

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

**RESOLUTION UPHOLDING PERMIT HEARING OFFICERS'
CERTIFICATION OF ENVIRONMENTAL IMPACT REPORT AND
APPROVAL OF DEVELOPMENT PERMIT FOR 195
HEGENBERGER ROAD HOTEL PROJECT.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for the administrative appeals of the Port Permit Hearing Officers' ("PHO") certification of the Environmental Impact Report ("EIR") and Development Permit #5016 ("Permit") for the proposed hotel project at 195 Hegenberger Road ("Project") along with the exhibits attached thereto, the underlying materials submitted to the PHO, the PHO's decision, the EIR and other documents prepared as part of the environmental review of the Project under the California Environmental Quality Act ("CEQA"), the Port's Land Use and Development Code ("LUDC"), and all other related documents in the record, has received expert testimony, and has provided opportunities for and taken public comment and comments from the applicant and the appellants as part of duly noticed and held public hearings on February 26, 2015 and May 15, 2015; and

WHEREAS, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the totality of this record and adopts and relies upon the facts, data, analysis, and findings presented to it and to the PHOs; now, therefore, be it

RESOLVED, that the Board hereby upholds the PHOs' certification of the EIR and approval of the Permit for the Project based on the totality of the administrative record, including the analysis, reports, findings, and testimony considered by the PHOs and the Board; and be it

FURTHER RESOLVED, that the Board finds that substantial evidence in the record supports the PHOs' certification of the EIR and approval of the Permit for the Project and that the appellants have failed to establish that the PHOs' certification of the EIR and approval of the Permit were improper in light of the overwhelming evidence in the record supporting the findings of the PHO; and be it

FURTHER RESOLVED, that the Board hereby incorporates the findings of the PHOs in their certification of the EIR and approval of the Permit for the Project and the Board makes the following additional specific findings:

1. The PHOs' determination that the proposed Project complies with the LUDC's requirement for a full-service hotel with a full-service restaurant is supported by substantial evidence in the record and the plans and specifications submitted for the subject Project clearly describe and depict a full-service hotel with a full-service restaurant within the meaning of the LUDC and are supported by the applicant's written and binding commitment to meeting the LUDC generally and the full-service hotel with a full-service restaurant requirement, in particular, along with the Project conditions of approval to that effect.
2. The PHOs' determination that the greenhouse gas analysis in the EIR was adequate and in compliance with CEQA is supported by substantial evidence in the record; the appropriate trip generation and worker trip lengths were used in the EIR analysis and the project impacts will not exceed the Bay Area Air Quality Management District's threshold of significance.
3. The PHOs' determination that no significant adverse impact will result from the Project's effect to on-site traffic circulation is supported by substantial evidence in the record; a traffic analysis was conducted by the Port's expert consultant at the Hegenberger Road access driveway to specifically evaluate this issue, and that analysis concluded there was no significant impact from the Project.
4. The PHOs' determination that the Project will provide adequate parking (at 149 parking stalls) to meet the LUDC requirements is supported by substantial evidence in the record; based on the calculations set forth in the LUDC, (Section 3.C and Table 3.1) 149, not 167 or more, parking stalls are required.
5. The PHOs' determination that no significant adverse impacts from onsite truck loading and that such potential impacts were adequately evaluated in the EIR is supported by substantial evidence in the record; the revisions to the floor plan, project applicant commitment letter, and the Marriott waiver provided during the hearing process were to provide evidence and clarification that the hotel is going to be a full service hotel in response to public concerns; these submittals did not and do not signal a change to the type and size of delivery trucks described in the original project description in the EIR; and be it

FURTHER RESOLVED, that this resolution upholding the PHOs' certification of the Project EIR and approval of the Permit for the Project shall become effective immediately upon adoption by the Board.

DRAFT