



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

**Project:** Tideland Use and Occupancy Permit to Fish Market Restaurants, Inc., for Joint-Use Parking Spaces  
**Location:** One Tuna Lane, San Diego, CA 92101  
**Parcel No.:** 018-104  
**Project No.:** 2020-019  
**Applicant:** Fish Market Restaurants, Inc., 750 North Harbor Drive, San Diego, CA 92101  
**Date Approved:** February 11, 2020

**PROJECT DESCRIPTION**

The proposed project includes a Tideland Use and Occupancy Permit (TUOP) for the conversion of seven (7) commercial fishermen parking spaces to shared parking spaces between commercial fishermen and Fish Market Restaurants (Tenant), in the City of San Diego, California. These parking spaces would be in addition and adjacent to six (6) shared parking spaces in the Commercial Fishing designated land use designation granted via an existing TUOP that expires on February 28, 2020. Based on a parking study conducted in 2018 and 2019 and discussions with the Tenant, commercial fisherman, and Coastal Commission staff, it was determined that more spaces could be allotted as shared spaces. Therefore, the project proposes to increase the number of shared parking spaces by seven (7) to thirteen (13) total spaces; the term for the shared parking spaces would be for five (5) years and would expire on February 28, 2025.

The TUOP will continue to include the following terms, among others: Tenant is required to occupy the 25 parking spaces (located in the Commercial Recreation designated land use designation) designated under a previous TUOP first before parking any vehicles in the 13 shared parking spaces. If the remaining parking spaces in the Commercial Fishing designated land use are full and a commercial fisherman needs a parking space, he/she may park in one of the 13 shared parking spaces. If the 13 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).

The area proposed for use under these TUOP 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 project submittal and all project information known to the District as of the date of this determination.

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**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 Categorical 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 negligible 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. The proposed project would not change the use of the site nor would it interrupt or expand the existing conforming use of the site.

#### ***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, would not allow any new land uses on the site, and would involve negligible 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**

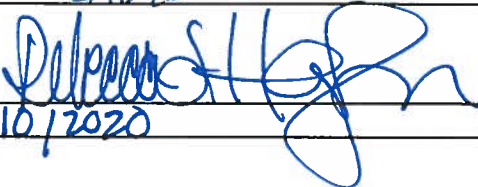
The proposed project complies with Section 87.(a)(1) and 87.(a)(2) of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, 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:  
Michael Paul  
Assistant Planner  
Development Services

Deputy General Counsel

Signature:   
Date: 2/11/20

Signature:   
Date: 2/10/2020