

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

October 19, 2017

TO: Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Adrienne Klein, Chief of Enforcement (415/352-3609; adrienne.klein@bcdc.ca.gov)

SUBJECT: Additions and Changes to Staff Recommendation for BCDC Permit Application No. 1985.019.11B (Material Amendment No. Eleven); Scott's Jack London Seafood Inc.
(For Commission consideration on October 19, 2017)

Proposed Revisions

The staff would like to make the following revisions to the staff recommendation dated October 13, 2017, to BCDC Permit Application No. 1985.019.11B, for installation of a new public pavilion enclosure system at the Franklin Street Plaza at Jack London Square, in the City of Oakland, Alameda County.

Page 6, Below Paragraph 3

Special Condition II.A.4, **Conformity with Plans submitted with Application for Amendment Nos. Eight and Eleven.**

Should be changed to add the following provision:

- e. **Stage Area.** If the permittee wishes to cover rather than remove the wood stage curtain, it must submit and obtain approval in writing by or on behalf of the Commission of plans that shall be reviewed against the provisions of Special Condition II. F., **Remove Permanent Stage Backdrop and Use Temporary Backdrop as Needed (Permit No. 1985.019.11B).**

Page 7, Paragraph 2:

Should be revised to show the following additions underlined:

- b. **Web-accessible Calendar of Scheduled Pavilion Events (Permit No. 1985.019.11B).** No later than December 31, 2017, Scott's shall create a BCDC staff-approved web-accessible calendar of scheduled pavilion events, and on a permanent basis thereafter Scott's shall accurately maintain the approved web-accessible calendar of scheduled pavilion events and make it available to the Port of Oakland, and BCDC and the public at all times. The calendar made available to the Port and BCDC must include all private events scheduled or held by Scott's and any publicly-oriented events scheduled or held by the Port of Oakland by month for the current calendar year. For scheduled events, the following information shall be provided about each event: date, name, scheduled start time, and estimated duration. After a private event has been held, the calendar shall be updated within 48 hours to add the following information for the event: the commencement time of conversion from public to private space, the event start and end times, and the time the pavilion reverted to 100%

public space. The calendar must also show the total number of private events both scheduled and held for the calendar year. The calendar made available to the public may state "private event" in place of the name of the event but shall otherwise conform to the requirements outlined above.

Pages 10, Paragraph 5

Special Condition II.B.5, Improvements Within the Franklin Street Plaza Public Access Area (Permit No. 1985.019.08B and .11B).

Should be changed to add the following sentence to the end of the paragraph:

If an event arising from causes beyond Scott's control occurs that will delay timely compliance with the provisions of this paragraph, Scott's shall notify BCDC by e-mail within five business days of when Scott's first knew of the event and shall describe the cause or causes of the delay, the measures taken or to be taken by Scott's to minimize the delay, and the additional time requested to comply. The Executive Director may grant an appropriate extension of time to comply with the provisions of this paragraph for good cause shown.

Page 11, Paragraph 4, Special Condition II-E

Should be changed to:

E. Remove Unauthorized Metal Entry Doorway and Complete Construction of Pavilion Enclosure System (Permit No. 1985.019.11B). By no later than ~~December 15, 2017~~ February 28, 2018, the permittee shall remove the unauthorized permanent metal entry doorway (east side) and six bollards south of the pavilion, and install two additional retractable wall panels with doors and one door each in the west and north walls. Immediately following completion of this work, the permittee shall notify the BCDC staff in writing, accompanied by photographic evidence, which shall serve as notice to staff to conduct a compliance review. If an event arising from causes beyond Scott's control occurs that will delay timely compliance with the provisions of this paragraph, Scott's shall notify BCDC by e-mail within five business days of when Scott's first knew of the event and shall describe the cause or causes of the delay, the measures taken or to be taken by Scott's to minimize the delay, and the additional time requested to comply. The Executive Director may grant an appropriate extension of time to comply with the provisions of this paragraph for good cause shown. If Scott's fails to comply with the provisions of this paragraph by February 28, 2018, or by the date of any extension of time granted by the Executive Director, Scott's shall not hold any private events in the pavilion after February 28, 2018, or after the date of any extension granted by the Executive Director, until Scott's complies with the provisions of this paragraph.

Page 11, Paragraph 5, Special Condition II-F

Should be changed to:

F. Remove Permanent Stage Backdrop and Use Temporary Backdrop as Needed (Permit No. 1985.019.11B). By no later than ~~December 15, 2017~~ February 28, 2018, the permittee shall remove or cover the unauthorized permanent wooden, painted stage backdrop mounted around the door of the storage area. If the stage backdrop is removed, the exposed surface shall be treated as necessary to be visually clean and consistent with the surrounding materials.

If the permittee wishes to cover it, it must first secure BCDC staff plan approval pursuant to the requirements of Special Condition II.A, Specific Plans and Plan Review. The plans must show a comparison of the public access benefits and impacts of removal versus retention. If staff declines to approve the plan, for example because it determines that retention of the stage backdrop with a cover will continue to feel private and result in the conversion of public access to private use, the stage backdrop may not be covered and must be removed. Immediately following this work, the permittee shall notify the BCDC staff in writing, accompanied by photographic evidence, which shall serve as notice to staff to conduct a compliance review. If the stage backdrop is removed, the permittee may install a temporary stage backdrop as needed only for the duration of each calendared private event. If an event arising from causes beyond Scott's control occurs that will delay timely compliance with the provisions of this paragraph, Scott's shall notify BCDC by e-mail within five business days of when Scott's first knew of the event and shall describe the cause or causes of the delay, the measures taken or to be taken by Scott's to minimize the delay, and the additional time requested to comply. The Executive Director may grant an appropriate extension of time to comply with the provisions of this paragraph for good cause shown. If Scott's fails to comply with the provisions of this paragraph by February 28, 2018, or by the date of any extension of time granted by the Executive Director, Scott's shall not hold any private events in the pavilion after February 28, 2018, or after the date of any extension granted by the Executive Director, until Scott's complies with the provisions of this paragraph.

Page 25, Paragraph 3, Line 5

Should be changed to:

No further plan review for this project is required except as specified by Special Conditions II.A.4.c, Public Access Improvements, ~~and~~ II.A.4.d, Bollards, and, II.A.4.e, which require the permittee to submit and obtain written approval of plans in advance of installing the public chairs and tables, umbrellas, night lighting ~~and~~ bollards, and cover for the stage backdrop, if it is approved to be retained and covered versus removed.

Page 26, Paragraph 1, Line 1 of the Findings

Should be changed to:

Special Condition II.E, Remove Metal Entry Doorway, and Special Condition II.F, Remove Stage Backdrop, require the permittee, by ~~December 15, 2017~~ February 28, 2018, to remove the metal entry doorway, six bollards south of the pavilion, and stage backdrop and submit written notice, such as a Notice of Completion, accompanied by photographic evidence of having done so. Special Conditions II.A.4.e and II.F provide the permittee with the opportunity to seek approval through the plan review process to cover, rather than remove, the stage backdrop but requires its removal if staff denies the plans to cover it. The condition requires the submittal of plans that show the finished affect of the west wall area with removal of the stage backdrop and any necessary retrofit required to fill gaps at the sides of the rollup door and with retention and cover of the stage backdrop. If desired, the permittee may install a temporary removable stage backdrop for the duration of each authorized private event if it is removed. However, Special Conditions II.E and II.F provide

that if an event beyond Scott's control occurs that will delay timely compliance with the provisions of either condition, Scott's shall notify BCDC by e-mail within five business days of when Scott's first knew of the event and shall describe the cause or causes of the delay, the measures taken or to be taken by Scott's to minimize the delay, and the additional time requested to comply. The Executive Director may grant an appropriate extension of time to comply with the provisions of this paragraph for good cause shown. Each condition also provides that if Scott's fails to comply with the provisions of the conditions by February 28, 2018, or by the date of any extension of time granted by the Executive Director, that Scott's shall be prohibited from holding any private events in the pavilion after February 28, 2018, or after the date of any extension granted by the Executive Director, until Scott's removes the metal entry doorway and six bollards south of the pavilion, completes construction of the pavilion enclosure system and either removes or covers the stage backdrop in a manner consistent with staff approved plans.

Page 27, Paragraph 2, Line 1

Should be changed to:

The event pre-approval requirement has been replaced with a new requirement for Scott's, by December 31, 2017, to create and thereafter accurately maintain an online calendar of scheduled events to be available to the Port, BCDC and the public, to be reviewed and approved by BCDC staff in advance of being used. The calendar must include all private events scheduled or held by Scott's and any publicly-oriented events scheduled or held by the Port of Oakland by month for the current calendar year. For scheduled events, the following information shall be provided about each event: date, name (Port and BCDC only), scheduled start time, and estimated duration. The public calendar must provide the same information as the calendar for the Port and BCDC with one exception, which is that the event name may be replaced with the words "private event." It should be possible for Scott's to create and maintain a single calendar and modify the public viewing privileges for the column that provides the event name.