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May 7th, 2021

Northeast MB LLC Coastal Development Permit application
At Coastal Commission 5/12/21
Item 15c

Dear Coastal Commission Members,

Thank you for the opportunity to comment on Item 15c. While we appreciate the hard work put into this CDP by Coastal Commission staff, and also appreciate the need for cleanup and remediation of the De Anza site and improved public access, the project proposed by Northeast MB LLC is simply not the way to achieve these goals. The proposed project will intensify private use of public lands in Mission Bay Park and pre-empt the outcome of the ongoing De Anza Revitalization planning process.

Therefore, we oppose this CDP application and urge commissioners to vote “no” on this item.

When the City Council of San Diego agreed to a short term lease extension for Campland on the Bay and the opportunity to take over operations of the Mission Bay RV Park it was done under the explicit representation that Campland would conduct the full cleanup of the former De Anza Point Mobile Home Estates, expand public access, and engage in only temporary operations of an expanded RV Park, pending the outcome of the De Anza Revitalization Planning Process. Essentially – Campland, a private company, was allowed to profit off of public lands in exchange for providing a public good.

However, what they have proposed in this CDP fails to fulfill the intent of that agreement.

We oppose the CDP application by Northeast MB LLC to intensify the private use of Mission Bay Regional Park while a City-led planning process is underway. New land uses are currently being planned for this area of Mission Bay through the City’s De Anza Revitalization Plan. Though the report mentions several times that this project should only permit interim uses, we oppose it because, despite the Commission’s best efforts, the proposed construction will result in long-term investments, provide a false image of permanence, and prejudice the on-going City planning process. It will increase the leverage of continuing this land use, to the detriment of the public and substantial water quality improvement.

The approval of this CDP runs counter to the call for water quality improvement and additional wetlands creation in this area in the Mission Bay Park Master Plan. It also obstructs Coastal Act section 30231:

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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.

San Diego Audubon's ReWild Mission Bay Feasibility Study and the work of the 55-member ReWild Coalition have shown that it is feasible to restore this area and the City of San Diego has recently begun a new land use planning alternative with the goal of substantial wetland restoration in the ongoing planning process. We have always been focused on the great potential of this area for wetland restoration, water quality improvement, sea level rise resilience and improved public access, and this CDP moves us farther from that goal.

This applicant has a long history of operating facilities in Mission Bay, and as recently as their April 2020 Annual Lessee Update (attached), they ignore the requirements placed on them for improving the site for the public and for public recreation, reporting solely on the improvements made for Mission Bay RV guests. The CDP report even calls the users of the Mission Bay RV Park 'residents' in Special Condition 8. d), when in reality they are visitors to the Bay, sharing the space with the rest of the public. The City of San Diego also has a long history of putting lessee operations over the right of public access, with a long, tangled history of private use of state tidelands in this area.

We appreciate the numerous improvements that Coastal Commission staff have made to the application, which recognize the deficiencies in the project regarding water quality, public access, and the importance of interim land use vs. permanent 'improvements' and long-term operations. We support the numerous recommended Special Conditions regarding water quality impacts from the large amount of impervious surfaces that will be maintained or improved over the course of the project. This focus on stormwater BMPs fits with the Mission Bay Park Master Plan's call for water quality improvement to be the 'foremost' consideration for this area. The Coastal Commission staff has also vastly improved the public access in the plan, adding requirements and safety measures to make sure that this interim land use is not seen as privatized access to the Bay, which has characterized this area and Campland on the Bay for decades. We also appreciate the numerous times where the Coastal Commission staff acknowledges that the City of San Diego is in the midst of a land use planning process for this area and that it should be an interim use.

While these Special Conditions are positive, we have several concerns about missing components to the CDP application and staff report:

1. Water Quality Testing

The CDP notes that this area of Mission Bay is impaired and on the 303(d) list, has muted tidal flushing, and that the Mission Bay Park Master Plan places water quality improvement of the De Anza area as the 'foremost' consideration for new land uses. The report also specifically calls out De Anza Cove for poor water quality, but the CDP considerations don't address the public's



need to know of poor water quality from existing, and potentially exacerbated, water quality impacts. The County of San Diego measures water quality recreational standards in several places in Mission Bay, as does Surfrider's Blue Water Task Force, but neither take measurements in De Anza Cove. This project could significantly increase the recreational contact with De Anza Cove. The improved access, signage and parking at this public beach contained in the CDP should be accompanied by improved knowledge and sharing of that information about when it is safe for the public to swim and recreate in De Anza Cove.

The CDP should require the applicant to:

1. hire a contractor to do recreational water quality testing following the same protocols as San Diego County, weekly and after rainstorms of $>.5"$, and
2. display signs publicly when the water quality is known to be unsafe for contact.

That would provide the public much-needed information, and would match the Master Plan's call for a focus on water quality at De Anza. The cost of this public benefit could likely fit within the rent credits that the applicant is receiving from the City.

2. Environmental Hazards

The applicant got permission to use this public area on an interim basis because they were going to deal with the mobile homes and potential hazards on site. The soil should be tested and the mobile homes should be removed safely and transparently. As with the public need for better information about water quality hazards, the likely increase in public access to this area heightens the need for this CDP to facilitate understanding baseline soil contamination, ensure that it does not worsen, and notify the public about the hazards, if any.

Asbestos and other contamination is a concern that the CDP does not adequately address. The applicant has repeatedly stated that the mobile homes have asbestos. "Added Gelfand 'Asbestos there poses a public health threat and an environmental hazard'" as quoted in the SDNews (attached, San Diego Community News Group - Campland proposes taking over the former Mission Bay RV resort and removing asbestos), and there are records from a public records request of six San Diego Air Pollution Control District Notifications of Asbestos Renovation or Demolition Operations (attached) that certify the presence of asbestos in the mobile homes.

The June 2019 De Anza Lease acknowledges the presence of asbestos and contains numerous carve-outs for the potential release of asbestos (§8.15 [Asbestos, requiring Lessee to remove asbestos and any other hazardous substances in the mobile homes], §9.21 [Acceptance of Premises, "LESSEE intends to perform a Phase 1 Environmental Assessment of the Premises after the date hereof and LESSEE shall have no liability for any Hazardous Substances revealed by such Phase 1 (or follow-up Phase 2) other than asbestos and other Hazardous Substances in the existing mobile homes or released by LESSEE's removal of the mobile homes."]); Exhibit B-1 ["Removal of remaining mobile homes and lot space debris within the mobile home sections of the property, and asbestos. The public needs to know abatement within mobile homes as



necessary, consistent with applicable federal, state, and local regulations for containment and management of potential hazardous materials.”]

Information about the amount and location of the asbestos have not been made public, and neither we nor the Coastal Commission has the transparency needed to know if the De Anza clean-up would be handled appropriately. The June 2019 De Anza Lease calls for a Phase 1 Assessment, which has not been shared with the public. And the Lessee would be responsible for contamination that occurs from the removal of the mobile homes, so baseline information is needed to know if the removal exacerbates pollution in any way. The applicant, in their April 2020 Annual Lessee Update (attached, Exhibit A) states ‘certified technicians from an environmental engineering firm were deployed to begin conducting asbestos and lead testing on all 166 mobile homes remaining on the property’ but the results of this survey have not been shared and are not addressed in this CDP.

On-site soil contamination is a major concern:

1. stormwater BMPs called for in this plan will disturb the soil,
2. recreators will interact with the soil as it is operated for the next 5 years while kids are digging and playing in the soil next to the pavement, and
3. removing the homes will disturb and move the soil around the site and off the site, into the surrounding neighborhoods.

The CDP should require adequate mobile home and soil testing for hazardous contaminants, and should require that information be shared with the Coastal Commission. If the testing reveals asbestos, lead or other contaminants then the Coastal Commission should help the applicant by specifying how the mobile home removal and subsequent construction and recreation on the site can be conducted safely and how the contaminants can be kept from impacting the public and the water quality of the Bay. The cost of this public benefit could likely fit within the total value of the rent credits that the applicant is receiving from the City.

Additional concerns:

1. The Coastal Commission sets a term limit of June, 2027 on the permit. It’s completely appropriate to have the permit match the short-term nature of the City’s lease agreement, but in G. Unpermitted Development, the Coastal Commission states that the applicant has a four-year lease agreement with the possibility of a one-year extension. Instead, this time frame should result in the CDP expiring in June, 2024.
2. To adequately establish the interim nature of the components of this CDP, the Coastal Commission should add a Special Condition that states that any future assessment of the feasibility of habitat restoration must continue to be based on the analyses on record, and that new investments by the City or the applicant won’t be used to increase the burden of the feasibility of habitat restoration.
3. In the CDP report, Page 35, Marine Resources and Water Quality, provides no information about the water quality of Rose Creek, even though a substantial portion of the parcel abuts it. Rose Creek is the main freshwater input to the Bay, and has a long history of poor water



- quality; it is also on the 303(d) list. That information should be acknowledged and addressed in this report, in addition to the water quality problems that are mentioned by the Staff in this corner of Mission Bay.
4. Special Conditions #8 Public Access Plan contains a signage plan and an attached map. The locations numbered iii and v are called for in this section, but are not on that attached Exhibit 4. We also recommend that signs be placed along the bike path, so that the use of this area by the public is clear.
 5. All garbage cans at the site should be scavenger-proof containers. Mission Bay Park has problems with litter that is properly disposed of but then blown or pulled out of the lidless garbage cans. That results in litter on the ground and in the water and can be avoided with readily available garbage can designs.
 6. The applicant should remove the handful of tall, non-native palms from the site because they often function as raptor perches and corvid nesting sites, both of which detrimentally affect the common and sensitive species that use Rose Creek, Kendall-Frost Marsh Reserve and the California Least Tern Nesting Preserves on north Fiesta Island. Mexican fan palm, Canary Island date palm, Brazilian pepper tree and Peruvian pepper tree are all on CalIPC's invasive plant list, which is called out Special Condition 2. a) ii. C "...shall be employed or allowed to naturalize or persist on the site."

The City is planning for new land uses and directions for this specific area, some of which would contribute substantially to many of the Coastal Act goals, including section 30231. It is very likely that the economy of having the use proposed in this CDP application evolve into the final use will significantly influence the selection of the final alternative away from alternatives that will satisfy that section of the Coastal Act. We urge the Coastal Commission to oppose this CDP, and keep the City's planning process unbiased and open to a plan that will significantly address the need for a section 30231 approach in this area.

De Anza Cove is in serious need of restoration. But this project will permit an expanded and private use, pushing back the chance to achieve progress on many goals of the Coastal Act. It will foster permanent and private use while the City is currently planning for new land uses and directions in the public park. We urge the Coastal Commission to oppose this CDP.

Sincerely,

CleanEarth4Kids
Democrats for Equality
Environmental Center of San Diego
Friends of Rose Creek
Latino Outdoors

Montgomery-Gibbs Environmental Coalition
Save Everyone's Access
San Diego Audubon Society
San Diego California Native Plant Society
San Diego Coastkeeper

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San Diego Children and Nature
San Dieguito River Valley Conservancy
Sierra Club
SWIA
STAY COOL for Grandkids
Surfrider, San Diego County
Sustainability Matters
WILDCOAST