

RESOLUTION 2016-146

RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT (1) AUTHORIZING EXECUTIVE DIRECTOR TO DESIGNATE TIME-LIMIT PARKING ZONES; (2) PROHIBITING PARKING IN DISABLED PERSONS PARKING ZONES, ESTABLISHING A SEVENTY-TWO (72) HOUR PARKING RESTRICTIONS, PROHIBITING INOPERABLE VEHICLES AND VEHICLE HABITATION, AND ESTABLISHING THAT VIOLATIONS OF SECTION 8.16 CONSTITUTE AN INFRACTION SUBJECT TO FINES PURSUANT TO SECTION 8.15; (3) ADD FINES FOR VIOLATIONS OF SECTIONS 8.16(d)(e)&(f)

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, consistent with the Public Trust Doctrine, Section 36 of the Port Act specifically gives the Board of Port Commissioners (BPC) the authority to "by ordinance fix the rate[s] . . . or other charges which are appropriate for the use of any of the facilities owned and constructed or services furnished or provided by the [D]istrict" and therefore, it is within the District's authority to set parking rates on tidelands; and

WHEREAS, the Harbor Police Department (HPD) is charged with administering parking regulations for the District in order to allow the public to access tideland areas of interest developed by the District and District tenants; and

WHEREAS, in order to better accomplish these objectives HPD has determined that additions or amendments are necessary to San Diego Unified Port District Code (UPD Code), Article 8, Police Measures/Parking Regulations, in particular amendments to UPD Code Sections 8.11, 8.16 and 8.15; and

WHEREAS, the proposed amendments will (1) grant authority for the Executive Director to determine appropriate time limits for on-street parking, parking lots, and parking areas through an amendment to UPD Section 8.11(b); (2) limit parking in disabled or accessible parking zones to persons with valid disabled parking placards through an amendment to UPD Code Section 8.16(d); (3) limit on-street parking, parking lots, and parking areas to a maximum of

seventy-two (72) hours through an amendment to UPD Code Section 8.16(e); (4) prohibit storage of inoperable vehicles, vehicles for sale or vehicles used for habitation on tidelands through an amendment to UPD Code Section 8.16(f); (5) provide that violations of UPD Code Section 8.16 constitute an infraction that shall be punished pursuant to UPD Code Section 8.15 through an amendment to UPD Code Section 8.16(g); and (6) establish monetary fines for violations of UPD Code Sections 8.16(d)(e)&(f) through an amendment to amend UPD Code Section 8.15; and

WHEREAS, the District is the trustee of said tidelands where the proposed development will be implemented; and

WHEREAS, the proposed development is located within all ten of the District's planning districts; and

WHEREAS, the Port Master Plan land use designations within the limits of the proposed development include, but are not limited to, Commercial Fishing, Commercial Recreation, Harbor Services, Industrial Business Park, Park/Plaza, and Street; and

WHEREAS, the proposed development conform to the certified Port Master Plan because parking is an allowable use in all Port Master Plan land use designations and thus, the development will not change the use of the site nor will it interrupt or expand the existing conforming use of the site; and

WHEREAS, the proposed development also is an amendment for police measures, parking regulations, and enforcement to provide improved public access to parking on District tidelands that would involve no expansion of use beyond that previously existing certified land use designations in the Port Mater Plan; and

WHEREAS, pursuant to Coastal Act Section 30715 and Sections 7d(3) and (4) of the Regulations, parking, parking lots and rates/hours/time limits of operation and enforcement for the same are not listed as appealable developments, requiring an Appealable CDP; and

WHEREAS, in accordance with the District's CDP Regulations (Regulations), the development is considered "Non-Appealable" because it does not qualify as an "Excluded," "Appealable," or "Emergency" development; and

WHEREAS, consistent with the Coastal Act and Regulations, on March 8, 1985 and November 4, 2003, Non-Appealable CDPs were issued for the Convention Center serving garage (see Clerk Document Nos. 17936 and 46744, respectively); on November 8, 2013, a Coastal Act Exclusion was issued to establish parking rates on the B Street Pier and an amendment to parking rates at the Lane Field parking lot (see Clerk Document No. 61018), as well as on April

16, 2014 and August 18, 2014, for the Tuna Harbor Public Parking Lot Pilot Program (see Clerk Document Nos. 61680 and 62218, respectively); on July 6, 2015, two Non-Appealable CDPs were issued – one to modify rates, hours and days of operation for parking meters in North Embarcadero, Tuna Harbor, and Ruocco Park and one to implement flexible parking rates, up to the existing maximum parking rate previously-approved by the Board (see Clerk Document Nos. 63900 and 63901, respectively); and on May 27, 2016, two Non-Appealable CDPs were issued – one to modify rates, hours and days of operation for parking meters in Embarcadero Marina Park South and Embarcadero Marina Park North and one to allow the District's Executive Director to amend the existing market-based parking rates to allow for new flexible rate ranges at a District parking lot and garages (see Clerk Document Nos. 65284 and 65285, respectively); and

WHEREAS, this development is consistent with the existing certified land use designations and is consistent with the policies of the California Coastal Act by reducing overcrowding and overuse of parking areas of any single area; and

WHEREAS, the parking regulations are being established to encourage turnover and prohibit long-term occupation of the parking spaces and turnover generated by the time limits may also allow more coastal visitors to use parking spaces; and

WHEREAS, consistent with past approvals for parking programs, the District has determined that a Non-Appealable CDP for the development should be issued; and

WHEREAS, on September 8, 2016, prior to taking this action and pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code Section 21000, et seq., and its implementing regulations, 14 California Code of Regulations Section 15000, et seq. (CEQA Guidelines) and the District's CEQA Guidelines, the BPC adopted a Statutory Exemption pursuant to CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) and a Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Class 1 – Existing Facilities) and Sections 2.h and/or 3.a of the District's Guidelines for Compliance with CEQA; and

WHEREAS, the proposed development falls within the scope of the CEQA exemption; and

WHEREAS, all materials with regard to the proposed development were made available to the BPC for its review and consideration of the proposed development including, but not limited to, the CEQA exemptions, the Categorical Determination, the associated Staff Report and Agenda Sheet and all documents and records filed in this proceeding by the District and all interested parties.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners (BPC) of the San Diego Unified Port District, as follows:

1. The BPC finds the facts recited above are true and further finds that this BPC has jurisdiction to consider, approve and adopt the subject of this Resolution.

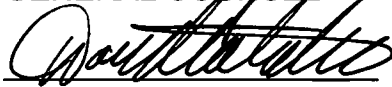
2. The development, in general, consists of amendment to the San Diego Unified Port District Code (UPD Code), Article 8, Police Measures/Parking Regulations, and implementation of the same that will: (1) grant authority for the Executive Director to determine appropriate time limits for on-street parking, parking lots, and parking areas through an amendment to UPD Section 8.11(b); (2) limit parking in disabled or accessible parking zones to persons with valid disabled parking placards through an amendment to UPD Code Section 8.16(d); (3) limit on-street parking, parking lots, and parking areas to a maximum of seventy-two (72) hours through an amendment to UPD Code Section 8.16(e); (4) prohibit storage of inoperable vehicles, vehicles for sale or vehicles used for habitation on tidelands through an amendment to UPD Code Section 8.16(f); (5) provide that violations of UPD Code Section 8.16 constitute an infraction that shall be punished pursuant to UPD Code Section 8.15 through an amendment to UPD Code Section 8.16(g); and (6) establish monetary fines for violations of UPD Code Sections 8.16(d)(e)&(f) through an amendment to amend UPD Code Section 8.15

3. The proposed development is located within all ten of the District's planning districts. The BPC finds that the development conforms to the certified Port Master Plan because parking is an allowable use in all Port Master Plan land use designations and thus, the development will not change the use of the site nor will it interrupt or expand the existing conforming use of the site. Additionally, it is an amendment for police measures, parking regulations, and enforcement to provide improved public access to parking on District tidelands that would involve no expansion of use beyond that previously existing consistent with the existing certified land use designations.

4. The proposed development, as conditioned in the Non-Appealable CDP, is consistent with California Public Resources Code Sections 30715.5, 30718, 30604(c) and 30210-30224, and the Coastal Act public access and recreation policies referenced therein.

5. Based on the entire record available to the BPC and the findings set forth in this Resolution, the Executive Director or her designated representative is hereby authorized and directed to issue a Non-Appealable CDP for the development, entitled "Tidelands Public Parking District-Wide – Police Measures, Parking, Regulations, and Enforcement." Said Non-Appealable CDP shall require compliance with all the conditions set forth in the Non-Appealable CDP.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL



By: ~~Assistant/Deputy~~

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8th day of September, 2016, by the following vote:

AYES: Bonelli, Malcolm, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: Castellanos.

ABSENT: None.

ABSTAIN: None.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel

TD District Clerk

(Seal)