

**CALIFORNIA COASTAL COMMISSION**

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**W27a**

Filed: 4/27/18  
 180th Day: 10/24/18  
 Staff: A. Llerandi-SD  
 Staff Report: 6/27/18  
 Hearing Date: 7/11/18

**STAFF REPORT: REGULAR CALENDAR**

**Application No.:** 6-18-0215

**Applicant:** CHSP Mission Bay, LLC

**Agent:** Steve Rossi

**Location:** 1441 Quivira Rd, Mission Bay Park, San Diego, San Diego County (APN: 760-029-02)

**Project Description:** Convert existing presidential suite into 4 standard hotel rooms, convert 4 family suites into 8 standard hotel rooms, restore concierge suite to 2 standard hotel rooms, within existing 18-story, 265-guestroom tower on a 19-acre-leasehold. Restripe onsite surface parking to add 9 new parking spaces.

**Staff Recommendation:** Approval with Conditions

**SUMMARY OF STAFF RECOMMENDATION**

The proposed project would result in the addition of nine new moderate to high-cost rooms to a hotel located within an existing City of San Diego recreational park leasehold. All of the work will be contained within the existing hotel tower and will not result in the expansion of the existing building. The project will convert existing high-end suites to typical rooms, resulting in rooms costing up to eighty percent less, while increasing the overall supply of rooms within the leasehold. Given that the project will not occupy any new land area, will convert luxury accommodations to standard rooms, and the small number of units involved,

staff is not recommending that any mitigation fee to offset the creation of the new moderate-to-high cost accommodations be required at this time.

Additionally, the Hyatt, a pre-coastal facility constructed in the 1960's, is previously non-conforming with regards to on-site parking. In recognition of this, the Hyatt is also proposing to restripe their parking to add nine new parking spaces and thus not exacerbate their degree of non-conformity while meeting the anticipated increase in intensity of use so as to avoid the risk of patron parking spilling out into the public streets.

Commission staff is recommending **Special Condition No. 1** to require the submission of final project plans that substantially conform to the approved plans to ensure that the resulting rooms and parking conform to the Commission's approved plans, as well as final construction staging and storage plans to ensure that development activity avoids occupying public parking spaces or obstructing the public right-of-way in a popular coastal destination.

To address the Hyatt's previously non-conforming status with regards to parking and lessen the potential for leasehold parking demand to encroach into public parking spaces, **Special Condition No. 2** requires the submission of a Transportation Demand Management (TDM) Program to implement a system to incentive employees and lessees of Hyatt to utilize alternate means of transit in commuting to and from the leasehold. **Special Condition No. 3** places the permittee on notice that only the development explicitly specified herein is authorized, and that further development on the leasehold will require additional review and potential permitting from the Commission.

Commission staff recommends **approval** of coastal development permit application 6-18-0215 as conditioned.

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## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-18-0215 subject to the conditions set forth in the staff recommendation.*

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

### Resolution:

*The Commission hereby approves coastal development permit 6-18-0215 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following 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 permittee 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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **III. SPECIAL CONDITIONS**

This permit is granted subject to the following special conditions:

#### **1. Submittal of Revised Final Plans**

- (a). **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a full-size set of the following revised final plans:
  - i. Final construction plans that substantially conform with the plans submitted to the Commission, titled “Hyatt Regency Guestroom Renovation” by Rossi Architects and received on March 22, 2018, but revised to include the restriping of the on-site parking to increase the available leasehold parking supply by at least 9 parking spaces, and
  - i. Final construction staging and storage plans that that show the location of all staging and storage, including deliveries, related to the development approved in this permit occurring outside of public parking and public right-of-ways.
- (b). The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

#### **2. Transportation Demand Management (TDM) Program.**

- (a). **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit a Transportation Demand Management (TDM) Program to the Executive Director for review and written approval. The TDM Program shall include, at a minimum, the following provisions:
  - i. The permittee shall provide incentives for workers of the applicant or on-site lessees to use public transportation, including the provision of subsidized public transit passes to workers, and including a clause in all future leases that requires lessees to offer such incentives to their workers;

- ii. The permittee shall draft and implement a carpool plan for workers of the applicant or on-site lessees and will reasonably coordinate with lessees in scheduling work schedules and posting notices of the carpool program in work areas;
  - iii. Information regarding the carpool program or subsidized public transportation shall be part of any employment paperwork for workers of either the permittees or lessees; and
  - iv. The permittee shall undertake annual surveys of workers to document the frequency with which they are using alternate transportation to get to work and the success of the TDM Program. Surveys shall be submitted annually to the Executive Director for as long as this permit is in effect.
- (b). The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

3. **Future Development**

This permit is only for the development described in coastal development permit no. 6-18-0215. Except as provided in Public Resource Code section 30610 and applicable regulations, any future development, including any change in use, as defined in Public Resource Code section 30106 ,shall require an amendment to this permit from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

## IV. FINDINGS AND DECLARATIONS

### A. PROJECT HISTORY & DESCRIPTION

The Hyatt Regency Mission Bay Spa and Marina (“Hyatt”) is a 19-acre leasehold encompassing land and water area along Quivira Basin in southwest Mission Bay Park, in the city of San Diego. The Hyatt is one of several commercial leases within Mission Bay Park offering overnight accommodations to visitors. The overall resort complex consists of an 18-story guestroom tower (265 rooms), Bay I and Bay II buildings (88 guest rooms), a marina building (75 guest rooms), surface parking lots, a parking structure, a marina, restaurants, lounges, a fitness area, meeting and banquet rooms, and a courtyard pool area. A total of 429 guestrooms are currently provided, approximately 539 parking spaces, and the 189-slip marina and commercial dock accommodate sport fishing, boat rentals and sales, rental slips, and transient occupancy slips.

The Hyatt is proposing renovations to five guest suites and a concierge area within the main 18-story, 265-room tower to bring the total number of guestrooms in the resort to 438. The proposal will convert four existing second-floor “Family Suites” into eight smaller standard guest rooms, convert the seventeenth-floor “Regency Club” concierge area into two standard guestrooms, and convert an eighteenth-floor presidential suite into four standard guestrooms. Upon review, of the subject proposal, staff determined that the existing concierge club had previously been converted from two guest rooms to a concierge area without the benefit of a coastal development permit. Thus, while the proposed development will increase the total number of guest rooms by nine, only seven additional units will be added to the approved number of guest rooms on the site. All of the renovations will occur within the existing building and no increases in the square footage or height of the main tower are proposed. The Hyatt is also proposing to restripe the on-site parking lot within the hotel leasehold to add 9 new parking spaces.

The majority of the Hyatt resort complex was developed prior to passage of the Coastal Act, but the Commission has approved several permits over the years for the site.

- CDP No. F5544 to enclose approx. 1,600 sq. ft. of restaurant patio
- CDP Nos. F7279 & F9579 to add two tennis courts, fences, sidewalks, low walls, and landscaping
- CDP No. 6-86-201-W to enclose approximately 300 sq. ft. of patio area
- CDP No. 6-86-376 for a 3-story, 76-room addition and 78 parking spaces
- CDP No. 6-91-180 for temporary facilities related to the America’s Cup
- CDP No. 6-97-109 to add approx. 7,000 sq. ft. to an existing 8,000 sq. ft. ballroom
- CDP No. 6-98-083 to demolish and replace the 33,549 sq. ft. 192-slip dock and marina space with a 46,744 sq. ft. 179-slip dock and marina space
- CDP No. 6-06-095 to convert a portion of the existing fitness facility and meeting rooms to three guest rooms, convert a portion of the existing restaurant into a spa, convert a meeting room into a fitness area, remove two meeting rooms and a guest room, and construct an 18-ft. tall water slide

- CDP No. 6-08-113 to install a floating dock to rent personal watercraft to guests and the general public
- CDP No. 6-12-085-W to remove and repair deteriorated concrete from in-water pilings under the existing restaurant.

Mission Bay Park is an area of both original and deferred certification, where the Commission retains jurisdiction and Chapter 3 policies of the Coastal Act are the standard of review. The Commission has certified the Mission Bay Park Master Plan as the LUP for Mission Bay Park and uses the Master Plan as guidance.

## **B. PUBLIC ACCESS**

Section 30213 states:

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

*The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.*

Section 30220 states:

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

Section 30221 states:

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

Section 30252 states, in relevant part:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, [...] (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings [...]*

The Coastal Act emphasizes the need to protect and provide for public access to and along the coast, and to provide lower cost visitor and recreational facilities. The proposed development will be within an existing resort located on a 19-acre leasehold within Mission Bay Park, owned by the city of San Diego and leased to Hyatt.

Mission Bay Park is a public aquatic park built primarily on tidelands granted to the City of San Diego. The project site is located between the first coastal roadway and the sea (in this case, Mission Bay). Public lateral access is available along most of the Mission Bay shoreline, including through the subject commercial leasehold along the water's edge. Pedestrian and bicycle traffic can also use the adjacent public street, Quivira Road, and there are public parking lots across the street from the Hyatt to the west and north.

Public access through and around this leasehold is readily available; there are no perimeter fences preventing the public from entering the premises, and a walkway runs along the bay side of the resort complex. The property includes a 189-slip marina that also contains a commercial pier from which various recreational commercial businesses operate out of through subleases with the City of San Diego via the Hyatt, including a sport fishing operation, boat charters, and whale watching tours. Elsewhere within the leasehold, the on-site restaurant, lounge, and spa areas service the general public as well as Hyatt guests. The proposed improvements will not change the current patterns of public access to and through the site, because the improvements are completely within existing hotel rooms in existing structures.

### Parking

Because the Hyatt is a pre-coastal facility that predates current parking regulations, its current parking supply of 539 parking spaces is previously non-conforming in regards to currently required on-site parking, and thus there are potential concerns regarding the presence of adequate on-site parking supply to support the Hyatt's various uses, particularly because the proposed new rooms would increase the demand for parking. Mission Bay Park is an area of deferred certification where Chapter 3 of the Coastal Act is the standard of review, and the Mission Bay Park Master Plan ("Master Plan") – the certified Land Use Plan for the area – serves as guidance. The Master Plan contains "Appendix G – Design Guidelines," in which can be found a parking requirement for "commercial leaseholds" such as the Hyatt, with parking requirements based on the square footage of each of the distinct uses that are located within a leasehold. In addition to the current 429 guestrooms, the Hyatt contains approximately 15,332 sq. ft. of meeting space, 5,496 sq. ft. of lobby area, 7,700 sq. ft. of restaurant, 932 sq. ft. of fitness area, 555 sq. ft. of sundries, 2,203 sq. ft. of spa, 189 boat slips, and a commercial dock serving three commercial boating operations. Under the Master Plan's parking requirements, the existing uses would require approximately 694 parking spaces to be provided. The Master Plan does allow up to a one-third reduction in the parking requirement for those uses that are shown to overlap with guest uses, such as the meeting space, restaurant/lounge, and spa. Such a reduction lowers the total parking requirement to approximately 654 parking spaces, still greater than the current supply of 539 parking spaces.

The Hyatt has stated that they comply with the parking requirement for visitor accommodations contained in the Land Development Code (LDC), which consists of chapters 11 – 15 of the San Diego Municipal Code (SDMC) and serves as the Implementation Plan (IP) of the certified Local Coastal Program (LCP) for the City of San Diego. The LDC contains in Section 142.0530 “Nonresidential Uses – Parking Ratios” a Table 142-05G “Parking Ratios for Specified Non-Residential Uses,” which lists the parking ratio for “visitor accommodations” as 1 parking space per guest room plus 10 parking spaces for any conference area. Because the Hyatt currently has 429 guest rooms and meeting facilities, the total parking requirement under the LDC would be 439 parking spaces, 100 parking spaces less than the current on-site supply. However, as stated above, Mission Bay Park is an area of deferred certification governed under Chapter 3 of the Coastal Act, and Mission Bay Park has a certified LUP serving as guidance – the Master Plan – which contains a different, stricter parking requirement in recognition of the high visitation the area receives and the parking issues that can arise with all the public parking being free while most of the commercial leaseholds charge for parking.

Thus, the Hyatt’s on-site parking supply of 539 parking spaces is 115 parking spaces short of the parking requirement of the Master Plan. Because the Hyatt was constructed in the 1960’s, well before the Coastal Act of the 1970’s and the Mission Bay Master Plan of the 1990’s, its previously conforming status is long established. However, Mission Bay Park is a very popular coastal destination for both local and national visitors, and the provision of adequate parking is important to limit the adverse impact to public access arising from a commercial leasehold’s parking demand spilling out into public streets or lots and occupying parking that would otherwise be used by coastal visitors. In addition, as discussed in further detail below under Section C. Unpermitted Development, staff has identified the construction of at least one large freestanding tent located within the leasehold’s western parking area, which has been erected without the benefit of a coastal development permit. Thus, the actual number of parking spaces on the site available to use at this time is likely less than 539.

In recognition of the shortage of parking in comparison to the requirements of the Mission Bay Park Master Plan, the Hyatt submitted parking data for recent years to demonstrate that it is able to serve current patron demand on site. In 2016, the Hyatt parked 60,100 vehicles, for a daily average of 164.7 cars. In 2017 the annual number was 58,088 cars for a daily average of 159.1 cars, and through May 2018 the Hyatt has parked 23,421 cars for a daily average of 155.1 cars per day. Thus, there is a downward trend in the volume of cars parked on-site, and while averages do not speak to peak demands (such as during special events held on the premises), the Hyatt has indicated that even during special events they are able to accommodate their parking demand on site.

Furthermore, in order to ensure the proposed new rooms do not exacerbate the Hyatt’s parking shortage, the applicant is proposing to restripe the parking lot to add nine new parking spaces. Thus, while the existing site is under-parked, the proposed creation of nine new rooms will not increase the degree of non-conformity or adversely impact surrounding public parking.

### Lower-Cost Overnight Accommodations

The Hyatt hotel is an overnight visitor accommodation located on public parkland on Mission Bay, and is a high-priority use under the Coastal Act. The 429 guest rooms that the Hyatt offers consist of standard guestrooms, single bedroom suites, family suites, and presidential suites, ranging in average nightly rates from approximately \$160 to over \$1,100. Thus, the Hyatt would not be considered by the Commission to be a lower-cost overnight accommodation.

Typically, when lower-cost overnight accommodation is not provided, the Commission and local governments have required mitigation fees to be paid in-lieu of providing in-kind units. For example, in 1979, the Commission required, and the applicant agreed, to provide one lower cost accommodation for every three new hotel units in the Laguna Niguel planned development (Master Permit P-79-5539). In subsequent permit actions on the hotels, the Commission required provision of lower cost visitor accommodations in conjunction with the hotel development, but permitted the developer to contribute in-lieu fees to be used for construction of the lower cost facilities. Also, both the Marina Beach and Marina Plaza Hotels (A-49-79 and A-207-79) were required to provide \$365,000 each for construction of a superior grade youth hostel within the Marina del Rey coastal zone. AVCO Community Developers, applicants for what became the Ritz Carlton Hotel in Laguna Niguel (CDP 5-82-291, as amended), were required to construct 132 units of lower cost visitor accommodations, including a minimum 66-bed youth hostel. This requirement was subsequently converted to an in-lieu fee, which was ultimately used for restoration of the Crystal Cove Cottages.

For the proposed development, the Commission is not applying the mitigation fee to the Hyatt because the proposed development will not occupy undeveloped space that could be set aside for future, lower-cost accommodation, but is rather wholly contained within existing suites in an existing tower building. Nor is the proposed remodel expanding the square footage, footprint, or height of the existing structure, so no new leasehold space that could be set aside in the future for new, lower-cost accommodations is being occupied. In addition, the proposed development will result in nine new rooms – only seven of which would actually be considered “new” – which represents two percent of the existing room inventory within the Hyatt and is not a substantial alteration to the room makeup of the resort.

While the average nightly rate cited by Hyatt for a standard guestroom – \$189 a night – would not be considered lower-cost, all of the standard guestrooms arising from the proposed development are conversions from much more highly priced suites. The presidential suite costs an average of \$1,189 a night, but will become 4 standard guestrooms after conversion. The four family suites cost an average of \$339 a night, whereas after the development they will be eight standard guestrooms. Finally, the “Regency Club” concierge area comprised two standard guestrooms that were removed from inventory without a permit and was only available to hotel guests renting higher-rate rooms. This concierge area will be restored into its original configuration of two standard guestrooms. Thus, the overall room supply, and relative affordability, will increase over the current situation found within the Hyatt, and though the rooms will not be considered “low-cost,” they will be within reach of a greater

segment of the public than the current rooms now in operation. Therefore, in this case, the Commission finds that the imposition of the mitigation fee is not warranted by the scope and impact of the proposed development.

In summary, the Commission finds that the project will not adversely impact existing public access and recreation in the general area and through the site itself. Nearly all construction activities will take place within existing structures, with minimal disturbance to the exterior areas of the leasehold that are used by both hotel guests and the general public. Moreover, the Hyatt's addition of nine new parking spaces will accommodate the added rooms and not exacerbate any parking shortage, or adversely impact the provision or supply of lower cost accommodations. **Special Condition No. 1** ensures that the final room configuration and parking supply conform to the Commission's approved plans, as well as ensuring that construction staging and storage for the development does not encroach into public park area or right-of-ways. **Special Condition No. 2** requires the submission and implementation of a Traffic Demand Management (TDM) Program to create incentives for the use of alternate means of transit among employees and lessees so as to reduce the risk that the previously non-conforming parking supply will cause spillover of parking demand into public parking spaces. **Special Condition No. 3** places the permittee on notice that only the work explicitly described in this permit is authorized, and that future development or alterations will require additional Commission review and potential permitting. Therefore, the Commission finds the proposal, as conditioned, consistent with all of the cited public access policies of the Coastal Act.

### **C. UNPERMITTED DEVELOPMENT**

Although development, in the form of conversion of two existing seventeenth-floor guest rooms into a "Regency Club" concierge area, has taken place prior to submission of this permit application, the proposed development includes the restoration of this area back to the original two standard guestroom configuration. However, as part of this review, staff has identified additional unpermitted development within the Hyatt leasehold consisting of the construction of at least one large freestanding tent located within the leasehold's western parking area, which has been erected without the benefit of a coastal development permit. The applicant is not proposing to include the unpermitted tent structure in this application, and thus, violations remain on the site that will not be addressed by the Commission's action on this application. The Commission's enforcement division will consider how to address said violations as a separate matter. Consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to this violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

### **C. LOCAL COASTAL PLANNING**

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the

local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The Commission certified the Mission Bay Park Master Plan on May 11, 1995, as the land use plan (LUP) component of its certified LCP, but no implementation plan has been prepared for this segment to date and Mission Bay Park is primarily unzoned. As a whole, Mission Bay Park is a dedicated public park, and the Hyatt is one of many designated commercial leases in the certified LUP. The proposed development consists primarily of interior renovations of several existing structures on the site and is consistent with the Mission Bay Park Master Plan, including the public access requirements of the plan. Moreover, it has been found consistent with all applicable Chapter 3 policies of the Coastal Act. No other local discretionary actions are required as a result of the improvements proposed herein. Therefore, the Commission finds that the approval of the project will not prejudice the ability of the City of San Diego to prepare a fully certifiable LCP for its Mission Bay Park segment.

#### **D. 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 exempted this project as requiring only ministerial review.

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 construction staging and storage 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.

6-18-0215 (CHSP Mission Bay, LLC)

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS