



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

Project: Holdover of Tideland Use and Occupancy Permit to Fish Market Restaurants, Inc.,
for Parking
Location: One Tuna Lane, San Diego, CA 92101
Parcel No.: 018-104
Project No.: 2021-008
Applicant: Fish Market Restaurants, Inc., 750 North Harbor Drive, San Diego, CA 92101
Date Approved: Feb 10, 2021

PROJECT DESCRIPTION

The proposed project includes the extension of an existing Tideland Use and Occupancy Permits (TUOP) to Fish Market Restaurants, Inc. (Tenant), as the project proponent applicant, for their continued use of twenty-five (25) parking spaces in the G-Street Mole parking lot located at One Tuna Lane in the City of San Diego.

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 6-shared-parking-space-TUOP was terminated in 2020 due to extenuating circumstances related to COVID-19. The remaining 25 parking spaces for the Tenant's operations were provided for on G Street Mole in an area designated as Commercial Recreation in the PMP as outlined in the Categorical Determination and Notice of Approval 2018-017. The 25 parking spaces subject to the TUOP are no longer be available to the general public, and the District had anticipated establishing 25 new public parking spaces on N. Harbor Drive across from Ruocco Park as a replacement. However, this area was taken out of consideration for these parking spaces due to construction staging needs for an adjacent project outside of the District's jurisdiction and there are no available areas to create new public parking in the vicinity.

The current term for the TUOP will expire February 28, 2021, however, this extension would allow the TUOP to be extended for 90 days until the District can process an Amendment to Non-Appealable Coastal Development Permit (CDP) No. CDP-2015-01 to incorporate the loss of these 25 public parking spaces. Upon completion of this amendment, the term may be allowed to be extended until February 20, 2023.

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 TUOP and a condition of this approval, the TUOP 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:

- (7) 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 exemption 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 involves the extension of an existing short-term tenancy agreement for existing parking spaces. 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 Designation: Commercial Recreation

The proposed project conforms to the certified Port Master Plan because it would involve the extension of an existing short-term tenancy agreement for existing parking spaces consistent with the existing certified Land use designation. The proposed project would not change the use of the site nor would it interrupt or expand the existing conforming uses 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 Categorically Excluded pursuant to the Section of the District's *Coastal Development Permit Regulations* as identified above. The Categorical Exclusions listed above are appropriate for the proposed project because the sites would continue to be used for parking and would not allow any new land uses or new construction or development on those sites.

Additionally, an amendment to Non-Appealable Coastal Development Permit (CDP) No. CDP-2015-01 will be required in the future to adjust the total number of parking spaces outlined in the CDP for the area. The Board of Port Commissioners will consider that CDP amendment, as well as potentially other needed approvals.

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.

For the portion of the proposed project located outside of the District's CDP jurisdiction, additional approvals may be required from other agencies.

CALIFORNIA PUBLIC TRUST DOCTRINE

The proposed project complies with Section 87.(a)(2) of the Port Act, which allows 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.

JOE STUYVESANT
President/CEO

Determination by:
Juliette Orozco
Associate Planner
Development Services

Signature: Juliette Orozco
Date: Feb 10, 2021

Deputy General Counsel

Signature: Rebecca S. Harrington
Date: Feb 10, 2021