

RESOLUTION 2018-070

**RESOLUTION AUTHORIZING ISSUANCE OF AN
APPEALABLE COASTAL DEVELOPMENT PERMIT
(CDP) FOR THE COSTA VISTA RV RESORT
PROJECT CONDITIONED ON SATISFACTION OF
CERTAIN CONDITIONS PRECEDENT**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, Sun Communities, Inc. as the project applicant and proponent (Applicant), proposes to construct and operate the Chula Vista Bayfront (CVB) recreational vehicle (RV) park, a low-scale, low profile, and lower-cost RV resort consisting of 255 lower-cost overnight accommodations (approximately 139 RV stalls and 116 park model units, which count as and exceed the replacement of 237 lower cost overnight accommodation mobile vehicle stalls in the CVB) with associated improvements on parcel S-1; the extension of E Street; construction of a 400-foot-wide landscape buffer within a portion of parcel SP-1; and the realignment of Gunpowder Point Drive within parcels SP-1 and SP-3 to allow continued access to the Living Coast Discovery Center (collectively, "Project"); and

WHEREAS, the Project is more particularly described in the corresponding agenda sheet and draft Coastal Development Permit (CDP) attached thereto, both of which are incorporated by reference; and

WHEREAS, the Project is located in the CVB Sweetwater District of Planning District 7, which is delineated on Precise Plan Map Figure 19 of the certified Port Master Plan (PMP) and the Project is listed as Project Nos. 2: "Sweetwater Park" (S-2); 3: "Nature Center Parking Area (SP-3)" (only the access road for the LCDC will be constructed at this time); 4: "Sweetwater District Lodging (S-1)"; 5: "Sweetwater District Roadway and Infrastructure Improvements"; 6: "Sweetwater District Wetland and Upland Habitat Enhancement (SP-1/SP-2)"; and 8: "Mixed-Use Commercial Recreation/Marine Related Office Development (S-3)" in the PMP Project List (Table 19); and

WHEREAS, the PMP land use designations within the limits of the Project are "Commercial Recreation" (S-1 & S-3), "Open Space/Habitat Replacement" (SP-1), "Wetlands" (SP-2), and "Park/Plaza" (S-2 & SP-3); and

WHEREAS, those certain Chula Vista Bayfront Development Policies (Development Policies) (District Clerk Document No. 59407) and a Public Access Plan (PAP) (District Clerk Document No. 59408) are part of the certified PMP; and

WHEREAS, the Development Policies consist of detailed and specific planning and development objectives and policies for the CVB covering environmental protection, energy conservation, views and aesthetics, public transit, pedestrian orientation, and visitor-serving requirements and the PAP includes a description of the proposed circulation improvements including the roadways, the Bayshore Bikeway, public transit improvements, shuttle, and parking requirements; and

WHEREAS, the Project is consistent with the certified PMP as the Project conforms to the land use designations of "Commercial Recreation" for parcels S-1 and S-3, "Open Space/Habitat Restoration" for parcel SP-1, "Wetlands" for parcel SP-2, and "Park/Plaza" for parcels S-2 and SP-3, Precise Plan text, and Project list, as well as the Development Policies, the PAP, and the Natural Resource Management Plan's goals, objectives, standards, and strategies through design considerations incorporated into the Project and implementation of relevant provisions as required by Special Provisions of the CDP, as more particularly described in the Addendum, defined below; and

WHEREAS, the Project constitutes "development" under Section 30106 of the Coastal Act as it, among other things, proposes grading, construction of structures and a change in the intensity of the uses and accordingly, a Coastal Act (California Public Resource Code Section 30000 et seq.) authorization from the District is required; and

WHEREAS, under the Chapter 8 of the Coastal Act, the District's certified PMP and the District's CDP Regulations, the Project has been determined to require an "appealable" CDP (see California Public Resources Code Section 30715 and Section 7(4) of the District's CDP Regulations that includes the sole categories of appealable development within the District's jurisdiction; and Item 4 of Table 19 (Project List) of the PMP p. 109, herein incorporated by reference); and

WHEREAS, the Project is fully consistent with Chapter 8 of the Coastal Act, Coastal Act Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein as it provides extensive public access, recreational opportunities and lower cost visitor facilities through the establishment of an RV park, bike paths, walking trails, sidewalks and enhanced landscaping; and

WHEREAS, the Board of Port Commissioners (BPC) finds that said application and attachments contain correct and accurate statements of fact; and

WHEREAS, the BPC has concluded that the Project conforms to the certified PMP and the Coastal Act; and

WHEREAS, the BPC considered the appealable Coastal Development Permit at the April 10, 2018 BPC meeting; and

WHEREAS, in accordance with the California Environmental Quality Act statutes and guidelines, the Project was analyzed in the Final Environmental Impact Report (FEIR) (SCH No. 2005081077; District Document No. 56562) and that certain Chula Vista Bayfront Master Plan Addendum, Coastal Commission Adopted Policies to the Chula Vista Bayfront Master Plan Port Master Plan Amendment and RV Park Project (Addendum); and

WHEREAS, the BPC adopted the FEIR, Statement of Overriding Consideration, a Mitigation, Monitoring Reporting Program and certain findings by Resolution No. 2010-78; and the Addendum and certain findings by Resolution No. 2018-068.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners (BPC) of the San Diego Unified Port District, as follows:

1. The BPC finds the facts recited above are true and further finds that this BPC has jurisdiction to consider, approve and adopt the subject of this Resolution.

2. In general, the Project consists of, without limitation: (1) the construction and operation the CVB RV park, a low-scale, low profile, and lower-cost RV resort consisting of 255 lower-cost overnight accommodations (approximately 139 RV stalls and 116 park model units, which count as and exceed the replacement of 237 lower cost overnight accommodation mobile vehicle stalls in the CVB) with associated improvements on parcel S-1; (2) the extension of E Street; (3) construction of a 400-foot-wide landscape buffer within a portion of parcel SP-1; and (4) the realignment of Gunpowder Point Drive within parcels SP-1 and SP-3 to allow continued access to the Living Coast Discovery Center. The Project is more particularly described in the corresponding agenda sheet, draft CDP and previously adopted FEIR and Addendum.

3. The Project is located in the CVB Sweetwater District of Planning District 7, which is delineated on Precise Plan Map Figure 19 of the certified Port Master Plan (PMP) and the Project is listed as Project Nos. 2: "Sweetwater Park" (S-2); 3: "Nature Center Parking Area (SP-3)" (only the access road for the LCDC will be constructed at this time); 4: "Sweetwater District Lodging (S-1)"; 5: "Sweetwater District Roadway and Infrastructure Improvements"; 6: "Sweetwater District Wetland and Upland Habitat Enhancement (SP-1/SP-2)"; and 8: "Mixed-Use Commercial Recreation/Marine Related Office Development (S-3)" in the PMP Project List (Table 19). The PMP land use designations within the limits of the Project are "Commercial Recreation" (S-1 & S-3), "Open Space/Habitat Replacement" (SP-1), "Wetlands" (SP-2), and "Park/Plaza" (S-2 & SP-3).

4. The BPC finds that the Project constitutes “development” under Section 30106 of the Coastal Act as it, among other things, proposes grading, construction of structures and a change in the intensity of the uses and accordingly, a Coastal Act (see California Public Resource Code Section 30000 et seq.) authorization from the District is required.

5. The BPC finds that under the Chapter 8 of the Coastal Act, the District’s certified PMP and the District’s CDP Regulations, the Project has been determined to require an “appealable” CDP (see California Public Resources Code Section 30715 and Section 7(4) of the District’s CDP Regulations that includes the sole categories of appealable development within the District’s jurisdiction; and Item 4 of Table 19 (Project List) of the PMP p. 109, herein incorporated by reference).

6. The BPC finds the Project is fully consistent with the Coastal Act, including, without limitation Chapter 8 of the Coastal Act, Coastal Act Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein as it provides extensive public access, recreational opportunities and lower cost visitor facilities through the establishment of an RV park, bike paths, walking trails, sidewalks and enhanced landscaping.

7. The BPC finds that the Project is consistent with the PMP because the Project conforms to the land use designations of “Commercial Recreation” for parcels S-1 and S-3, “Open Space/Habitat Replacement” for parcel SP-1, “Wetlands” for parcel SP-2, and “Park/Plaza” for parcel S-2 and SP-3, Precise Plan text, and Project list which expressly allow for each component of the Project. Moreover, the BPC finds that the Project is consistent with the Development Policies and the PAP because it will implement the applicable policies and portions of the PAP, as more particularly specified in each special condition of the CDP.

8. The BPC finds that prior to issuance of the CDP certain conditions need to be met (collectively, Conditions Prior to Issuance) as follows. Condition 1 – the Project site needs to be incorporated into the District’s tidelands through pending urgency legislation. Condition 2 – a lease or other real property agreement between the District and Applicant needs to be approved and executed giving Applicant the ability to construct and operate the Project. Condition 3 - the Permittee and/or District shall retain a qualified biologist to prepare an update to the March 2015 Biological Resources Survey Report, which shall provide a current assessment of the conclusions in the 2015 report and the extent and quality of natural resources on the site. Alternatively, if these Conditions Prior to Issuance are not met, the Applicant and/or District may apply to the City of Chula Vista or the California Coastal Commission for a CDP, the District may obtain an amendment to that certain Master Lease (District Clerk Document No. 64545) between the District and the California State Lands

Commission for the Project site to allow for the development and operation of the Project and the District and Applicant can enter into a sublease or other real property agreement allowing for the applicant to construct and operate the Project.

9. The BPC finds that the Project is within the scope of the FEIR and Addendum. The BPC also finds the Project is consistent with the Public Trust Doctrine, as the Project complies with Section 87 of the Port Act which allows for all 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 actions are consistent with the Public Trust Doctrine.

10. Based on the entire record available to the BPC and the findings set forth in this Resolution, subject to satisfaction of the Conditions Prior to Issuance, the Executive Director or her designated representative is hereby authorized and directed to issue an Appealable Coastal Development Permit to Sun Communities, Inc. for "Costa Vista RV Resort Project" after passage of the ten (10) working day appeal period as described in the CDP Regulations of the District. Said Appealable Coastal Development Permit shall require compliance with all conditions set forth therein; provided, however, as a condition of approval, Sun Communities, Inc. shall indemnify and hold the San Diego Unified Port District (District) harmless against all third-party legal challenges, claims, lawsuits, proceedings and the like, including reimbursement of all attorneys' fees, costs and expenses incurred by the District related to the approval of this Appealable Coastal Development Permit. Said condition is independent of any agreement between the District and Sun Communities, Inc.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL


By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 10th day of April 2018, by the following vote:

AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, and Valderrama

NAYS: None.


EXCUSED: Zucchet

ABSENT: None.

ABSTAIN: None.


Rafael Castellanos, Chairman
Board of Port Commissioners

ATTEST:


Donna Morales
District Clerk

(Seal)