



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

Project: Fireworks Display by Orthodontic Pearls at U.S.S. Midway
Location: 910 North Harbor Drive, San Diego, CA 92101
Parcel No.: 018-097
Project No.: 2023-136
Applicant: Julie Andrews, office@fireworksamerica.com, (619) 938-8277
Date Approved: 09/19/2023

PROJECT DESCRIPTION

The proposed project (event permit application No. P-0016638) is for an approximately 5-minute fireworks display on October 13th, 2023 by Orthodontic Pearls in the city of San Diego, California. The fireworks would launch from the deck of the U.S.S. Midway and would display over San Diego Bay. The net weight of fireworks is approximately 78 pounds with up to 200 shells with a size no larger than 2.5 inches. This would be the fourteenth of 23 allowable annual fireworks events, and the allowable cumulative pounds of fireworks (1,759 pounds) would not be exceeded. Therefore, the proposed fireworks display event (temporary event) is in accordance with the location, duration and size requirements of the San Diego Unified Port District Fireworks Display Event Ordinance (Fireworks Ordinance). Additionally, the Applicant is required to comply with other Fireworks Ordinance requirements related to fireworks chemical composition and packaging, best management practices for fireworks display event preparation, discharge and clean-up, event transportation and parking management, as well as compliance with the San Diego Water Board General Permit, compliance with other required permits and compliance with applicable laws. The fireworks display event is not located within a mile of any federally or state-listed avian species nesting colonies nor is the launch site located in shallow water with the potential for eelgrass to occur. Therefore, Fireworks Ordinance requirements related to the protection of sensitive species and habitat, and eelgrass avoidance and mitigation would not apply.

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.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

CATEGORICAL DETERMINATION

The proposed project is not a separate "project" for CEQA purposes but is a subsequent discretionary approval related to an approved project. (CEQA Guidelines § 15378(c); Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist. (2012) 206 Cal.App.4th 1036.) The project was analyzed in a Final Environmental Impact Report (Final EIR) for the San Diego Bay and Imperial Beach Oceanfront Fireworks Display Events Project (SCH No. 2015081013; UPD EIR-2015-115, Clerk's Document No. 66738). On May 25, 2017, by Resolution No. 2017-075, the Board certified the Final EIR, adopted the Findings of Fact and Statement of Overriding Considerations, and a Mitigation Monitoring Reporting Program. Accordingly, the proposed project is merely a step in furtherance of the original project for which environmental review was performed and no further environmental review is required.

Additionally, none of the conditions described in CEQA Guidelines Section 15162(a) have occurred and thus based on the review of the entire record, the District finds that the proposed project would not require further environmental review and no supplemental or subsequent CEQA has been triggered.

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 is for a temporary fireworks event. The launching site would be from the deck of the U.S.S. Midway, but due to its temporary nature (one day) and limited footprint, the event would not preclude the use of the site for commercial recreation (specifically a museum) and therefore is 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.d: Minor Alterations to Land

8.d. Minor Alterations to Land: Minor public or private alterations in the condition of land, water, and/or vegetation which do not involve the removal of mature, scenic trees, including but not limited to:

- (5) Minor temporary uses of land and water having negligible or no permanent effects on the environment, including festivals, boating activities, parades, and running or bicycling events

The proposed project is determined to be Categorically 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 is for a temporary fireworks event that would not involve the removal of mature, scenic trees.

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)(5) of the Port Act, which allows for the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses. 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
Acting President/CEO

Determination by:
Lillian Mattes
Assistant Planner
Development Services

Signature: Lillian Mattes
Date: 09/19/2023

Deputy/Assistant General Counsel

Signature: [Signature]
Date: 09/19/2023