

CALIFORNIA COASTAL COMMISSION

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W16c

ADDENDUM

November 2, 2020

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W16c, APPLICATION NO. 5-90-311-A3 (Santa Monica Pier Observation Room) FOR THE COMMISSION MEETING OF Wednesday, November 4, 2020.**

On October 30, 2020, Commission staff received public comment letters from the proprietor of Mariasol and the Santa Monica Pier Corporation¹. Mariasol is the restaurant that occupies the first floor and the landward side of the second floor of the observation room structure. The Santa Monica Pier Corporation is a non-profit formed by the City of Santa Monica to handle marketing and events on the Santa Monica Pier. The Letters are in support of the staff recommendation, but request that Special Condition 3 be modified to allow the Observation Room to be used for private events not open to general public (Ref: SC 3.A.5) and to allow Mariasol to use the Observation Room for expanded restaurant seating for private events (Ref: SC 3.A.6).

As explained at pages 10-15 of the staff report, the Coastal Act's public access policies require that "maximum access" to the coast be provided, and that private development shall not interfere with the public's right of access to the coast. The comment letter from Mariasol indicates that the restaurant has used the Observation Room for private events up to 30 times per year, that the events typically occur during the summer months and holiday periods (both peak public access periods), and that each private event results in closure of the Observation Room to the public from approximately 3 PM to 11 PM on the day of the event. However, all of these past uses of the Observation Room for private events were unpermitted development that was not authorized by, and is inconsistent with, the existing permit. In addition, if the Observation Room is used for private events 30 times per year primarily during the peak 6 month period when the public visits the coast (summer and holidays), that would result in an average of approximately one day a week that the public Observation Room would be closed to the public.

In the Mariasol's letter, they included a survey conducted by the Santa Monica Police Department at the request of Commission staff. The survey covers a seven day period

¹ Neither Mariasol or the Santa Monica Pier Corporation of applicants on the subject CDP amendment. The only applicant is the City of Santa Monica. The City has indicated that they are not opposed to any of the Special Conditions.

running from Monday, August 26, 2019 through Sunday, September 1, 2019 and included a count of people within the Observation Room every two hours starting at 6 AM and ending at 10 PM. On a visit to the site during the summer of 2019, staff observed numerous people pass through the Observation Room, but did not observe any members of the public spending an extended amount of time in the Room, likely because the space does not include any seating and is relatively small. Commission staff appreciates the effort by the City to undertake the survey. However, the chosen survey method, a static count every two hours, undoubtedly showed significantly fewer people using the space than an ongoing count of people who walked through the public space would show. Thus, staff does not believe that that survey depicts an accurate picture of the importance or popularity of this unique resource to public access.

Mariasol and the Santa Monica Pier Corporation further contend that private events in the Observation Room would reduce the occurrences of unlawful activities. Staff recognizes that the Observation Room is at the far end of the pier and that public safety is legitimate concern, which is the basis for Staff's support of the proposal to close the Observation Room to the public between 10 PM and 6 AM. However, as detailed in the staff report, the nighttime closure of the Observation Room has drastically reduced the number of incidents at this location and further public access restrictions, in the form of private events, do not appear necessary at this time to protect public safety.

The request by Mariasol and the Santa Monica Pier Corporation to use Observation Room for private events is in direct conflict with the Commission's previous actions on the subject site.

As originally proposed and approved by the Commission, the Observation Room structure included a public "observation deck" (CDP 5-90-311). Due in large part to the proposed inclusion of the public observation deck, the Commission was able to make the following findings to establish the project's consistency with the public access policies of the Coastal Act:

"...The proposed project represents a balance[d] mixed use of public and commercial/recreational facilities and is compatible with the surrounding pattern of pier development...The project, as designed will enhance and encourage both active and passive recreational uses of the beach/pier area..."

Pursuant to CDP 5-90-311-A1, the City of Santa Monica and Mariasol previously applied to privatize the Observation Room in order to expand the private restaurant space. However, the Commission did not support that proposal and instead reaffirmed that the Observation Room must remain a public access resource consistent with the underlying CDP for its construction. In its approval of the first amendment, the Commission included the following two conditions, shown in relevant part, to ensure that the Observation Room would remain accessible to the public.

Revised Plans: ...that the proposed second story roof covers the entire second story deck, as proposed, **including the public access/observation deck...**

Signage: ...**The signage shall indicate that the upper deck is available and open to the general public...**

Thus, as described in the Staff Report for the current amendment request, use of the Observation Room for private events is inconsistent with the Commission's previous

actions at the subject site (Ref: CDP 5-90-311 and 5-90-311-A1). Furthermore, Section 13166 of the California Coastal Commission Regulations would necessitate rejection of any future request to privatize the Observation Room because it would lessen or avoid the intended effect of the Commission's previous permit approvals and newly discovered material information, which could not, with reasonable diligence, have been discovered and produced before the permit was granted has not been produced.