11135 of the Government Code](#), no person in the State of California, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination, under any program or activity that is conducted, operated, or administered pursuant to this division, is funded directly by the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.

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 30213 of the Coastal Act states, in relevant part:

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

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

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
  - (2) The capacity of the site to sustain use and at what level of intensity.

Section 30220 of the Coastal Act states:

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

Section 30221 of the Coastal Act states:

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

Section 30252 of the Coastal Act states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...

The Santa Monica certified LUP includes the following policies:

18. A minimum of 471 parking spaces shall be provided to serve the Pier. This is the amount of parking which existed on the Pier before it was damaged by storms in 1983. The provision of this parking may be phased as redevelopment of the Pier occurs, as long as adequate parking to serve Pier development is provided prior to or concurrent with the occupancy of any new development on the Pier. Parking may be relocated off the Pier, either within reasonable walking distance to the Pier, or in remote parking lots, if an effective shuttle system is implemented to transport people from the remote lots to the Pier. If a parking fee is charged at the remote lots, the fee shall not exceed that which is charged at the public beach parking lots. Relocation and replacement of parking spaces off the Pier shall be done on a one to-one basis. Intensity of new development on the Pier shall correspond to that which can be accommodated by 471 parking spaces, as determined by the parking analysis. Additional parking demand created by further development shall be mitigated with additional parking, shuttle program, or other measure(s).

20. New development shall provide adequate parking to meet all demands created by the development. With the exception of development within the Third Street Assessment District and at the Santa Monica Pier, required off-street parking spaces shall be located on the parcel or building site. In commercial or industrial districts, off-street parking may be located off of the parcel or building site if each of the following conditions are satisfied: 1) the property is located within 1,000 feet of the perimeter of the parcel or building site and commences within 300 feet of the perimeter. This distance shall be computed from the nearest point of the parking area; 2) the property on which the parking spaces are provided is zoned for parking uses and owned in fee by the owner of the parcel or building site which is subject to the parking space requirements; and 3) additional documents, covenants, deed restrictions, or other agreements deemed necessary by the Zoning Administrator are executed to assure that the required parking spaces are maintained off site for the life of the project. The Zoning Administrator will determine, on a case by case basis, the appropriate document to be executed.

32. The Santa Monica Pier shall be maintained as a recreational resource including amusements, public areas for low-cost recreational uses, fishing, and strolling, visitor-serving development and public parking. Commercial uses shall be visitor

serving consistent with the character of the Pier, shall preserve the Pier's historic ambience and shall be located and designed to complement the public areas. New development on the platform of the Pier may be permitted up to a maximum of 140,000 square feet.

The public access policies of the Coastal Act ensure protection and enhancement of all people's opportunity to access the coast and enjoy coastal recreation. This includes Section 30252, which states that new development should maintain and enhance public access to the coast by providing adequate parking facilities or providing substitute means of serving the development through public transportation.

In early 1983, unusually severe winter storms destroyed the outer end of the Pier and seriously damaged much of the remainder. Prior to the 1983 storms that destroyed portions of the Pier, the pier contained 79,488 square feet of development supported by 471 parking spaces.<sup>1</sup> In the certified LUP the Commission agreed with the City that the Pier should be allowed to be reconstructed to the level of development that existed prior to the 1983 storm with the same amount of parking that also existed in 1983, which in this case was 471 parking spaces on and near the Pier. A development cap, based on pre-storm development, was also set at 79,488 square feet.

Therefore, if new development exceeds the level of intensity that existed prior to 1983, the parking demand generated by the new development beyond the 1983 level should be mitigated with additional parking, shuttle program, or other measure(s). Also, although there are approximately six State beach parking lots along the beach area within a quarter mile of the Pier, including the State lot (1550 lot), which is adjacent to and north of the Pier, these lots are considered lots that are available to the general beach-going public and not for the exclusive use of the private commercial development on the City-owned Pier.

In May 1993, the Commission granted Coastal Development Permit No. 5-92-345 for the construction of net new 59,093 sq. ft. of amusement area and Coastal Development Permit No. 5-93-052 for the construction of 17,159 sq. feet of net new restaurant area on the pier deck. Those two projects raised the Pier square footage to approximately 139,897 sq. ft., surpassing the 1983 development level by 60,409 sq. ft. Based on the Commission's previous analysis using a ratio of 1 parking space per 50 sq. ft. of public service area for restaurant uses, approximately 56 parking spaces would be required to accommodate the proposed approximately 2,836 sq. ft. increase in public service area which accommodates 162 patrons via 23 four-seat tables and 98 seats. However, the applicant is not proposing any parking spaces. Also, while the pre-1983 development cap has already been exceeded and the parking demand generated by the proposed development would normally require mitigation it is important to recognize the unique circumstances surrounding access the Pier including its location within an area subject to Assembly Bill 2097 (AB2097) provisions.

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<sup>1</sup> area of development is based on the Pier Restoration Corporation's figures

AB 2097 prohibits public agencies from imposing minimum parking requirements within 0.5 mile of a major transit stop. Given that the project site is located within 0.5 mile of a public transit stop, AB 2097 applies to the project site, and the Commission may not require parking for the proposed project. Although the Commission cannot require parking, it can evaluate other factors (such as multi-modal transit opportunities) to determine whether a project would result in adverse public access impacts. Importantly, Section 30252 of the Coastal Act requires either parking or a substitute means of serving the development with public transit. Here, the site is within walking distance of both a metro stop and a bus stop.

In this case, the City of Santa Monica is unique in that the City has continually undertaken efforts to ensure that the downtown area is transit-oriented. An example of such efforts includes the founding of an Emissions Reduction Program, in which the applicant currently participates. The City's Emission Reduction Plan makes use of the Metro Expo line stations and of the public bike share system established downtown, which are within walking distance to the Pier. Additionally, in compliance with the City's Transportation Demand Management Program, the applicant has an Employee Transportation Coordinator to assist employees with transportation issues and to oversee the restaurant's Emission Reduction Plan. Additionally, Pacific Park is required to pay an annual transportation fee to the City to fund transportation planning efforts. Portions of the Emission Reduction Plan include employee commuting and meeting specific emission reduction targets. To this end, increased public transit, ride sharing, walking, and bicycle opportunities are encouraged for the employees. This generally aligns with previous Commission approved projects for development on the Pier that included a Reduced Parking Permit/Variance for "shared parking" between the City and Pier-centered applicants for proposed projects in-lieu of providing additional required parking spaces.

Additionally, the restaurant and surrounding businesses on the Pier arguably are uses that do not primarily function as a single destination use and rely on shared parking arrangements. The shared parking concept considers the fact that in mixed-use developments, the peak parking demand does not occur simultaneously for all the various land use elements. Previously, the Commission has approved development on the Pier with the shared parking concept. For instance, in reviewing CDP Nos. 5-92-345 and 5-93-052, the Commission applied a shared use parking ratio of 1 space per 188 sq. ft. for restaurant use on the pier.

Further, while Policy 18 of the Santa Monica LUP requires a minimum of 471 parking spaces to serve Pier uses, there are also alternatives allowed to mitigate for additional parking demand because of continued development. Based on recent conversations between City and Commission staff, amendments to the current Santa Monica LUP may be forthcoming to modify the existing 471 parking space minimum to better reflect the City's efforts to provide a transit-forward approach to Downtown Santa Monica and Pier access. In addition to the aforementioned public transportation, walking, biking, etc. opportunities available to visitor's to access Downtown Santa Monica and the Pier, the

applicant has also has proposed to provide transit passes to employees as part of the efforts to reduce emissions and parking demand, which aligns with the aforementioned City Emission Reduction Plan and Transportation Demand Management Program as well as the public access policies of Chapter 3 of the Coastal Act. To memorialize the applicant's proposed provision of transit passes for employees, **Special Condition 2**, requires the submittal of a Transportation Demand Management Plan.

The proposed development includes several partitions to demark the seating and dining area from the main walkways and surrounding the westernmost portion of the main pier. The applicant has asserted that these partitions are required to ensure that alcoholic beverages remain inside the designated dining area. The applicant has proposed to keep the seating area available for public use without a purchase requirement from the bar/grill and has included lettering portions of the partitions to indicate this ([Exhibit 3](#)). However, the design of the partitions gives the appearance that the seating and dining area are for customers only. Additionally, the lettering is small, significantly smaller than the advertisements for the Patio 66 eatery by comparison. This small size may make it difficult for Pier visitors to see the signage in high foot-traffic scenarios. Additionally, the lettering could easily be obscured by plants/decoration or wear off over time. Thus, the current signage does not maximize public access to the public seating area. To inform the public that seating is available and does not require a purchase, it is important that signage be posted conspicuously. To ensure that the public is properly informed of the seating, **Special Condition 1**, requires the installation of updated signage to inform the public about free access to the public seating area in both English and Spanish to be accessible for a broad range of Pier visitors.

As conditioned, the proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, the Commission finds the proposed development, as conditioned, conforms to Sections 30210, 30213, and 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

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

Coastal Act Section 30230 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.

Coastal Act Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored



through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

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

The above policies of the Coastal Act require protection of marine resources, including the protection of coastal waters by controlling runoff and preventing spillage of hazardous materials.

The proposed development has the potential of resulting in contaminants and pollutants from the project site entering coastal waters.

The applicant has provided details regarding the implementation of construction Best Management Practices (BMPs) including regular street sweeping and debris removal, limiting vehicle access to two personal vehicles during work hours from 5:00 AM to 10:00 AM each day, and daily site inspections performed by Pacific Park Management. it is important to avoid adverse impacts upon marine resources. The Commission imposes **Special Condition 4**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. While the Santa Monica Pier is an established and important element for recreation in the area and draws millions of visitors per year, the location of the Pier is still within an area that may be used by various protected avian species. To mitigate the potential for bird strikes in the area, especially along the installed acrylic and faux wood partitions, the applicant has installed decals ([Exhibit 5](#)). To further protect special species by reducing light pollution that may interfere with avian daily rhythms, the applicant undertook installing shaded lighting features so that light is angled downward toward the Pier. The lighting design aligns with the existing Pier aesthetic.

Debris from eateries on the Pier could potentially impair water quality as well as harm wildlife that may ingest and/or become entangled in such debris should it enter the water column. Specifically, materials such as plastic and aluminum are likely to persist in the marine environment for lengthy periods if they are not washed ashore and/or removed by hand or by other methods. Plastic pollution is a persistent and growing problem worldwide that significantly impacts the health of our oceans and coasts. Roughly eight million metric tons of plastics are estimated to enter the ocean each year, and the United States is one of the top 20 contributors to plastic pollution. Plastic has been found in a wide range of marine environments including the seafloor, surface water, the water column, and on beaches and shorelines. California communities are

estimated to spend more than \$428 million annually to clean up and control plastic pollution. Plastic never fully degrades into its chemical components; instead, it physically breaks down into smaller pieces, creating microplastics. Plastics have been found in the digestive tracts of marine organisms ranging from zooplankton to whales, and in drinking water and food.<sup>2</sup>

The Commission recognizes that the use of single-use plastics in food and beverage packaging or serviceware are seven of the top ten items found on California beaches and adjacent to marine waters. Taken together, food serviceware and food and beverage packaging represent nearly 37% of the items found on the beach.<sup>3</sup> Styrofoam or other single-use materials that often are used at temporary events could result in adverse effects to marine wildlife, since these materials can make their way to the ocean, causing fish, seabirds, sea turtles, and marine mammals to become entangled in or ingest plastic debris, which can lead to suffocation, starvation, and drowning. The elimination of non-reusable, non-recyclable, and non-compostable products and the reduction of packaging is an effective way to protect the health of wildlife and the environment.

Waste is managed via the existing Pier program and thus is not anticipated to result in additional impacts beyond those that already exist as a result of recreational activities on the Pier. However, given the location of the Pier and the project site immediately above and near coastal waters, to further protect marine resources and water quality by minimizing plastic pollution, **Special Condition 3**, prohibits the restaurant from single-use plastics in order to prevent marine debris from entering the nearby beach or water column.

As conditioned the project is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

## E. Hazards

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The proposed project will result in an additional restaurant that supports recreation opportunities along the Santa Monica Pier. However, the project site is located in a leased area that is located in a dynamic coastal environment that may be subject to

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<sup>2</sup> Ocean Protection Council, Plastic Pollution [Plastic Pollution - California Ocean Protection Council](#)

<sup>3</sup> Ocean Protection Council, California Ocean Litter Prevention Strategy, June 2018 [opc.ca.gov/webmaster/media\\_library/2018/06/2018\\_CA\\_OceanLitterStrategy.pdf](https://opc.ca.gov/webmaster/media_library/2018/06/2018_CA_OceanLitterStrategy.pdf)

erosion, flooding, and sea level rise. Thus, if the applicant chooses to build in this location despite the risks, they must assume the risks of development in a hazardous area. Because this risk of harm cannot be eliminated, and should be borne by the applicant, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. **Special Condition 5** does this and ensures that the applicant is aware of and understands the nature of the hazards that exist on the site and that may adversely affect the stability or safety of the subject development and effectuates the necessary assumption of those risks by the applicant. As thus conditioned, the Commission finds the project consistent with section 30253(a) of the Coastal Act.

## **F. Coastal Act Violation**

A violation of the Coastal Act has occurred at the site consisting of the unpermitted development of 680 sq. ft. of bar and grill space and 2,836 sq. ft. of seating area between August 2022 and August 2024, as well as the installation of a 28 ft. tall gazebo structure between February 2015 and June 2017. The City of Santa Monica granted the applicant an Approval-in-Concept on April 22<sup>nd</sup>, 2023. The Commission's South Coast District enforcement staff sent the applicant a notice of violation letter on February 11, 2025, alleging the unpermitted installation of the bar and grill and seating area. South Coast District enforcement and permitting staff then met with the applicant and representatives on March 6, 2025, to discuss staff's notice of violation letter and potential options for resolution. The applicant is now applying for after-the-fact approval of the unpermitted development as described above. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's effectuation of the permit will result in resolution of the violation specifically described herein going forward.

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, other than the development approved herein, undertaken on the subject site without a coastal permit. In fact, approval of this permit is possible only because of the conditions included herein, and 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 enforcement action just as it was prior to this permit approval for engaging in unpermitted development.

## **G. Lease Restriction**

To ensure that all lessees are bound to the conditions of this permit, **Special Condition 6** requires all parties (the applicant sublessee, Santa Monica Concessions, LLC, and the City of Santa Monica 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.

## **H. Local Coastal Program**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only 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. In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District). On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will therefore not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

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

Section 13096 of the Commission's 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 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.

Accordingly, this report has discussed the relevant coastal resource issues with the proposal, and the Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. No public comments regarding potential significant adverse environmental effects of the project were received by the Commission prior to preparation of the staff report. As discussed above, the proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing public access/recreation and water quality 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, individual or cumulative, 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 Application No. 5-25-0253 and associated file documents.