

San Diego Unified Port District

CEQA and COASTAL DETERMINATIONS and NOTICE OF APPROVAL

Project: Tideland Use and Occupancy Permit to Fish Market Restaurants, Inc., for Parking, Reestablishment of Parking Spaces for Commercial Fisherman's Use and Creation of New Public Parking Spaces

Location(s): One Tuna Lane, San Diego, CA 92101 and Replacement Public Parking Spaces

Parcel No.(s): 018-104; 018-066

Project No.: 2018-017

Applicant: Fish Market Restaurants, Inc., 750 North Harbor Drive, San Diego, CA 92101 and the San Diego Unified Port District 3165 Pacific Highway, San Diego, CA 92101

Date Approved: February 5, 2018

Project Description

The proposed project includes 1) 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) conversion of historically private parking spaces into twenty-five (25) public metered parking spaces, including minor improvements such as potentially new asphalt striping, and installation of lights and meters, as well as establishment of public parking fees for the parking spaces located on N. Harbor Drive across from Ruocco Park in the City of San Diego (as a second phase, additional public and/or Port parking may be converted on the site); and 3) conversion of 15 public parking meters adjacent to Tuna Harbor in an area designated as Commercial Fishing for commercial fishermen's use only and associated improvements, such as removal of the meters. 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 term for the 6-shared parking space TUOP will expire on February 28, 2019. 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 25 parking spaces subject to the TUOP would no longer be available to the general public, but the District will establish 25 new public parking spaces on N. Harbor Drive across from Ruocco Park. This will require minor improvements, including potentially a new layer of asphalt, striping and installation of parking meters and lighting. As a second phase, the District may add additional public parking spaces or Port used parking spaces at that same location.

The TUOPs will 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.

CEQA DETERMINATION

Based upon the above description, the project is determined to be Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), and 15304 (Minor Alterations of Land), as well as Section 3.a (4), 3.c(2), and 3.d of the District's *Guidelines for Compliance with CEQA*, as follows:

3.a. Existing Facilities (SG § 15301) (Class 1): Includes operation, repair, maintenance, or minor alteration of existing public and 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 exemption is also inapplicable if the cumulative impact of continuing the existing use or conditions in the same place, over time, is significant.

3.c. New Construction or Conversion of Small Structures (SG § 15303) (Class 3): Includes construction of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and conversion of existing small structures from one use to another with minor modifications to the exterior of the structure. Examples of this exemption include:

(2) Accessory (appurtenant) structures and mechanical equipment including, but not limited to, garages, sheds, railway spur tracks, pilings, temporary trailers, industrial equipment enclosures, fences, parking, on-site roadways, walkways and health and safety devices.

- 3.d. Minor Alterations to Land (SG § 15304) (Class 4): Includes minor alterations in the condition of land, water and/or vegetation not involving removal of mature, scenic trees.

The Categorical Exemptions listed above are appropriate for the proposed project because the sites would continue to be used for parking and would not allow any new uses or major construction or development on those sites. Conversion of private parking to a public metered parking and associated minor improvements such as asphalt, striping and installation of meters and lighting is also appropriate under the Categorical Exemptions as it would only require minor construction. Additionally, removal of the 15 public parking meters would only involve minor improvements and would convert those spaces for commercial fishermen, a priority use under the Coastal Act and the PMP. The proposed project would not remove of mature, healthy or scenic trees.

None of the exceptions listed in CEQA Guideline Section 15300.2 would be triggered by the project. The project site is located in a highly urbanized area with no sensitive resources onsite or nearby. The project would not have cumulative or significant impacts due to the small scope of the project and continuation of legacy uses. The project site is not a designated or eligible historic resource (as they both are parking lots without any buildings and no known significant historic events took place at the parking lots) or hazardous waste site. Finally, the proposed project would not impact sensitive resources since the project site has been graded and are currently asphalt parking lots.

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

The proposed project is located in Planning District 3, Centre City Embarcadero, which is delineated on Precise Plan Map Figure 11 of the certified Port Master Plan (PMP) and in Planning District. The PMP land use designations within the limits of the proposed project are Commercial Fishing, Commercial Recreation and Open Space. The project conforms to the certified PMP. Specifically, the project implements a one-year pilot program for the 6 shared parking spaces in the Commercial Fishing designated area and the commercial fishermen with the addition of the 40 spaces do not anticipate needing these 6 parking spaces on an exclusive basis during that year (see Section 8.A of Appendix C of the PMP). Additionally, the 25 parking spaces for the restaurant's use are located in the Commercial Recreation designated area and restaurants and related accessory uses including parking are allowed in this land use designation and in the Precise Plan text. The removal of the 15 parking meters and conversion of those spaces for commercial fishermen is consistent with the Commercial Fishing designation and Precise Plan text, which gives priority of this area to bona fide commercial fishermen unless it is no longer needed or an alternative location is identified. The 25 converted public parking spaces on N. Harbor Drive across from Ruocco Park, in the Open Space designation, will continue a historic non-conforming use but allow for public parking, supporting access to the remaining Open Space area and the North Embarcadero with its vast Open Space and Promenade/Plaza designations. No other development is proposed for this site at this time. Moreover, this use is consistent and compatible with the character of the site and designation (see page 15 of the PMP). The project would not change the uses of the sites.

CATEGORICAL DETERMINATION

The above-described proposed project is consistent with the existing certified land use designations, PMP and is Categorical Excluded under Sections 8.a, 8.c(3), and 8.d 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

- 8.c. New Construction or Conversion of Small Structures: Construction and location of limited numbers of new, small facilities or structures and installation of small, new equipment and facilities, involving negligible or no change of existing use of the property, including but not limited to:
 - (3) Accessory structures, including, but not limited to, on-premise signs, small parking lots, fences, walkways, swimming pools, miscellaneous work buildings, temporary trailers, small accessory piers, minor mooring facilities, buoys, floats, pilings, or similar structures; and seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar structures.

- 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

Additionally, an amendment to Non-Appealable Coastal Development Permit (CDP) No. CDP-2015-01 will be required in the future to add the 25 newly created public parking spaces on N. Harbor Drive to that CDP at the established rates and subject to the conditions therein. The Board of Port Commissioners will consider that CDP amendment, as well as potentially other needed approvals at that time to establish the parking fees at that location.

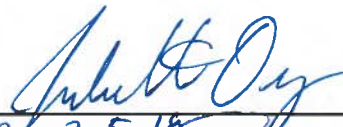
The Categorical Exclusions listed above are appropriate for the proposed project because the sites would continue to be used for parking and would not allow any new land uses or new major construction or development on those sites. Conversion of the 25 parking spaces on N. Harbor Drive from private parking to a public parking with meters and associated minor improvements such as asphalt, striping and installation of meters and lights is also appropriate under the Categorical Exemptions as it would require only minor construction. Additionally, removal of the 15 public parking meters would only involve minor improvements and would convert those spaces for commercial fishermen, a priority use under the Coastal Act and the PMP. The proposed project would not remove of mature, healthy or scenic trees.

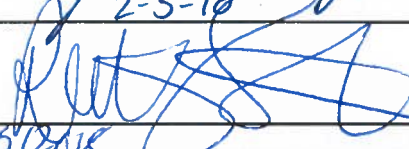
Pursuant to California Coastal Act Section 30717, there is a 10-working-day period to appeal this "Coastal Act Categorical Determination of Exclusion" to the California Coastal Commission.

RANDA CONIGLIO
President/CEO

Determination by:
Juliette Orozco
Associate Planner
Development Services

Senior Deputy General Counsel

Signature: 
Date: 2-5-18

Signature: 
Date: 2/5/2018