

RESOLUTION 2019-080

RESOLUTION AUTHORIZING ISSUANCE OF AN APPEALABLE COASTAL DEVELOPMENT PERMIT (CDP) TO RIDA CHULA VISTA, LLC FOR A RESORT HOTEL AND CONVENTION CENTER

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, RIDA Chula Vista, LLC (RIDA), as the project applicant and project proponent, is proposing to a resort hotel and convention center (RHCC) on approximately 37 acres of land within the Chula Vista Bayfront (CVB) and certain infrastructure improvements, known as the “Phase 1A Infrastructure” (the RHCC and Phase 1A Infrastructure are collectively referred herein as, Project); and

WHEREAS, as more particularly described in the corresponding Agenda Sheet and draft appealable Coastal Development Permit (CDP) attached thereto, both of which are incorporated by reference, the Project generally consists of (1) demolition, clearing and/or grubbing of approximately 27.7 acres of the existing improvements; (2) street improvements and associated street lighting in the Chula Vista Bayfront Master Plan (CVBMP) Harbor District, including approximately 3,500 linear feet of proposed streets that will be paved with asphalt concrete (AC) and developed with concrete curb and gutter on both sides of the streets; (3) pedestrian sidewalks and bicycle paths; (4) utility improvements, including sewer water and dry utilities; (5) drainage improvements; and (6) the RHCC consisting of a resort hotel, a convention center, a 340-foot-wide bayward area (340-Foot Area), visitor-serving uses (e.g., public open space plazas, retail, and food and beverage establishments), other commercial recreation uses, a public esplanade and phased parking; and

WHEREAS, the Project is located on several parcels that are delineated on Precise Plan Map Figure 19 in Planning District 7 of the certified Port Master Plan (PMP) and the Project components are listed in the PMP Project List (Table 19) as Project Nos. 11: “Resort Conference Center (H-3)”; 13: “Signature Park Extension (H-8 and HP-1)”; 14: “Harbor District Roadway and Infrastructure Improvements”; 15: “Harbor District Baywalk (HP-3A)”; “North Harbor Retail and Marina Support (H-9)”; “Harbor Resort Hotel and Cultural/Retail (H-23)”; and “Chula Vista Harbor Reconfiguration and Marina Support (HW-4)”; and

WHEREAS, the PMP land use designations within the limits of the Project are “Commercial Recreation” (H-3, H-9, and H-23), “Park/Plaza” (H-8, HP-1, and HP-3A), and “Recreational Boat Berthing” (HW-4 and HW-6); and

WHEREAS, those certain Chula Vista Bayfront Development Policies (Development Policies) (District Clerk Document No. 59407) and a Public Access Plan (PAP) (District Clerk Document No. 59408) are part of the certified PMP; and

WHEREAS, the Development Policies consist of detailed and specific planning and development objectives and policies for the CVB covering environmental protection, energy conservation, views and aesthetics, public transit, pedestrian orientation, and visitor-serving requirements and the PAP includes a description of the proposed circulation improvements including the roadways, the Bayshore Bikeway, public transit improvements, shuttle, and parking requirements; and

WHEREAS, the Project is consistent with the certified PMP as the Project conforms to the land use designations of “Commercial Recreation” (H-3, H-9, and H-23), “Park/Plaza” (H-8, HP-1, and HP-3A), and “Recreational Boat Berthing” (HW-4 and HW-6), Precise Plan text, and Project list, as well as the Development Policies, the PAP, as well as that certain Natural Resource Management Plan (NRMP) (District Clerk Document No. 65065) through design considerations incorporated into the Project and implementation of the standard and special conditions specified in the CDP; and

WHEREAS, as part of the proposed CDP, RIDA is required to comply with all applicable mitigation measures that are specified in the Final EIR MMRP and all applicable policies and implementation measures in the Development Policies, PAP, NRMP, and that certain CVB Settlement Agreement (Clerk Document No. 56523); and

WHEREAS, in particular, required conditions are incorporated into the proposed CDP to ensure the Project’s conformance with all applicable mitigation measures, policies and implementation measures, a Public Access Plan specific to the RHCC, and all the applicable Development Policies, which address visitor serving requirements, pedestrian orientation, views and aesthetics, public transit, energy conservation, and environmental protection; and

WHEREAS, the Project constitutes “development” under Section 30106 of the Coastal Act (California Public Resource Code Section 30000 et seq.) as it, among other things, proposes demolition, erection of structures, grading, and change in the intensity of use of land and accordingly, a Coastal Act authorization from the District is required; and

WHEREAS, under the Chapter 8 of the Coastal Act, the District’s certified PMP and the District’s CDP Regulations, the Project has been determined to require an “appealable” CDP (see Coastal Act Section 30715 and District’s CDP Regulations Section 7(4) that includes the sole categories of appealable

development within the District's jurisdiction; and Table 19 (Project List) of the PMP, herein incorporated by reference); and

WHEREAS, the Project is fully consistent with Chapter 8 of the Coastal Act, Coastal Act Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein as it provides extensive public access and recreational opportunities through many features, including, but not limited to, the establishment of a public esplanade, the 340-Foot Area and its public open space plaza area and lower-cost commercial recreational uses (in the form of a pool day pass program), free public access to the hotel lobby, great room and main terrace, parking, bike paths, sidewalks and enhanced landscaping; and

WHEREAS, the Board of Port Commissioners (BPC) finds that said application and attachments contain correct and accurate statements of fact; and

WHEREAS, the BPC has concluded that the Project conforms to the certified PMP and the Coastal Act; and

WHEREAS, the BPC considered the appealable Coastal Development Permit during a public hearing at the June 18, 2019 BPC meeting; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) and as supported by the entire record, the Project was previously analyzed in a Final Environmental Impact Report (Final EIR) certified by the Board by Resolution No. 2010-78 on May 18, 2010 (UPD #83356-EIR-658; SCH #2005081077; District Clerk Document No. 56562), an Addendum to the Final EIR (Clerk Document No. 60864 and certified by Resolution No. 2013-138) and a Second Addendum to the Final EIR (filed in two parts under Clerk Document Nos. 68404 and 68405 and certified by Resolution No. 2018-068) (collectively, "CEQA Analyses"); and

WHEREAS, the CEQA Analyses analyzed the overall CVBMP at a program level and certain components of the CVBMP, including the RHCC on Parcel H-3 and associated infrastructure, at the project level; and

WHEREAS, the RHCC analyzed in the CEQA Analyses is larger than the Project, with a maximum square footage of 3 million square feet; 2,000 hotel rooms; 415,000 square feet of convention space (of which 200,000 square feet would be contiguous exhibit and flex space); 100,000 square feet of restaurant; 20,000 square feet of retail; hotel tower height of 240 feet; atrium height of 140 feet; convention center height of 120 feet; and a construction duration up to 48 months. The proposed Project is smaller as it will include 2 million square feet; 1,600 hotel rooms; 374,240 square feet of convention and meeting space (of which 165,000 square feet would be contiguous exhibit and flex space); 60,000 square feet of restaurant; 12,500 square feet of retail; hotel tower height of 236 feet, 8 inches; atrium height of 80 feet; convention center height of 100 feet; and a construction

duration of 36 months with the balance of the Project including demolition of existing improvements, roads, bicycle/pedestrian circulation, and utility infrastructure were contemplated and/or required as mitigation measures within the Final EIR and/or design requirements of the subsequent certified PMPA, Development Policies, and CVB PAP; and

WHEREAS, as such, the CEQA Analyses analyzed the potential impacts of the Project and are adequate for the Board to authorize issuance of a CDP; and

WHEREAS, pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the CEQA Analyses, the District finds that authorizing issuance of a CDP does not require further environmental review as: 1) no substantial changes are proposed to the Project and no substantial changes have occurred that require major revisions to the CEQA Analyses due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that (a) shows the Project will have one or more significant effects not discussed in the CEQA Analyses, (b) identifies significant impacts would not be more severe than those analyzed in the CEQA Analyses, (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, and (d) no changes to mitigation measures or alternatives have been identified or are required; and

WHEREAS, the District finds that authorizing issuance of a CDP does not require further environmental review pursuant to CEQA Guidelines Section 16168 as no new effects would result from the activities beyond those analyzed in the CEQA Analyses and feasible mitigation measures were incorporated into the Project; and

WHEREAS, the Project and the CDP comply with Section 87 of the Port Act which allows for all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities; and

WHEREAS, the Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine.

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. In general, the Project consists of, without limitation: (1) demolition, clearing and/or grubbing of approximately 27.7 acres of the existing improvements; (2) street improvements and associated street lighting in the CVBMP Harbor District, including approximately 3,500 linear feet of proposed streets that will be paved with asphalt concrete (AC) and developed with concrete curb and gutter on both sides of the streets; (3) pedestrian sidewalks and bicycle paths; (4) utility improvements, including sewer water and dry utilities; (5) drainage improvements; and (6) the RHCC consisting of a resort hotel, a convention center, a 340-foot-wide bayward area (340-Foot Area), visitor-serving uses (e.g., public open space plazas, retail, and food and beverage establishments), other commercial recreation uses, a public esplanade and phased parking. The Project is more particularly described in the corresponding agenda sheet, draft CDP and previously adopted CEQA Analyses.

3. The Project is located in the CVB Harbor District of Planning District 7, which is delineated on Precise Plan Map Figure 19 of the certified Port Master Plan (PMP) and the Project components are listed in the PMP Project List (Table 19) as Project Nos. 11: "Resort Conference Center (H-3)"; 13: "Signature Park Extension (H-8 and HP-1)"; 14: "Harbor District Roadway and Infrastructure Improvements"; 15: "Harbor District Baywalk (HP-3A)"; "North Harbor Retail and Marina Support (H-9)"; "Harbor Resort Hotel and Cultural/Retail (H-23)"; and "Chula Vista Harbor Reconfiguration and Marina Support (HW-4)". The PMP land use designations within the limits of the Project are Commercial Recreation" (H-3, H-9, and H-23), "Park/Plaza" (H-8, HP-1, and HP-3A), and "Recreational Boat Berthing" (HW-4 and HW-6).

4. The BPC finds that the Project constitutes "development" under Section 30106 of the Coastal Act (see California Public Resource Code Section 30000 et seq.) as it, among other things, proposes demolition, erection of structures, grading, and change in the intensity of use of land and accordingly, a Coastal Act authorization from the District is required.

5. The BPC finds that under the Chapter 8 of the Coastal Act, the District's certified PMP and the District's CDP Regulations, the Project has been determined to require an "appealable" CDP (see Coastal Act Section 30715 and District's CDP Regulations Section 7(4) of the that includes the sole categories of appealable development within the District's jurisdiction; and Table 19 (Project List) of the PMP pages 106 to 109, herein incorporated by reference).

6. The BPC finds the Project is fully consistent with the Coastal Act, including, without limitation Chapter 8 of the Coastal Act, Coastal Act Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein as it provides as it provides extensive public access and recreational opportunities through many features, including, but not limited to, the establishment of a public esplanade, the 340-Foot Area and its public open space plaza area and lower-cost commercial recreational uses (in the form of a pool day

pass program), free public access to the hotel lobby, great room and main terrace, parking, bike paths, sidewalks and enhanced landscaping.

7. The BPC finds that the Project is consistent with the PMP because the Project conforms to the land use designations of "Commercial Recreation" (H-3, H-9, and H-23), "Park/Plaza" (H-8, HP-1, and HP-3A), and "Recreational Boat Berthing" (HW-4 and HW-6), Precise Plan text, and Project list, as well as the Development Policies, the PAP, as well as the NRMP through design considerations incorporated into the Project and implementation of the standard and special conditions specified in the CDP, including, without limitation, conditions that ensure conformance with all applicable mitigation measures, policies and implementation measures, a Public Access Plan specific to the RHCC, and all the applicable Development Policies, which address visitor serving requirements, pedestrian orientation, views and aesthetics, public transit, energy conservation, and environmental protection.

8. The BPC finds that the Project is within the scope of the CEQA Analyses. The BPC further finds that pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the CEQA Analyses, the certified PMP, proposed CDP, Agenda Sheet and supporting document, no further environmental review is required as: A) no substantial changes are proposed to the Project and no substantial changes have occurred that require major revisions to the CEQA Analyses, due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and B) no new information of substantial importance has come to light that (i) shows the Project will have one or more significant effects not discussed in the FEIR, including the First Addendum and Second Addendum (ii) identifies significant impacts would not be more severe than those analyzed in the FEIR, including the First Addendum and Second Addendum (iii) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, and (iv) no changes to mitigation measures or alternatives have been identified or are required.

9. The BPC also finds the Project is consistent with the Public Trust Doctrine, as the Project complies with Section 87 of the Port Act which allows for all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed actions are consistent with the Public Trust Doctrine.

10. 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 an Appealable Coastal Development Permit to RIDA Chula Vista, LLC for a "Resort Hotel and Convention Center" after

passage of the ten (10) working day appeal period as described in the CDP Regulations of the District. Said Appealable Coastal Development Permit shall require compliance with all conditions set forth therein; provided, however, as a condition of approval, RIDA Chula Vista, LLC shall indemnify and hold the San Diego Unified Port District (District) harmless against all third-party legal challenges, claims, lawsuits, proceedings and the like, including reimbursement of all attorneys' fees, costs and expenses incurred by the District related to the approval of this Appealable Coastal Development Permit. Said condition is independent of any agreement between the District and RIDA Chula Vista, LLC.

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 18th day of June 2019, by the following vote:


AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Valderrama, and Zucchet

NAYS: None.

EXCUSED: None.

ABSENT: None.

ABSTAIN: None.


Garry J. Bonelli, Chairman
Board of Port Commissioners

ATTEST:


Donna Morales
District Clerk

(Seal)