



Legislation Text

File #: 22-1143, **Version:** 1

Recommendation to receive supporting documentation into the record, conclude the public hearing, and consider two, third-party, appeals by Melinda Cotton (APL22-005) and Shemaiah Sims and Franklin Sims (APL22-006);

Determine that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1 - Existing Facilities) of the CEQA Guidelines (CE-22-113); and

Deny the appeals and approve a Conditional Use Permit (CUP22-002) for the onsite service of alcoholic beverages (Type 41 - On-Sale Beer and Wine - Eating Place) at the Junipero Concession Stand located at 2630 East Ocean Blvd in the Park (P) Zoning District. (District 2)

On July 21, 2021, the Planning Commission held a public hearing and conditionally approved a Conditional Use Permit (CUP) request for the onsite service of alcoholic beverages (Type 41 Alcoholic Beverage Control [ABC] license - On-Sale Beer and Wine - Eating Place) at the Junipero Concession Stand located at 2630 East Ocean Boulevard in the Park (P) Zoning District (Attachment A).

The Junipero Beach Concession Stand/Restroom Building is located on the sandy beach area at the east end of the Junipero Beach parking lot (also known as Cherry Beach) within the P Zoning District (Attachment B). Vehicular access to the beach parking lot that serves the concession stand is maintained via a roadway leading from the intersection of Ocean Boulevard and Junipero Avenue (terminus). The beach bicycle and pedestrian path is located directly north of the concession stand/restroom building and serves the project site. The existing bluff areas north of the site include stair access to Ocean Boulevard for pedestrians.

The site is currently developed with a 1,574-square-foot structure featuring a concession stand, restrooms, and outdoor storage (Attachment C). The concession stand was approved for remodel in 2018, which includes portions of the project within the City of Long Beach's (City) jurisdiction of the Coastal Zone and the California Coastal Commission's (Coastal Commission) Original Permit Jurisdiction. The concession stand vendor operates under a contract with the City and is required to comply with all conditions of approval issued under the local and State approvals, including all food service through the takeout window and the stocking of relatively inexpensive snack items. There is no full table service permitted within the dining/seating area, located within the sand and paved area between the existing palm trees and concession stand. The existing beach parking lot serves the concession stand (accessory use), and as conditioned, is required to be reserved for use of the general public

and shall be available on a first-come, first-served basis (Attachment D). The operation of the concession stand at this location is consistent with the City's certified Local Coastal Program.

Conditional Use Permit

The applicant is seeking approval of a CUP to allow on-premises alcohol sales within the existing concession seating area. The applicant is requesting a Type 41 ABC license (On-Sale Beer and Wine - Eating Place) which allows the sale of beer and wine for on-site consumption in conjunction with a bona fide eating place. The proposed service of alcohol would not involve physical construction or change the use/intensity of the concession stand. The existing concession stand maintains a takeout window for the services of food and beverages (Attachment E). Only concession stand staff are permitted within the interior of the kitchen, food prep, and food service areas of the concession stand. On-site consumption would be permitted only within the designated outdoor seating on the sandy beach area. The service of alcohol in this area would not affect the special conditions related to public access issued by the Coastal Commission under Coastal Development Permit No. 5-17-0796.

The concession stand will only serve alcoholic beverages at the time when food items are available for sale. The operator proposes an operations plan that includes limiting the sale of beer and wine to patrons who purchase a food item or present a receipt of purchase of a food item (Attachment F). Conditions of approval have been included to ensure that alcoholic beverages remain within the dining area, which include alcoholic beverages served in a clear and recognizable cup, all alcoholic beverage are consumed onsite within a delineated area, and signage that reads "No Alcoholic Beverages Beyond This Point" (Attachment G). The delineation of the seating area shall be in conformance with ABC requirements but shall not include a permanent railing system without the expressed approval by the Coastal Commission. This permit does not modify public access management conditions for the seating area included in the previous approvals.

Conditions of approval have been incorporated to ensure the sale of alcoholic beverages would continue in an appropriate manner even when a change of operator occurs. As such, the conditions of approval require that the alcohol sales shall end a minimum of one hour prior to the close of business. In addition, the final operations plan shall be provided to the Development Service Department's Planning Bureau (Bureau) prior to the commencement of alcohol service. The approved operations plan and conditions of approval shall be maintained onsite at all times. Upon a change of operator/concessionaire, an updated operations plan shall be submitted to the Bureau and the updated plan shall also be maintained on-site.

In accordance with Long Beach Municipal Code (LBMC) Section 21.25.201, the purpose of a CUP is to allow the review of a proposed use to ensure that it is compatible with the adjacent uses. LBMC Section 21.52.100 establishes operating and conditions which should be considered and may be waived. This location is located within a park zone, in a high-crime area, and in a census tract that is overconcentrated (Attachment H). The existing concession stand is an accessory use to the beach. The proposed sale of alcoholic beverages would not

represent an intensification of use but would add menu items to an existing accessory use. City staff consulted with the Long Beach Police Department (LBPD) on this alcohol sales request and the LBPD expressed no opposition to approval provided the approval includes security measures including training, recognizable cups, prevention of loitering, and the incorporation of lighting and video surveillance. Conditions of approval address these concerns regarding the requested alcohol sales. City staff believe that approval of the CUP for alcohol sales would have a minimal impact on the surrounding community since the recommended conditions of approval would require the implementation of a number of operational measures designed to reduce any potential negative effects from the alcohol sales.

City staff have analyzed the project in accordance with the required findings for a CUP entitlement (Attachment I). City staff recommend approval of the CUP with conditions for the project as components of beach concession amenities that will increase and enhance active and passive beach recreational activities, based on the attached findings and subject to the attached approval conditions. As such, City staff recommends that the City Council uphold Planning Commission's approval of the Project and deny the appeal.

Public Hearing

On July 21, 2022, the Planning Commission held a public hearing and considered public testimony. Twelve pieces of correspondence were received prior to the hearing (Attachment J). Four members of the public spoke during the public hearing (Attachment K). The Planning Commission accepted the CEQA Categorical Exemption and conditionally approved (4-2) the CUP request.

Appeal

Within the ten-day appeal period, two third-party appeals were filed by Melinda Cotton (APL22-005) (Attachment L) and Shemaiah Sims and Franklin Sims (APL22-006) (Attachment M). The appellants assert concern related to the sale of alcoholic beverages on beaches or in parks in proximity to play areas for children. Appeal APL22-005 notes concerns related to high crime, ABC license concentration, and consultation with the Parks, Recreation, and Marine and the Marine Advisory Commissions.

With conditions, the proposed project would not result in a detrimental effect on the environment. Alcoholic beverage sales are permitted within beach and park areas with approval of a CUP and within areas designated by the issued ABC license. The dining area is distinctly separated from the playground and recreational areas, which would ensure that alcoholic beverages are not consumed at the Junipero Beach playground, basketball courts, or other recreational areas such as the bike or pedestrian path.

The Junipero Concession Stand is located within the tidelands portion of the Coastal Zone. The Parks and Recreation Commission's jurisdiction is limited to park and recreation facilities

in the uplands areas of the City and they do not have oversight of the tidelands areas. Therefore, approval by the Parks and Recreation Commission was not required for this application.

The Marine Advisory Commission (MAC) is the panel that advises on activities and projects within the City's marinas, beaches and tidelands. The MAC received and filed presentations on the beach concessions in January and May 2021. Concessionaires selected for contract agreements were reviewed and approved by the City Council on June 8, 2021. The MAC has no role in the review of CUPs or alcohol licensing, so they were not consulted for this application.

Although the project site is in a public park, the subject site has been reviewed in light of the required findings and existing site conditions. Multiple City departments, including the Police and Parks, Recreation and Marine Departments, participated in the review of the proposed CUP and added conditions to ensure that security measures are taken for public health, safety, and welfare. The zoning code allows for the required findings to be waived within a review of the context of the project. The conditions of approval, including hours of operation and area of service, would ensure the responsible and safe consumption of alcohol only in designated areas. The beaches are regional serving, and the concession stands serve to provide food and beverages, including lower-cost options. The concession stands are located in areas that are relatively remote from commercial districts. The closest on-sale license to the project site is located at 2300 East Ocean Boulevard (Long Beach Museum of Art), which is approximately 500 feet northwest of the site. The remaining licenses are located along East Broadway, approximately 1,300 feet to the north. The onsite sale of food and beverages at the concession stand, including alcoholic beverages, enables visitors to remain at the beach, rather than departing the coastal beach areas to seek commercial areas for restaurant and retail uses. The alcohol service would be an accessory to the sale of food and non-alcoholic beverages. Within the City's built environment, it is not unusual for alcohol-serving establishments to be located near city parks and facilities.

The CUP can be amended or revoked should there be any future unanticipated impacts from the use or alcohol service. In this case, the City as the landlord and concession licensor has additional leverage and mechanisms for enforcement in the unlikely event that may be necessary.

This matter was reviewed by Assistant City Attorney Dawn McIntosh on September 6, 2022 and by Revenue Management Officer Geraldine Alejo on August 19, 2022.

PUBLIC HEARING NOTICE

Public hearing notices were distributed on September 15, 2022 in accordance with public hearing notification requirements in LBMC Section 21.21.302. Notices of this public hearing were posted onsite and mailed to the applicant, appellant, California Coastal Commission, and owners and tenants within 1,000 feet of the subject property. As of the date of preparation of this report, no written comments have been received in response to the

noticing of the appeal. Any comments received prior to the City Council hearing will be provided to the City Council.

ENVIRONMENTAL REVIEW

Pursuant to the CEQA this project is eligible for a categorical exemption per Section 15301 (Existing Facilities) of the CEQA Guidelines (CE-22-113). The project would not involve new physical construction and would entail the service of alcoholic beverages from an existing food and beverage concession stand.

City Council action is requested on October 4, 2022. Pursuant to LBMC, in the case of appeals to the City Council, hearings are typically held within a 60-day period; however, October 4, 2022 was the first available City Council meeting date after the appeals were filed.

This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with City Council priorities. There is no fiscal or local job impact associated with this recommendation.

Approve recommendation.

CHRISTOPHER KOONTZ, AICP
ACTING DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

THOMAS B. MODICA
CITY MANAGER