

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application No.: 6-19-0948

Applicant: LHO Mission Bay Rosie Hotel, LP

Agent: David Daneili

Location: 1775 E. Mission Bay Drive, Mission Bay, San Diego, San Diego County (APN: 760-036-04)

Project Description: Removal of a 2,101 sq.ft. decorative pond to expand restaurant seating area on an existing 922 sq.ft. exterior patio; reconfigure existing uses within the hotel lobby and restaurant on a 17.87-acre lot.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed hotel remodel would expand the existing outdoor restaurant seating area, and remodel the interior restaurant/lobby/gift shop but will not expand the existing hotel buildings. Adequate parking will be provided on-site to meet the anticipated increase in intensity of use so as to avoid the risk of patron/guest parking spilling over into nearby public parking reservoirs. **Special Conditions #1** and **#2** prohibit the use of public parking for construction staging and storage, and require the implementation of water quality Best Management Practices. **Special Condition #3** requires the applicant to acknowledge the hazards present onsite, assume the risk of such hazards, and accept full liability for developing in a hazardous location.

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Commission staff recommends **approval** of coastal development permit application 6-19-0948 as conditioned.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Aerial Photo](#)

[Exhibit 3 – Project Plans](#)

I. MOTION

Motion:

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

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 or 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 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 plans:

- i. Final construction plan that substantially conform with the plans submitted by Rossi Architecture dated 8/15/19.
 - ii. Final construction staging and storage plans listing all phases of demolition and construction and identifying the location of all construction staging, storage, and parking on the subject property. No public parking or public rights-of-way shall be utilized for staging or storage.
- (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. Construction and Pollution Prevention Plan.

- (a) **PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a final Construction and Pollution Prevention Plan. The final Plan shall demonstrate that all construction, including, but not limited to, clearing, grading, staging, storage of equipment and materials, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:
- i. **Property Owner Consent.** The Construction and Pollution Prevention Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to use of their properties.
 - ii. **Minimize Erosion and Sediment Discharge.** During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:
 1. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.
 2. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.

3. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sand bag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.
 4. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.
 5. Runoff control BMPs (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area) that will be implemented during construction to retain, infiltrate, or treat stormwater and non-stormwater runoff.
- iii. **Minimize Discharge of Construction Pollutants.** The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:
1. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:
 - a. Covering stockpiled construction materials, soil, and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers.
 - b. Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on site.
 - c. Proper disposal of all wastes; providing trash receptacles on site; and covering open trash receptacles during wet weather.
 - d. Prompt removal of all construction debris from the beach.
 - e. Detaining, infiltrating, or treating runoff, if needed, prior to conveyance off-site during construction.
 2. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of

mobile equipment conducted on site shall not take place on the beach, and shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.

- iv. **Minimize Other Impacts of Construction Activities.** Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:
 - 1. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.
 - 2. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.
 - 3. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.
- v. **Manage Construction-Phase BMPs.** Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.
- vi. **Construction Site Map and Narrative Description.** The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
 - 1. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
 - 2. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive

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vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.

3. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
4. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.

vii. **Construction Site Documents.** The Construction and Pollution Prevention Plan shall specify that copies of the signed CDP and the approved Construction and Pollution Prevention Plan be maintained in a conspicuous location at the construction job site at all times, and be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction and Pollution Prevention Plan, and the public review requirements applicable to them, prior to commencement of construction.

viii. **Construction Coordinator.** The Construction and Pollution Prevention Plan shall specify that a construction coordinator be designated who may be contacted during construction should questions or emergencies arise regarding the construction. The coordinator's contact information (including, at a minimum, a telephone number available 24 hours a day for the duration of construction) shall be conspicuously posted at the job site and readily visible from public viewing areas, indicating that the coordinator should be contacted in the case of questions or emergencies. The coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

- (b) The permittee shall undertake development in accordance with the approved Construction-Phase Pollution Prevention Plan, unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.

3. **Assumption of Risk, Waiver of Liability, and Indemnity Agreement.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs, (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The subject site is a hotel leasehold located within Mission Bay Park in the City of San Diego. Mission Bay Park is a public park and recreation area of statewide and national significance. It was created prior to the Coastal Act and is built primarily on filled tidelands granted to the City of San Diego by the state. The park overall includes both active and passive public recreational venues, multiple commercial and non-profit leaseholds, wildlife refuges, least tern nesting sites, and undeveloped land. Constructed in the 1960s, the Mission Bay Hilton Hotel is one of several commercial leases within Mission Bay Park that offers overnight accommodations to visitors. The subject site, a 17.87-acre leasehold encompassing land and water area, is located immediately adjacent to the Mission Bay shoreline, between the water and the first public roadway (Mission Bay Drive) in the eastern portion of Mission Bay Park ([Exhibit #1](#)).

The project includes removal of an approximately 2,101 sq.ft. decorative koi pond located near the center of the leasehold in order to expand an existing 922 sq.ft. exterior patio for outdoor dining seating by 2,101 sq.ft. for a new total of 3,023 sq.ft. ([Exhibit #3](#)). The applicant will also reconfigure the existing uses within the hotel's existing lobby, restaurant, and gift shop. Specifically, the existing 1,136 sq.ft. lobby area and a 2,508 sq.ft. restaurant will be expanded in size to 1,498 sq.ft. and 2,638 sq.ft., respectively, while the existing 1,364 sq.ft. gift shop and 3,825 sq. ft. 'back of the house' and storage spaces adjacent to the lobby will also be reduced to 1,117 sq.ft. and 3,534 sq.ft., respectively. Other development proposed that does not require a permit includes installing canvas and trellis shade structures over existing outdoor dining seating areas.

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

- CDP #F9560 to demolish 4 existing guest units and to construct a 45-unit addition to an existing hotel facility.

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- CDP #6-81-241 to demolish and existing tennis club facility and construct a new 1,862 sq.ft., two-story tennis club facility.
- CDP #6-84-100 to construct a tennis club facility similar to that approved in CDP #6-81-241, which expired before the permit was vested.
- CDP #6-84-144 to demolish existing lobby/entranceway and construct an 18,300 sq.ft. lobby/retail/cocktail area with other amenities and reconfigure the site's parking.
- CDP #6-85-100 to reconstruct existing pool deck, add a lobby bar and 15 guest rooms, remodel existing lobby, and reconfigure the site's parking.
- CDP #6-85-500 to authorize the use of the vessel "Mission Rose" as banquet space to the existing hotel.
- CDP #6-86-362-W to authorize the temporary placement of bleachers and a food/beverage stand at the hotel for 9 days for the Virginia Slims Tennis Tournament.
- CDP #6-98-073 to construct a 3,740 sq.ft., one-story laundry building and install new landscaping and hardscape improvements including a perimeter masonry wall.
- CDP #6-07-125 to remove a 9,000 sq.ft., temporary event tent structure and 3 tennis courts and construction of a 16,500 sq.ft. one-story, conference center.

The Coastal Act emphasizes the need to protect and provide for public access to and along the coast. Mission Bay Park is a public aquatic park built primarily on tidelands granted to the City of San Diego. Public lateral access is available along the shoreline west of the leasehold, and the site is open to public access through and around the hotel. The proposed improvements are located within the hotel complex and would not have any effect on the public's ability to access the shoreline; however, staging for the project could impact public access if construction materials were stored on the beach or public rights-of-way. **Special Condition #1** requires the applicant to submit final revised plans depicting all staging and storage areas outside of the beach, public parking, and public rights-of-way.

The proposed reallocation of uses in the hotel could increase the demand for parking at the site. Inadequate parking can interfere with public access opportunities, especially if nearby public parking reservoirs, located both north and south of the leasehold, were usurped by the tenants and patrons of the hotel.

The Mission Bay Park Master Plan, used as guidance, contains "Appendix G – Design Guidelines," which provides parking standards for "commercial leaseholds" such as the subject site, with parking requirements based on the square footage of each of the distinct uses that are located within a leasehold.

The relevant parking standards in the Master Plan are as follows:

- Hotel Operations: 1 space per 300 gross sq.ft.
- Hotel Guest Room: 1 space per guest room without kitchen
- Restaurant: 1 space per 200 gross sq.ft., including outdoor dining areas

- Banquet/Meeting/Conference Facilities: 1 space per 200 gross sq.ft., including outdoor dining areas
- Retail: 1 space per 500 gross sq.ft.

The existing hotel has a total of 357 guest rooms, 8,677 sq.ft. of combined hotel operation uses, 10,020 sq.ft. of combined restaurant uses, 1,364 sq.ft. of retail use, and 25,338 sq.ft. of combined meeting/conference/banquet facility uses. The leasehold also encompasses a boat dock that is used as a launching platform for boat/watersport rentals provided by the hotel. The dock is used to anchor small rental watercrafts but does not berth privately-owned boats like a dock in a marina which would require parking under the Master Plan. The Master Plan allows a one-third reduction in the total required parking for uses within the leasehold that overlap with guest uses. Thus, under these standards, the existing hotel would require 377 spaces. A total of 392 parking spaces are provided for the entire leasehold, which is consistent with the Master Plan requirements.

With the proposed project, the total hotel operation uses would be increased to 8,696 sq.ft., the retail use would be reduced to 1,117 sq. ft., and the total restaurant use would be expanded to 12,242 sq.ft. Thus, the proposed hotel operation uses require 29 spaces, the guest rooms 357 spaces, the proposed combined restaurant uses 61 spaces, the proposed retail use 2 spaces, and the proposed meeting/conference/banquet facility uses 127 spaces (576 spaces total). With the one-third reduction, the total number of parking spaces needed to serve the site would be reduced to 384. Thus, the site contains 8 more parking spaces than needed to serve the change in uses proposed in this project. Therefore, sufficient parking is provided to accommodate the proposed development. **Special Condition #2** requires the submittal of a construction pollution plan to ensure that proper Best Management Practices are implemented to secure on-site materials and capture or treat runoff that may enter nearby storm drains that flow directly into the waters of Mission Bay Park.

The subject site is located only a few feet from the waters of Mission Bay and thus is located in a hazardous location that is anticipated to flood regularly in the near future. Between the water and project site is sandy public beach that provides continuous access near the shoreline in this part of Mission Bay.

A preliminary review of the site through the CoSMoS “Our Coast Our Future” (OCOF) web tool shows that with 50 centimeters of sea level rise, during a 100-year storm event, some areas on the site along the waterfront are projected to be flooded to depths of one to two meters, for as long as nine to fifteen hours; however, nearly all portions of the leasehold’s waterfront development is within the model’s range of uncertainty. Portions of East Mission Bay Drive, the only road providing vehicular access to the site, located north and south of the site are also within the model’s range of uncertainty for flooding. According to the 2018 OPC sea level rise projections, the above scenario could occur on-site as soon as 2045.

The majority of the proposed project involves interior improvements within the existing hotel lobby and restaurant. Some exterior structures such as the canvas shade structure and trellis are included with this proposal, but these structures can be easily removed and

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relocated if threatened in the future. Nothing in the project would result in any further seaward expansion of either of the buildings on-site or increase the risk to property or life in an area that will be subject to flood hazards in the near future. Thus, this particular project adequately minimizes risks to life and property. However, future proposals to modify the existing building footprint may trigger the need for sea level rise adaptation strategies designed to move the development away from hazards or relocation of the development due to loss of access to the site via East Mission Bay Drive. Nevertheless, because substantial flooding is expected to occur on the subject site in the relatively near future, **Special Condition #3** requires the applicant to acknowledge the hazards present onsite, assume the risk of such hazards, and accept full liability for developing in a hazardous location.

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/PARKING

The proposed project will maintain a visitor-serving use in Mission Bay Park. As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

C. BIOLOGICAL RESOURCES

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized.

The proposed development will not have an adverse impact on any sensitive habitat, and, as conditioned, will not result in erosion or adverse impacts to water quality, as adequate drainage controls will be provided. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

D. COASTAL HAZARDS

The development is located in an area that may be subject to coastal hazards. As conditioned, the risks of property damage or loss arising from such hazards will be borne by the applicant and not the public. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30253 of the Coastal Act.

E. COMMUNITY CHARACTER/VISUAL QUALITY

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area and will not impact public views. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

F. LOCAL COASTAL PLANNING

The LUP for the Mission Bay Park LUP segment of the City of San Diego LCP was certified on May 11, 1995, but no implementation plan has been developed as yet, and Chapter 3 of the Coastal Act remains the legal standard of review.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

G. 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 public access and future development of the site, will avoid or minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA