



PORT OF OAKLAND

MEMO

BY: Joe Marsh, Port Permit Coordinator

DATE: January 28, 2022

**SUBJECT: PORT PERMIT COORDINATOR DECISION
for Work on Private Property**

The Port of Oakland (Port) Permits Section staff and Environmental Programs and Planning staff have reviewed the subject Port Development Permit Application. We find the proposal meets the applicable standards of the “Port of Oakland Land Use and Development Code (LUDC) for the Oakland Airport Business Park”. Detailed analysis and findings are set forth below.

Port Permit No: 5309A

Permit Applicant: Mia Rondone

Tenant: Raising Canes Chicken Fingers

Property Owner: Rubicon Property Group

Project Location: 8430 Edgewater Drive, Oakland Airport Business Park

Environ. Assessment: Consistent with 2003 Metroport Environmental Impact Report

Project Description

Site

[For the purpose of the description for this project, I-880 will be considered the eastern boundary of the site, Edgewater Drive is the western boundary, Oakport Street is the northern boundary, and Hegenberger Road is to the south of the site.]

The project site is in the southwestern portion of the City of Oakland (City), in the vicinity of Oakland International Airport and Interstate 880 (I-880). The proposed address of the project is 8430 Edgewater Drive, Oakland, CA. The site is adjacent to Edgewater between the large building previously occupied by Walmart, 8400 Edgewater Drive, and the strip of retail shops at 8450 Edgewater Drive. The site was originally developed by SIMEON Commercial Properties. It has been subdivided into parcels corresponding to the buildings but continues to function as a single development with two common driveways from Edgewater Drive and one from Oakport Street. The large vacant building is on the north side of the site with separate rear access to Oakport Street. The retail strip is along the southern boundary of the development. The proposed project site is between the two common driveways from Edgewater Drive.

Project

A Development Permit was approved to construct a drive-thru restaurant (Permit No. 5309) that is now under construction. The drive-thru lanes begin at the north end of the site and continue along the west side of the building adjacent to Edgewater Drive and

exit at the south Edgewater driveway. There will be a two-lane entrance for ordering, which then combines to one lane for pick up and exit. Parking for walk-in customers and employees is on the east side of the building, adjacent to other existing on-site parking.

Mural

The Applicant proposes to add a mural to the side of the building facing Edgewater. The mural is to be painted directly on the building, approximately 9 feet high by 16 feet wide. The Raising Cane's Chicken Fingers logo in the center is approximately 55 square feet. The mural is on a red background with the words "OAKLAND" and "ONE LOVE" along the lower edge. Refer to Attachment 1.

Surrounding Area

The project site is located within the Oakland Airport Business Park, Commercial Corridor sub-area. This sub-area is largely occupied by retail and office uses. The project site is also within the Coliseum/Hegenberger Planning District of the Coliseum Area Redevelopment Project Area established by the City of Oakland in 1995 and expanded to a total of 6,764 acres in 1997. The site is within the larger site originally developed by Simeon as a retail center with the now vacant Walmart store and other smaller shops and restaurants. The larger site is bounded by 1-880, Hegenberger Road, Edgewater Drive, and Oakport Street. This project will fill in the Edgewater frontage between the two driveways. The property across Edgewater is a retail and office development with banks, a gas station, and restaurants.

Land Use Analysis (from LUDC Section 2)

The project site is located within the "Port Area" of the City of Oakland, and within the Commercial Corridor area of the Oakland Airport Business Park, originally established by Port Ordinance No.1343 by the Board of Port Commissioners in 1966. Development in the Business Park is currently regulated by the "Port of Oakland Land Use and Development Code (LUDC)," adopted by the Board of Port Commissioners on June 2011. The proposed use is classified as Fast Food Restaurant and is a conditionally allowed use under the LUDC for this site. The use with these conditions was approved under the original Development Permit.

The current request required a variance to exceed the 200 s.f. total sign area, and specific approval to paint the sign directly on the wall per LUDC Sec.4.2.A.1.:

No sign shall be directly painted on walls and/or roof of a building or a structure without specific approval by the Port. Such approval will only be given if the sign is tastefully designed and applied with durable weather resistant materials

Following a public hearing on the item, a variance was approved on December 17, 2021. This permit is conditioned on the final acceptance of details for painting the mural that satisfy above LUDC citation, as determined by the Port. (Refer to Permit Condition #10 below.)

General Plan Conformity

By approval of the original Development Permit, the Port made a determination that the project conforms to the City of Oakland General Plan, including the Land Use and Transportation Element and the Coliseum Area Specific Plan. The LUDC has been found to be in conformance with these plans. As an existing compliant use, the confirmed conformity determination is not required to be reviewed by the City of Oakland.

Findings (from LUDC Section 5.5)

The Port approves this application for a Development Permit, as submitted, with the following findings:

1. The proposed Project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons working, visiting, transiting through the Oakland Airport Business Park or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.
2. The proposed Project is consistent with the City of Oakland's General Plan.
3. The proposed Project complies with provisions of the LUDC.
4. The proposed Project has been adequately evaluated under the California Environmental Quality Act (CEQA), see below for further details.
5. The proposed Project has been approved, or has a reasonable chance of being approved, by all outside agencies having jurisdiction over the Project, including, but not limited to: the City of Oakland, Bay Conservation and Development Commission, Federal Aviation Administration, San Francisco Bay Regional Water Quality Control Board, Alameda County Airport Land Use Commission, Alameda County Public Health Department, and the California State Lands Commission.
6. The proposed Project will neither interfere with the operations of Oakland International Airport nor enable the establishment of uses that may be incompatible with the potential imposition of noise, light, smoke, air currents, electronic or other emissions, vibrations, discomfort, and/or inconvenience resulting from airport operations at Oakland International Airport.
7. The Port has attached such conditions to issuance of the Development Permit as it deems reasonable or necessary to achieve the purposes of the LUDC, to reduce or to mitigate environmental impacts, and to address the Project's anticipated burden on the Business Park and the Port, and which conditions otherwise promote the health, safety, and welfare of the surrounding community.
8. The Project is consistent with the purposes, use restrictions and development and design standards established by this Code for the Commercial Corridor area.

Environmental Findings

CEQA

The Port, as Lead Agency under the California Environmental Quality Act (CEQA), certified the 2003 Metroport Final Environmental Impact Report (2003 Metroport_EIR) for a 23-acre site located on the northwest corner of Hegenberger Road and Edgewater Drive on February 18, 2003 (Resolution # 03044, SCH# 2001052001). The Metroport EIR analyzed construction of approximately 1.3 million square feet (SF) of office space, a full-service hotel, parking garages, and 50,000 sf of retail (of which 40,000 sf was assumed for restaurant spaces). Approximately 22,700 sf of restaurant space has been constructed to date.

The Port has reviewed the applicant's proposed 3,267 sf restaurant with site improvements and determined that the restaurant use has been adequately analyzed under the 2003 Metroport EIR. The mitigation measures applicable to restaurant have been included in the conditions in Permit No. 5309. Addition of the mural does not substantially change the restaurant development, nor will it require major revisions to the 2003 Metroport EIR. The mural also does not constitute new information that has significant effect on the environment. Therefore, adding the mural does not change the CEQA determination for the restaurant development and no further environmental review is required.

Sustainability

This Project will use high quality materials and methods to assure the sign is long lasting. Details shall be included in the mural installation design for Port review and approval, as described in Permit Conditions #10. Sustainability measures for the approved restaurant development are described in the approved Permit No. 5309.

Permit Conditions

1. All conditions of approval shall be printed on the final permit set of plans.
2. The Project shall conform to Port-stamped approved plans, including the conditions of approval, unless otherwise approved by the Port. The applicant is responsible for including all details agreed upon, or conditions made by the Port, during the approval process. Failure to include any such details will not exempt the applicant from the Port for any changes prior to construction.
3. The tenant must maintain a City of Oakland Business License as required under the Municipal Code.
4. The applicant shall meet all conditions and requirements of all outside agencies having jurisdiction over the Project, including but not limited to: the City of Oakland, San Francisco Bay Conservation and Development Commission (BCDC), Federal Aviation Administration, San Francisco Bay Regional Water Quality Control Board, Alameda County Airport Land Use Commission, Alameda County Public Health Department, and the California State Lands Commission. The applicant shall report any conflicts with Port requirements to the Port prior to

construction. Any such conflicts must be resolved by the applicant to the satisfaction of the Port and the outside agency involved.

5. The applicant shall provide copies of authorizations or permits from agencies noted above, where applicable.
6. The Applicant shall obtain, at the Applicant's expense, all City of Oakland building permits required for the Project.
7. The Applicant and the Applicant's contractor shall construct the Project according to the plans approved under Port and City permits. Modifications made to comply with City of Oakland permit requirements shall be subject to verification of compliance with Port permit conditions prior to the start of construction.
8. The Applicant shall maintain the Project site in a clean and orderly condition during the entire term of the Development Permit. If there is a work stoppage at any time after construction has commenced for a period of more than 30 days, the Applicant shall secure any completed or uncompleted work and remove or screen any stored materials. The Chief Operating Officer of the Port may provide a 30-day notice and order to the Applicant to comply with this condition. If the Applicant fails to comply during that time period or fails to present and implement an acceptable plan for compliance, the Port maintains the right at Port's discretion, to complete the necessary work and bill the Applicant for all related costs or impose reasonable fines for violation of this condition of approval and/or the Chief Operating Officer's order. Any such fine shall be reasonably related to the nature of the violation and/or the cost to correct.
9. To the maximum extent permitted by law, the Applicant shall defend, hold harmless, and indemnify the Port and its respective officers, agents and employees (whether the action is on behalf of the Port, or otherwise) (the "Indemnified Parties") against any and all liability, damages, claims, demands, judgments or other losses (including, without limitation, attorneys fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the Project. This indemnity includes, without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the Project, and granting any permit issued in accordance with the Project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs as used herein shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs and other litigation fees, Port Attorney time and overhead costs, and other Port Staff overhead costs and normal day-to-day business expenses incurred by the Port ("Litigation Expenses"). The Indemnified Parties shall have the right to select counsel to represent the Indemnified Parties, at the Applicant's expense, in the defense of

any action specified in this condition of approval. The Indemnified Parties shall take all reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

10. The Applicant shall provide details of the mural installation to show that the sign is tastefully designed and applied with durable weather resistant materials. The Port Permit Coordinator must approve prior to installation.
11. The Applicant shall agree to comply with any other conditions added by the Permit Coordinator as well as any other conditions listed in the LUDC not otherwise listed here.

RECOMMENDED:

Environmental Programs
and Planning:


Colleen Liang (Jan 28, 2022 13:59 PST)

Date: Jan 28, 2022

Colleen Liang, Port Environmental Supervisor

DECISION:

Port Permit Coordinator: X Approve Deny

Joe Marsh

Date: Jan 28, 2022

Joe Marsh, Port Permit Coordinator

Attachment 1 – Mural Plans and Elevations (3 sheets)