MEMO

TO: Joe Marsh, Port Permit Coordinator
FROM: Emily Guo, Environmental Programs & Planning/Permits Intern
DATE: July 18, 2017
SUBJECT: PORT PERMIT COORDINATOR DECISION for Work on Private Property

The Port of Oakland (Port) 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: 5146
Permit Applicant: Kristine Lutz-Dava
Project Sponsor: Capwell, LLC & Vincent A. Capizzi, Managing Member
Tenant Name: Estuary Group of Oakland c/o B Squared Management
Project Location: 8133 Capwell Drive, Oakland, CA
Environ. Assessment: Categorical Exemption

Project Description

The project site is located in the southwestern portion of the City of Oakland (City), in the vicinity of the Oakland International Airport and Interstate 880 (I-880). The address of the proposed project is located at 8133 Capwell Drive, Oakland, CA.

The Permit Applicant proposes to remodel the existing tenant space, with no additional square footage added. The space will be converted to a facility containing horticulture processing, storage, and business spaces. The existing space is used for warehouse and office.

The proposed floor plan includes growing rooms, a dry room, a trim room, a potting room, and a clone room for operations. Improvements also include minor exterior changes, such as door relocations, window removal, egress door installation, fence replacement, and privacy screen installment. New mechanical equipment will be installed alongside the building and fenced off with screening, where needed.

Land Use Analysis (from LUDC Section 2)

The project site is located within the “Port Area” of the City of Oakland, and within the Business Park Interior 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 (LUU)/2), adopted by the Board of Port
Commissioners on June 2011 and April 2016 with revisions.

The proposed project is for Indoor Agriculture, which is an allowable use under the LUU/2, Section 2.2,
Table 2.1 and Appendix A for this location.

**Findings (from LUU/2 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 LUU/2.

4. The proposed project has been adequately evaluated under the California Environmental
Quality Act (CEQA).

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 LUU/2, 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.

**Environmental Findings**

The Port is the Lead Agency under CEQA, having land use jurisdiction over the Oakland Airport Business
Park. The project boundaries are located in a developed area. The Port finds that this project is categorically
exempt pursuant to CEQA Guidelines Section 15301, Existing Facilities, which exempts the operation,
repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private
structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion
of use beyond that existing at the time of lead agency’s determination.
Permit Conditions

1. All conditions of approval shall be printed on the final permit set of plans.

2. The approval of cannabis-related uses is conditioned on compliance with a Special Permit required for Business License under the Oakland Municipal Code.

3. 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.

4. The use shall be fully described on the plans and is verified as approved by the Port approval stamp. Any modifications or clarifications will be included in the Permit Conditions. Any changes from the approved plans must be approved in writing by the Port.

5. The Permit Applicant shall meet all conditions and requirements of all applicable regulatory 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, and Alameda County Public Health Department. 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.

6. The applicant shall provide copies of authorizations or permits from agencies noted above, such as BCDC, for work within 100-ft of the shoreline band.

7. The Permit Applicant shall provide written evidence from the property owner, Alameda County Flood Control District, approving the design, construction, and location of the project.

8. The Permit Applicant shall obtain, at the Project Applicant’s expense, all City of Oakland building permits required for the Project.

9. The Permit Applicant and the Permit Applicant’s contractor shall construct the proposed project according to the plans approved under Port and City permits. Modifications made to comply with City permit requirements shall be subject to verification of compliance with Port permit conditions prior to the start of construction.

10. The Permit 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 Permit Applicant shall secure any completed or uncompleted work and remove or screen any stored materials. The Chief Engineer of the Port may provide a 30-day notice and order to the Permit Applicant to comply with this condition. If the Permit 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 Permit Applicant for all related costs, or impose reasonable fines for violation of this condition of approval and/or the Port Chief Engineer’s order. Any such fine shall be reasonably related to the nature of the violation and/or the cost to correct.

11. To the maximum extent permitted by law, the Permit Applicant shall defend, hold harmless, and indemnify the Port and its respective officers, agents and employees (whether the action is on
behalf of the Fort, 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 overture, 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 Project 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 Project Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

12. The Applicant shall provide the Port with detailed plans of any exterior changes to mechanical equipment and fencing for review, prior to submitting for a BCDC permit. A copy of the BCDC approved permit shall be submitted to the Port before the start of construction.

13. The Applicant shall agree to comply with these conditions as well as any other conditions listed in the LUDC not otherwise listed here.

RECOMMENDATION: □ Approve  □ Deny

Environmental Programs and Planning:  

Date: 07/21/2017

DECISION:

Port Permit Coordinator: □ Approve  □ Deny

Signature Date: 7/21/17