

**CEQA and COASTAL DETERMINATIONS
and
NOTICE OF APPROVAL**



Project: Tideland Use and Occupancy Permit to Fish Market Restaurants, Inc., for parking and Reestablishment of Parking Spaces for Commercial Fisherman's Use
Location: One Tuna Lane, San Diego, CA 92101
Parcel No.: 018-104
Project No.: 2019-038
Applicant: Fish Market Restaurants, Inc., 750 North Harbor Drive, San Diego, CA 92101
Date Approved: February 6, 2019

PROJECT DESCRIPTION

The proposed project includes 1) the continuation of two Tideland Use and Occupancy Permits (individually, TUOP and collectively, TUOPs) to Fish Market Restaurants, Inc. (Tenant), as the project proponent/applicant, for their continued use of thirty-one (31) parking spaces in the G-Street Mole parking lot located at One Tuna Lane in the City of San Diego, and 2) the continued conversion of 15 public parking meters adjacent to Tuna Harbor in an area designated as Commercial Fishing for commercial fishermen's use only. Collectively, the proposed project will convert and add 40 commercial fishermen parking spaces and 6 shared parking spaces between commercial fishermen and the Tenant.

The Fish Market has historically occupied parking in the area through short-term TUOPs. The 31 parking spaces previously occupied by the Fish Market where located in an area designated as Commercial Fishing in the District's certified Port Master Plan (PMP). A group of commercial fishermen approached the District and requested that the Tenant's parking be removed and some or all of the parking spaces be given back to the commercial fishermen. In accordance with the TUOP and previously issued Coastal Development exclusion, the District issued a 30-day termination notice to the Tenant and planned on reestablishing the 31 parking spaces for commercial fishermen. Subsequently, the District, Tenant and San Diego Fishing Working Group, collectively, devised a solution for the parking needs at G Street Mole.

As a pilot project and based on the commercial fishermen's anticipated parking needs at Tuna Harbor for the next year, six (6) of the parking spaces in the Commercial Fishing designated area will be shared between the Tenant and commercial fishermen. These parking spaces have historically been occupied by the Tenant. The original term for the 6-shared parking space TUOP will expire on February 28, 2019, however, the proposed project would extend the term until the final report for the pilot project can be completed by the District, for a term not to extend past February 28, 2020. The remaining 25 parking spaces for the Tenant's operations will be provided on G Street Mole in an area designated as Commercial Recreation in the PMP. The term for the 25 parking space TUOP will expire February 28, 2021.

The TUOPs will continue to include the following terms, among others: Tenant is required to occupy the 25 parking spaces (located in the Commercial Recreation designated area) first before parking any vehicles in the 6 shared parking spaces. If the remaining parking spaces in the Commercial Fishing designated area are full and a commercial fisherman needs a parking space, he/she may park in one of the 6 shared- parking spaces. If the 6 parking spaces are all occupied by the Tenant, the commercial fisherman may approach the Tenant's parking operator and request the vehicle(s) be moved. Upon such a request, the parking operator shall relocate the vehicle(s) and may, at its option, use a District-issued short-term parking placard at any metered parking space within Tuna Harbor/G Street Mole.

The area proposed for use under these TUOPs would be used only and exclusively for the purpose of parking for Tenant's employees, guests, valet and for no other purpose whatsoever. A limited number of employees may use the spaces only if they are not needed by patrons to the restaurant and only during morning or evening hours. The Tenant would be responsible for compliance with all laws and

regulations associated with the activities on or in connection with the above-described premises, and in all uses thereof, including those regulating stormwater and hazardous materials. No new development or construction on the TUOP site is proposed or authorized as part of this TUOP. The site is currently used and is proposed to be used exclusively for the purpose of parking.

As an express term of the TUOPs and a condition of this approval, either or both of the TUOPs may be terminated by the Tenant or the Executive Director of District or her duly authorized representative as a matter of right and without cause at any time upon the giving of thirty (30) days' notice in writing to the other party of such termination.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

CATEGORICAL DETERMINATION

Categorical Exemption: SG §15301, Class 1/Section 3.a: Existing Facilities

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:

- (4) New and renewed short-term tenancy agreements which do not result in change in the existing use. This exemption does not apply to any new development associated with the activities of the tenant. This exception is also inapplicable if the cumulative impact of continuing the existing use or conditions in the same place, over time, is significant.

The proposed project is determined to be Categorically Exempt pursuant to the CEQA Guidelines and the Section of the District's *Guidelines for Compliance with CEQA* as identified above. This is appropriate for the proposed project because it would continue to be used for parking and would involve no expansion of use beyond that previously existing and would not result in a significant cumulative impact due to the continuation of the existing use. 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).

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.

CALIFORNIA COASTAL ACT

PORT MASTER PLAN CONSISTENCY

Planning District: 3 - Centre City Embarcadero (Precise Plan Figure 11)

Land Use Designations: Commercial Fishing; Commercial Recreation; and Open Space

The proposed project conforms to the certified Port Master Plan because it would continue to be used for parking, consistent with the existing certified Land use designations.

CATEGORICAL DETERMINATION

Categorical Exclusion: Section 8.a: Existing Facilities

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.

The proposed project is determined to be Categorical Excluded pursuant to the Section of the District's Coastal Development Permit Regulations as identified above. This is appropriate for the proposed project because it would continue to be used for parking and would not allow any new land uses on the site, and would involve negligible or no expansion of use beyond that previously existing. Additionally, continued parking configurations would continue to support commercial fisherman, a priority use under the Coastal Act and the PMP.

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.


CALIFORNIA PUBLIC TRUST DOCTRINE

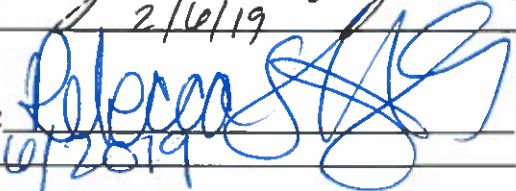
The proposed project complies with Section 87.(a)(1) and 87.(a)(2) of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation, and for all 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.

RANDA CONIGLIO
President/CEO

Determination by:
Juliette Orozco
Associate Planner
Development Services

Deputy General Counsel

Signature: 
Date: 2/16/19

Signature: 
Date: 2/16/2019