

SAN DIEGO UNIFIED PORT DISTRICT

MEMORANDUM

Date: November 9, 2021

To: Board of Port Commissioners

Via: Shaun D. Sumner
Vice President, Business Operations
ssumner@portofsandiego.org

From: Wileen C. Manaois
Director, Development Services
wmanaois@portofsandiego.org

Subject: November 9, 2021 BPC Agenda Item #13, File No. 2021-0063, Sunroad Harbor Island East Hotel Project – District Staff-Recommended Proposed Revisions to Agenda Sheet Attachment A, Draft Coastal Development Permit

The purpose of this memo is to provide the Board with District staff-recommended proposed revisions to the Draft Coastal Development Permit (CDP) for the Sunroad Harbor Island East Hotel Project (Agenda Sheet Attachment A to Item #13, File No. 2021-0063). These proposed revisions are in response to comments received from California Coastal Commission (Coastal) staff late yesterday.

The email from Coastal staff is included as Attachment A, and the proposed revisions to parts of the Draft CDP are included as Attachment B to this memo, and reflect minor revisions relating to: lower cost overnight visitor accommodations (CDP pages 18-20, Special Condition 4), public access signage locations (CDP Exhibit 3), and signage plan contents and coordination with Coastal staff (CDP page 23, Special Condition 19).

If you have any questions or need further information, please contact Wileen Manaois at (619) 346-0858 or via email at wmanaois@portofsandiego.org, or Shaun Sumner at (619) 602-2869 or via email at ssumner@portofsandiego.org.

Attachment(s):

Attachment A: Email from California Coastal Commission Staff to District Staff, dated November 8, 2021

Attachment B: Proposed Revisions to Attachment A, Draft Coastal Development Permit

**Attachment A: Email from California Coastal Commission Staff to
District Staff, dated November 8, 2021**

Michelle Chan

From: Leslie, Kanani@Coastal <Kanani.Leslie@coastal.ca.gov>
Sent: Monday, November 8, 2021 4:39 PM
To: Wileen Manaois; Michelle Chan
Cc: Lilly, Diana@Coastal; Carney, Kaitlin@Coastal; Lee, Deborah@Coastal; Schwing, Karl@Coastal
Subject: RE: Sunroad CDP for 11/9 Board of Port Commissioners Meeting

Importance: High

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Hi Wileen & Michelle,

Commission staff still has the following concerns with the draft CDP:

- Special Condition #4 – Lower Cost Overnight Visitor Accommodations
 - Option 1 (the construction of lower cost overnight visitor accommodations) should be prioritized over option 2 (payment of in-lieu fees), to the greatest extent feasible.
 - We anticipate the applicant and Port will have 4 years prior to the certificate of occupancy to pursue planning for a lower cost overnight accommodations project. If Option 2 is pursued, the applicant should pay at least a portion of the in-lieu fee upfront prior to the certificate of occupancy – at minimum \$35,000 for 25% of the 450 market rate units = \$3,937,500; however, the remainder of the \$100,000 in-lieu fee could be paid within 5 years of certificate of occupancy with annually compounded interest. The applicant/Port could still access these upfront funds, in the future, to implement a lower cost overnight accommodations project.
 - Option 2 regarding in-lieu fees should identify that in-lieu fees shall only be used to provide new lower cost overnight accommodations within the SD Bay Coastal Zone, preferably within the Harbor Island Planning District on Port tidelands. The 2nd provision of the existing special condition does not include any such requirement.
- Exhibit 3 should require public access signage at all public access points to the hotel. The signage logo is not shown on the middle accessway from the promenade (north of the hotel pool) on Exhibit 3.
- Previously, Commission staff identified that minimum sizes and fonts should be required for public access signage as a special condition of the CDP to ensure that public access signage is large enough and sited appropriately (e.g., public accessways, public parking spots, public amenities – restaurant/bar) to make the public feel welcome to the site. Exhibit #4 with example signage is not adequate; a Public Access Signage plan that includes public access signage sizes, fonts, language, and locations should be required to be reviewed and approved by the Port in coordination with Commission staff as a special condition of the CDP.

In addition, Commission staff notes that we continue to believe a PMPA would be the most appropriate process to address lower cost overnight accommodations as well as incorporate the updated project details and associated public access provisions/mitigation measures into the PMP. As discussed in our comment letter on the PMP Update (PMPU), the PMPU should be revised to include a comprehensive project list and

sufficient project details to ensure consistency with the Coastal Act. Please let me know if you have any questions.

Thanks,
Kanani

From: Wileen Manaois <wmanaois@portofsandiego.org>
Sent: Thursday, November 4, 2021 4:13 PM
To: Leslie, Kanani@Coastal <Kanani.Leslie@coastal.ca.gov>
Cc: Lilly, Diana@Coastal <Diana.Lilly@coastal.ca.gov>; Carney, Kaitlin@Coastal <kaitlin.carney@coastal.ca.gov>; Lee, Deborah@Coastal <Deborah.Lee@coastal.ca.gov>; Michelle Chan <mchan@portofsandiego.org>
Subject: Sunroad CDP for 11/9 Board of Port Commissioners Meeting

Hi Kanani,

We appreciate working with Coastal staff on the past 3+ years on the Sunroad Hotel project. Since our meeting on Tuesday, the Port team and our leadership have talked extensively internally, as well as with Sunroad, about your concerns with the draft lower cost accommodations language in the Draft Sunroad Hotel CDP. We have revised the LCOVA condition and feel it addresses the issues you raised in our meeting. In addition, we have added the SLR condition we sent you after our meeting on Tuesday. The Draft CDP is attached. The LCOVA condition is Special Condition 4 on pdf p18-20, and the SLR condition is Special Condition 21 on pdf p24-25.

With that, we will be proceeding to our Board of Port Commissioners to consider the Draft CDP next Tues 11/9. The staff report will be published later today, so we are unable to make any further changes for that publication. However, should you have any additional comments, let Michelle or me know ASAP.

Let us know if you have any questions.
Thanks, Wileen

From: Michelle Chan <mchan@portofsandiego.org>
Sent: Tuesday, November 2, 2021 5:36 PM
To: Leslie, Kanani@Coastal <kanani.leslie@coastal.ca.gov>
Cc: Lilly, Diana@Coastal <Diana.Lilly@coastal.ca.gov>; Carney, Kaitlin@Coastal <kaitlin.carney@coastal.ca.gov>; Wileen Manaois <wmanaois@portofsandiego.org>
Subject: Sunroad SLR and Draft CDP (with Port Responses)

Hi Kanani,

As discussed earlier during our phone call, I am sending you the Sea Level Rise (SLR) Study, draft SLR condition and the email we sent previously containing our responses to the Coastal staff's comments on the draft CDP (see body of the email as well as comment bubbles in the draft CDP attached to the April 30 email).

If you have any questions, please feel free to contact me.

Thanks,

Michelle Chan

Senior Planner, Development Services

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(o) 619.686.8097 (c) 619.980.0715



connect:      

Port administration offices are open Monday-Thursday and [every other Friday](#) from 8am-5pm.

This email may contain public information and may be viewed by third parties pursuant to the California Public Records Act.

Attachment B: Proposed Revisions to Agenda Sheet Attachment A, Draft Coastal Development Permit

Proposed revisions are shown in underlined text:

SPECIAL PROVISIONS**Lower Cost Overnight Visitor Accommodations (CDP Pages 18-20)**

4. The Permittee and all successors and assignees, or an affiliate of Permittee, shall proceed with one of the following options, or a combination as may be permitted:

(1) Lower Cost Overnight Visitor Accommodations Project: Within five (5) years of the issuance of the Certificate of Occupancy for the hotel Project (which is the subject of this CDP), Permittee shall construct or participate in the construction, completion and commencement of operation of a lower cost overnight visitor accommodations (“LCOVA”) establishment to include a minimum of a total number of rooms equal to 25% of all new market rate rooms or the equivalent number of beds (based on the number of market rate beds per room) constructed as part of the Project (any such LCOVA establishment, a “LCOVA Project”). To the extent the Permittee participates in the construction of a LCOVA Project, such participation must cause, including funding the entirety of, the construction of a minimum of rooms equal to 25% of all new market rate rooms (or equivalent number of beds) in the Project. Permittee shall not be deemed to have participated in the construction of a LCOVA Project or LCOVA rooms or beds if the rooms or beds constructed are otherwise required pursuant to or to satisfy mitigation or conditions of a valid approval or permit for another project. Nothing in this condition shall be construed to prohibit Permittee from participating in the construction of *additional* rooms in a LCOVA Project that also includes rooms or beds that were required pursuant to mitigation or conditions of a valid approval or permit.¹ If the Permittee pays any LCOVA In-Lieu fees pursuant to and consistent with (2), below, and Permittee constructs or participates in the construction of a LCOVA Project, Permittee may use any LCOVA In-Lieu fees toward the LCOVA Project, subject to the draw procedures set forth herein. To use such fees previously paid to the District, Permittee shall provide written notice to the District and Coastal Commission staff of such intent in requesting fees and must provide documentary evidence of the costs to be incurred in conjunction with a LCOVA Project, such evidence to be subject to District staff’s prior written approval, such approval not to be unreasonably withheld. If the LCOVA Project (1) is completed and operational within five (5) years of the issuance of the Certificate of Occupancy for the hotel Project (which

¹ For purposes of clarity, Permittee may not contribute to or claim contribution to LCOVA rooms that are otherwise required pursuant to any legal or permit requirement. Permittee may not seek to participate in the construction of LCOVA Project or seek to satisfy this condition in manner that is a subterfuge to avoid the obligation to either construct and make operational or pay in-lieu fees for a minimum of rooms equal to equivalent to 25% of all new market rate rooms (or equivalent number of beds) in the Project.

is the subject of this CDP) and (2) contains and makes publicly available a minimum of a total number of rooms equal to 25% of all new market rate rooms constructed as part of the hotel Project, any costs approved by District and Coastal Commission staff pursuant to the following sentence will be refunded from any remaining LCOVA In-Lieu fees previously paid by Permittee to District in connection with the Project. To be entitled to such refund, Permittee shall provide to the District evidence of the costs associated with the LCOVA Project, with particular detail on the costs incurred by Permittee, such costs to be approved by District staff in its reasonable discretion. If all LCOVA Projects do not contain and make publicly available a minimum of a total number of rooms equal to 25% of all new market rate rooms constructed as part of the hotel Project, District shall retain any paid LCOVA In-Lieu Fees (or the right to any unpaid LCOVA In-Lieu Fees, as may be applicable or required of Permittee) equal to \$100,000 per room for any LCOVA rooms not constructed as part of a LCOVA Project, consistent with the formula identified below. Permittee shall not be entitled to any interest on paid LCOVA In-Lieu fees. Permittee shall prioritize the construction of a LCOVA Project over the payment of LCOVA In-Lieu Fees, as may be permitted under (2).

Any LCOVA Project shall be located within the San Diego Bay Coastal Zone, preferably within the Harbor Island Planning District on Tidelands. A LCOVA Project that may be proposed by Permittee, its successors or assignees, will be subject to all permitting and environmental review requirements. This condition does not guarantee approval of a LCOVA Project and, to the extent the LCOVA Project is considered by the District or the District's Board of Port Commissioners, the District retains all discretion to deny, condition, or modify a LCOVA Project as may be proposed by Permittee. If the LCOVA Project provides less than 25% of all new market rate rooms constructed as part of the Project, the Permittee is still responsible for payment of the LCOVA In-Lieu Fee equal to \$100,000.00 per room (and any accrued interest) for any remainder of the required LCOVA Project rooms that are not constructed and made operational by Permittee, consistent with the formula below.

(2) LCOVA In-Lieu Fee: Permittee shall pay a fee of a minimum of \$100,000.00 per room for 25% of all new market rate rooms constructed as part of the Project (the "LCOVA In-Lieu Fee"). Permittee may pay such fee consistent with either of the following:

- a. \$100,000 per room for all or a portion of the required rooms prior to issuance of the Certificate of Occupancy for the hotel Project.
- b. Within five (5) years after the Certificate of Occupancy for the hotel Project, \$100,000 per room plus either of the following, compounding and accruing annually: (1) a 3% interest rate, applicable at the commencement of each year following the issuance of the Certificate of Occupancy for the hotel

Project², or (2) adjusted by the Los Angeles – Long Beach – Anaheim Consumer Price Index For All Urban Workers (CPI), whichever is less. Permittee may pay partial amount of the LCOVA In-Lieu Fee, but any such partial payment must be on a per room (\$100,000) basis, plus any applicable interest.³

Permittee shall pay the LCOVA In-Lieu Fee to the District, and such fee shall be held in an account established and managed by the District, and pursuant to a memorandum of agreement entered into between the District and Executive Director of the Coastal Commission. If Permittee elects to pay LCOVA In-Lieu Fees pursuant to this (2), LCOVA In-Lieu Fees shall be allocated for use within the San Diego Bay Coastal Zone, preferably within the Harbor Island Planning District on Tidelands.

Signage (CDP Page 23)

19. A Comprehensive Signage Design Package (Signage Package) that includes public access signage sizes, language, fonts, and locations must be submitted to the District for review and approval before or concurrently with the submittal of Building Permit Application Drawings (Working Drawings). The District will provide a copy of the Signage Package to Coastal Commission staff and coordinate with Coastal Commission staff prior to any District approval of the Signage Package. All signs, including illuminated signs, shall comply with the CDP requirements.

² For purposes of clarity, the 3% interest rate will be applicable, on an annualized basis, the first day following the issuance of the Certificate of Occupancy for the hotel Project, and on the first day after the anniversary of the issuance of the Certificate of Occupancy for all years after the first year.

³ Example: If Permittee elects to pay a portion of the applicable LCOVA In-Lieu Fee within the first year (365 days) following the issuance of the Certificate of Occupancy for the hotel Project, such fee must be paid on a per room basis and include 3% interest or adjusted by CPI, whichever is less. If Permittee elects to pay a portion of the LCOVA In-Lieu Fee in the third year after the issuance of the Certificate of Occupancy for the hotel Project, such fee must be paid on a per room basis and include 3% interest or adjusted by CPI, whichever is less, compounded annually.

EXHIBIT 3

