

San Diego Unified Port District
CEQA and COASTAL DETERMINATIONS
and
NOTICE OF APPROVAL

Project: Ketch Grill and Taps Restaurant Facility Replacement
Location(s): 2614 Shelter Island Drive, San Diego, California 92106
Parcel No.(s): 003-034
Project No.: 2017-201
Applicant: Michael Morton, The Brigantine, Inc., 7889 Ostrow St., San Diego, California 92111
Date Approved: January 23, 2018

Project Description

The proposed project is the replacement and reconstruction of a restaurant facility located at 2614 Shelter Island Drive in San Diego, California (herein referred to as "proposed project").

On April 4, 2017, the District issued a Categorical Determination for the renovation of the Ketch Grill and Taps Restaurant (Categorical Determination 2017-037 Ketch Grill and Taps Restaurant Renovation) for the following Project (herein referred to as "original project").

The approved scope of the original project included renovations to an existing restaurant facility which included indoor and outdoor dining areas, storage areas, and office space ancillary to the restaurant, landscaping, and an open-air promenade, which may include seating. The original project included replacement of interior and exterior finishes, including signage, restrooms, and kitchen. The original project also included the reconfiguration of both the existing indoor and outdoor dining spaces, but did not propose to result in any additional seating. In addition, the original project included the conversion of the existing office space located in the structure on the southwest corner of the project site to a walkup coffee and gelato shop with no seating proposed. Overall, the original project proposed to expand the footprint of structures by approximately 449 square feet (sf). However, the expansion was not approved to increase the overall occupant load or restaurant seating because a portion of the existing indoor seating would be replaced by expanded kitchen, bar, and entry area. No seating was proposed in conjunction with the walkup coffee and gelato shop. Therefore, the total restaurant seat occupancy was proposed to be reduced from approximately 225 to 205, with implementation of the original project. Seating placed in the open-air promenade area was required to be available to the public, and would not require patronage of either the restaurant or coffee shop for access. Finally, no changes were proposed to the existing dock area, or to access to the docks on the original project site.

Since District issuance of Categorical Determination 2017-037 for Ketch Grill and Taps Restaurant Renovation, the following work was completed without the benefit of District-issued permits or approvals on the original project site:

- Partial demolition of an approximately 15-foot (ft)-high, 4,234 sf main building and 2,576 sf of restaurant patio area (totaling 6,810 sf of restaurant area) and 345 sf of attached storage area (Per the City of San Diego Municipal Code Section §129.0503 - Exemptions from a Demolition/Removal Permit, "A Demolition/Removal Permit is not required to demolish only a part of a structure". The City of San Diego did not require the issuance of a Demolition/Removal Permit based on this exemption.)
- Structural modifications to 1,826 sf of accessory buildings; and,
- Partial demolition of the main building and patio slab areas.

The District became aware of the unpermitted work through a site inspection and on December 12, 2017, the District, in accordance with its authority under the law, Sections 0.13, 10.09(b)

and 10.09(e) of the San Diego Unified Port District Code and its Coastal Development Permit regulations issued the permittee/applicant an administrative citation and stop, cease and desist order.

The proposed project scope includes the remodel and partial reconstruction and replacement of the indoor and outdoor dining spaces and accessory buildings, which include the proposed walkup coffee and gelato shop, ancillary office space, and storage space. The proposed project would expand the total footprint of structures by approximately 831 sf from the footprint of the original site. However, no increased intensity of use or worst case a negligible increase in intensity of use would occur because the total seating occupancy would still be reduced from approximately 225 to 205. Any additional seating placed in the open-air promenade area is required to remain available to the public, and would not require patronage of either the restaurant or coffee and gelato shop for access. Any seating provided in the open-air promenade area would be available to the public and would require at least 2 conspicuous signs stating that the area is open to the public will be posted in the open-air promenade facing each direction so that the public using the promenade can see the signs. No changes are proposed to the existing dock area, or to access to the docks are proposed on the proposed project site. Work to specifically complete the proposed project includes:

- Installation of structural Stormwater Best Management Practices, including approximately three biofiltration planter units;
- Pour the concrete slabs for the new main building and patio;
- Reconstruction and replacement of approximately 19-ft-high main restaurant building and patio to include approximately 4,788 sf of interior dining area, approximately 1,393 sf of outside dining area (totaling 6,181 sf of dining area), and approximately 345 sf of attached storage area;
- Modifications and remodel of 1,826 sf accessory buildings (gelato and coffee shop, ancillary office space, and storage space); and,
- Exterior refinishing of all buildings.

Continued construction of the proposed project is anticipated to commence in early 2018, and take approximately three months to complete. It is anticipated that the proposed project would generate approximately ten vehicle and truck trips per week during construction. Vehicle and truck trips are associated with deliveries, transport of construction workers, and hauling of construction demolition debris. Due to its nature and limited scope, construction of the proposed project will generate a minor amount of vehicle and truck trips and will require limited use of construction equipment, and will not result in impacts. During construction of the proposed project, the adjacent open-air promenade will remain open and accessible to the public at all times. Furthermore, the applicant is responsible for complying with all applicable federal, state, and local laws regulating, among other items, construction demolition debris, hazards and hazardous materials, noise, and stormwater.

During operation, a negligible or no increase in traffic, criteria pollutant emissions and greenhouse gas emissions are anticipated because of the reduced seating associated with the proposed project.

The following table summarizes the difference between the original restaurant, the original project and the proposed project:

	Original Restaurant	Original Project	Proposed Project
Project Site SF	12,001 sf	12,001 sf	12,001 sf
Structures Footprint*	6,128 sf	5,968 sf	6,959 sf
Maximum Height of	15 feet	19 feet	19 feet

	Original Restaurant	Original Project	Proposed Project
Structures			
Restaurant**			
Indoor Eating***	3,889 sf (Indoor)	N/A (Indoor)	4,788 sf (Indoor)
Outdoor Eating	2,576 (Outdoor)	N/A (Outdoor)	1,325 sf (Outdoor)
Storage	345 sf (Storage)	N/A (Storage)	345 sf (Storage)
Total Restaurant Area	6,810 sf (Total)	5,968 sf (Total)	6,458sf (Total)
Ancillary Building Conversion	Previously a 1,894 sf ancillary office and storage space	N/A	A 1,826 sf coffee shop, ancillary office space, and storage space
Promenade Improvements	N/A	Yes (open to the public)	Yes (open to the public)
Public Outdoor Seating Amenities with Signage	No	Yes	Yes
Total Patron Capacity (seats)	225	205	205
In-water Work or Dock Alternations	N/A	No	No

*Excludes Outdoor Patio Dining Area

**Excludes ancillary building addressed in the next row of the table.

***Kitchen area and back of house are included in the total indoor dining for both original and proposed.

The following categorical determinations are based on the project submittal for the proposed project and all project information known to the District as of the date of this determination.

CEQA DETERMINATION

Based upon the above description, the proposed project is determined to be Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301(e)(2) (Existing Facilities) and 15302(b) (Replacement or Reconstruction) and Sections 3.a (3) and 3.b. (2) of the District's *Guidelines for Compliance with CEQA* because the project would involve the replacement of a restaurant facility that would result in a negligible expansion of the existing facility and have substantially the same purpose and capacity as the structure being replaced. CEQA Guidelines Sections 15301(e)(2) and 15302(b) and Sections 3.a (3) and 3.b. (2) of the District's CEQA Guidelines are as follows:

§15301 Existing Facilities: Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing at the time of the lead agency's determination.

- (e)(2) Additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet and the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive.

AND/OR

3.a. Existing Facilities (SG § 15301) (Class 1): Includes operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:

- (3) Interior and exterior remodeling or alterations, involving negligible or no expansion of use beyond that previously existing, including, but not limited to, marine terminal facilities, and marine-oriented commercial, industrial, and public and commercial recreational facilities, including buildings, piers, wharves, marine ways; railroads; airport facilities, runways, taxiways, aprons, and ancillary structures to those facilities; or mechanical systems and equipment.

AND/OR

§15302 Replacement or Reconstruction: Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

- (b) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.

AND/OR

3.b. Replacement or Reconstruction (SG § 15302) (Class 2): Includes replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site and will have substantially the same purpose and capacity as the structure being replaced. This exemption includes, but is not limited to:

- (2) Replacement or reconstruction of marine terminal facilities, and marine-oriented commercial, industrial, and public and commercial recreational facilities, including buildings, piers, piles, wharves, marine ways; railroads; airport facilities, runways, taxiways, aprons, and ancillary structures to those facilities; electrical and mechanical systems and equipment; where the new structure will be on essentially the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.

The Categorical Exemptions listed above are appropriate for the proposed project because the project would involve the reconstruction and replacement of a restaurant facility that would result in a negligible expansion of the use beyond that previously existing because it would have a reduced seating capacity, but an increase in support facilities. While the addition of the coffee shop may have a minor increase in visitors to the proposed project site, it is not anticipated to be an attraction that pulls visitors to site that are not already visiting Shelter Island. The proposed project also has the same purpose – a restaurant – and a reduced capacity, resulting in fewer impacts, as the structure being reconstructed and replaced. The project would not involve the use of significant amounts of hazardous substances and

would comply with all local, state, and federal laws regulating construction demolition debris, hazards and hazardous materials, and stormwater. The District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2), because the location of this project would not result in an impact that would ordinarily be considered insignificant, no cumulative impacts would result from this projects, as the facilities would have substantially the same purpose and capacity, there is no reasonable possibility that the project would result in a significant impact, the project site would not result in damage to scenic resources, especially within a state scenic highway, the project site is not located on within a hazardous waste site, and the project would not result in a substantial adverse change in the significance of a historical resource.

The restaurant is located in a developed area where all public services and facilities including, but not limited to, public parks, waste, fire, police and water are available to serve the maximum permissible development in the Port Master Plan. The proposed project is not located in an environmentally sensitive area.

Overall, the proposed project will expand the footprint of structures by approximately 1,244 sf. However, the expansion would not increase the overall occupant load or seating of the restaurant because a portion of existing indoor seating would be replaced by expanded kitchen, bar, and entry area. No seating is proposed in conjunction with the walkup coffee and gelato shop. Therefore, the total dining seat occupancy would be reduced from approximately 225 to 205 with implementation of the project. Thus, the proposed project will not increase the existing structures more than 10,000 sf and will involve negligible expansion of the use of the existing facility. Furthermore, the replacement structure would have the same purpose – restaurant and coffee shop – and a reduced capacity as that being replaced, as they are both restaurant facilities and the total dining seat occupancy would be reduced from approximately 225 to 205 with implementation of the project.

Pursuant to CEQA Guidelines Section 15062, a 35-day statute of limitations for this CEQA exemption shall apply from the date a Notice of Exemption is posted with the San Diego County Clerk, or a 180-day statute of limitations for this CEQA exemption shall apply if no Notice of Exemption is filed.

The proposed project complies with Section 87 of the Port Act, which allows for visitor-serving 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 project is consistent with the Public Trust Doctrine.

CALIFORNIA COASTAL ACT

PORT MASTER PLAN

The project is located in Planning District 1, Shelter Island/La Playa, which is delineated on Precise Plan Map Figure 4 of the certified Port Master Plan. The Port Master Plan land use designation within the limits of the proposed project is Commercial Recreation. The project conforms to the certified Port Master Plan because it proposes the replacement of a restaurant facility consistent with the existing certified land use designation. The project will not change the use of the site nor will it interrupt or significantly expand the existing conforming use of the site. Further, the proposed project will not impede public access along the open-air promenade during construction or by implementation of the proposed project.

CATEGORICAL DETERMINATION

The above project proposes the replacement of a restaurant facility and will involve negligible expansion of use beyond that previously existing would be located on the same site and have the same

purpose and capacity as the structure replaced. This project is consistent with the existing certified land use designation and is Categorical Excluded under Sections 8.a (5), 8.a (12), and 8.b. (1) of the District's *Coastal Development Permit Regulations*, as follows:

- 8.a. Existing Facilities: The operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:
- (5) Additions to existing structures, provided that the addition will not result in an increase of more than 50 percent of the floor area, or 2,500 square feet, whichever is less; or additions to existing structures of not more than 10,000 square feet of floor area, if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the Port Master Plan, and where that area in which the project is located is not environmentally sensitive.
 - (12) Interior and exterior remodeling of airport facilities, marine terminal facilities, existing marine-oriented industrial structures, and commercial or recreational facilities.

AND/OR

- 8.b. Replacement or Reconstruction: Replacement or reconstruction of existing structures and facilities where the new structure will be located essentially on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.
- (1) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.

Overall, the proposed project will expand the footprint of structures by approximately 1,244 sf. However, the expansion would not increase the overall occupant load or seating of the restaurant because a portion of existing indoor seating would be replaced by expanded kitchen, bar, and entry area. No seating is proposed in conjunction with the coffee and gelato shop. Therefore, the total dining seat occupancy would be reduced from approximately 225 to 205 with implementation of the project. Thus, the project will not increase the existing structures more than 10,000 sf and will involve negligible expansion of the use of the existing facility. Any seating placed in the open-air promenade area would remain available to the public, and would not require patronage of either the restaurant or coffee shop for access. No changes are proposed to the existing dock area, or to access to the docks.

Pursuant to California Coastal Act Section 30717, there is a 10-working-day period to appeal this "Coastal Act Categorical Determination of Exclusion" to the California Coastal Commission.

RANDA CONIGLIO
President/CEO

Determination by:
Juliette Orozco
Associate Planner
Development Services

Signature: Juliette Orozco
Date: 1/23/2018

Deputy General Counsel

Signature: Randa Coniglio
Date: 1/23/2018