

Attachment B to Agenda File No. 2017-0290



SAN DIEGO UNIFIED PORT DISTRICT

Real Estate Development Department

Development Services

P.O. BOX 120488

SAN DIEGO, CA 92112-0488

(619) 686-6291

COASTAL DEVELOPMENT PERMIT

Applicant: Ernesto Medina, P.E., Chief Engineer, San Diego Unified Port District

Project: Demolition of Vacant Structure, Platform, and Pilings

Location: 1360 North Harbor Drive, San Diego, CA 92101

You are hereby granted a Coastal Development Permit. This permit is issued in conformance with the California Coastal Act of 1976 and the Coastal Permit Regulations of the San Diego Unified Port District, as adopted by the Board of Port Commissioners on July 1, 1980, Resolution No. 80-193, and as amended on December 2, 1980, Resolution No. 80-343, and on February 14, 1984, Resolution No. 84-62, in accordance with the provisions for the issuance of a ☐ Emergency ☒ Non-Appealable ☐ Appealable Coastal Development Permit.

Date of Board Action: June 20, 2017

Board of Port Commissioners Resolution Number: 2017-XXX

Date of Permit: ☒, 2017

Application Number: 2017-052

Permit Number: CDP-2017-XX

The project, consisting of the "development" more particularly described herein, is located between the sea (as defined in the Coastal Act) and the first inland continuous public road paralleling the sea. The project is not a category of development that is "appealable" under California Public Resources Code¹ Section 30715 and hence, requires a "non-appealable" Coastal Development Permit (CDP). Consequently, the project is not subject to any Coastal Act Chapter 3 policies. However, the project is fully

¹ California Public Resource Code is herein referred to as the "Coastal Act" unless otherwise noted.

consistent with Coastal Act Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein and the District's Coastal Development Permit Regulations. The project is also consistent with the certified Port Master Plan because it is demolishing an existing vacant structure, which is allowed in any land and water use if a permit is issued. The retention of the vacant structure, piles and platform on the project site is not feasible (as that term is defined by Section 30108) as the piles are in serious disrepair and are not structurally sound. Furthermore, the existence of the vacant structure creates an attractive nuisance, invites trespassing and poses a potential public safety hazard.

This permit is limited to the development described below and set forth in material on file with the San Diego Unified Port District (District), and subject to the terms, conditions, and provisions hereinafter stated:

DEVELOPMENT

The District (referred to herein as "Permittee"), proposes demolition of a vacant structure and associated platforms and piles located at 1360 North Harbor Drive in San Diego. The existing one-story, approximately 24,855-square-foot structure will be demolished, which will involve the removal of the existing building, pilings, platform, and dock, and accessory improvements such as fencing (collectively, "Project"). The Project may be, but is not required to be, conducted in phases whereby the existing building, dock and accessory improvements are demolished (Phase I) and then the platform and pilings are demolished (Phase II). Fencing and aesthetically pleasing screening may be erected after demolition (either after entire demolition of the site or after Phase I) for public safety reasons. The height for the fencing and screening shall be consistent with industry standards for construction fencing, which is approximately eight (8) feet in height.

Demolition of the project will involve in-water work for the removal of the existing platform and supporting piles. The in-water demolition work will be from barges on the water. A staging area on the North Embarcadero Promenade will also be required during demolition. This may temporarily displace a portion of the promenade and parking, which will be restored to existing configurations upon completion of demolition of the entire site, or after each phase if the Project is phased. Up to approximately 55 parking spaces will be temporarily closed and pedestrian traffic will be rerouted from the North Embarcadero Promenade in front of the Project site through the closed parking area, separated by K-Rail and other physical barriers from North Harbor Drive for the duration of demolition.

Demolition of the entire site will take approximately four months without phasing; provided, however, phasing of the Project is not anticipated to significantly increase the time of actual demolition, but there may be a time lapse between Phase I and Phase II. Phase I would take approximately two to three months and Phase II would take approximately a month to two months.

Demolition² will involve the complete removal of:

- The existing 24,855-square-foot building
- The existing 23,285-square-foot platform
- The existing 69 16-inch and 24-inch diameter support piles³
- The remnants of the existing 565-square-foot dock
- Accessory improvements, such as fencing and signage

Demolition work will be completed entirely from two barges. One barge will hold a crane and other demolition equipment and the other used to haul the debris to the Tenth Avenue Marine Terminal for unloading and transport to a recycling center or landfill. Demolition hours will be from 7:00 A.M. to 7:00 P.M. Monday through Saturday. A daily peak of approximately 12 workers will work from the barges during the demolition. Construction workers for the demolition will park remotely at the demolition contractor's facilities and travel to the project site by boat from the Tenth Avenue Marine Terminal. Exhibit 2 shows the location of existing piles to be removed.

STANDARD PROVISIONS

1. Permittee shall adhere strictly to the current plans for the Project as approved by the District and the Development, as described above and the Project described in the Final Mitigated Negative Declaration (UPD #MND-2016-91; SCH 2016081007; Clerk Document No. 66702), dated November 2016, and adopted by Resolution No. 2016-202 on December 13, 2016, for the Project.
2. Permittee shall notify the District of any changes in the Project and herein described. Notification shall be in writing and be delivered promptly to the District. District approval of the project change may be required prior to implementation of any changes.
3. Permittee and the Project shall meet all applicable codes, statutes, ordinances and regulations, and Permittee shall obtain all necessary permits from local, regional, state, and federal agencies.

² If the Project is phased, Phase I includes demolition of the existing 24,855-square-foot building, accessory structures and potentially the remnants of the existing 565-square-foot dock (the dock demolition may occur during Phase II) and Phase II includes demolition of existing 23,285-square-foot platform and the existing 69 support piles.

³ Upon further review of information received by The Brigantine, Inc., it was determined that the existing platform and dock contain a total of 69 piles: 63 piles beneath the platform (47 16-inch diameter octagonal vertical piles and 16 24-inch diameter round battered piles) and 6 16-inch diameter octagonal piles beneath the dock. This equates to an existing pile area of 135 square feet.

4. Permittee shall conform to, and this permit is subject to, the permit rules and regulations of the District, including, but not limited to, the District's Coastal Development Permit Regulations.
5. Permittee shall be responsible for compliance with ADA and Title 24 specifications.
6. Permittee shall commence development within two (2) years following the date of the permit issuance by the District. Construction shall be pursued in a diligent manner and completed within a reasonable period of time.
7. The permit is in no way intended to affect the rights and obligations heretofore existing under private agreements nor to affect the existing regulations of other public bodies.
8. This permit shall not be valid unless two copies have been returned to the Real Estate Development Department of the District, upon which copies the Permittee has signed a statement agreeing that the Permittee will abide by the terms, conditions, limitations, and provisions of the permit.
9. The Permittee and contractor shall perform all best management practices (BMPs) during construction and maintenance operations. This includes no pollutants in the discharges to storm drains or to Pacific Ocean, to the maximum extent practicable.
10. All District tidelands are regulated under Regional Water Quality Control Board Order No. R9-2013-0001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0109226, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds Within the San Diego Region (Municipal Permit). The Municipal Permit prohibits any activities that could degrade stormwater quality.

The Permittee shall ensure that post-construction / operational use of this Project site complies with the Municipal Permit and District direction related to permitted activities including the requirements found in the District's Jurisdictional Runoff Management Program (JRMP). The JRMP is available on the District website: <https://www.portofsandiego.org/environment/clean-water.html> or by contacting the Planning and Green Port Department, (619) 686-6254.

11. This project may be subject to the District post-construction BMP requirements. If so, approval of the project by the District is necessarily conditioned upon submission by the Permittee of a project specific Stormwater Quality Management Plan (SWQMP) that meets District requirements and is compliant with the District BMP Design Manual (JRMP Appendix D). The Permittee shall implement all post-construction structural and non-structural BMPs throughout the life of the project.

The implementation and maintenance of the post-construction BMPs constitute regulatory obligations for the Permittee, and failure to comply with the Municipal

Permit, the JRMP, or the District approved SWQMP, including the specific BMPs contained therein, may be considered a violation of the permit and a violation of District Code.

12. In the discretion of the District, prior to commencement of construction, Permittee may be required to require that their contractor(s) furnish security, naming the District as a dual obligee, in the form of a performance bond and a payment bond, each in an amount deemed appropriate by the District to guarantee payment of the subcontractors, completion of the approved work under this permit, and compliance with the conditions and limitations upon which such permit is granted. Prior to commencement of construction, Permittee may also be required by the District to furnish security in the form of a payment bond in an amount deemed appropriate by the District to guarantee payment to the contractor(s) for work performed under this permit.

SHORT TERM CONSTRUCTION MEASURES

1. To minimize noise during construction, the Permittee will require the construction contractor to (a) restrict normal construction activities from 7:00 am to 7:00 pm; (b) keep construction equipment as far as possible from sensitive receptors; and (c) provide acoustical shielding around equipment operating at night, from 10:00 pm to 7:00 am.
2. To minimize nuisance effects from lights or glare during construction, the Permittee will require the construction contractor to shield and direct night lighting away from adjacent areas.
3. All construction equipment shall be maintained in peak condition to reduce operational emissions.
4. Diesel equipment shall use low-sulfur diesel fuel.
5. Electric equipment shall be used to the maximum extent feasible during construction.
6. The Permittee shall require the construction contractor to provide construction employees with transit and ride share information.
7. The Permittee shall ensure that any site contamination is identified and a site restoration plan, acceptable to the appropriate regulatory agencies, is prepared and implemented to reduce any existing contamination to a level that has no potential to threaten employee or human health as defined under existing regulations. If any potential exists for impacts to employee health from exposure to hazardous materials, workers shall be provided with adequate protective gear.

8. The Permittee shall require all employees that are exposed to noise levels in excess of Occupational Safety and Health Administration hearing protection thresholds, during construction or operation, to wear noise protection devices (ear plugs and covers) that are protective of individual hearing.
9. Permittee and/or contractor shall comply with State Water Resources Control Board Order No. 2009-0009-DWQ (NPDES General Permit No. CAS000002), and Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (commonly known as the "Construction General Permit"), as adopted, amended, and/or modified. Construction activity subject to the Construction General Permit requires development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The Permittee and/or contractor are responsible for submitting to the District a SWPPP that is compliant with the Construction General Permit and District required minimum BMPs. The District requires the use of District SWPPP templates. Once approved, the SWPPP document shall be maintained on the construction site at all times and made available for review by the District or other regulatory agencies.

The Permittee and/or contractor is responsible for ensuring that the SWPPP document is maintained on the site, implemented, and amended as required throughout construction. No discharges of any material or waste, including potable water, wash water, dust, soil, trash, and debris, may contaminate stormwater or enter the stormwater conveyance system. Any such material that inadvertently contaminates stormwater or enters the stormwater conveyance system as part of site operations shall be removed immediately. All unauthorized discharges to the stormwater conveyance system or the Bay or the ocean shall be reported immediately to the District Planning and Green Port Department, in order to address any regulatory permit requirements regarding spill notifications.

A project's total disturbed soil area (DSA) shall not exceed 5 acres during the rainy season (October 1 - April 30) and 17 acres during the non-rainy season (May 1 - September 30). The District may temporarily increase these limits if the individual site is in compliance with applicable stormwater regulations and the site has adequate control practices implemented to prevent stormwater pollution.

SPECIAL PROVISIONS

1. Permittee shall comply with all applicable Mitigation Monitoring and Reporting Program requirements, as described in the "Portside Pier Restaurant Redevelopment Project" Final Mitigated Negative Declaration (UPD #MND-2016-91; SCH 2016081007; Clerk Document No. 66702), dated November 2016, and adopted by Resolution No. 2016-202 on December 13, 2016. The Mitigation Measures applicable to the Project are attached as Exhibit 4 to this CDP.

2. Permittee shall implement all resurfacing, paving, and striping necessary to return promenade and parking amenities affected during construction activities to conditions suitable for public use.
3. Although not required to reduce impacts to below a level of significance, the following condition has been added to the Permit⁴: In accordance with permitting requirements from USACE, Permittee shall conduct an in-water survey for eelgrass (good for 90 days) within 90 days of the start of demolition to confirm no eelgrass has colonized the project area.

Exhibits:

1. Project Location Map
2. Piles To Be Removed
3. Demolition Area
4. Applicable Project Mitigation Measures from the Mitigation, Monitoring, and Reporting Program (MMRP) for the Portside Pier Restaurant Redevelopment Project

If you have any questions on this permit, please contact the Real Estate Development Department-Development Services of the San Diego Unified Port District at (619) 686-6291.

RANDA CONIGLIO
President/Chief Executive Officer

By: _____
Wileen C. Manaois
Principal, Development Services
Real Estate Development Department

I have read and understand the terms, conditions, limitations, and provisions of this permit and agree to abide by them.

Signature of Permittee

Date

ERNESTO MEDINA, P.E., Chief Engineer
Engineering – Construction Department
San Diego Unified Port District

⁴ The additional conditions are a result of stakeholder feedback or for clarification purposes only.



 Project Boundary



**TUCKER
SADLER**

1600 FIFTH AVENUE SUITE 300
SAN DIEGO, CALIFORNIA 92101
619 596-1600 FAX 619 596-5907

**NOT FOR
CONSTRUCTION**

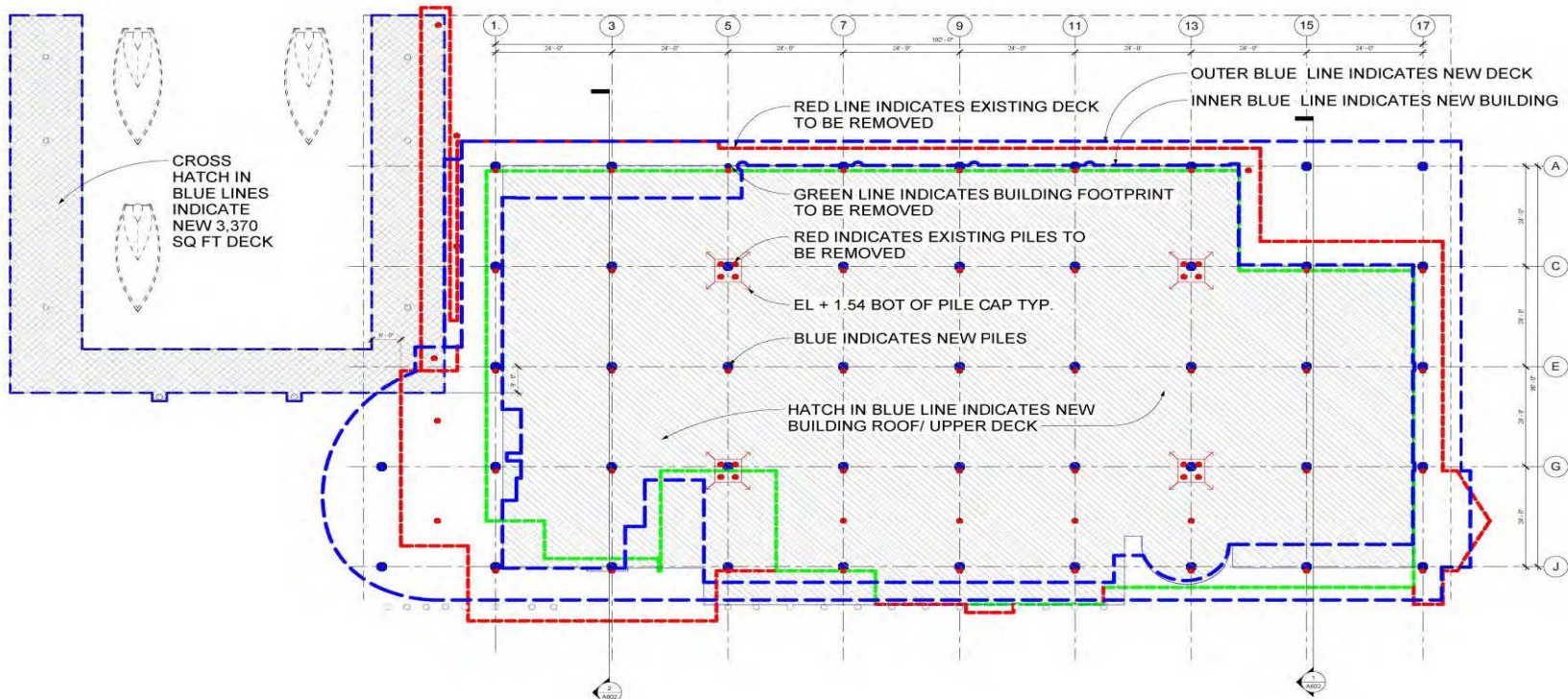
Design
Development

PORTSIDE PIER

No.	Issued / Revision	Date

ARCHITECT OF RECORD:

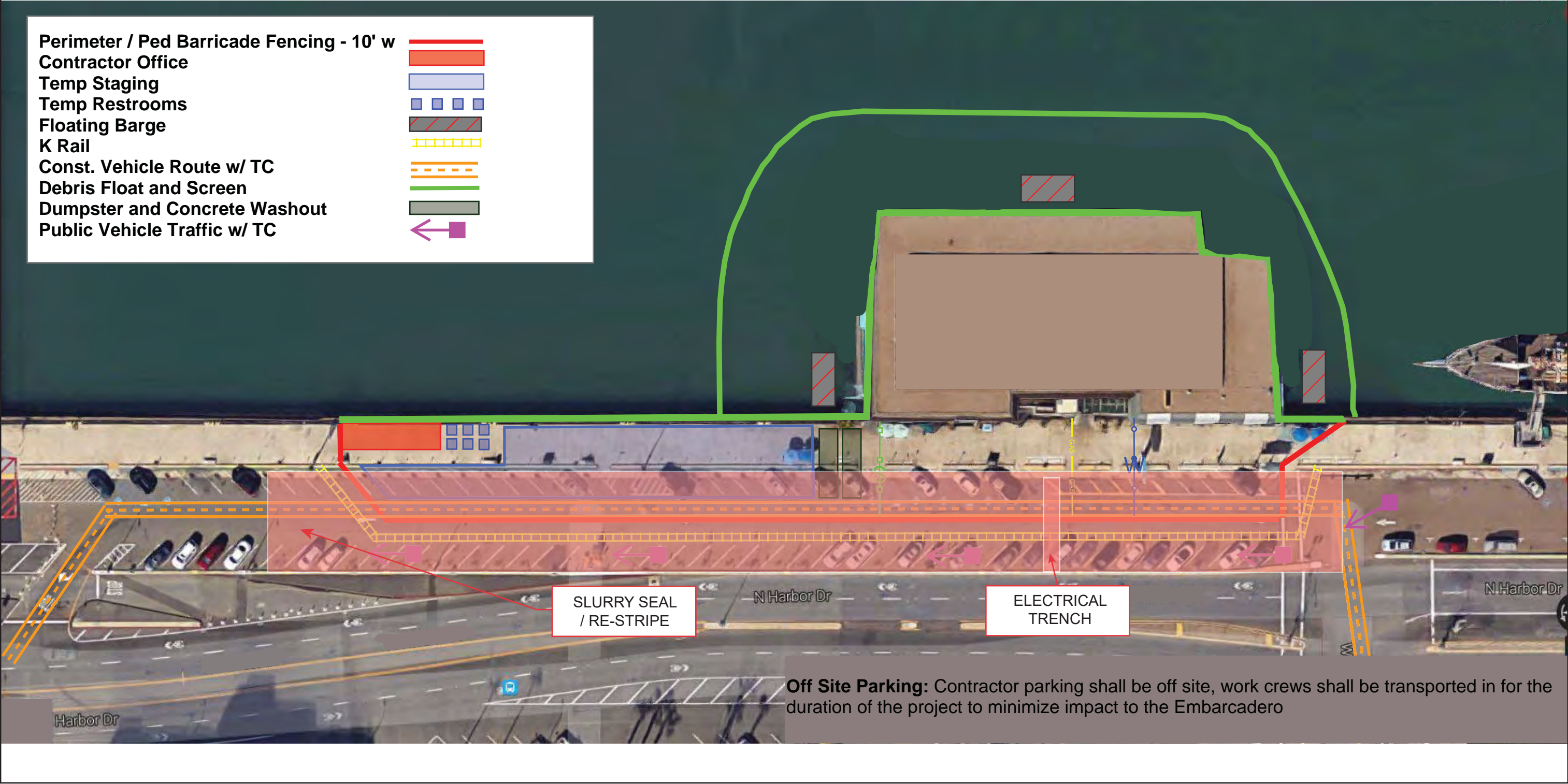
PROJECT # 21511.00	DRAWN BY: MV
DATE ISSUED: 12/01/16	CHECKED BY: MV
DRAWING NUMBER DWG OF	DRAWING A200



1. SITE PLAN
1" = 10'-0"



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FIGURE 8
Project Construction Area

Mitigation Measures Applicable to the Project (Demolition of Vacant Structure, Platform, and Piles)				
Measure	Monitoring Requirement	Responsible for Implementation	Completion Requirement	Agency Responsible for Verification
Extracted from the Portside Pier Restaurant Redevelopment Project Final Mitigated Negative Declaration Mitigation Monitoring and Reporting Program				
Biological Resources				
BIO-1: If pile removal occurs between April 1 and September 15, the contractor shall deploy a turbidity curtain around the pile removal and driving areas to restrict the surface visible turbidity plume to the area of removal and driving. It shall consist of a hanging weighted curtain with a surface float line and shall extend from the surface to 15 feet down into the water column. This measure is intended to minimize the area of the bay in which visibility of prey is obstructed. The applicant shall ensure that this measure is implemented for the duration of the pile-removal or pile-driving activity.	Construction	Applicant	During pile removal	Port District
BIO-2: Should vibratory pile-removal activities be conducted between April 1 and September 15, a qualified biological monitor shall be retained by the contractor at its expense to conduct California least tern monitoring during the tern breeding season within 500 feet of construction activities. The monitor shall be empowered to delay work commencement and shall do so if terns are actively foraging (e.g., searching and diving) within the work area. Should adverse impacts to terns occur (e.g., agitation or startling during foraging activities), the biological monitor shall be empowered to delay or halt construction and shall do so until least terns	Construction	Applicant	During pile removal within the California least tern breeding season District shall maintain monitoring reports in project files	Port District

Mitigation Measures Applicable to the Project (Demolition of Vacant Structure, Platform, and Piles)				
Measure	Monitoring Requirement	Responsible for Implementation	Completion Requirement	Agency Responsible for Verification
have left the project area.				
BIO-3: A biological observer or observers shall monitor pile removal, if using a vibratory hammer, with the authority to stop work if a green sea turtle or marine mammal approaches or enters the shutdown zones (500 meters for vibratory removal or driving and 317 meters [117 meters plus a 200-meter buffer] for impact driving). The additional buffer is required because a marine mammal or green sea turtle spends much of its time underwater. A buffer gives the observer time to observe the animal before it dives, and allows them to stop construction before it enters the shutdown zone. Prior to the start of pile-removal activities, the biological observers shall monitor the shutdown zones for at least 15 minutes to ensure that green sea turtles and marine mammals are not present. If a green sea turtle or marine mammal approaches or enters the shutdown zone during the pile-removal activities, the biological observer(s) shall notify the construction contractor to stop the activity. The pile-removal activities shall be stopped and delayed until either the biological observer(s) visually confirm that the animal has left the shutdown zone of its own volition, or 15 minutes have passed without re-detection of the animal. If the on-site biological observer(s) determine that weather conditions or visibility prevent the visual detection of green sea turtles or marine	Construction	Applicant	During pile removal District shall maintain monitoring reports in project files	Port District

Mitigation Measures Applicable to the Project (Demolition of Vacant Structure, Platform, and Piles)				
Measure	Monitoring Requirement	Responsible for Implementation	Completion Requirement	Agency Responsible for Verification
<p>mammals in the shutdown zones, such as heavy fog, low lighting, or sea state, in-water construction activities with the potential to result in Level A Harassment (injury) or Level B Harassment (disturbance) shall not be conducted until conditions change. The following shutdown zones, and buffers, will avoid the potential for impacts.</p> <p>For Demolition (assuming vibratory pile removal):</p> <ul style="list-style-type: none"> A shutdown zone consisting of the area within 500 meters of work would be required to avoid potential injury and behavioral effects to green sea turtles, managed fish, and marine mammals. <p>Additional requirements:</p> <ul style="list-style-type: none"> Observers will observe for 30 minutes after construction has ended. Construction activities requiring observers will commence 45 minutes after sunrise, and 45 minutes before sunset to provide the observers with enough visibility to observe marine species in the project area. Biological monitoring shall be conducted by qualified observers. The observers shall be trained in green sea turtle and marine mammal identification and behaviors, and would have no other construction-related tasks. The 				

Mitigation Measures Applicable to the Project (Demolition of Vacant Structure, Platform, and Piles)				
Measure	Monitoring Requirement	Responsible for Implementation	Completion Requirement	Agency Responsible for Verification
<p>observers shall determine the best vantage point practicable to monitor and implement shut-down/notification procedures, when applicable, by notifying the construction superintendent and/or hammer operator.</p> <ul style="list-style-type: none"> During all observation periods, observers shall use binoculars and the naked eye to scan continuously for green sea turtles and marine mammals. As part of the monitoring process, the observers shall collect sightings data and behavioral responses to pile-removal from green sea turtles and marine mammals observed within 500 feet of the proposed project site of activity and shutdown zones during the period of construction. The observer shall complete a sighting form (paper or electronic) for each pile-removal day (see Attachment B of Appendix 3). The observer shall submit the completed forms to NMFS and the District within 60 days of the completion of the monitoring with a summary of observations. 				

Mitigation Measures Applicable to the Project (Demolition of Vacant Structure, Platform, and Piles)				
Measure	Monitoring Requirement	Responsible for Implementation	Completion Requirement	Agency Responsible for Verification
Transportation/Traffic (Parking)				
TRA-1 To reduce the impacts associated with temporary loss in parking during construction of the proposed project, the applicant and/or construction contractor will implement the following: <ul style="list-style-type: none"> • Prior to construction, the applicant or construction contractor will obtain written agreement from the Wyndham Hotel, or other parking facility with sufficient space, to guarantee parking for construction personnel through the duration of construction of the proposed project. • During initial site preparation, the construction contractor will post signage at the temporarily displaced parking spaces to direct visitors to nearby available parking. 	Pre-Construction and Construction	Applicant	Prior to construction and during construction	Port District