SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
455 Golden Gate Avenue, Suite 10600 • San Francisco, California 94102 (415) 352-3600 • Fax: (415) 352-3606 • www.bcdc.ca.gov

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TO: All Design Review Board Members

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Ellen Miramontes, Bay Design Analyst [415/352-3643; ellen.miramontes@bcdc.ca.gov]
Adrienne Klein, Chief of Enforcement [415/352-3609; adrienne.klein@bcdc.ca.gov]

SUBJECT: **Scott's Seafood Restaurant, Jack London Square, Oakland, Alameda County**
(For Board consideration on April 6, 2015, Second Pre-Application Review)

Project Summary

Applicants. Scott's Jack London Seafood Inc. and the Port of Oakland.

Project Representatives. Liz Gallagher with Scott's Jack London Seafood Inc.; Steve Hanson, Consultant for Scott's; Adrienne Wong, AWA Inc.; and Richard Sinkoff, Director of Environmental Planning, Port of Oakland.

Project Status. The Commission will likely hold a public hearing and vote on the project sometime in 2015. This will be the Design Review Board's second review of the currently proposed pavilion project and first review of the proposed associated public access enhancements.

Project Site. Scott's Restaurant operates in an approximately 20,000-square-foot building located at the edge of San Francisco Bay between Broadway and Franklin Street within the Jack London Square development. Scott's main entrance is located at the foot of Broadway. In addition to a large dining room, Scott's has seven private event spaces, six of which are located within the building. The seventh and largest private event space, known as the pavilion, is located outside of the building within the Franklin Street plaza in a BCDC-required public access area. The pavilion is an L-shaped structure that is 40 feet high. It is supported by two groupings of four steel posts in the center of the pavilion, giving it a freestanding and open feeling. It is near, but not abutting, the adjacent restaurant building. Guests attending an event in the pavilion enter from Franklin Street through an east-facing doorway.

Existing BCDC Public Access Requirements. On March 6, 1986, the Commission issued BCDC Permit No. 1985.019 to the Port of Oakland for commercial and recreational development along a six-block-long section of waterfront property between Jefferson and Harrison Streets. This permit required the entire Franklin Street Plaza between Water Street and San Francisco Bay to become an approximately 20,000-square-foot public access plaza.

On February 13, 1996, Scott's Jack London Seafood Inc. was added as a permittee as part of Amendment No. Eight to the permit, which authorized the construction of the 4,400-square-foot pavilion on the western edge of this plaza. On July 8, 1997, the Commission split this permit into two permits. BCDC Permit 1985.019A covers all of Jack London Square except Scott's Seafood Restaurant and BCDC Permit No. 1985.019B covers only Scott's Seafood Restaurant and the adjacent pavilion.

BCDC Permit No. 1985.019B ("the Scott's permit") authorizes the construction, use and maintenance of a 4,400-square-foot pavilion for shared public and private use at a ratio of 80 percent public use (292 days/year) and 20 percent private use (73 days/year). The current permit allows Scott's to enclose the public pavilion with fabric panels during private events. Scott's is required to provide public access signage, tables and chairs within the pavilion when in public use.

The permit's findings state "[t]he proposed pavilion will be situated to provide an unobstructed 34-foot-wide view corridor from Water Street to the estuary approximately 80 percent of the time when the facility is open for public use. The existing view corridor width through this plaza is approximately 57 feet wide. The authorized pavilion design will maintain an 18-foot-wide view corridor through the plaza to the shoreline during private events. Special Condition II-B-5 requires installation of…café seating to furnish the pavilion, enhancing its utility to the public for daily use." The findings also state, "[t]he Commission finds that the public access improvements sufficiently offset the potential for the pavilion to privatize the existing plaza and that these enhancements will improve overall the public's use and enjoyment of the existing plaza so that the net effect of the project, given the periodic unavailability of the plaza, will result in an overall enhancement of the public access….The Commission finds that the private use is incidental to the public access use, is in keeping with the character of the area and will not unduly obstruct public access to and enjoyment of the Bay."

Revised Proposed Project. Scott's proposed project is located entirely within BCDC-required public access and replaces the existing canvas tent enclosure with a new enclosure consisting of three components: (1) partially retractable wall panels; (2) planters placed on the exterior side of the pavilion; and (3) a storage area and breezeway.

1. **Partially Retractable Wall Panels.** Scott's Restaurant proposes to replace the fabric panels used to enclose the pavilion with 44 five-foot-wide by 15-foot-tall moveable wall panels and two fixed wall panels that are 30 feet long and nearly 15 feet long, respectively. The panels are powder-coated aluminum frames with translucent insulated material that permits light admittance during the day and produces a glow in the evening when lit from within. The wall panels hang from a track within the pavilion soffit and may be rolled into place. When not in use, the wall panels retract into two locations on the north and west sides of the pavilion, where they are stored in a stacked arrangement adjacent to the fixed wall panels. *This wall panel system is almost entirely constructed and in place.*

2. **Planters.** Scott's proposes to place 16 planters around the perimeter of the L-shaped pavilion to protect the wall panels from damage by delivery vehicles when the pavilion walls are in place. Each planter would occupy 4.7 square feet, for a total of 75.2 square feet. When the pavilion is in public use, some of the planters would be stored adjacent to the north fixed wall panels and some would be stored in the Port's public access area south of the storage unit. *The planters have been constructed and are intermittently in place.*

3. **Storage Area and Breezeway.** Scott's proposes to enclose a portion of the area between the restaurant and the pavilion with a storage area and breezeway. The storage area occupies 255 square feet of public access and is used to store furniture and equipment. The breezeway encloses a 122-square-foot area that was previously open but not part of the required public access. The breezeway wall would improve security, reduce ambient sound, and keep the noise, weather, dust, and dirt originating from the delivery and service driveway out of the breezeway area during private pavilion events. *The storage area and breezeway wall have already been constructed and are in place.*

Enforcement Action. The proposed project has been almost entirely constructed and installed in advance of obtaining the necessary BCDC permit amendments and plan review and approval. Nevertheless, the Board must review the project as if it were not in place even though it will view photos and renderings of existing yet unauthorized construction.

Scott's introduced this project to staff as one that would benefit the public as well as Scott's. Based on the original project description, staff advised Scott's that it could likely authorize the conversion of the pavilion enclosure system from canvas walls to retractable panels via plan review and approval. However, prior to obtaining plan review and approval, Scott's commenced and nearly completed construction of its wall panel system. As Scott's further designed and built its project, staff learned that the wall panel system involved more improvements than Scott's had initially envisioned and that a substantial portion of the improvements would be permanently located in required public access areas or impact pedestrian circulation and views of the Bay. During a site visit at Scott's, staff also realized that the storage area was not in fact authorized. The preliminary design thoughts included the wall panels and one fixed doorway on the east side. BCDC staff discouraged placement of the fixed walls and doorway and explained that an amendment would be needed to authorize these desired additions. Later, staff learned about the additional doors and planters that are requested by Scott's.

Prior Board Review on February 10, 2014. The Board's summary and conclusions from its first review of the pavilion project on February 10, 2014 are listed below. Following each bullet point is an italicized explanation summarizing how the applicants have responded.

1. The Board discussed the proposed changes and stated that both physical and visual access have been compromised by these modifications and cause the pavilion to feel more private.

   Applicants' Response: *The applicants have made some project revisions to address negative impacts to physical and visual access by replacing the permanent metal entry doorway with retractable wall panels and by shortening the length of the north wall from 40 to 30 feet.*

2. The Board determined that the permanent door structure on the east side of the pavilion should be removed from the proposal, in part, because it makes the public space feel private and creates a physical and visual obstruction.

   Applicants' Response: *The applicants are proposing to remove the permanent door structure currently in place on the east side of the pavilion. In order to provide the required exits on this side of the pavilion, they will instead install four additional movable wall panels that will have windows and exit doors inset within them.*

3. One Board member recommended that alternate means of enclosing the pavilion (such as an accordion wall or roll-up approach) be investigated to reduce physical and visual obstructions from the enclosure while in both public and private use mode.

   Applicants' Response: *The applicants are choosing to keep the movable wall panel system that has already been installed.*

4. The Board recommended that open views be maintained through the pavilion towards the Bay. A variety of opinions regarding ways to accomplish this were expressed. Some Board members stated that all permanent structures along the north wall should be removed. Others stated that the proposed wall and stacked panels on the north side of the pavilion should be shortened so that they do not extend beyond the corner of the California Canoe & Kayak building where it angles north. One Board member stated that a wall on the north side might provide some benefit by screening the service functions that occur north of it.

   Applicants' Response: *The applicants are proposing to shorten the length of the stacked panels on the north side of the pavilion from 40 to 30 feet so they will not extend beyond the corner of the California Canoe & Kayak building.*

5. The Board agreed that the storage area and wall extensions on the west side of the pavilion block public access in this required public access area and instead represent an extension of Scott's Restaurant.

   Applicants' Response: *The applicants have submitted an amendment request seeking after-the-fact authorization for these elements.*

6. The Board agreed that greater efforts should be made with the placement of site furniture, signage and possibly food carts to attract people to use the pavilion when it is available for public use. Providing similar site furnishings both within and outside of the pavilion was recommended as an approach to be considered to decrease its private appearance and draw the public into it.

   Applicants' Response: *The applicants have developed two alternative designs for public access enhancements. These designs include additional site furniture, paving enhancements, landscaping, kinetic sculptures, lighting improvements and a potential coffee cart.*

7. The Board stated that the pavilion walls should be more transparent to allow for greater visibility into the pavilion when it is in private use mode.

   Applicants' Response: *The applicants are choosing to retain the materials set within the movable wall panel system that has already been constructed. Most of the panels have a translucent material within them that allows for light transmittal but is not see-through in nature. Some of the panels on the south side (facing the waterfront) have glass windows within them. The two new panels proposed to replace the fixed door structure on the east side will have two glass windows and two glass doors.*

8. The Board questioned the practicality of moving the steel planters in and out of place and recommended against using them. Some Board members stated that the planters would create an unwanted barrier in this area. One Board member questioned whether it is appropriate to include planters within the context of this wharf setting.

Applicants' Response: *The applicants continue to propose the placement of the steel planters around the pavilion perimeter in order to protect the wall panel system from being hit by trucks. The proposal includes moving the planters each time the pavilion converts from private use to public access, and storing some of the planters in the delivery area shared with California Canoe & Kayak and storing the remainder of the planters in the Port's public access area between the east wall of the restaurant and the pavilion.*

9. One Board member asked for more information regarding the exiting requirements for the restaurant and how this is being handled. The Board member specifically asked whether one of the required exits for the restaurant is the door that opens into the pavilion and, if so, how this is addressed under code requirements when the pavilion is in private use mode.

   Applicants' Response: *Communication between the applicants, City of Oakland staff and BCDC staff has confirmed that the exiting requirements are being met with the proposal.*

10. The Board requested a second review, following revisions based on their recommendations.

    Applicants' Response: *The applicants agreed to return to the Board for an additional review.*

Design Review Issues. Staff requests that the Board consider the following issues in reviewing the proposed project:

1. **Fixed Wall Panels.** The Board should consider whether the following proposed additions ***within the perimeter of the pavilion structure*** would detract from the public's ability to use and enjoy the public access area required by BCDC Permit No. 1985.019.011B, including consideration of pedestrian circulation and views to the Bay, when the pavilion is available for public use 80 percent of the year:

   a. **Fixed panel walls on north side of pavilion.** The former canvas fabric panels took many hours to install and dismantle and required the use of mechanical ladders. The new wall panels are more easily changed from an open to a closed position, thereby reducing the set-up and take-down time for private events. The currently proposed length of the fixed wall panel on the north side of the pavilion is 30 feet. The Board should consider whether the 30-foot-long fixed wall panel would cause any adverse impacts to the existing required public access and views.

   b. **Fixed panel walls and permanent door on west side of pavilion.** The former canvas fabric panels were entirely removed when the pavilion was in public use. The new wall panel system, storage area/stage and breezeway together convert approximately 65 feet of the western edge of the pavilion from open to enclosed when the pavilion is in public use. The Board should consider whether this construction minimizes any adverse impacts to the existing required public access and views.

2. **Planters, Storage Area and Breezeway.** The Board should consider whether the following proposed additions ***adjacent to the pavilion structure*** would detract from the public's ability to use and enjoy the public access area required by BCDC Permit No. 1985.019.021A, including consideration of pedestrian circulation and views to the Bay, both when the pavilion is in use for private events and when it is open to the public:
   a. **Storage area, stage features and breezeway located on the west side of the pavilion next to the restaurant building.** When the pavilion is in private use, BCDC staff has observed that Scott's stores its public furniture in the public access area rather than in the storage area. The Board should consider whether it is appropriate to allow conversion of a public access area to private use unless, for example, its use is limited to storage of the public seating and tables; and
   b. **Sixteen metal planters placed around the perimeter of the pavilion structure.** The Board should consider whether the proposed planters are the most effective, aesthetic and least intrusive means of protecting the wall panels and whether it is appropriate to store the planters in the delivery area and south of the storage area.
3. **Proposed Public Access Enhancements.** Scott's has developed two alternative designs for public access enhancements. These designs include additional site furniture, paving enhancements, landscaping, kinetic sculptures, lighting improvements and a potential coffee cart.
   a. **Site Furniture:** Scott's proposes to add two stackable metal loveseats within the pavilion during public use. These would be placed in addition to the 15 aluminum tables and 36 aluminum armchairs that Scott's has already acquired.
   b. **Paving Enhancements:** The two design alternatives provide various ideas for paving enhancements. Option A includes new patterns of colored interlocking unit pavers, while Option B includes both a new paver design as well as an area of decomposed granite paving.
   c. **Landscaping:** The proposals include additional trees, hanging flower baskets and a "green screen" in front of the utility cabinet and garbage area at Kincaid's Restaurant.
   d. **Kinetic Sculptures:** Each design alternative includes two kinetic sculptures that would interact with the wind and help to draw the public towards the shoreline edge.
   e. **Lighting and Sound Improvements:** The current incandescent lighting would be replaced with multi-color LED lighting that could be used both during the day and at night. The lighting could wash the translucent walls with a colored glow when in private use and also be used to increase the brightness of the area on cloudy days and at night. If desired, the sound system used for private events could be activated during public use times to provide background music.
   f. **Coffee Cart:** Scott's proposes to include a coffee cart within the pavilion during public use if this is found to be economically viable.

The Board should consider whether the proposed public access improvements adequately offset any adverse impacts of this proposed project to existing required public access:

1. When the pavilion is in private use, it is difficult for the public to see the Bay. As such, do these improvements sufficiently draw the public around the pavilion to the shoreline?
2. What other improvements / amenities could be installed to draw the public through the Franklin Street Plaza to the shoreline?
3. Because the space is used privately periodically, the public may assume it is Scott's private space even when in public access mode. When the pavilion is in public use, do these improvements make the space appear and feel public and like it is part of the Franklin Street Plaza?
4. Finally, should the storage location for all of the moveable public access improvements, both existing and proposed, be identified so that the tables, chairs, signs and a possible coffee cart are not stored in the Port's public access areas when the pavilion is in private use?