




## **PORT OF OAKLAND**

# **MEMO**

**BY:** Joe Marsh, Port Permit Coordinator   
**DATE:** September 4, 2015  
**SUBJECT:** **PORT PERMIT COORDINATOR DECISION**  
**for Work on Oakland Airport Business Park Parcel**

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: 5081  
Permit Applicant: East Bay Regional Parks District (EBRPD)  
Tenant: EBRPD  
Property Owner: Port of Oakland  
Project Location: Swan Way, Martin Luther King Shoreline Park, Oakland  
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 Oakland International Airport and Doolittle Drive. The address of the proposed project is 75 Swan Way, Oakland, CA. The facility is a public open space with various areas designed for wildlife observation.

The project applicant proposes to make structural repairs to the existing boardwalk structure overlooking Arrowhead Marsh in the MLK Shoreline Park. Improvements include:

1. Encapsulate existing timber piles supporting the structure;
2. Modify existing connections to level the deck;
3. Retrofit existing guardrails;
4. Replace miscellaneous wood members as necessary.

### **Surrounding Area**

The project site is located within the Oakland Airport Business Park, Park and Open Space. Doolittle Drive is a state route separating the Oakland International Airport from the Business Park and the rest of the city. Swan Way runs perpendicular to Doolittle, and connects the general aviation portion of the Airport with the Business Park. 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.

**Land Use Analysis (from LUDC Section 2)**

The project site is located within the "Port Area" of the City of Oakland, and within the Park and Open Space 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 project is for maintenance and repairs of the existing Arrowhead Marsh boardwalk within the Martin Luther King Shoreline Park. The park, including the boardwalk and other viewing structures, is an allowable use under the LUDC at this location. The boardwalk was originally permitted by the Port and constructed in 1977.

**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 drawings as reviewed comply with the LUDC requirements, and with the written description of the project. The work is limited to maintenance and repairs of structures that were duly permitted under Port of Oakland requirements at the time, and are in compliance with the current standards.

**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, and improvements will be made to an existing facility that was formerly used as a restaurant. 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 the lead agency's determination.

**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 use shall be fully described on the plans and is deemed approved by the Port approval stamp. Any modifications or clarifications will be included in the Specific Conditions. Any changes from the approved plans must be approved in writing by the Port.
4. The applicant shall make improvements for sidewalk(s), if required. Such improvements shall be included in the approved plans, unless otherwise specified in the Specific Conditions.
5. 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, U.S. Army Corps of Engineers, San Francisco Bay Regional Water Quality Control Board (RWQCB), Alameda County Airport Land Use Commission, 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.
6. The applicant shall provide copies of authorizations or permits from BCDC, U.S. Army Corps of Engineers, and RWQCB.
7. The Project Applicant shall obtain, at the Project Applicant's expense, all City of Oakland building permits required for the Project.
8. The Project Applicant and the Project 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.
9. The Project 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 Project 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 Project Applicant to comply with this condition. If the Project 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 Project 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.

10. To the maximum extent permitted by law, the Project 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, setaside, 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.
11. The Applicant shall comply with stormwater quality requirements including Low Impact Development site design, if applicable.
12. The Applicant shall agree to comply with any other conditions added by the Permit Hearing Officer as well as any other conditions listed in the LUDC not otherwise listed here.

**RECOMMENDED:**

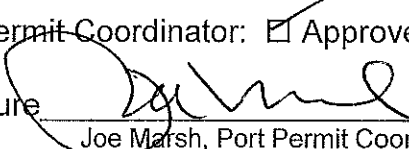
Environmental Programs  
and Planning:

  
Diane Heinze, Port Environmental Assessment Supervisor

Date: 9/4/15

**DECISION:**

Port Permit Coordinator:  Approve  Deny

Signature   
Joe Marsh, Port Permit Coordinator

Date: 9/4/15

Attachment: Project Design Drawings