

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



W #11b

Addendum

April 6, 2009

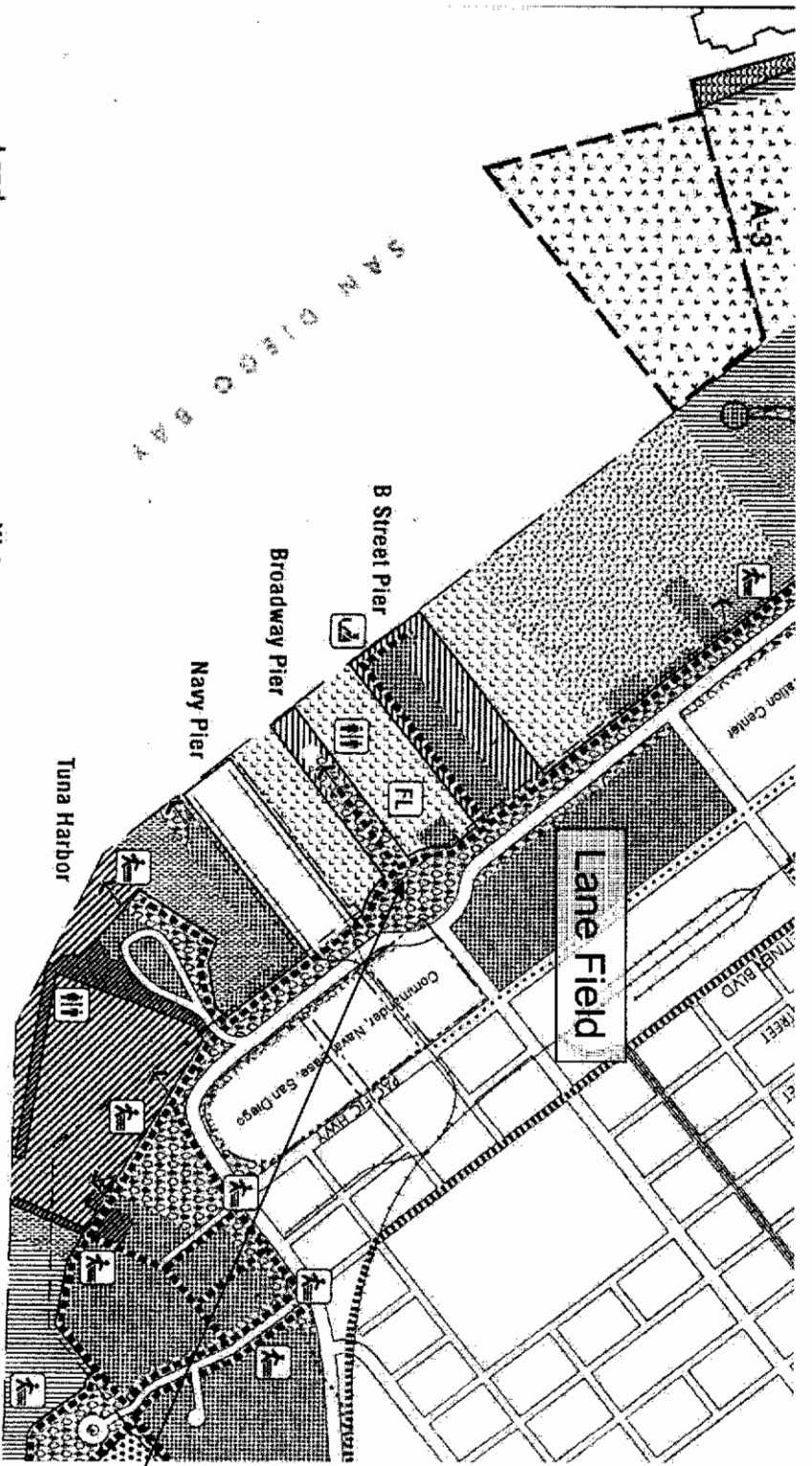
To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Wed 11b**, Coastal Commission PMP Application
PSD-DM-40-09 (Broadway Pier Cruise Ship Terminal), for the
Commission Meeting of April 8, 2009

Staff recommends the following changes be made to the above-referenced staff report:

The attached "Exhibit #7 Existing Land Uses" and "Exhibit #8 Exhibits to Coastal Development Permits" shall be added to the staff report.



Land **COMMERCIAL** Water

- Commercial Recreation
- Commercial Fishing
- Recreational Boat Berthing
- Commercial Fishing Berthing
- Fueling Dock

INDUSTRIAL

- Marine Terminal
- Marine Related
- Aviation Related
- Terminal Berthing
- Specialized Berthing

Land **PUBLIC RECREATION** Water

- Park/Plaza
- Open Space
- Promenade
- Public Access
- Vista Area
- Historic Feature
- Open Bay
- Public Fishing Pier

scale approx.
0 200' 400'

Land Use Planning

**Planning District 3
CENTRE CITY EMBARCADERO**

EXHIBIT #7
Existing Land Uses
PSD-DM-40-09 Broadway Pier

Broadway Pier

Existing Land Use Plan from certified
PMP (no changes proposed)

This page intentionally
Left Blank

EXHIBIT A

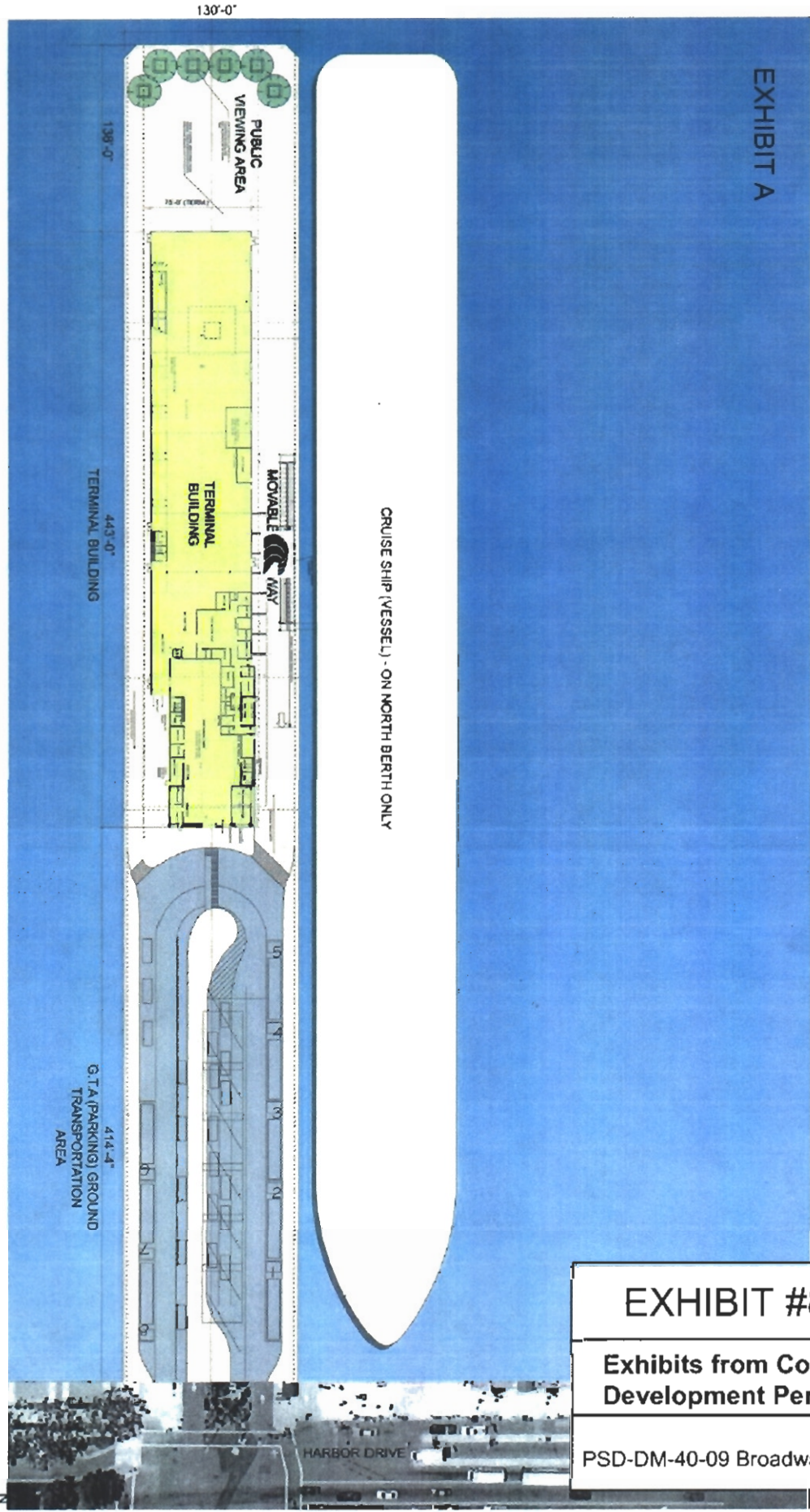


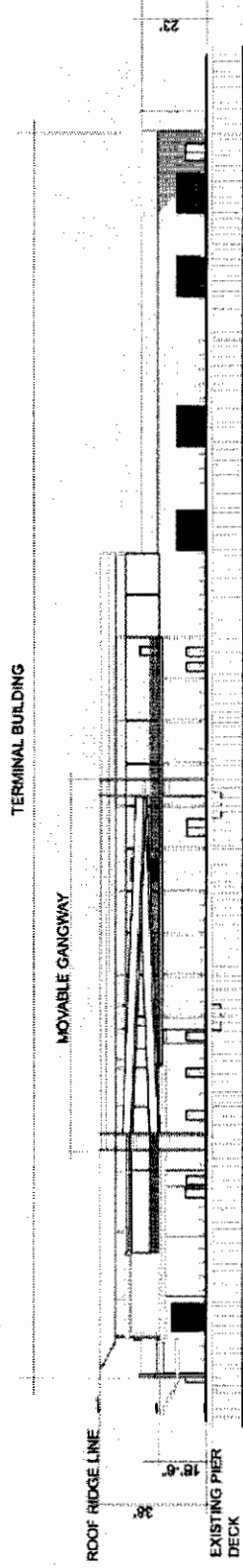
EXHIBIT #8
Exhibits from Coastal Development Permit
PSD-DM-40-09 Broadway Pier

Exhibit from Coastal Development Permit

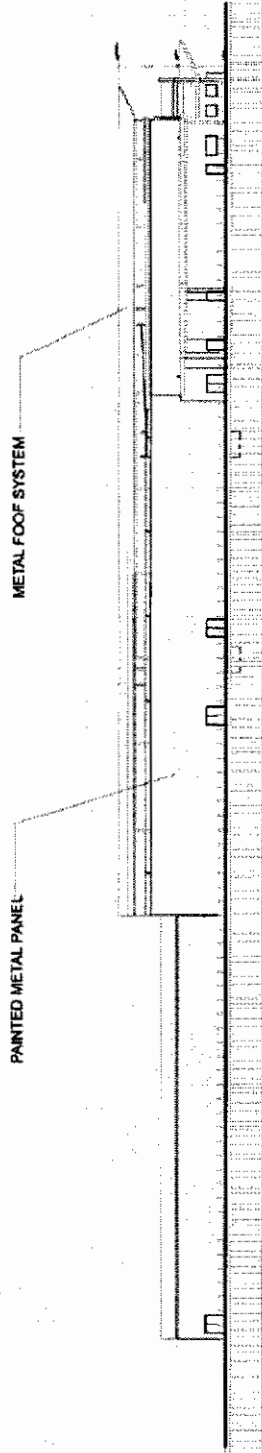
This page intentionally
left blank

EXHIBIT B

OUTLING OF SHIP PROFILE (FOR REFERENCES TO VERTICAL HEIGHT ONLY)

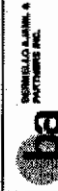


2 North Elevation
Scale 1/8" = 1'-0"



1 South Elevation
Scale 1/8" = 1'-0"

"PROGRESS SET - OPTION NO. 17"



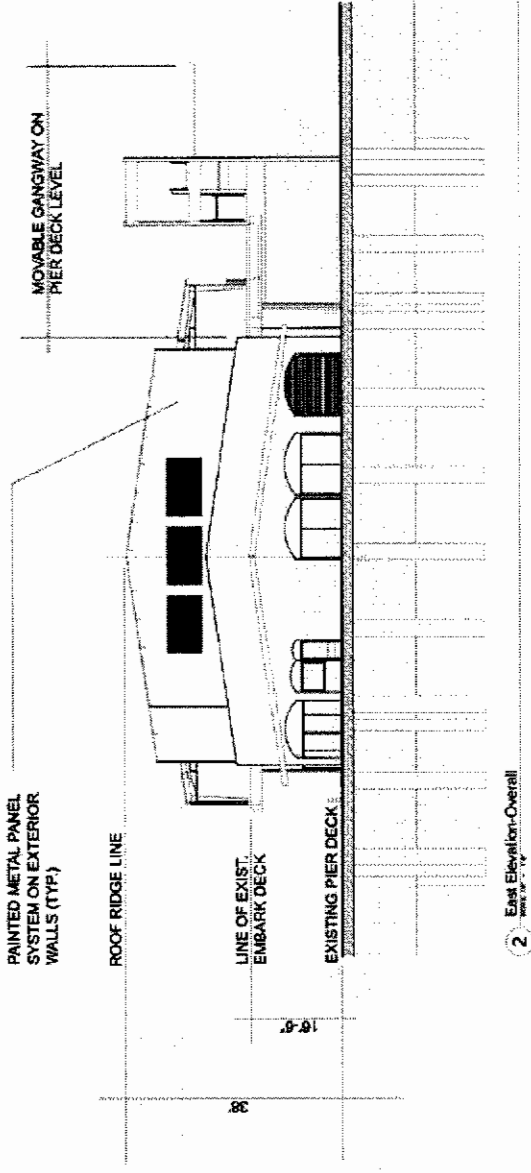
**San Diego Unified
Port District**
San Diego, California

**RECORD
DRAWING**

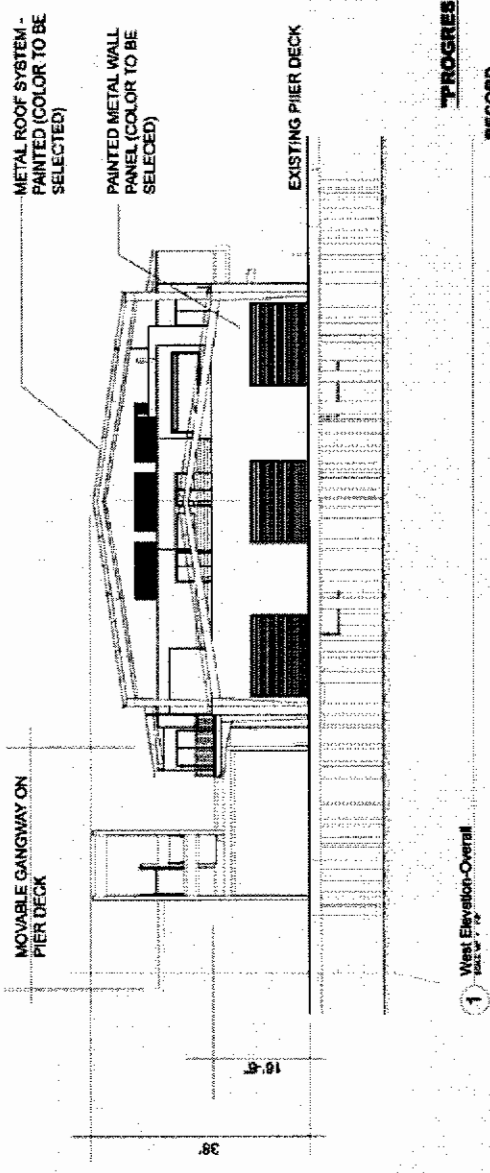
NOTE:
THIS DRAWING MAY BE A REDUCED SCALE PRINT OF THE ORIGINAL DRAWING. USE GRAPHIC SCALES TO VERIFY SCALE AND ADJUST ACCORDINGLY.

DATE: MAY 22, 2007
PROJECT: TERMINAL BUILDING DESIGN
SHEET NO.: A-214
TOTAL SHEETS: 2109

EXHIBIT C





2 East Elevation-Overall
Scale: 1/8" = 1'-0"

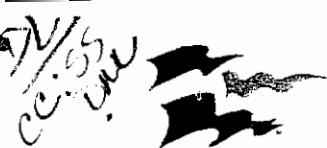


1 West Elevation-Overall
Scale: 1/8" = 1'-0"

PROGRESS SET - OPTION NO. 17

 BARNHILL ALVARO PARTNERS INC. ARCHITECTS	San Diego Unified Port District San Diego, California		Option No. 17 - Interim Cruise Terminal Building Design May 22, 2007	DATE: 5/22/07	SHEET NO.: 2128
				RECORD DRAWING	NOTE: THESE DRAWINGS MAY BE A REDUCED SCALE PRINT OF THE ORIGINAL DRAWING. USE GRAPHIC SCALES TO VERIFY SCALE AND ADJUST ACCORDINGLY.

This page intentionally
Left blank



Unified Port
of San Diego

3165 Pacific Highway, San Diego, CA 92101
P.O. Box 120488, San Diego, CA 92112-0488
619.685.6200 • www.portofsandiego.org

W11b

RECEIVED

APR 03 2009

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

April 2, 2009

Chair Neely and Members of the California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

**SUBJECT: PORT OF SAN DIEGO DE MINIMIS PORT MASTER PLAN
AMENDMENT PSD-DM-40-09 (Broadway Pier Cruise Ship Terminal) (For
Commission review at its meeting of April 8 - 10, 2009) item W11b**

Dear Chair Neely and Commissioners:

The San Diego Unified Port District (District) fully supports the California Coastal Commission (Commission) staff recommendation to determine that the Broadway Pier Cruise Ship Terminal Port Master Plan Amendment (PMPA) is de minimis. District staff has worked collaboratively with Commission staff to prepare the de minimis Port Master Plan Amendment for the Broadway Pier Cruise Ship Terminal.

The District also takes this opportunity to provide information for use in conjunction with the Commission staff report regarding the de minimis PMPA that has the following specific purposes:

- 1) Clarification of the specific action/ de minimis PMPA for consideration by the Commission.
- 2) Supplemental historic information regarding use of the Broadway Pier.
- 3) Supplemental information regarding prior District actions (including noticing and environmental review).
- 4) Supplemental information regarding preceding communications between the District and the Commission.

1) The de minimis Port Master Plan Amendment

The de minimis PMPA involves only adding language to Table 11, the Project List for Centre City Embarcadero Planning District, of the PMP. The language clarifies that the general parameters of a cruise ship terminal building and public viewing and public access components on Broadway Pier are a "project" included in the PMP. Table 11 (page 69) of the certified PMP already identifies infrastructure improvements to Broadway Pier. The text on pages 63-64 of the certified Port Master Plan establishes continued cruise ship use and outlines general development standards for a structure in the form of a 2.0 floor area ratio (FAR). The certified PMP land use designations on the Broadway Pier allow for Industrial-Marine Terminal, Park/Plaza, Vista Point, and Promenade uses. Additionally, the water use designation on both sides of the pier is Industrial – Terminal Berthing.

Response from Applicant

11

The de minimis PMPA has been prepared in accordance with Section §30716 (c) of the Coastal Act. The de minimis PMPA would not result in an impact, either individually or cumulatively, on coastal resources; is consistent with the policies of Chapter 3; and does not propose any change in land use or water use designations or any changes in the allowable uses of the land or water.

2) Historic Use of Broadway Pier

Broadway Pier was constructed in 1913 for use as a terminal for cruise ships, military ships, excursion boats and visiting vessels and has continually been used as such ever since. The entire pier was covered with a terminal building until the early 1970s (see Exhibit A attached) when it was demolished and replaced with two smaller buildings. (see Exhibit B attached). Since the Broadway Pier has a long history of being used for cruise ship and other vessel berthing, the de minimis PMPA does not change that use. Limited public access was allowed after the original terminal building was demolished and public access is currently allowed on non-cruise ship days when there are no other security or construction impediments. The defines that the design of a cruise ship terminal building would allow a level of public amenities including public art and public access not currently available.

3) Prior District Actions

In June 2007, the Board of Port Commissioners authorized approval of a non-appealable Coastal Development Permit (CDP) for a cruise ship terminal building and infrastructure improvements on the Broadway Pier (Resolution #2007-127). Environmental review was completed in accordance with the California Environmental Quality Act through the use of an Initial Study/Addendum to the North Embarcadero Alliance Visionary Plan Master Environmental Impact Report (Initial Study/Addendum). The Initial Study/Addendum established that the Broadway Pier Cruise Ship Terminal and Infrastructure Improvements Project was within the scope of the Master EIR for the North Embarcadero Visionary Plan. Notice of the availability of the Initial Study/Addendum and notice of the Board of Port Commissioners hearing on the CDP were provided to the Coastal Commission in accordance with Section 30718 of the California Coastal Act on May 7, 2007. A copy of the Initial Study/Addendum was also sent to Commission staff. No written comments were received. There was no public testimony or comments received at the Board of Port Commissioner's public hearing.

4) Prequel to the de minimis Port Master Plan Amendment

A few months after the CDP was issued, various individuals and groups approached the Commission staff expressing concern that a cruise ship terminal was not included in the existing Port Master Plan and therefore the Board's approval was not valid. Shortly afterwards, informal communications were initiated by the Commission staff, during which they expressed a similar concern. As previously expressed the District does not believe the de minimis Port Master Plan is required. The District maintains that only appealable projects are required to be listed in the PMP per Coastal Act Section 30711(a)(4). Because of a request from Commission staff and in the spirit of cooperation, the District agreed to embark on the de minimis PMPA approach. Since the initial communications, District and Commission staffs have

engaged collaboratively which resulted in de minimis PMPA language mutually agreed to by both staffs. The District approved the de minimis Port Master Plan Amendment for submittal to the California Coastal Commission at a public hearing during the February 3, 2009 Board of Port Commissioners meeting.

The District appreciates working with Commission staff and hopes that the Commission will consider the above and concur with the Executive Director's recommendation. The District will provide a short presentation to the Commission at its April 8 meeting in Oxnard. Please call me at (619) 686-6468 or e-mail me at jhelmer@portofsandiego.org should you have any questions regarding this letter.

Sincer

Signature on file

John W. Helmer
Director, Land Use Planning

cc: All Calif. Coastal Commissioners
Calif. Coastal Commission Staff

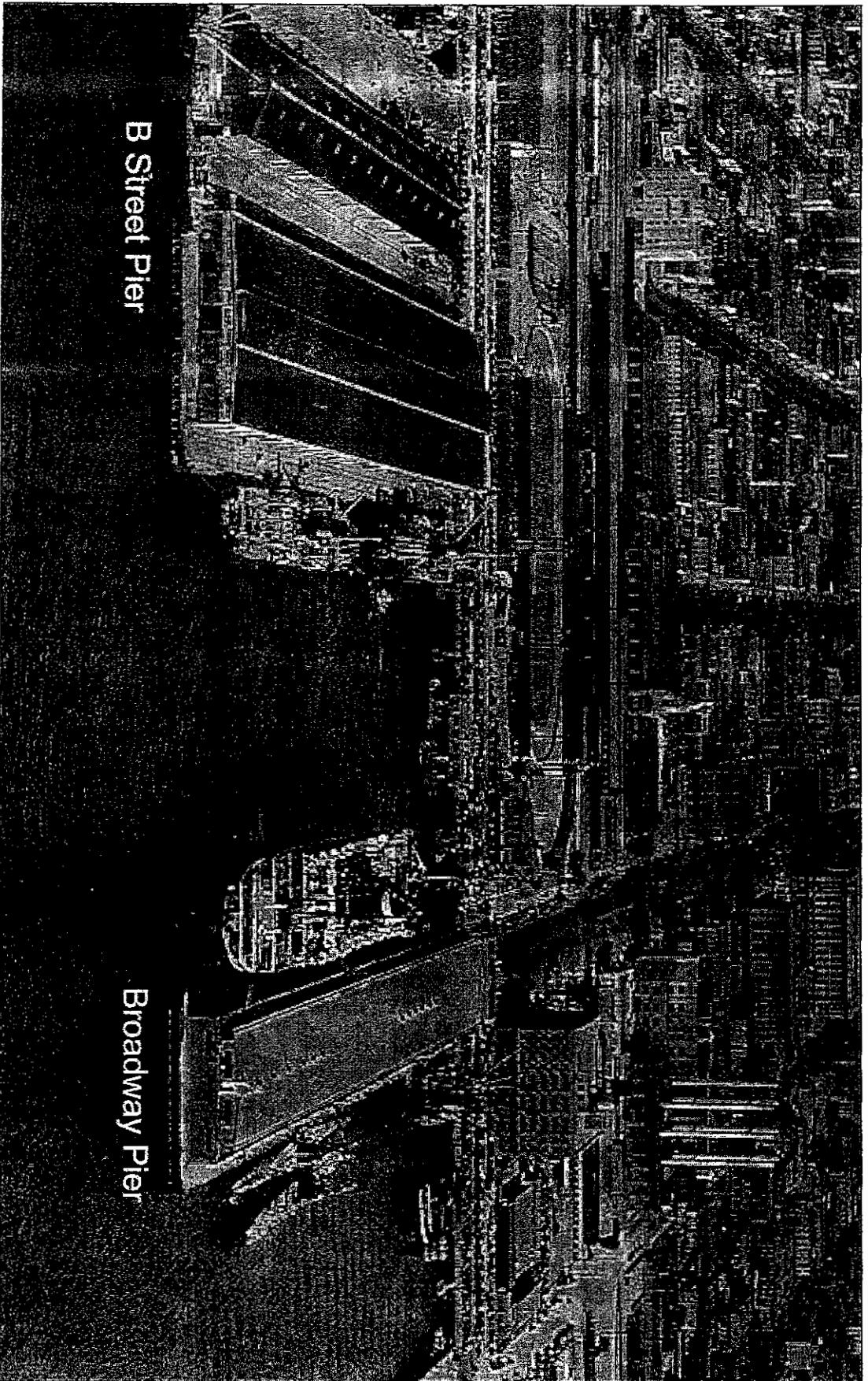


EXHIBIT A

circa 1930's

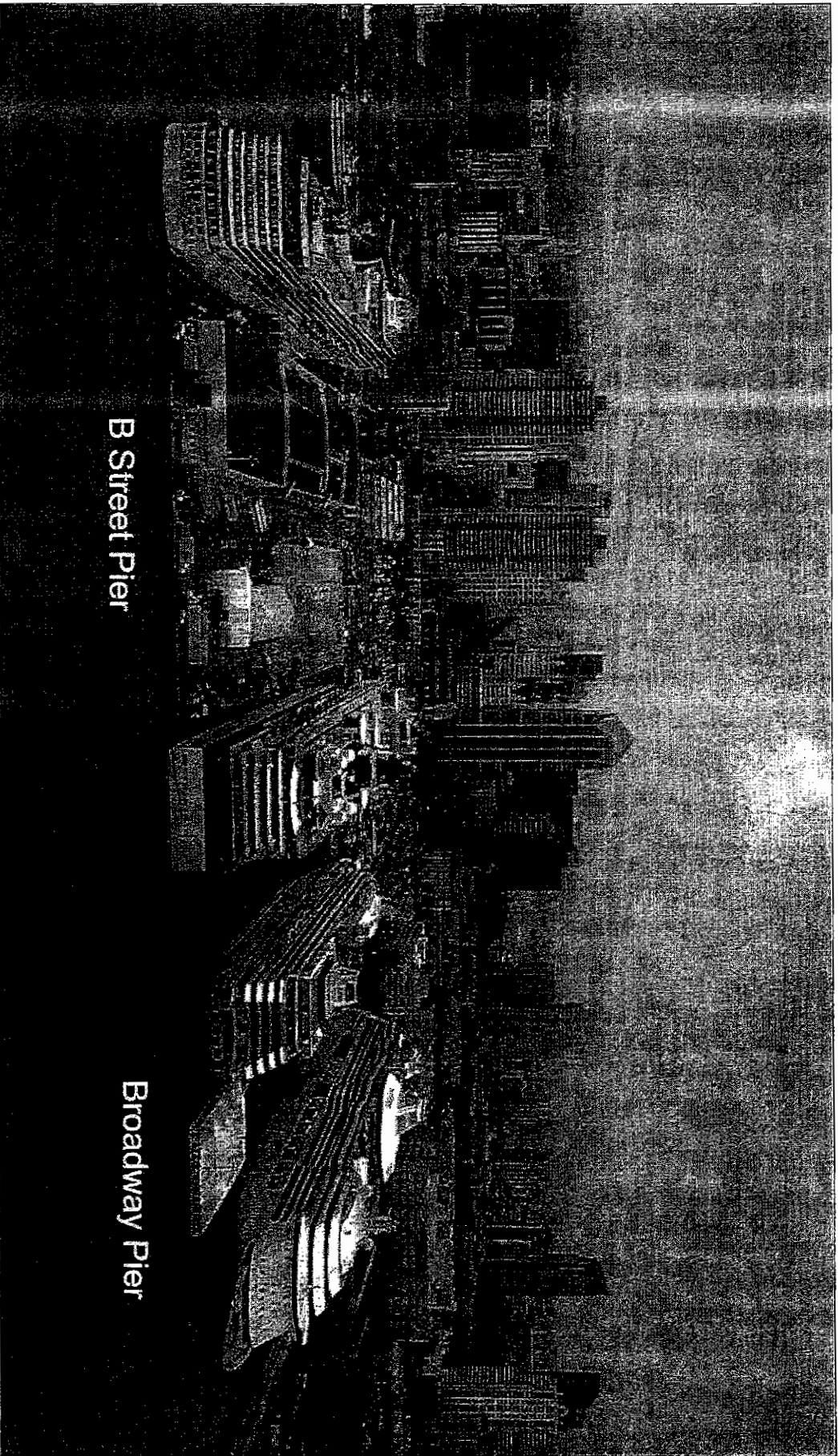


EXHIBIT B

circa 2006

This page intentionally
left blank

BOARD OF DIRECTORS
Lee Wilson, Chairman
NORTHROP GRUMMAN SHIPBUILDING/
CONTINENTAL MARITIME
Richard Bartell, Vice Chairman
BARTELL HOTELS

Ray Ashley
MARITIME MUSEUM
Mark Bailey
CHEESAPEAKE FISH COMPANY
Susan Baumann
BALI HAI RESTAURANT
Terry Buis
BAF SYSTEMS SAN DIEGO SHIP REPAIR

* R.A. Carpenter
R.E. STANTE ENGINEERING
Paul Corso
DIXIELINE LUMBER
Randy Dick
FIVE STAR PARKING
Ted Eldredge
MANCHESTER RESORTS
Uri Feldman
SUNROAD ENTERPRISES

* Rick Ghio
ANTHONY'S FISH GROITTO
Bill Hall
VIVITAR
Aimee Heim
GENERAL DYNAMICS NASSCO
Barrett Jung
DOLE FRESH FRUIT
Ted Kanstas
MANCHESTER GRAND HYATT RESORT
Eric Leslie
HARBOR ISLAND WEST MARINA
Giovanni LoCoco
KNIGHT & CARVER
Dick Luther
Richard Luther, ATTORNEY AT LAW
Mike McDowell

ATLAS KONA KAI
Mac McLaughlin
USS MIDWAY MUSEUM
Jack Monger
The Monger Company
Steve Pagano
San Diego Marriott Hotel & Marina

* George Palermo
San Diego Harbor Excursions
* Edward Plant
SAN DIEGO REFRIGERATION SERVICES

* H.P. "Sandy" Pardon
SHELTER COVE MARINA
Bill Roberts
SHELTER ISLAND BOATYARD
Todd Roberts
MARINE GROUP BOATWORKS
Keri Robinson
SHERATON SAN DIEGO HOTEL & MARINA
Ahmed Solomon
SDG&E

Gary Sullivan
GOODNICH
Jim Unger
HORNBLOWER CRUISES & EVENTS
Bruce Walton
TERRAMAK RETAIL CENTERS
Perry Wright
CONSIGNED & CONSIDINE

DIRECTOR EMERITUS

* Arthur E. Engel
Tom Fetter
Thomas A. Driscoll
* Pete Litrenta
Douglas Manchester
Karen McElliott

STAFF
Sharon Bernie-Cloward
PRESIDENT

Kristin Peterson
DIRECTOR OF OPERATIONS

* SDPTA Past Chairmen

RECEIVED

APR 03 2009

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



SAN DIEGO COAST DISTRICT
CALIFORNIA
COASTAL COMMISSION

APR 03 2009

RECEIVED

SAN DIEGO PORT TENANTS ASSOCIATION

April 2, 2009

Chairwoman Bonnie Neely and Members of the California Coastal
Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: SDUPD Broadway Pier Cruise Ship Terminal de minimis Port
Master Plan amendment April 8, 2009, item W11b

Dear Chairwoman Neely and members of the Coastal Commission:

This letter is in support of the Commission's executive director's
determination of approval of the San Diego Unified Port District's de
minimis Master Plan amendment for the Broadway Pier Cruise Ship
Terminal (BPCT).

The revitalized BPCT will provide extra berthing and passenger through-
put capacity. It will also have significant public benefits since it will also
function as a community and special event facility when cruise ships are
not at berth. This facility will accommodate additional cruise ship calls
because the current B Street Pier facility is unable to meet the
requirements of the industry.

During these difficult economic times, the jobs these new cruise ship
visitations will preserve and create are completely dependant upon the
approval of the Port's master plan amendment. Accordingly, the future
jobs of many people lay in your hands. These people are the union
workers that secure the ship to the berth, the ground transportation
workers that carry the passengers around our region, or the workers in one
of our region's visitor attractions who serve these cruise ship passengers

Letter of Support

17

Chairwoman Bonnie Neely and Members of the California Coastal Commission
April 2, 2009
Page 2

on their shore excursions. The economic benefits from one cruise ship are estimated at \$2,000,000 per vessel call.

The approval of the de minimis master plan amendment is the culmination of a long process that included 5 public workshops and many public meetings which has resulted in support of this project by Mayor Jerry Sanders, the City Council and the Redevelopment Agency of the City of San Diego.

We ask that you accept the Executive Director's determination and allow this project to proceed.

Thank you.

Sincerely,

Signature on file 

Sharon Cloward
President, San Diego Port Tenants Association

W11b.
ROBERT DANIEL

Robert S. Daniel, III
660 Ash Street
San Diego, California 92101-3212

April 3, 2009

Transmitted Via FAX Only (619) 767-2384

California Coastal Commission Commissioners & Staff
 c/o Diana Lilly
 San Diego Coast District Office
 7575 Metropolitan Drive Ste 103
 San Diego, California 92108-4402

RECEIVED

APR 03 2009

CALIFORNIA
 COASTAL COMMISSION
 SAN DIEGO COAST DISTRICT

Regarding: PSD-DM-40-09 (April 8-10, 2009 Agenda Item 11.b)

Subject: Executive Director's determination that the Port Master Plan Amendment offered by the Port of San Diego is *de minimus*.

Dear Commissioners and Staff:

I strongly urge you to disagree with the Executive Director's published determination of *de minimus* in this Port Master Plan Amendment.

How anyone can make this determination that a 60,000 square foot building with a height limit of 50 feet to be constructed as a Marine Terminal on an existing open pier is *de minimus* is flabbergasting in the least.

The Broadway Pier has long been a part of an established view corridor, the Broadway View Corridor in Downtown San Diego. Thus, the construction of this Marine Terminal would severely impact that existing environmental condition. Once completed, it will block the view down this important view corridor from inland.

In addition, this recreation area decrease of 30,000 SF (the marine terminal proposal is for a two storied structure of 60,000 SF total, more or less.) from approximately 45,000 SF to a remainder of 15,000 SF is definitely an environmental impact that is not mitigated with any offsets for more recreation area. And when this facility is in use, it will be closed to the public, thus another unmitigated environmental impact.

I urge you again to disagree with the Executive Directors determination. More environmental review is necessary before approving this project. The Cruise industry is fronting most of the money for construction of this terminal, which unfortunately was originally conceived as a temporary structure to be removed after completion of a complete overhaul of the existing B Street Cruise Ship Terminal.

I refer you to Appendix G of the CEQA Guidelines as amended January 1, 1999:

Letter to California Coastal Commission 4/3/09
Urging Disagreement with Executive Director's Determination of De minimus
San Diego Port Master Plan Amendment: Broadway Pier
Page 2

Significant Effects:

- (a.) Conflict with adopted environmental plans and goals of the community where it is located;
- (b.) Have a substantial, demonstrable negative aesthetic effect;
- (k.) Induce substantial growth or concentration of population.
- (l.) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system;
- (n.) Encourage activities which result in the use of large amounts of fuel, water or energy;
- (s.) Extend a sewer trunk line with capacity to serve new development.
- (u.) Disrupt or divide the physical arrangement of an established community;
- (w.) Conflict with established recreational, educational, religious or scientific uses of the area;
- (x.) Violate any ambient air quality standard, contribute substantially to an existing projected air quality violation, or expose sensitive receptors to substantial pollutant concentration.

This project seems to be covered by each and all that I have quoted.

Thank you for your consideration of **disagreeing** with the Executive Director's determination of *de minimus*.

Sincerely yours,

Robert S. Daniel, III
Concerned Citizen
(619) 239-0296 Office
(619) 261-0496 Mobile
(619) 239-0302 Fax

PLEASE ADD TO PREVIOUS 2 PAGE LETTER 619 767 2384

116 ROBERT DANIEL

Draft 3 1-29-08 Urban Design Committee AIA San Diego
Definition & Concern Issues of Broadway Pier Cruise Ship Terminal Project

The project is located at the intersection of Broadway and Harbor Drive on the existing Broadway Pier. It is composed of removal of existing structures on the pier and construction of a new steel framed two-story 51,500 SF (may increase) permanent structure (max ht. 50') specifically designed as a Cruise Ship Terminal but with multiple use spaces on the ground floor, with a public bay viewing area outside at the western end of the pier. The Public Viewing Area would not be accessible 24/7, but rather at the discretion of the Port or the CBP (Customs & Border Protection) No permanent parking is provided, only temporary parking for buses, taxis, and private automobile unloading..... and vehicular circulation comes off Broadway in a U shape with drop-off zone at the front of the building facing Broadway. According to the "Addendum to the Master EIR and Initial Study NEVP Broadway Pier Cruise Ship Terminal and Infrastructure Improvement Project" dated 5/23/07, the traffic exiting the terminal pier would be directed back onto Broadway or forced to turn south on North Harbor Drive (which would indicate a real back up on site awaiting the traffic signals for those wanting to access Broadway, less problematic for those turning right onto North Harbor Drive, however, that stretch is choked already and only one lane each way). The Port has issued advice that this project falls within the already approved Master EIR of the North Embarcadero Visionary Plan, which dates from 2001.

There are many concerns:

- Visual Impact Issue: The visual impact on the Broadway/Bay Link Corridor, along with the Lane Field Project and the Navy Complex/Manchester Project, removes significant views of the Bay at the pedestrian level from the Broadway Corridor, and places the proposed BPCST as a centerpiece of that view. Is this current design or any design desirable to replace a spectacular bay view with a two-story building?
- Transportation Issue: The transportation to this Pier, and the general area surrounding it is a choke-hold, with grid-lock possible on Harbor Drive due to other influences such as the Grape Street Intersection and other Airport Traffic Generators. The Port of San Diego is vested in facilitating alternative railroad service for inter-modal cargo users. (Source: Port Compass: Strategic Plan 2002-2006) Yet San Diego, America's sixth largest city, still features grade-level track crossing by the main streets connecting the I-5 with the Airport and the Cruise Ship Terminal. The local Trolley at least underpasses the Grape-Hawthorne Couplet. But Amtrak, the Coaster, and Freight trains still cause disruptions in the traffic at this critical location.
- Need Issue: The need for another cruise ship terminal at this location is in question by many, ie has a study been done to locate all of the cruise ship terminals elsewhere in the Bay?
- Environmental Issue: Fueling of the Ships is done by barge, which is a very big environmental concern. Will this system change with a new Cruise Ship Terminal and the future redo of the B Street Cruise Ship Terminal?
- The Ports Consultants are trying to sell this building based on its availability to the citizens for public use when not in use as a Cruise Ship Terminal, ie but do we need this building when not in use for Cruise Ships? How much of the expense is being borne by the Cruise Ship Industry?
- What is the future of the Cruise Ship Industry locally with economic downturn or major escalation in fuel prices?
- What would the impact be if the "48 Hour in Foreign Port" regulations proposed by the Bureau of Customs and Border Protection come into effect?
- Are the Vendors to the Cruise Ship Industry locally owned companies, or are the profits generated by same being siphoned out of town/state with the local economy only generating low pay service jobs? Are the bids for services to the Cruise Ship Industry governed by the Port, or exactly how does a vendor get contracts from the Cruise Ship Industry locally?

RECEIVED

APR 06 2009

CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

- **Energy/Pollution Issue:** The carbon footprint of the Cruise Ships in general needs to be studied i.e. air pollution and mitigation attempts by the Port to limit their main engines while in Port.
- **Water Issue:** Is water being taken from scarce local resources in San Diego and provided locally to the Cruise Ships? While San Diegans are facing mandatory water rationing?
- **Trash Generation Issue:** Is Trash from post cruise operations off-loaded in San Diego at the end of each cruise? Is it being taken to San Diego landfills? Are the cruise ships reducing their trash output, ie recycling efforts on board? Are the Cruise ships dumping trash outside the 3 mile limit, in our ocean?
- **Sewage Issue:** Is sewage from operations unloaded in San Diego, i.e. is our local sewage system processing sewage from these ships, or are they dumping their sewage load outside the 3 mile limit, in our ocean, without primary treatment?
- **These Cruise Ships,** while some may be Home Ported in San Diego, are not registered in the U.S. ie no real tax money is generated for San Diego or the US other than passenger fees and parking fees charged by the Port of San Diego (currently around \$15 per passenger total for embarkation and debarkation at San Diego Terminals, parking fees are unknown but are typically thought to be \$15/diem. Source: Port of San Diego Rules & Rates: Wharfage)
- **Is the City of San Diego,** and its citizenry, truly getting anything from this business, or is the local quality of life suffering at the expense of the Port and the Cruise Ship Industry? i.e. how much is each tourist contributing to the local economy when they arrive by plane or automobile and then board the Cruise Ships same day arrival? Is the extra traffic generated on local highways and streets worth it?
- **A general concern** is how this and the other neighboring projects will fit into the changing waterfront environment. What is the timing of the various projects and is the governing North Embarcadero Visionary Plan Environmental Impact Report, particularly as it applies to increased traffic, still current?

All of the issues were considered to be a reason to stop the project, or at least to require further study and justification.

RECEIVED

APR 06 2009

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

TO: (619) 767-2384

RECEIVED

APR 03 2009

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Page 1 of 2

PUBLIC TRUST ALLIANCE

A Project of the Resource Renewal Institute
Historical Building D, Rm. 290
Fort Mason Center
San Francisco, CA 94123
Project tel. (510) 644-0752

April 2, 2009

California Coastal Commission
Commissioners and Staff

RE: Abusive Use of De Minimus Finding to Mislead Public and Avoid Required Discussion of Substantive Amendment to Coastal Plans for San Diego Harbor

We don't pretend to know the process by which the San Diego Port Authority enlisted the Coastal Commission Staff to issue a report on March 19 suggesting expedited surrender of the primary public values associated with Broadway Pier in favor of Cruise Ship berthing (and this in an already congested zone, and an area of the Harbor explicitly valued for viewing and public gatherings). As members of the California Public, we had thought that the Staff had an obligation to present facts and law to the Commission and make reasonable recommendations without adopting the tone of a co-developer or making major concessions of fundamental public rights on trust protected lands. But on the Broadway Pier, we have sophistry and administrative fiat exploited to avoid required public discussion. And while San Diego is indeed the geographic source of significant contributions to political campaigns, this is no reason to establish the city as a law-free zone and suspend conventional democratic norms.

In the early years of last Century, Theodore Roosevelt warned San Diego of the danger of walling off its downtown waterfront views by inappropriate high edifices and forcing the public to later purchase its natural gifts back from unscrupulous profiteers at excessive prices. When the Midway was sited at Navy Pier, the loss of views were explicitly mitigated by the assurance to the public that they would be able to gather at a plaza with a viewing platform on the Broadway Pier. The Harbor plans for this area also mentioned the berthing of a list of small vessels which would not impede views. A cruise ship terminal, with the accompaniment of towering vessels which would create another wall in front of harbor strollers was never mentioned; that use was always associated with the B Street Pier further up the harbor coast.

More than a hundred years ago, the California Supreme Court, in indicating the standard of care and scrutiny required before trust protected values could be surrendered, laid down the test that this could never be done by mere implication. The idea that a new, permanent cruise ship terminal could be inferred by a reference to Floor Area Ratios, and that the absolute loss of public access and views could be surrendered through an expedited procedure which itself requires that uses not be changed defies all public expectations and professional conscience. Please do not pretend that the Cruise Ship Terminal on Broadway Pier in San Diego Harbor is a Di Minimus Change to the Port Management Plan, or that it was somehow included in any public concept of the North Embarcadero Development.

Thanks for your attention to these comments.

Sincerely,

Signature on file

Signature on file

Michael Warburton
Executive Director

Deborah Lee

From: Cathy OLeary Carey [cathycaper@sbcglobal.net]
Sent: Thursday, March 26, 2009 9:47 AM
To: Deborah Lee
Subject: Proposed Port Master Plan Amendment (PMPA), a new Broadway Pier Cruise Ship Terminal

17696 Cumana Terrace
San Diego, CA 92128
March 26, 2009

Deborah Lee
Coastal Commission Office
San Diego Coast District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Dear Ms. Lee,

Subject: Proposed Port Master Plan Amendment (PMPA), a new Broadway Pier Cruise Ship Terminal

For the Executive Director to make a determination that a proposed PMPA, a new Broadway Pier Cruise Ship Terminal is de minimis in nature ignores the spirit of and dismisses the 2000 North Embarcadero Visionary vision to create a vibrant publically accessible waterfront environment to serve the public good.

I am in agreement with other interested parties that the PMPA appears to be in conflict with the goal of the California Public Tidelands Trust Doctrine that holds state tidelands in trust for the benefit of all the people of California.

In my opinion, the PMPA is strictly for the benefit of the cruise ship industry and flies in the face of Downtown's "front porch" and ceremonial terminus of the Broadway corridor. The NEVP promised to provide San Diego year round park space, views and access to the bay which will be basically eliminated by the proposed PMPA.

It is logical to assume that increased cruise ship traffic will cause environmental pollution to the detriment of the downtown workforce and residents at a time when climate change is a major serious concern.

Therefore, it is difficult to understand how this determination does not require an updated California Environmental Quality Act report.

In closing, I strongly oppose the Port Master Plan Amendment for a new Broadway Pier Cruise Ship Terminal.

The de minimis PMPA greatly diminishes confidence and trust in the Port District to develop the western north embarcadero to benefit the public good.

Thank you for the opportunity to comment on this issue.

Sincerely,

Cathy O'Leary Carey

CELL 619-248-3242

FROM THE DESK OF
IAN TROWBRIDGE

March 30, 2009
Deborah N. Lee
District Manager
California Coastal Commission
San Diego District
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421 (619) 767-2370

Dear Ms. Lee:

Please include my comments on PORT OF SAN DIEGO DE MINIMIS PORT MASTER PLAN AMENDMENT PSD-DM-40-09 (Broadway Pier Cruise Ship Terminal) (For Commission review at its meeting of April 8 - 10) in their information package.

Sincerely yours,

 *Signature on file*

Ian Trowbridge

RECEIVED

MAR 30 2009

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED

Comments on Proposed Broadway Pier cruise Ship Terminal by Ian Trowbridge

MAR 8 9 2009

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Summary

The California Coastal Act of 1976 is a magnificent piece of legislation; But, like all laws of man, it can be ignored, misused or its goals trivialized.

The Port of San Diego has misused and trivialized the California Coastal Act by coming before you on April 8, 2009 to ask for your approval of what they describe as a *de minimus* amendment to the Port District Master Plan amendment PSD-DM-40-09 (PMP) allowing them to construct a permanent Cruise Ship Terminal on Broadway Pier.

I strongly argue that this amendment is not *de minimus*--nothing could be further from the truth--and ask that Coastal Commission not certify the proposed amendment and require a full review of the project including appropriate public comment as described in Section 30174 of the Act.

An open pier with public spaces and an unobstructed view of the ocean was promised to the public of San Diego in 2000 and is the cornerstone of the North Embarcadero Visionary Plan (NEVP) regardless of what development plan is adopted. The 2000 NEVP master plan environmental impact report (MEIR) called for a 16000 square foot oval Broadway Landing Park at the foot of Broadway leading to a Broadway Pier that would be accessible to the public year-round. The Port now seeks to renege on that promise violating the spirit and intent of the Coastal Act and, it is argued here, the law itself.

Further, the San Diego Unified Port District is in clear violation of the California Public Records Act (CPRA) with respect to providing public documents germane to this amendment request. Without the information in these documents, the public is unable to fully understand Port decision making or make its arguments in full to the Commission opposing the *de minimus* amendment to the Port District Master Plan allowing the construction of a permanent Cruise Ship Terminal on Broadway Pier. **For this reason this item should not be considered by the Commission at this time.**

Violation of the California Public Records Act

If the Commission find the Port District has violated the California Public Records Act with the effect of neutering public understanding and opposition to this proposed *de minimus* amendment you must postpone any consideration of granting certification to a later date after the Port District has fulfilled its obligations under the Act. This would render Coastal Commission consideration of the Port request moot at this time. For this reason, the clear violation of the Public Records Act will be discussed first.

On March 13, 2009 a request for access to public documents by a member of the public (myself) was filed with the Port under the California Public Records Act. The member of the public had a reasonable expectation that the documents requests would contain information germane to the decision-making process and other considerations that led

the Port District to the astonishing decision to unilaterally, without significant public comment, destroy the long-promised access and view corridor to the shoreline and ocean by building a cruise ship terminal on the Broadway Pier (Attachment 1). **The Port to this date (March 29, 2009) has provided not a single document requested.**

Under Government Code Section 6253(c)(2), the Port had ten days to respond and they did, claiming unusual circumstances that required a time extension to search for relevant records. (Attachment 2) However, the Port District has violated the legal requirements for such a response laid out in Section 6253(c)(2) in two respects: First the Port did not provide “a date on which a determination is expected to be dispatched.” and “No notice shall specify a date that would result in an extension for more than 14 days”.

Given the other methods the Port District has used to minimize informing the public about the decision to submit the proposed *de minimus* amendment before you, it seems indisputable that the Port has sought to suppress information likely to be damaging to their case for a *de minimus* finding by the Commission in violation of Government Code Section 6253.2(d).

The Commission should postpone any discussion of the proposed *de minimus* amendment until the Port District has disgorged all the documents requested and until the public has had an opportunity to file informed comments on the proposed amendment.

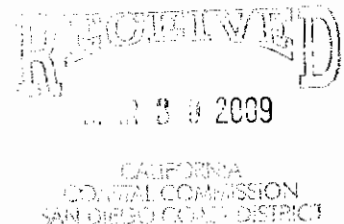
Background and History

Coastal Act Goals

The goals of the California Coastal Act are found in Section 30001.5 and can be summarized as follows:

To protect the coastal zone environment; Assure orderly and balanced utilization of coastal zone resources for the public benefit; to maximize public access; assure priority of coastal-related development along the coast; and encourage cooperation between agencies and coordinated planning in the Coastal region for the public benefit.

The Coastal Act (Section 30716) was amended January 1, 1995 to provide for a more streamlined method to review amendments to port master plans (PMP). This amendment process is described in Section 30716 (c)(1) as to be applied to amendments which “....**would have no impact, either individually or cumulatively, on coastal resources...**”.



Broadway Pier Cruise Ship Terminal

The proposed Broadway Cruise Ship Terminal does not meet the legal standard for a *de minimus* amendment review described in Section 30716 (c)(1) quoted above; the cruise ship terminal on Broadway Pier has both an individual and cumulative negative impact on coastal resources by reducing access to the shoreline and by eliminating a dramatic view corridor to the bay at the foot of Broadway which was promised in the 2000 NEVP MEIR...the latter being shown to the public in architectural renderings as late as September, 2007. The public was promised that the Broadway Pier would be a year-round accessible public space as envisioned in the 2000 North Embarcadero Visionary Plan---a crucial element of the whole plan---and the Port District with virtually no public debate now asks the Coastal Commission to bless their end run around public accountability and transparency by approving a proposed *de minimus* amendment.

Port Commissioner Laurie Black has it right when she went on record at the February 3, 2009 Port Commission meeting stating that "there was never going to be a terminal on Broadway Pier and ***[that] the process by which this happened , it was disjointed, it wasn't always honest, at least from her perspective***".

The Port may have satisfied the *de minimus* public noticing requirements of the amendment process but they have violated the spirit of the Coastal Act.

A striking example of the secrecy with which the Port District proceeded with this project is that even San Diego Commission staff were unaware for months that the Port District had issued itself a coastal development permit for the project in June 2007 Staff Report page 2).

The cumulative effects of a Broadway Pier Cruise Ship Terminal on traffic have not been adequately analyzed so that the proposed anemic mitigations are meaningless. These deficiencies have been summarized in a recent E-mail from Duncan McFetridge of SOFAR, an acknowledged expert on transit in San Diego County (Appendix 3).

Anecdotally, I cycle past the cruise ship berths regularly and I have seen firsthand the blocked pedestrian flow and traffic chaos that ensues when three ships are in port (currently only three times a year).

Overall, to repeat, the proposed Broadway Cruise Ship Terminal would have highly significant impacts on the coastal environment.

RECEIVED

FEB 3 8 2009

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Coastal Commission Staff Report

The Coastal Commission Staff Report is a disappointing, pusillanimous document lacking in scholarship that could have been written by Port District staff themselves. The report reaches a final recommendation to the Commissioners to certify the proposed *de minus* amendment. However, this recommendation could only be reached by sweeping inconvenient facts that would support a denial of the application under the table.

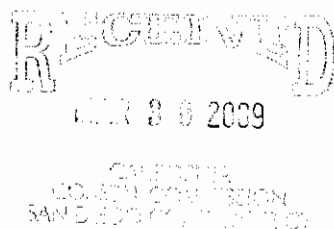
The only accurate conclusion in the report is that the proposed cruise ship terminal was not included in the certified PMP (p.3, para. 2 *et seq.*).

The staff report ignores the 2000 MEIR that the Broadway Pier remain open space as part of a spectacular Gateway to San Diego encompassing the Grand esplanade of Broadway, a public space at the foot of Broadway and the Pier itself. Instead it focuses upon the fact that there are several small buildings on the pier (p.6, para. 3) that should have been removed years ago under the 2000 MEIR.

With regard to the traffic impact of the proposed Cruise terminal, the staff report parrots the line taken by the Port District that there is no significant impact without an analysis of the traffic data available such as it is. The report also fails to take into account that relevant traffic studies do not exist.

The final conclusion of the report that the proposed project has no significant adverse environmental effects within the meaning of the California Environmental Quality Act (CEQA) for the reasons discussed in this report (p.7, para 3) is a *non sequitur*. Nowhere in the body of the staff report is a serious attempt made to analyze the proposed project as it relates to CEQA. Had such an analysis been performed the inescapable conclusion would be that, not only is the proposed project be subject to an Environmental Impact Report (EIR), under Government Code Section 21166 the 2000 MEIR should be evaluated in a subsequent EIR.

The Commissioners are urged to ignore this weak staff report in its entirety, reject its recommendation to certify the proposed *de minimus* amendment and find that the amendment requires full review of its impact on coastal resources.



To: tdeuel@portofsandiego.org
From: iantrowbridge <chris70@cox.net>
Subject: PRA request communications of Rita Vandergaw concerning the Navy Broadway pier
Cc: "Cory Briggs" <cory@briggslawcorp.com> , Diane Coombs <drbcoombs@msn.com>, "Duncan McPetridge" <sofar@nethere.com>, "Don Wood" <dwood8@cox.net>, "Brian T. Peterson, DVM" <friarsroadvet@sbcglobal.net>,
Bcc:

Attachments:

Dear Mr Deuel:

This is a California Public Records Act request for all public documents, electronic and paper, including but not limited to memos, E-mails and letters, to, from and by Rita A. Vandergaw, Port Director of Marketing related to in any way to the Broadway Pier and/or the proposal by the Port to build a second cruise ship terminal on the Pier. The PRA request covers all documents generated from January 1, 2007 through March 13, 2009.

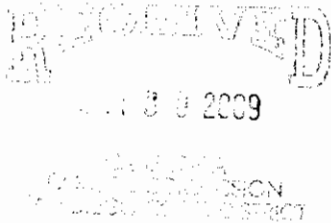
Please respond within ten days as required by law. If any documents responsive to this PRA are not provided, identify them and give a legal reason why they were withheld.

Please provide the documents on an audio CD. I am willing to pay a reasonable charge for the CD (other San Diego Agencies charge between \$3 to \$10 per CD).

If it will take a significant time to collect these documents, please estimate when this PRA will be completed.

Sincerely,

Ian S. Trowbridge





3165 Pacific Highway, San Diego, CA 92101
P.O. Box 120488, San Diego, CA 92112-0488
619.686.6200 • www.portofsandiego.org

March 20, 2009

Via e-mail: chris70@cox.net

Ian Trowbridge
3444 Hawk Street
San Diego, CA 92103

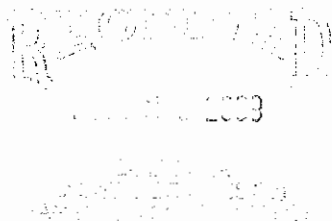
Dear Mr. Trowbridge:

The purpose of this letter is to acknowledge receipt of your California Public Records Act Request dated March 13, 2009. As allowed for by California Government Code Section 6253(c)(2), additional time is required "... to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request." I will notify you as soon as those responsive materials deemed releasable under law are available for your review at our office. In the interim, please contact me at (619) 686-6203 or tdeuel@portofsandiego.org at your earliest convenience to discuss the charges associated with the reproduction of documents by the District. All responsive materials may not be available in electronic format and therefore would be subject to the fee schedule outlined in BPC Policy No. 601, Document Reproduction for the Public.

Cordially, 

Signature on file

Timothy A. Deuel
Deputy District Clerk



APPENDIX 3

March 23, 2009

To: John Helmer, Manager

Land Use Planning Department, Unified Port of San Diego

3165 Pacific Highway, San Diego, CA 92101

<mailto:jhelmer@portofsandiego.org>jhelmer@portofsandiego.org

Re: Addendum to the Master Environmental Impact Report and Initial Study (UPD #83356EIR-351; SCH #99031037) Phase 1, Coastal Access Features Project

We are writing to submit comments on the proposed addendum to the MEIR referenced above. Our area of concern is exclusively reserved to the circulation section of the report. The report states that in every category that there will be no significant impacts either to the traffic volumes and flow, or to capacity for parking. These statements fly in the face of the *Complete Community Mobility Plan* commissioned by CCDC last year, which describes a traffic Armageddon descending on the entire downtown area roadways. In fact, business and population growth projections for the downtown area and the consequent traffic increases are so great that *road infrastructure is completely inadequate to meet the demands that development will place on it*

For example, the proposed amendment fails to note the following crucial baseline data from the *Complete Community Mobility Plan*: "The downtown area will experience a peak hour trip increase of **112%** to 100,000 trips and daily trips downtown will increase by **112%** to 1,000,000 trips." Since the existing roads carry a peak hour capacity of 50,000 trips, the required transit mode share must increase by 48%, to 47,700 trips. Without the dramatic transit mode share increase, all freeway segments will have LOS F service conditions and sixty-two downtown intersections will have LOSF in one or both peaks. In other words, the above information alone requires a complete rethinking of the circulation element of the North Embarcadero Plan.



MAR 23 2009

PORT OF SAN DIEGO
SAN DIEGO, CALIFORNIA 92161

Missing from the NEVP Amendment is the following data:

No Development Growth Numbers

No Trip Numbers

No Road Capacity Analysis

No Quantifiable Transit Mode Share Goals

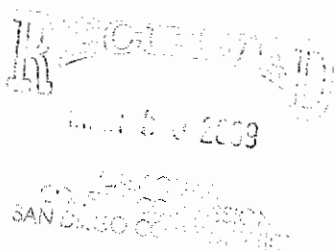
No Exchange Space Vs Movement Space Analysis

All of these facts and figures and analysis is found in the complete mobility downtown plan.

In conclusion, dramatic new information has surfaced regarding circulation impacts that renders the original master plan and the amendment obsolete. It would be a dereliction of planning principles and the CEQA mandate, to not include this vital new information in your amended document. In order to accurately inform decision makers and the public, it is essential when you redraft your document that you consult the *Complete Community Mobility Plan*.

Duncan McFetridge,

Save Our Forest And Ranchlands



**COMMENTS ON THE NORTH EMBARCADERO VISIONARY PLAN
AMENDMENT (Port Document UDP #83356 EIR; SCH #99031037)**

These comments are submitted by me as an individual. All my comments refer to the failure of the Port to follow Public Resources Code 21166 in finding that the amendment to the 2000 NEVP EIR was *de minimus*.

In fact, the Port's finding is in violation of subsections, 21166 (a), (b) and (c), Substantial changes since 2000 have occurred; there are substantial changes with respect to circumstances; and new information is now available that was not available at the time of the original EIR.

“21166. When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.”

Background

The North Embarcadero is a unique asset of the City of San Diego. It requires long-term visionary resolute planning to create a world class waterfront equal or better than those other cities have created in the United States and worldwide. This can be achieved without compromising shorter term goals. Unfortunately,

the North Embarcadero is in the purview of the City, the Port, the County and CCDC acting for the city. These agencies pursue their parochial interests to the detriment of the public interest. Developments along the waterfront are planned piecemeal with no long-term plan as the public is frozen out of the process.

As the stewards of public tidelands, the Port and its commissioners bear a greater responsibility than the other agencies to ensure the creation of a waterfront which is greater than the sum of its parts.

It is disappointing that, in many respects, the Port is the least interested of the agencies in long-term planning even piece-mealing the development in their own jurisdiction and misleading the public about the history of projects and their environmental impacts. Put simply, the Port is operated as a marketing-driven private business that seeks to maximize profits.

The North Embarcadero Visionary Plan requires additional environmental analysis based on Section 21166 and the proposed amendment is not *de minimus*.

The issues I raise are relevant to the Coastal Commission because they address access to the waterfront and maintaining view corridors to the ocean. The Coastal Commission also has an important role in promoting a visionary approach to the development of the North Embarcadero and a responsibility to do so.

The Facts

It is not my intention to exhaustively discuss the reasons the amendment should not go forward but to lay down markers on environmental issues that trigger action based on Section 21166.

THE BROADWAY PIER: A BETRAYAL OF THE PUBLIC TRUST

Any discussion of the environmental effects of the North Embarcadero Visionary Plan must begin with the proposed development of the Broadway Pier.

The proposed action by the Port to build a second cruise ship terminal was not anticipated in the NEVP and epitomizes the cavalier manner in which the Port ignores the public interest. This change alone triggers a new or subsequent EIR under CEQA Section 21169(a). Less there be any doubt that this development is a new significant change in the NEVP, I quote from current Port Commissioner Laurie Black at the February 3, 2009 Port Board meeting as follows:

"...there never was going to be a terminal on Broadway Pier, it was always going to be walkable."

"...the process by which this happened [the decision to build a cruise terminal] , it was disjointed, it wasn't always honest, at least from her perspective."

In fact, as recently as September 2007, the Port had a rendering of the Broadway Pier it presented to the public that showed the Pier as open space as envisaged in the original 2000 NEVP. With the minimum of public input to this plan morphed into the present proposal.

The Broadway Cruise Ship Terminal has significant a impact on traffic that have not been studied adequately, it could degrade water quality that has not been studied. The cumulative effects of the the Cruise Ship Terminal have not even been considered.

Overall, it significantly degrades quality of life. It was always envisaged as the public place at the end of the grand esplanade of a widened Broadway providing a vista of the ocean. It was the crown jewel of any plan for an enduring world class water front and it has been discarded by the Port by a misguided market-driven plan for *potential* short term profit.

It egregiously violates the goals of the California Coastal Act.

The NEVP is subject to a new or subsequent EIR based on CEQA Section 2116(b) because circumstances have changed significantly since the original 2000 EIR was certified. While the Broadway Pier Cruise Ship Terminal is a key change, traffic conditions have changed downtown, the Navy Broadway Complex is unlikely to be developed as envisaged. The proposed mitigation for traffic impact is inadequate and has not been subject to public input. The Port ignores the recent comprehensive transit study commissioned by SOFAR.

Finally, the NEVP requires a new or subsequent EIR based on CEQA Section 2116(c). The consequences of climate change were not known in 2000 and not discussed in the original NEVP EIR. The issues of water shortage and rise in ocean water levels have not been adequately considered by the Port.

The Broadway Complex Coalition

March 22, 2009

John Helmer, Manager
Land Use Planning Department
Unified Port of San Diego
3165 Pacific Highway
San Diego, CA 92101
jhelmer@portofsandiego.org

Broadway Complex Coalition Comments on the February, 2009 “Addendum to the Master Environmental Impact Report and Initial Study (UPD #83356EIR-351; SCH #99031037) Phase 1, Coastal Access Features Project

Table of Contents

<u>Topic</u>	<u>Page</u>
1. Summary	3
2. Structural problems with the Initial Study (IS) document and the Port's planning process.	4
3. Proposed project changes appears to ignore the California Public Tidelands Trust Doctrine, undermine the goals of the California Coastal Act and violate the California Environmental Quality Act.	5
4. The 2000 North Embarcadero Visionary Plan (NEVP) Master Environmental Impact Report (MEIR) did not propose or consider the construction of a permanent cruise ship terminal on the Broadway Pier. The MEIR must be amended and updated to reflect this change, and the loss of the proposed Broadway Landing Park before being used to support a final NEVP MEIR amendment and Initial Study.	7
5. IS fails to address the cumulative impacts associated with the construction and operation of surrounding projects, including the Navy Broadway Complex redevelopment project, a new permanent Broadway Pier cruise ship terminal, construction of the proposed Lane Field hotels project, expansion and reconstruction of the existing B Street cruise ship terminal, planned redevelopment of Navy Pier, and the planned fate of the 1220 Pacific Highway site	10
6. NEVP approvals have been based on obsolete traffic studies associated with the downtown community plan update.	11
7. IS fails to identify and mitigate risks associated with toxic spills and hazardous material related accidents associated with the nearby railroad right of way.	12
8. The NEVP MEIR amendment and IS fail to identify, address or mitigate potential risks associated with terrorist attacks on the proposed regional Navy headquarters on the adjoining Navy Broadway Complex (NBC) project site.	13

1. Summary

The Bayfront Complex Coalition is an alliance of dozens of local urban planning and environmental organizations and hundreds of individuals dedicated to preserving public access to downtown San Diego's waterfront, enforcement of the California Public Tidelands Trust Doctrine, and adherence to the California Coastal Act along the city's bayfront.

The original North Embarcadero Visionary Plan (NEVP) proposed significant improvements to downtown San Diego's waterfront, including enhancements to Harbor Drive and the creation of a wide bayfront esplanade, construction of a 16,000 square foot oval Broadway Landing Park at the foot of Broadway with public fountains, and preservation of the Broadway Pier as a year round public gathering place and viewing platform. The public amenities proposed in the original NEVP were designed to increase public acceptance of the construction of proposed new highrise structures along the east side of Harbor Drive, including two hotels on the Lane Field site and new structures proposed to be built on the Navy Broadway Complex site, and other unnamed future highrise projects along the east side of Harbor Drive. The result was a carefully balanced mix of new bayfront structures and new public amenities along downtown's bayfront.

The proposed addendum to the North Embarcadero Visionary Plan (NEVP) Master Environmental Impact Report (MEIR) amendment Initial Study (IS) regarding phase 1 of the NEVP project propose significant changes to the original NEVP vision, and fails to address a number of key coastal public access issues and environmental impacts that must be addressed per the California Coastal Act and are required by the California Environmental Quality Act (CEQA), and is based on obsolete 2000 MEIR information that must be updated before any further action is taken.

Limiting the environmental review of this proposed project to an Initial Study of only one phase of the project, while ignoring future phases of the project as well as adjoining proposed projects along Harbor Drive and on nearby bay piers, artificially limits public review and input into the process, limiting comments only to those issues chosen by the Port staff. The Port's traditional piecemeal, intentionally fragmented land use and facilities planning practices force the public into a game of "whack-a-mole", trying to keep up with changes put forward by Port staff that undercut and renege on promises made to the public in previous Port planning efforts.

Because of these planning deficiencies, it is impossible for the public to identify and assess a wide range of public access reductions and environmental impacts associated with the proposed project changes and adjoining projects along the bayfront. We are also not able to assess the longer-term cumulative impacts of the project and projects planned for surrounding tidelands parcels, and a number of adjoining construction projects being undertaken concurrently by the Port District and other agencies, as required by CEQA.

For example, the Port now proposes to renege on its promise that the Broadway Pier would be preserved as an open year round public gathering place, and now proposes to

block public access and views from lower Broadway to the water with a large permanent cruise ship terminal not envisioned in the original NEVP or the 2000 MEIR. Ongoing public access to Broadway Pier is a key element of the NEVP vision adopted in 2000, but the Port has insisted on treating it as a separate planning issue, and has tried to ignore the impact that changes to the pier would have on the overall NEVP effort.

In addition, Port staff now proposes to eliminate Broadway Landing Park, the promised 16,000 square foot oval landscaped public plaza at the foot of Broadway envisioned in the original NEVP and the 2000 MEIR, and replace it with a simple traffic intersection designed to accommodate trucks serving a new permanent cruise ship terminal on the pier.

These are fundamental changes that would substantially reduce public access and views to the bay from downtown for the benefit of private special interests, and would undercut the carefully balanced NEVP deal and the vision addressed in the 2000 MEIR. In the proposed MEIR amendment and the Initial Study, the Port does not propose any new forms of mitigation for the proposed loss of this public access and these key public amenities promised in the original NEVP and the 2000 MEIR.

Because it is impossible, given the fundamental changes now being proposed by the Port to the original NEVP, to determine whether environmental impacts of the project, and the proposed changes from the 2000 MEIR, both those identified in the IS and those the IS fails to address, can be completely mitigated, we believe that current California state law - (CEQA) - requires that a supplement to the MEIR and a new NEVP project Environmental Impact Report (PEIR) must be completed before this project can be approved and construction begun.

2. Structural problems with the Port's planning process

We have identified a significant number of proposed NEVP project changes, which we discuss below, that must be fully addressed and mitigated under the California Coastal Act (CCA) and the California Environmental Quality Act (CEQA) that are not mentioned in the MEIR amendment IS. At the very least, the proposed IS must be updated to consider adjoining planned and proposed projects on nearby tidelands and piers, address the impacts those projects will have on the NEVP project and show how they will be fully mitigated before being approved by the Board of Port Commissioners (BPC) and forwarded to the California Coastal Commission and other regulatory agencies with jurisdiction over this project for their review.

Too often in the past, the Port has planned and approved long-term projects, only to be swayed later on by private interests who covet control over public tidelands parcels and Port facilities. In the past these special interests have included hotel developers, the Convention Center Corporation and other Port tenants.

In this case, the special interest that has undermined the original NEVP and Broadway Pier plans is the cruise ship industry, threatening Port executives and Commissioners that

if the cruise lines don't get everything they demand, and utilize more of our downtown waterfront as a parking lot for their floating hotels, they may take their business and sail away to some other unnamed Ports along the west coast of North America.

The Port has never worked with the Navy, the City of San Diego and the Centre City Development Corporation (CCDC), and the public to develop a Precise Bayfront Plan, one which would clearly identify what will be built on every parcel of land on downtown's waterfront tidelands, and has never identified parcels that will be preserved for the public to enforce the Public Tidelands Trust Doctrine by maintaining east/west public pedestrian access and view corridors to the bay from downtown's urban core area.

We believe that before any further action is taken in this direction on the North Embarcadero, the Port should first seek clarification from the State Lands Commission, the California Coastal Commission, and the Courts if need be, as to whether it's current planning processes comply with state tidelands trust doctrine laws and policies, and the Coastal Commission's public access preservation policies.

We strongly suggest that the California Coastal Commission order the Port to conduct a precise public bayfront planning process that identifies what will be built on each parcel between Harbor Drive and Pacific Highway from Lindbergh Field to Seaport Village before it agrees to consider the latest changes to the NEVP being proposed by the Port.

At the very least, the Coastal Commission should require that the Port submit its proposed Bay Master Plan amendments associated with the Broadway Pier and the latest proposed changes to the NEVP project itself, so that these two related project changes can be considered at the same time.

3. The proposed project changes appears to ignore the California Public Tidelands Trust Doctrine, undermine the goals of the California Coastal Act and violate the California Environmental Quality Act.

The Port of San Diego has legislative jurisdiction over state tidelands extending from the San Diego Bay Bulkhead to east of Pacific Highway in downtown San Diego. The Public Trust provides that state tidelands must be held in trust for the benefit of all the people of California. These tidelands became state property when California joined the Union on September 9, 1850 and are held by the State in trust for the people of California. Since 1938, the California State Lands Commission has been the administrator and the guardian of these valuable public lands. These lands include tidelands that have been filled and are no longer under water.

According to "The Public Trust – Your Rights to Enjoy California's Waterways, California State Lands Commission, 2007, "Public Trust Lands cannot be bought and sold like other state-owned land." Under state legislation creating the San Diego Unified Port District (Port), the district is charged with administering state tidelands held in trust for the benefit of all Californians. This includes preserving local resident's public access to San Diego Bay.

Section 30210 of the California Coastal Act mandates that “maximum access (to the bay), which shall be conspicuously posted, and recreational opportunities shall be provided for all the people”. Section 30211 mandates that “Development shall not interfere with the public's right of access to the sea”.

Instead, local government appointees on the Board of Port Commissioners (BPC) have traditionally treated state tidelands under the district’s control as their own private property, managing them not for the benefit of the public, but in a manner intended to maximize financial revenues to the Port and favored tenants.

To do this, previous Boards of Port Commissioners and Port staff has engaged in a practice of fragmented, piecemeal land use planning, zoning, environmental review and redevelopment. The Port has traditionally focused on one tidelands parcel at a time and has studiously ignored each projects impacts on adjoining tidelands parcels, and has failed to take into account plans for adjoining parcels as part of its master and individual project environmental reviews. Even the original NEVP effort was flawed, in that it did not address what was going to be built on adjoining property parcels along the east side of Harbor Drive. What gets built on those parcels will surely impact what happens along both sides of Harbor Drive and on the planned esplanade.

In this instance, Port staff insists that public parties comments focus only on the changes proposed to NEVP improvements along Harbor Drive, and ignore planned redevelopment of adjoining tideland parcels and the bayfront piers along the North Embarcadero. All of those adjoining projects will affect and be impacted by phase 1 of the NEVP project. Therefore they should all be considered as part of a new comprehensive public bayfront precise planning process.

The changes the Port is now proposing would sacrifice public access to our bay in order to benefit the private cruise ship industry, further undercutting the Public Trust Doctrine that holds the Port accountable for stewardship of the tidelands for their public owners.

If anything, the North Embarcadero should be designed with increased and enhance east/west public access corridors and views, to partially mitigate the devastating loss of public waterfront access and views already caused by the construction of the South Embarcadero wall.

According to the wording in the proposed MEIR amendment IS,

The Port and the NEVP joint powers authority (JPA) should conduct an inventory of remaining existing potential public access corridors and public viewsheds from inland downtown to the bay on our downtown waterfront.

We believe the Port and the NEVP JPA should consider going beyond conducting an inventory, and adopt a new bayfront public access and viewshed loss mitigation policy requiring that for every parcel along the North Embarcadero that is blocked by new

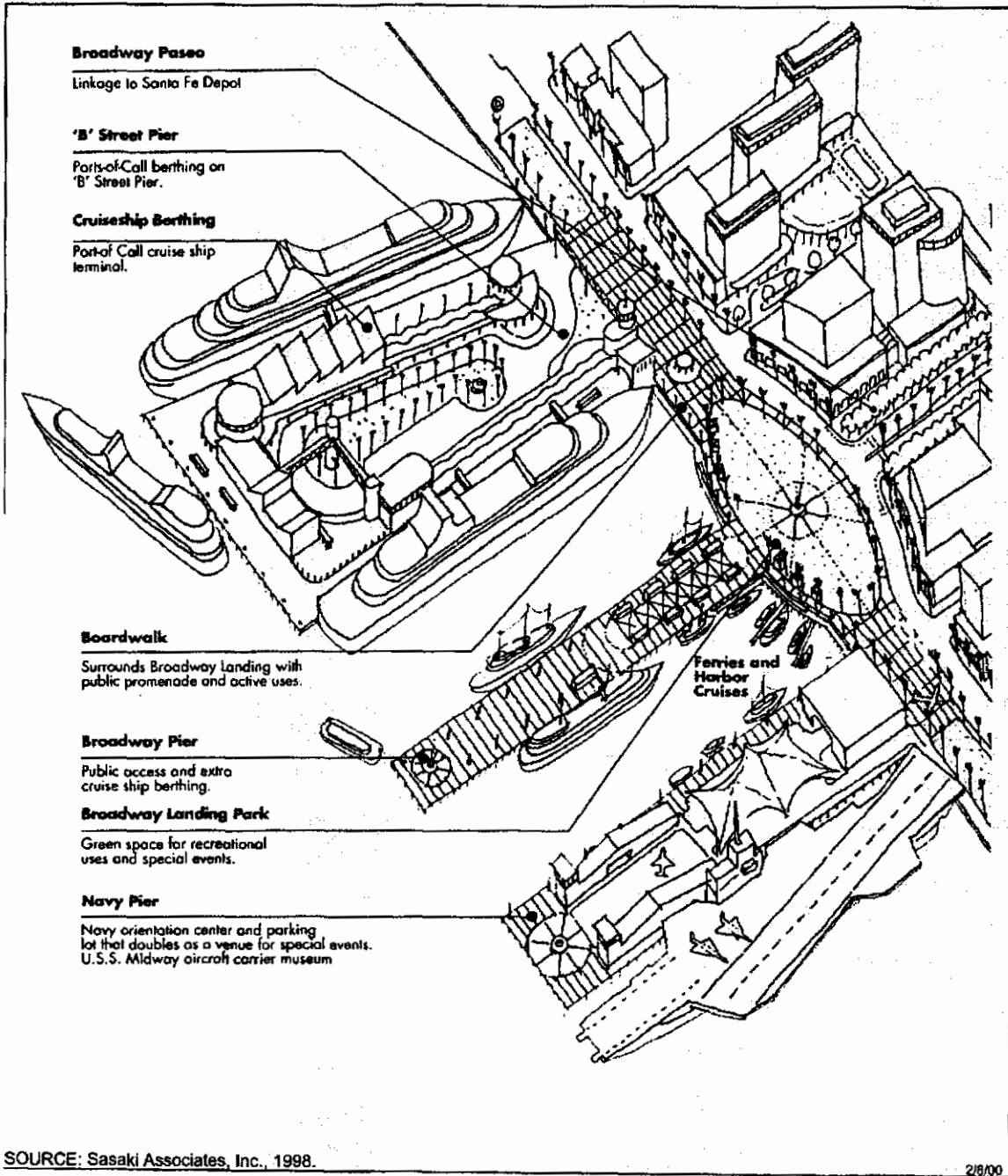
redevelopment projects, an equivalent east/west public access corridor area will be identified and preserved in the form of new public plazas or parkland to ensure public access and view corridors to San Diego Bay.

This step would begin to mitigate the ongoing loss of public access and viewsheds to our downtown waterfront. Without it, redevelopment along the North Embarcadero will continue to be an unmitigated disaster for residents of downtown and the rest of the public who live in our region. This concept should be fully addressed in the NEVP MEIR amendment IS and a follow up project EIR (PEIR).

4. The Port staff has based its MEIR amendment Initial Study on the original 2000 North Embarcadero Visionary Plan Master Environmental Impact Report, which did not envision construction of a permanent cruise ship terminal on the Broadway Pier, redevelopment of Navy Pier, or redevelopment of 1220 Pacific Highway and neighboring Harbor Drive parcels. The 2000 MIER must be updated to address the impacts of all those adjoining redevelopment projects, before it can be used to support a NEVP MEIR amendment or IS.

The 2000 NEVP MEIR was based on a number of rendering and schematics, which showed the Broadway Pier as an open public community gathering plaza area at the foot of the ceremonial Broadway Hall corridor. Colored pavers would extend down Broadway onto the Pier, where public celebrations and events were planned to take place.

This concept is reflected in Figure 3.3-16 of the 2000 final Master Environmental Impact Report reprinted below:



 B.B.C. BFG CONSULTING, INC.	North Embarcadero Alliance Visionary Plan MEIR Proposed Cruise Ship Terminal Expansion Site Plan	FIGURE 3.3-16
---	--	--------------------------

A key concept of the 2000 NEVP concept was that Broadway Pier would provide public views and access to the bay, without any physical or visual obstructions. As noted in

Figure 3.3-16 Broadway Landing Park would provide for a 16,000 square foot oval landscaped park at the foot of Broadway, while the Broadway Pier would be preserved for public gathering and occasional overflow cruise ship berthing. While these were some footnote language in the MEIR regarding FARs related to the pier, and discussion of putting up and taking down temporary tent structures when overflow cruise ship traffic necessitated use of the Broadway Pier for temporary berthing, no party in the NEVP development effort ever brought up the idea of constructing a permanent cruise ship terminal on the Broadway Pier when the original NEVP plan was developed or the 2000 MEIR was developed, reviewed and approved.

Now Port staff is suggesting that the Broadway Landing Park and its fountains be eliminated, and replaced with a standard paved traffic intersection primarily designed to accommodate large trucks turning onto and off of the Broadway Pier to service the proposed cruise ship terminal. Public access to both the pier and the intersection will be blocked on days when cruise ships are tied up to the pier. Port staff has recently projected that cruise ships will tie up at San Diego Bay piers more than 200 days a year. During the multi-year period when the B Street Pier cruise ship terminal is under reconstruction, all those ships would be berthed on the Broadway Pier.

The preservation of public access to the Broadway Pier and construction of the Broadway Landing Park were significant mitigations for the loss of public access and views that will be caused by the construction of new hotels on the Lane Field site and other sites along Harbor Drive. Now Port staff is suggesting that both of these critical original NEVP components be eliminated, while at the same time asserting that nothing has changed since the original NEVP was developed and the 2000 MEIR, which required these key elements, was approved.

During a recent Board of Port Commissioners (PBC) meeting convened to consider approval of a permanent cruise ship terminal on Broadway Pier, Port Commissioner Laurie Black noted that she and the parties that she had represented as part of the original NEVP planning process had been assured by Port staff that the Broadway Pier would remain an open public community gathering place.

Beginning in 2005, increased cruise ship traffic in San Diego Bay caused Port staff to begin considering alternative uses for Broadway Pier that were not addressed in the 2000 MEIR. The Port determined that cost and environmental considerations precluded the construction of a three ship "super terminal" alternative to the B Street Pier cruise ship redevelopment project considered in the 2000 MEIR. Under pressure from the cruise ship lines to accommodate more ships in the future and a threat of the loss of cruise ship business, the concept of replacing the Broadway Landing Park and preserving ongoing public access to Broadway Pier with a permanent cruise ship terminal began to be discussed.

In 2006, the BPC approved such a project in concept, but the Port has taken no actual steps to modify or update the original 2000 NEVP MEIR, or to address all the new environmental, view shed, public access losses, and traffic impacts the construction of

such a permanent terminal will create until recently. Recently, the BPC approved a staff proposed “de minimus” amendment to the Port Master Plan that would allow such a permanent terminal to be constructed, but to date the Port staff has not forwarded the proposed amendment to the California Coastal Commission for review and approval, to our knowledge. Note that this change to the original NEVP concept and MEIR is being considered by the Port separately from the currently proposed amendment to the initial NEVP concept MEIR, as part of the Ports piecemeal planning practice.

CEQA guidelines section 15177(b)(3) states that a certified MEIR cannot be used for tiering subsequent projects if “(ii) a project not identified in the original certified MEIR as an anticipated subsequent project is approved and the approval project may affect the adequacy of the MEIR”.

In order to comply with the California Coastal Act and state CEQA law, we believe that the Port District must prepare a subsequent NEVP Project EIR that updates or revises the original MEIR to address the individual project changes and cumulative impacts construction of a new permanent cruise ship terminal on the Broadway Pier and the loss of the planned Broadway Landing Park would create. The new proposed MEIR amendment and IS do not indicate how the Port proposes to mitigate the loss of these two key NEVP elements to compensate the public for the loss of the public park and year round public access to the Broadway Pier. We believe that such new mitigation elements must be addressed in a new NEVP Project EIR.

We believe that compliance with the State Public Tidelands Trust Doctrine law and policies requires that a full Project EIR for the proposed Broadway Pier cruise ship terminal, conducted in conjunction with any proposed changes in the original NEVP concept, must be undertaken by the Port District and reviewed and approved by the State Lands Commission and the California Coastal Commission before construction of the Broadway Pier cruise ship terminal and NEVP Phase 1 can be undertaken.

5. The proposed MEIR amendment IS fails to address the cumulative impacts associated with the concurrent construction and operation of surrounding tidelands projects, including the Navy Broadway Complex redevelopment project, construction of a new permanent Broadway Pier cruise ship terminal, expansion and reconstruction of the existing B Street cruise ship terminal, redevelopment of Navy Pier, and redevelopment of the adjoining 1220 Pacific Highway site

CEQA requires that environmental reviews address cumulative impacts associated with a proposed project. “Cumulative” includes environmental impacts created by the project over time after its construction, and the impacts of the proposed project along with new projects proposed to be build on surrounding properties that when taken together, will produce more impacts than the instant project would as a stand-alone project. This legal requirement has historically been overlooked by the Port District and the US Navy, who have insisted on treating each parcel they control along the waterfront as individual stand-alone development projects, ignoring the impacts the new project will have on

surrounding parcels, and the impacts that redevelopment of surrounding parcels will have on it.

In the case of NEVP Phase 1, it will be built in conjunction with a large number of other projects in the same downtown bayfront area, during the same timeframe. These surrounding projects include, but are not limited to the proposed Navy Broadway Complex redevelopment project, the construction of a new permanent Broadway Pier cruise ship terminal, expansion and reconstruction of the existing B Street cruise ship terminal, redevelopment of the Navy Pier, and redevelopment of the adjoining 1220 Pacific Highway site to the immediate north of Lane Field.

The Navy Broadway Complex project is subject to several lawsuits, and may be substantially modified in response to those lawsuits and further design reviews by the Centre City Development Corporation (CCDC). Until the design of that project has been finalized and it has cleared legal hurdles, it is impossible to determine what cumulative impacts it will have on NEVP Phase 1 and other surrounding proposed tidelands projects, and how those impacts can be mitigated.

The final designs of the proposed Broadway Pier cruise ship terminal and B Street cruise ship terminal have not yet been developed or approved. The Ports current plans for redevelopment of the Navy Pier have not been made public, and the Port has not announced what it plans to build on the 1220 Pacific Highway site. That site will certainly be impacted by what is built on Lane Field, and what gets built on that site will certainly impact the NEVP project.

The Port has agreed to build the Navy a new multi-million dollar building offsite in return for the Navy giving up its long-term lease on 1220 Pacific Highway. Since it is willing to fund such an offset project, the Port must have some idea of what it plans to build on the site, but has not addressed that project in the NEVP Phase 1 MEIR amendment IS. By ignoring that project in its initial study, the Port staff failed to address the cumulative environmental impacts of the adjoining projects. The original 2000 MEIR mentioned plans to construct a six story parking garage on this site, but no mention is made of that project in the proposed MEIR amendment and IS. Despite public requests, Port staff has failed to provide us with any information regarding current Port plans for the portion of this site that will not be covered by the north hotel portion of the Lane Field project.

Because the impacts of all these surrounding projects have not been identified or addressed in the MIER amendment IS, and the cumulative impacts of those projects are not addressed in the IS, it is impossible for public to understand what impacts will be produced by the combined projects, what the impacts of constructing all these projects during the same timeframe will be, and whether or not all those impacts can be partially or completely mitigated.

Therefore, we believe that CEQA law requires that a full NEVP Project EIR be undertaken and completed, addressing all phases of the project and the impacts of

adjoining tidelands projects, before the project can legally be allowed to proceed. Continued piecemeal redevelopment of bayfront parcels by the Port District is an open invitation to further legal challenges.

6. Traffic planning and impact issues

In 2000 the Port adopted the NEVP MEIR with the disclosure of significant and unmitigatable impacts. At that time, the Port proposed to deal with this problem by cooperating with SANDAG and Caltrans on a future traffic study, which we assume would have identified and funded actions to fully mitigate the cumulative traffic impacts of the NEVP project and projects like this one. Since that time, the Port to our knowledge has conducted no such study.

The 2000 NEVP MEIR and subsequent BPC approvals were based on traffic studies done as part of the Downtown Community Plan Updated conducted by the City of San Diego and the Centre City Development Corporation. Since that plan update was adopted, the city and CCDC have agreed to update their downtown traffic studies and issue a new downtown mobility study report as part of a legal settlement with Save our Farms and Ranchlands (SOFAR). No mention of that change is contained in the latest proposed NEVP Phase 1 MEIR amendment and Initial Study currently being considered, and Port staff continues to claim that nothing has changed since the original NEVP concept was approved and the 2000 MEIR was adopted. This assertion is simply unreasonable.

The IS also refers to various Traffic Demand Management measures, but provide no concrete steps it proposes to take or timelines for resolving the massive downtown traffic problems that would be created by construction and operation of this project and all the surrounding bayfront projects the Port is considering. Since the IS does not provide information needed to determine whether or not those impacts can be mitigated, we believe a full PEIR is required.

According to the IS, six years later that traffic study has still not been completed. We believe that instead of continuing our march toward total traffic gridlock (the IS notes that a large number of area streets and surrounding freeways will be at LOS level F when downtown bayfront redevelopment is completed), the study proposed in the 2000 MEIR be completed as soon as possible.

The final report should clearly identify and provide funding for specific actions to mitigate the cumulative traffic impacts of downtown bayfront redevelopment, and those costs should be shared by the Port, the cruise ship lines, the city and all the bayfront project developers. Since this IS identifies unmitigated substantial impacts, we believe CEQA requires that a full PEIR be completed.

7. The proposed NEVP MEIR amendment and Initial Study fail to identify and address risks associated with toxic spills and hazardous material related accidents associated with the nearby railroad right of way

The NEVP area extends east to several major rail lines supporting major freight trains, the Coaster commuter rail line and the San Diego Trolley. We believe that freight trains traveling on those tracks regularly carry explosives, toxic substances and hazardous materials (hazmat). In reviewing the proposed MEIR amendment and IS, we find no mention of this issue. Therefore we are unable to determine whether or not the Port District has identified potential environmental impacts and risks associated with toxic spills or HAZMAT accidents, and what mitigation is being proposed to address these potential risks. Therefore we believe that a full PIER is required to identify and address these risks.

8. The NEVP MEIR amendment and IS fail to identify, address or mitigate potential risks associated with terrorist attacks on the proposed regional Navy headquarters on the adjoining Navy Broadway Complex (NBC) project site.

The Navy Broadway Complex project, immediately east of the NEVP project, includes a proposal to rebuild the regional Naval headquarters as part of a complex of new structures on the site. Given ongoing terrorist threats facing our nation, it would be irresponsible to ignore the potential for terrorist attacks in the consideration of potential risks to the NEVP phase 1 project. Navy Admiral Len Hering has stated publicly that the new NBC project headquarters will become the worldwide logistics center for the global war on terror.

With the growth and consolidation of Naval planning in San Diego over the last decade, the regional headquarters building will become a key target for terrorists and other agencies intent on disrupting Navy operations in the middle east and other parts of the world. It is conceivable that a terrorist group could attack the headquarters building using car or truck bombs, or even “dirty nukes”, bombs constructed of regular explosives wrapped in radioactive materials. It is also conceivable that they might attack the site using chemical weapons.

Given the location of the new Navy headquarters at the NBC site, it can be expected that the office buildings on the site will be filled with military contractors doing business with the Navy, making the site an even more inviting target for terrorist attack. In reviewing the MEIR amendment IS, we are unable to find any addressing these risks, or proposing actions to mitigate them. Therefore we are unable at this time to determine whether or not these risks can be mitigated. We therefore recommend that the Port District develop a new PIER for NEVP phase 1 addressing this issue.

Comments or questions should be directed to:

Don Wood
Bayfront Complex Coalition
619-463-9035
dwood8@cox.net

Diana Lilly

Subject: FW: Proposed Port Master Plan Amendment (PMPA), a new Broadway Pier Cruise Ship Terminal

17696 Cumana Terrace
San Diego, CA 92128
March 26, 2009

Deborah Lee
Coastal Commission Office
San Diego Coast District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Dear Ms. Lee,

Subject: Proposed Port Master Plan Amendment (PMPA), a new Broadway Pier Cruise Ship Terminal

For the Executive Director to make a determination that a proposed PMPA, a new Broadway Pier Cruise Ship Terminal is de minimis in nature ignores the spirit of and dismisses the 2000 North Embarcadero Visionary vision to create a vibrant publically accessible waterfront environment to serve the public good.

I am in agreement with other interested parties that the PMPA appears to be in conflict with the goal of the California Public Tidelands Trust Doctrine that holds state tidelands in trust for the benefit of all the people of California.

In my opinion, the PMPA is strictly for the benefit of the cruise ship industry and flies in the face of Downtown's "front porch" and ceremonial terminus of the Broadway corridor. The NEVP promised to provide San Diego year round park space, views and access to the bay which will be basically eliminated by the proposed PMPA.

It is logical to assume that increased cruise ship traffic will cause environmental pollution to the detriment of the downtown workforce and residents at a time when climate change is a major serious concern.

Therefore, it is difficult to understand how this determination does not require an updated California Environmental Quality Act report.

In closing, I strongly oppose the Port Master Plan Amendment for a new Broadway Pier Cruise Ship Terminal.

The de minimis PMPA greatly diminishes confidence and trust in the Port District to develop the western north embarcadero to benefit the public good.

Thank you for the opportunity to comment on this issue.

Sincerely,

Cathy O'Leary Carey

Diana Lilly

Subject: Broadway Complex Coalition comments on San Diego Unified Port District's February, 2009 NEVP MEIR Addendum Initial Study

Deborah:

By approving the Broadway Pier cruise ship proposal, the commission would be precluding construction of the 17,000 Sq Ft. oval Broadway Landing Park, which was included in the NEVP port master plan the commission approved earlier and would be allowing a significant loss of public access to Broadway Pier which was called for in the original NEVP plan the commission has approved.

In effect, approving the first project is approving major modifications in the original NEVP which calls for a public park at the foot of Broadway and year round public access to the Broadway Pier.

The action to approve the Broadway Pier cruise ship terminal would prejudice the commissions later consideration of the new proposed changes to the NEVP plan. Waiting to consider both projects at once would allow the Commission to assess the loss of public access due to the elimination of the Broadway Landing Park and on Broadway Pier and see what kind of mitigation the Port proposes to fully offset those losses of public access.

We also need to see how the Port proposes to handle three cruise ships during the years that the B St. Pier Cruise Ship Terminal is being torn down and reconstructed. With only one berth at Broadway Pier, how does the Port plans to accomodate the other two ships? With Port staff projecting over 200 cruise ship days a year, we need to fully understand just how many days a year the Broadway Pier will be closed to the public during the next few years.

Do you need me to put this into a formal letter to the Commission, or will this email do?

Don Wood

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



March 19, 2009

W11b

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: PETER DOUGLAS, EXECUTIVE DIRECTOR

**SUBJECT: PORT OF SAN DIEGO DE MINIMIS PORT MASTER PLAN
AMENDMENT PSD-DM-40-09 (Broadway Pier Cruise Ship Terminal)
(For Commission review at its meeting of April 8 - 10, 2009)**

The Coastal Act was amended January 1, 1995 to provide for a more streamlined method to review amendments to port master plans (PMP). Section 30716(c) allows the Executive Director to make a determination that a proposed PMP Amendment is de minimis in nature. The Executive Director must determine that the proposed amendment: 1) has no impact, either individually or cumulatively, on coastal resources; 2) is consistent with the policies of Chapter 3; and 3) does not propose any change in land use or water use or any change in the allowable use of property. Section 30716(c) requires the local government to notice the proposed de minimis LCP amendment 21 days prior to submitting it to the Executive Director either through: 1) publication in a newspaper of general circulation; 2) posting onsite and offsite the area affected by the amendment; or 3) direct mailing to owners of contiguous property. If the Executive Director makes the determination that the proposed amendment qualifies as a "de minimis" amendment and finds the public notice measures have been satisfied, such determination is then reported to the Commission for its concurrence.

An Initial Study/Addendum to the North Embarcadero Alliance Visionary Plan Master Environmental Impact Report was approved by the Board of Port Commissioners in June 2007 (Res. 2007-126) for construction of a new cruise ship terminal. The Port District exempted the proposed amendment from review under the California Environmental Quality Act (Notice of Exemption dated 12/18/08). A public hearing on the proposed PMP amendment was held and the Board of Port Commissioners adopted the amendment on February 3, 2009 as Resolution #2009-37.

The amendment request was received in the Commission office on March 3, 2009, and deemed to be de minimis by the Executive Director on March 17, 2009.

1. BACKGROUND/HISTORY

At the Commission meeting of March 14, 2001, the Commission approved the San Diego Unified Port District Port Master Plan (PMP) Amendment #27 creating a new "North Embarcadero Overlay District" within the existing Waterfront district. The amendment anticipated a number of new projects in the North Embarcadero including the redevelopment of Lane Field; the narrowing of Harbor Drive from four lanes to three

between Grape Street and Pacific Highway; the extension of B and C Streets between Pacific Highway and North Harbor Drive; construction of a new 25-foot wide pedestrian esplanade along the water's edge at Harbor Drive; the replacement of three existing industrial piers with one new public pier at Grape Street; construction of a small commercial recreation facility on the new Grape Street Pier; construction of a restaurant on the bayfront inland of the Grape Street Pier; modernization of the cruise ship terminal at the B Street Pier; and docking the U.S.S. Midway Aircraft Carrier for use as a museum on the south side of Navy Pier.

With regard to Broadway Pier, the amendment added the following language to the text of the Port Master Plan:

A FAR of 2.0 applies to the B Street and Broadway piers...

...Broadway Pier will continue to provide recreational space on its plaza and viewing platform, as well as accommodating commercial shipping and miscellaneous vessel berthing, including day cruisers. Improvements to the pier will include paving, plantings, lighting, and furniture.

In addition, the following project was added to the project list:

12. NORTH EMBARCADERO REDEVELOPMENT: (a) Visionary Plan public improvements, (b) esplanade, (c) street improvements, (d) vista points, (e) Grape Street piers replacement + restaurant, (f) park and plaza areas, (g) **Broadway Pier infrastructure improvements**, (h) B and C Street linkages between Pacific Highway and North Harbor Drive [Emphasis added].

The approved amendment allowed for infrastructure improvements, but did not specifically identify construction of a new cruise ship terminal.

In June 2007, the Board of Port Commissioners authorized approval of a non-appealable coastal development permit (CDP-2007-03) for construction of a new, approximately 51,500 sq.ft., 38-foot high cruise ship terminal building and associated improvements including a ground transportation area, service area, and public viewing area (see Exhibit #4). The Port District does not routinely send a notice of final action to the Commission for non-appealable permits. Thus, after becoming aware of the port permit several months later, Commission staff contacted Port staff to express concerns that an amendment to the certified Port Master Plan was required before a new cruise ship terminal could be approved. After several months of discussion between Port and Commission staff, proposed language was developed to amend the certified PMP to add construction of a new terminal with public access and recreation improvements to the PMP project list for submittal to the Executive Director as a de minimis amendment.

However, as noted in the proposed PMPA submittal, staff at the Port District have continued to assert that the cruise ship terminal project was envisioned by the existing certified PMP, and that a PMPA is "technically unnecessary since it is classified as non-

appealable; the PMP only requires a listing of appealable projects." The Commission does not concur. Further analysis of this point of contention is warranted because the extent of development that must be considered and analyzed as a PMP amendment is fundamental to port planning under the Coastal Act.

The Proposed Cruise Ship Terminal is Not Included in the Certified PMP

The existing certified PMP and the record are clear that while cruise berthing is currently allowed at Broadway Pier, no new terminal building was envisioned on Broadway Pier when the Commission approved the North Embarcadero PMP. There was no mention of a new cruise ship terminal on Broadway Pier in the Master EIR adopted for the North Embarcadero Visionary Plan/PMPA. Thus, an addendum to the EIR was prepared to cover this new project. This clearly demonstrates that the new terminal was not reviewed or evaluated in the PMP, as the Plan could not legally have included a project that had not undergone environmental review.

Only the projects contained in the "Table 11: Project List" were approved as part of the North Embarcadero PMPA. The purpose of the project list in the Port Master Plan is to identify upcoming projects that have received plan-level Commission review and approval as consistent in concept with the Coastal Act. (Coastal permit review is still required to implement particular projects). All future projects must be included on this list, with the exception of minor alterations to existing structures or on-going operations consistent with the Master Plan. As noticed above, the only projects on the project list for Broadway Pier are "infrastructure improvements" described in the text as including "paving, plantings, lighting, and furniture."

Exhibit #5 is a copy of a letter from Port Planning Services Manager William Chopyk dated September 25, 2000, responding to Commission staff concerns and questions about various aspects of the North Embarcadero PMPA. Throughout the letter, Mr. Chopyk confirms that development "not listed as a project on Table 11...would require a subsequent Port Master Plan amendment and additional environmental review" (see Items nos. 5, 6, 7, 8, and 9). For Broadway Landing, the letter specifically states that "The project list, Table 11 (DPMPA page 76) describes [the] only Broadway Pier infrastructure improvements, i.e., water and sewer lines, electrical improvement, pier repairs, etc.," further confirming that no new buildings were proposed as part of the amendment.

Port staff have stated that the sentence in the PMP that an "FAR of 2.0 applies to the B Street and Broadway piers" is sufficient indication that construction of a new building on Broadway Pier is consistent with the approved Plan. The Commission respectfully disagrees. Even in the absence of the PMP language and Port correspondence describing the limited development contemplated on Broadway Pier, a simple policy statement of FAR limits for an area does not constitute approval of substantial new structures or uses not reviewed for consistency with the Coastal Act through the PMP certification process. Broad policy statements outlining guidelines for future development are entirely appropriate in the PMP, but they do not substitute for the required textual descriptions of

specific projects. The proposed project is therefore clearly not included in the certified PMP.

The PMP Must Include All Future Projects

The Coastal Act requires that all projects for which the Port exercises its permit issuance authority must be included in the PMP. Section 30715 states in relevant part: "After a port master plan or any portion thereof has been certified, the permit authority of the commission ... shall no longer be exercised by the commission over any new development contained in the certified plan or any portion thereof and shall at that time be delegated to the appropriate port governing body ..." (emphasis added). Thus, the commission's authority is delegated to the Port solely for "new development contained in the certified plan." If such new development is not contained in the certified plan, the Port does not have the authority to approve the project.

This interpretation of Section 30715 is supported by Section 30718, which requires Ports to provide the Commission with CEQA documentation for "developments approved by the commission in a certified master plan" that are not appealable. Section 30718 therefore acknowledges that the Commission must approve, as part of the PMP, the actual developments proposed within a port, even if such developments are non-appealable. In addition, the Commission's regulations include a section defining the required contents of a master plan for appealable development and procedures for the Commission to review such projects if the proposed development is not well defined at the time of a port's submittal. *See* 14 CCR §13625(b). The next section (13625(c)) allows the procedures outlined for appealable developments to be used for any other proposed developments that are not well defined. Section 13625(c) would be unnecessary if Ports were only required to include appealable developments in their PMPs.

The Port argues that because Section 30711(a)(4) specifies that Ports must submit additional detailed information related to appealable projects, this means that it need not list, or submit to the Commission for review through a PMP Amendment, non-appealable projects. This conclusion cannot be implied from the language of 30711(a)(4), which simply explains that ports must include additional information for the Commission to review appealable projects.

Furthermore, Section 30711(a) of the Coastal Act states "[a] port master plan shall include all of the following: (1) The proposed uses of land and water areas, where known." Section 30711(b) states that "[a] port master plan shall contain information in sufficient detail to allow the commission to determine its adequacy and conformity with the applicable policies of this division." Section 30711 therefore requires that all proposed uses of land and water areas contain sufficient detail to allow the commission to determine its adequacy and conformity with the applicable policies of Chapter 8 of the Coastal Act.

The certified Port Master Plan itself reflects the fact that all proposed development, whether appealable or not, must be included in the plan. It states "[a] listing of development projects, covering both appealable and non-appealable categories, is provided in the discussion for each of the nine Planning Districts" (PMP pg.2). If the Port's interpretation of the Coastal Act were accepted, the Commission would have no review authority over non-appealable developments within the Port's jurisdiction. As described above, this interpretation is inconsistent with the plain language of the Coastal Act.

In summary, the record is clear that a new cruise ship terminal was not part of the approved Port Master Plan. All significant development projects must be listed in the certified PMP. Commission review of a PMP amendment or concurrence with the Executive Director's determination of de minimis is required for the proposed development to proceed.

2. PROPOSED AMENDMENT

The proposed amendment contains the following addition to the existing Port Master Plan Table 11 Project List:

4. NORTH EMBARCADERO REDEVELOPMENT: (a) Visionary Plan public improvements, (b) esplanade, (c) street improvements, (d) vista points, (e) Grape Street piers replacement + restaurant, (f) park and plaza areas, (g) Broadway Pier cruise ship terminal (approximately 60,000 sq.ft., maximum 50-foot building height) to cover no more than 50 percent of the pier, public events space, 15,000 sq.ft. public recreation and viewing area, a 25-foot wide public access corridor along the southern side of the pier, and infrastructure improvements, (h) B and C Street linkages between Pacific Highway and North Harbor Drive.

Broadway Pier is currently designed for "Park/Plaza" and "Marine Terminal" uses, and the proposed amendment would not change that land use designation.

The Board of Port Commissioners resolutions that approve and convey the proposed de minimis LCP amendment are attached. The amendment was properly noticed through newspaper publication and direct mail. Several letters of opposition to the project were received at the Port level, and these letters are attached as Exhibit #6.

Following is a brief explanation of the purpose for or intent of the change and the reasons why it is de minimis pursuant to Section 30514 of the Coastal Act.

DISCUSSION

Broadway Pier has historically been used for commercial docking, public access, and as a public viewing and recreational area. The existing PMP provides for use of the Broadway Pier as a cruise ship terminal. The Port uses Broadway Pier as its auxiliary cruise berth; "B" Street Pier, with its two berths, is the primary cruise facility. Broadway

Pier is used when "B" Street is full and there is a need for a third berth on the same day. In addition, the Broadway Pier facility will be used to allow the Port to undertake the seismic pier repairs and facility improvements needed at the existing "B" Street Pier.

Since the terrorist attacks of September 11, 2001, public access to the Broadway Pier has been restricted when cruise ships are present. The Port District has indicated that in 2006, Broadway Pier was closed for a total 58 days for cruise ships, military vessels and educational/research vessels. Cruise ship traffic in San Diego has increased significantly in the last decade, and Broadway Pier is likely to continue to be used more frequently as an auxiliary terminal.

Section 30708 of Chapter 8 of the Coastal Act states "All port related developments shall be located, designed, and constructed so as to: (a) Minimize substantial adverse environmental impacts." The construction of a new permanent building on the pier could potentially impact public views, access and recreational opportunities. The importance of the open nature of the pier is specifically referenced in the USS Midway Mitigation and Monitoring Program, (North Embarcadero Final EIR, Section 4, Page 4-12) which states "[t]he significant visual impact on views from the G Street Mole would be offset and mitigated by the similar nearby public views available from the Broadway Pier."

However, the proposed PMPA, and the project, have been designed with public access corridors and operational features to ensure impacts to coastal resources are avoided. The site is currently and will continue to be used as an auxiliary terminal, a long-established visitor-serving use appropriate for a downtown pier located adjacent to the existing main terminal. There have been several small buildings on the pier for many years, (some of which have recently been demolished) so public views from the pier have never been entirely unobstructed. While the proposed terminal will be considerably larger than the existing structures, the amendment includes specific parameters to which the development must conform, including a limit on the building size, height, and pier coverage. A public access corridor on the south side of the building, no less than 25-foot in width, must be provided, along with a 15,000 sq.ft. public recreation and viewing area and public events space.

With regard to traffic, as described in the EIR addendum for the terminal, the new building is not expected to result in a direct increase in cruise ship activities, but would rather increase the efficiency of passenger embarkation and disembarkation, improve access to various ground transportation opportunities, and provide an improved aesthetic experience for the general public. The project is expected to improve traffic flow and circulation along Harbor Drive in the vicinity of the Broadway Pier, since providing additional designated parking areas for these vehicles on the pier should reduce the potential stacking of busses, taxis and shuttle vehicles.

Several letters of objections to the proposed PMPA received by the Port (see Exhibit #6) note that construction of a large terminal on Broadway Pier is inconsistent with the vision of the North Embarcadero Visionary Plan (NEVP) adopted by the Port. The NEVP illustrations show Broadway Pier as mostly open for public access. The general

description in the NEVP is that a “small structure, up to 1,500 square feet in site area, [that] may be constructed to service visiting ships...At the base of the pier, food and craft kiosks line a small commercial area. The central portion of the pier is left clear to accommodate temporary and changing events" (NEVP pg. 57 & 97-98).

However, while some specific recommendations of the Visionary Plan were adopted as part of the PMP in Amendment #27, the entirety of the Visionary Plan’s body of recommendations are identified as guidance only for the Port in implementing the PMP. The Visionary Plan is a conceptual-level, illustrative planning document with a number of different project scenarios identified for the area. The Visionary Plan itself has not been incorporated into the Port Master Plan and is not the standard of review for coastal development permits issued by the Port District.

Thus, as proposed, the proposed amendment would allow for construction of a new permanent cruise ship terminal, a high-priority use under the Coastal Act, while ensuring that public access and recreation functions continue to be available on the dock when cruise ships are not present. The amendment does not consist of any changes in land or water use, or any change in the allowable use of property. The dock will continue to function as a commercial/industrial use with public access, views and recreation available. The proposed building has been designed to protect and preserve public access to the shoreline. Therefore, as proposed, the amendment does not have any impact, either individually or cumulatively, on coastal resources. All the proposed de minimis modifications are consistent with the public access and recreation policies and section 30252 of the Act.

CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The California Environmental Quality Act (CEQA) requires less environmentally damaging alternatives to proposed projects to be considered and the imposition of mitigation measures to lessen significant adverse effects that may result from proposals. For the reasons discussed in this report, the proposed project has no significant adverse environmental effects within the meaning of the California Environmental Quality Act.

DETERMINATION

The Executive Director determines that the Port of San Diego PMP amendment is de minimis. Based on the information submitted by the Port, the proposed PMP amendment will have no impact, either individually or cumulatively, on coastal resources. It is consistent with the policies of Chapter 3 of the Coastal Act. The amendment does not propose any change in land use or any change in the allowable use of property. The Port has properly noticed the proposed amendment. As such, the amendment is de minimis pursuant to Section 30716(c).

MOTION: *I move that the Commission concur with the Executive Director’s determination that the PMP amendment, as submitted, is de minimis.*

STAFF RECOMMENDATION:

The Executive Director recommends that the Commission **concur** in this determination. Unless three or more members of the Commission object to this determination, the amendment shall become effective and part of the certified PMP ten (10) days after the date of the Commission meeting.

(2)

San Diego Unified Port District
 Document No. 54523
 Filed FEB 18 2009
 Office of the District Clerk

*San Diego Unified Port District
 de minimis Port Master Plan Amendment*



*Broadway Pier
 Cruise Ship Terminal*

Existing/Proposed Plan Text

February 3, 2009

Note: Text to be added is shown underlined.
 Text in italics is for clarification only and is not part of the Plan Amendment.

Rev: dPMPA: December, 2008

EXHIBIT #1
Proposed Amendment
PSD-DM-40-09
Broadway Pier Cruise Ship Terminal
California Coastal Commission

TABLE 11: Project List CENTRE CITY/EMBARCADERO: PLANNING DISTRICT 3		APPEALABLE ↓ DEVELOPER ↓ SUBAREA ↓			FISCAL YEAR
1. NORTH HARBOR DRIVE, GRAPE TO BROADWAY: Reduce traffic lanes; install landscaping, irrigation; develop bike path	33	P	Y	2005-20	
2. PUBLIC ACCESS: Pedestrian access improvements to waterfront and promenade	35	T	N	2007-08	
3. LANE FIELD DEVELOPMENT: 600-to-800-room hotel, office building, retail, and parking	33	T	Y	2005-10	
4. NORTH EMBARCADERO REDEVELOPMENT: (a) Visionary Plan public improvements, (b) esplanade, (c) street improvements, (d) vista points, (e) Grape Street piers replacement + restaurant, (f) park and plaza areas, (g) Broadway Pier <u>cruise ship terminal (approximately 50,000 sq. ft., maximum 50-foot building height) to cover no more than 50 percent of the pier, public events space, 15,000 sq. ft. public recreation and viewing area, a 25-foot wide public access corridor along the southern side of the pier, and infrastructure improvements</u> , (h) B and C Street linkages between Pacific Highway and North Harbor Drive	31-34	P	Y*	2005-20	
5. PASSENGER TERMINAL AT B STREET PIER: Cruise Ship Terminal Modernization	33	P	N	2006-10	
6. WATER TRANSIT CENTER: Prepare site, construct buildings, piers, pedestrian access and landscape improvements to and along the San Diego Bay shoreline to accommodate water-based transportation including a ferry landing, water taxi access and public boat access	36	T	N	2007-10	
7. CONVENTION CENTER HOTEL COMPLEX AND MARINA: Construct 1000- to-1200- room hotel tower, a lobby, ballroom, meeting rooms, retail shops, restaurants, other ancillary uses, above-grade parking structure, marina, piers, pedestrian access, boat access, park/plaza, and landscape improvements	36	T	Y	2006-08	
8. SPINNAKER HOTEL: Construct 250-room hotel with meeting rooms, ballroom, restaurants, retail shops, other ancillary uses, pedestrian access, with bridge to Convention Center, surface parking spaces, and landscape improvements	36	T	Y	2007-10	
9. PEDESTRIAN BRIDGE OVER HARBOR DRIVE: Self-anchored suspension bridge over Harbor Drive connecting to public parking garage to Eighth Avenue	35	T	N	2006-08	
10. EIGHTH AVENUE PEDESTRIAN CROSSING: At grade pedestrian crossing to be completed with pedestrian bridge over Harbor Drive	35	T	N	2006-10	
11. OLD POLICE HEADQUARTERS REHABILITATION: Rehabilitation and adaptive reuse of historically designated Old Police Headquarters building with a mix of specialty retail, entertainment and restaurant uses; reconfiguration of surrounding parking areas; and, pedestrian access, plaza and landscape improvements.	34, 35	T	Y	2007-08	
12. PIER WALK BUILDING: Remove existing Harbor Seafood Mart building and construct new Pier Walk building to accommodate existing commercial fish processing operations, as well as associated retail, restaurant and other services/support uses.	34	T	Y	2008-09	
13. BAYFRONT PARK: Construct new bayfront public park along the southern edge of Harbor Drive, between the waterfront and Pacific Highway, including lawn and landscaped areas, walkways, as well as other park/plaza features	34	P	N	2009-10	
P- Port District N- No *Vista Points* and Broadway Pier Infrastructure T- Tenant Y- Yes improvements are non-appealable projects.					

Re Amendment of Port District]
 Master Plan - Broadway Pier Cruise]
 Ship Terminal, San Diego]

RESOLUTION 2009-37

WHEREAS, the San Diego Unified Port District (Port District) has an adopted Port District Master Plan which has been certified by the California Coastal Commission; and

WHEREAS, said Master Plan was prepared, adopted and certified pursuant to the Port District Act, the California Coastal Act and other applicable laws; and

WHEREAS, the Port District desires to add minor text to Table 11 of the Port District Master Plan to clarify that the general parameters of a cruise ship terminal building and public viewing and public access components are a "Project" included in said Port District Master Plan; and

WHEREAS, said proposed cruise ship terminal building is to be constructed on the Broadway Pier located in the City of San Diego; and

WHEREAS, a proposed de minimis Master Plan Amendment for the Broadway Pier Cruise Ship Terminal has been prepared and processed in accordance with California Public Resources Code Section 30716; and

WHEREAS, the proposed de minimis Master Plan Amendment has no impact, either individually or cumulatively, on coastal resources, is consistent with the policies of Chapter 3 of the California Coastal Act, and does not propose any change in land use or water use or any change in the allowable use of property; and

WHEREAS, the Port District provided public notice of the de minimis Port Master Plan Amendment and public hearing scheduled for February 3, 2009, at least Twenty One (21) days before the hearing, by publishing notice in the *San Diego Daily Transcript* and

I hereby certify that, if impressed with the seal of the San Diego Unified Port District, this is a true copy of the original record on file in the Office of the District Clerk of the San Diego Unified Port District.

By: [Signature] Date: 2/27/2009 No. Pages: 4
 Timothy A. Deuel

EXHIBIT #2
Resolution of Approval
PSD-DM-40-09
Broadway Pier Cruise Ship Terminal
California Coastal Commission

2009-37

San Diego Union Tribune, and by mailing notice to adjacent properties and interested parties; and

WHEREAS, a de minimis Port District Master Plan Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines because it is an activity that causes no physical change and as such there is no possibility that significant effects on the environment could occur, said proposed de minimis Port District Master Plan Amendment involves no physical change in the environment, but does clarify in the Port District Master Plan Table 11 project list the basic components of development already identified elsewhere in said Port District Master Plan, NOW, THEREFORE,

BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Master Plan of the Port District is amended by incorporating therein the de minimis Master Plan Amendment, on file in the office of the Port District Clerk, pertaining to the Broadway Pier Cruise Ship Terminal project.

BE IT FURTHER RESOLVED that the Executive Director of the Port District or his designated representative is hereby authorized and directed to transmit said de minimis Master Plan Amendment, together with all relevant factual information, and the Coastal Act consistency analysis to the Executive Director of the California Coastal Commission with a request that the Executive Director of the California Coastal Commission make a determination that the proposed Port District Master Plan Amendment is de minimis in nature in accordance with Section 30716 of the California Public Resources Code.

BE IT FURTHER RESOLVED that in the event the Executive Director of the Coastal Commission finds that said Amendment is de minimis in nature, said Amendment shall be noticed in the agenda of the next regularly scheduled meeting of the California Coastal Commission, and if Three (3) or more members of the Commission do not object

2009-37

to the de minimis determination, said Amendment will take effect Ten (10) days from the date of said Coastal Commission meeting. This action by the Board of Port Commissioners constitutes formal adoption of the Coastal Commission's certification of the referenced Amendment.

ADOPTED this 3rd day of February, 2009.

sw
2/3/09

AGENDA ITEM 25

SAN DIEGO UNIFIED PORT DISTRICT

DATE: February 3, 2009

SUBJECT: BROADWAY CRUISE SHIP TERMINAL: CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION APPROVING A DE MINIMIS PORT MASTER PLAN AMENDMENT FOR CENTRE CITY EMBARCADERO PLANNING DISTRICT 3 AND DIRECT FILING WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION

EXECUTIVE SUMMARY:

In response to communications and meetings with staff from the California Coastal Commission (Commission), Port staff proposes a de minimis Port Master Plan Amendment (PMPA) for the Broadway Pier Cruise Ship Terminal. The de minimis PMPA involves adding minor text to Table 11 of the Port Master Plan (PMP) to clarify that the general parameters of a cruise ship terminal building and public viewing and public access components are a "project" included in the PMP. The current certified PMP already identifies infrastructure improvements to Broadway Pier on Table 11 (page 69) and PMP text (pages 63-64) establish continued cruise ship use and outlines general development standards for a structure in the form of a floor area ratio (FAR), but do not specifically describe a cruise ship terminal.

A de minimis PMPA, once approved by the Board, can be certified by the Commission Executive Director if no Coastal Commissioners object. The de minimis PMPA has been prepared in accordance with Section §30716 (c) of the Coastal Act, and a submittal package for the Commission has been prepared. The hearing for this item was continued at the January 6, 2009 Board of Port Commissioners meeting to the Board of Port Commissioners regular meeting on February 3, 2009. A notice of the de minimis PMPA and public hearing scheduled for February 3, 2009 has been mailed out to adjacent properties and interested parties and published in the San Diego Daily Transcript and San Diego Union Tribune on Monday, January 9, 2009 providing the necessary 21 calendar days notice.

RECOMMENDATION:

Conduct a public hearing and adopt a resolution approving a de minimis Port Master Plan Amendment for Centre City Embarcadero Planning District 3 and direct filing with the California Coastal Commission for certification.

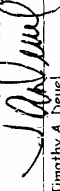
FISCAL IMPACT:

This Board action has no fiscal impact.

ACTION TAKEN: 02-03-2009 - Resolution 2009-

EXHIBIT #3
Port District Staff Report
PSD-DM-40-09
Broadway Pier Cruise Ship Terminal
California Coastal Commission

Impressed with the seal of the San Diego Unified Port District, this is a true copy of the original record on file in the Office of the San Diego Unified Port District.

By:  Timothy A. Deuel
Deputy District Clerk
Date: 2/27/2009
No. Pages: 5

AGENDA ITEM 25**Page 2 of 5****COMPASS STRATEGIC GOALS:**

This item clarifies the PMP demonstrating cooperation between the Port and the Commission and maintaining a relationship of trust and transparency between our two agencies, additionally Commission staff has indicated that with this PMPA, they would not oppose further development of the cruise ship terminal.

This agenda item supports the following Strategic Goal(s).

- Promote the Port's maritime industries to stimulate regional economic vitality.
- Enhance and sustain a dynamic and diverse waterfront.
- Protect and improve the environmental conditions of San Diego Bay and the Tidelands.
- Ensure a safe and secure environment for people, property and cargo.
- Develop and maintain a high level of public understanding that builds confidence and trust in the Port.
- Develop a high-performing organization through alignment of people, process and systems.
- Strengthen the Port's financial performance.
- Not applicable.

DISCUSSION:**Background**

In June 2007, the Board authorized approval of a non-appealable Coastal Development Permit (CDP) for a cruise ship terminal building and infrastructure improvements on the Broadway Pier (Resolution #2007-127). Environmental review was completed in accordance with CEQA through the use of an Initial Study/Addendum to the North Embarcadero Alliance Visionary Plan Master Environmental Impact Report (Addendum). This item was fully noticed and the Board conducted a public hearing prior to its decision. No written or verbal comments were received.

A few months after the CDP was issued, various individuals and groups approached the Commission staff expressing concern that a cruise ship terminal was not included in the existing PMP and therefore the Board's approval was not valid. Shortly afterwards, informal communications were initiated by the Commission staff, during which they expressed a similar concern. Since that initial communication Port and Commission staff engaged in cooperative efforts to resolve misunderstandings, specifically at meetings that took place on October 4, 2007 and February 21, 2008. In a letter dated March 4, 2008, the Commission staff formally stated their position that the PMP never envisioned a cruise ship terminal and that any further work on the terminal would be a violation of the Coastal Act.

AGENDA ITEM 25**Page 3 of 5**

Commission and Port staffs met a further time on this issue on June 27, 2008, after which Port staff sent a letter to the Commission staff stating disagreement with their position. The letter included possible de minimis PMPA language as a way to memorialize the Cruise Ship Terminal in the PMP projects list. Through follow-up conversations and letters, Port staff has proposed to accept an approach provided by the Commission staff. Port and Commission Staff have had very recent conversations resulting in additional minor revisions as described in the de minimis PMPA section of this agenda sheet.

Broadway Pier

The Broadway Pier has been used continually since its construction in 1913 as a terminal for cruise ships, military ships, excursion boats and visiting vessels. The entire pier was covered with a terminal building until the early 1970s. Since the Broadway Pier has a long history of being used for cruise ship and other vessel berthing, a new cruise ship terminal does not change that use. The Board's decision to approve the CDP was based in part on the following staff analysis.

The BPC legally adopted the PMPA, and the Commission later legally certified the PMPA addressing the North Embarcadero area in 2001; the Port has been operating from the certified PMP since then in good faith. The certified PMP land use designations on the Broadway Pier allow for Marine Terminal, Park/Plaza, Vista Point, and Promenade uses; the Project provides for and enhances all of these uses. The certified PMP contains various references that support development of the Project (i.e. "Cruise ships may tie up at both the B Street and Broadway Piers... A floor area ratio (FAR) of 2.0 applies to the B Street and Broadway piers... Broadway Pier will continue to provide recreational space on its plaza and viewing platform, as well as accommodating commercial shipping and miscellaneous vessel berthing, including day cruisers" (PMP, pgs. 63-64)). Additionally, the water use designation on both sides of the pier is Industrial – Terminal Berthing. The proposed cruise ship terminal implements the stated intent of the PMP and will provide a level of public amenities not currently available. The FAR certified by the Commission allows for approximately 260,000 square feet of building while the approved cruise ship terminal is approximately 51,000 square feet.

Therefore, staff's position has been and continues to be that the cruise ship terminal project was envisioned by and is consistent with the land and water use designations and Precise Plan text in the certified PMP. Staff contends that a PMPA for this Project is technically unnecessary since it is classified as non-appealable; the PMP only requires a listing of appealable projects.

AGENDA ITEM 25

Page 4 of 5

De Minimis PMPA

The Coastal Act was amended January 1, 1995 to provide for a more streamlined method to review amendments to the PMP. Section 30716(c) allows the Executive Director to make a determination that a proposed PMPA is de minimis in nature. The Executive Director must determine that the proposed PMPA: 1) has no impact, either individually or cumulatively, on coastal resources; 2) is consistent with the policies of Chapter 3; and 3) does not propose any change in land use or water use or any change in the allowable use of property.

The de minimis PMPA involves adding minor text to Table 11 of the Port Master Plan (PMP) to clarify that the general parameters of a cruise ship terminal building and public viewing and public access components are a "project" included in the PMP. The current certified PMP already identifies infrastructure improvements to Broadway Pier on Table 11 (page 69) and PMP text (pages 63-64) establish continued cruise ship use and outlines general development standards for a structure in the form of a floor area ratio (FAR), but does not specifically describe a cruise ship terminal.

The proposed PMPA would add text to the existing project listing on Table 11 (page 69) number 4. (g) as follows:

"4 NORTH EMBARCADERO REDEVELOPMENT: ... (g) Broadway Pier cruise ship terminal (approximately 60,000 sq. ft., maximum 50-foot building height) to cover no more than 50 percent of the pier, public events space, 15,000 sq. ft. public recreation and viewing area, a 25-foot wide public access corridor along the southern side of the pier, and infrastructure improvements..."

This language further clarifies the PMPA language provided in the public notice by specifying that the terminal building is approximately 60,000 square feet, that the public recreation and viewing area is 15,000 square feet and that the public access corridor is 25 feet wide. The de minimis PMPA has been prepared in accordance with Section §30716 (c) of the Coastal Act. As described in the coastal consistency analysis, the de minimis PMPA would not result in an impact, either individually or cumulatively, on coastal resources; is consistent with the policies of Chapter 3; and does not propose any change in land use or water use or any change in the allowable use of property. The coastal consistency analysis is available for review by contacting the Land Use Planning Department.

Staff recommends that the Board conduct a public hearing and adopt a resolution approving a de minimis PMPA for Centre City Embarcadero Planning District 3 and direct filing with the Commission for certification.

AGENDA ITEM 25

Page 5 of 5

Port Attorney's Comments:

The Port Attorney has reviewed and approved the amendment to the Port Master Plan for form and legality.

Environmental Review:

The de minimis PMPA itself is exempt from CEQA pursuant to Section 15061(b) (3) of the CEQA Guidelines because it is an activity that causes no physical change and as such there is no possibility that significant effects on the environment could occur. The de minimis PMPA involves no physical change in the environment, but does clarify in the PMP Table 11 project list the basic components of development already identified elsewhere in the PMP and for which an Addendum and Initial Study was previously prepared and approved by the BPC in June 2007 (Resolution 2007-125) pursuant to CEQA. A Notice of Exemption will be filed with the County Clerk after approval of this item. The Notice of Exemption is available for review by contacting the Land Use Planning Department.

Equal Opportunity Program:

Not applicable

PREPARED BY: Matthew Valerio
Senior Redevelopment Planner, Land Use Planning

Attachment to Agenda Sheet No. 28AB

Draft

COASTAL DEVELOPMENT PERMIT

Applicant: Engineering

Project: Broadway Pier Cruise Ship Terminal and infrastructure Improvements Program

Location: Broadway Pier, Harbor Drive, San Diego, California 92106

You are hereby granted a Coastal Development Permit. This permit is issued in conformance with the California Coastal Act of 1976 and the Coastal Permit Regulations of the San Diego Unified Port District, as adopted by the Board of Port Commissioners on July 1, 1980, Resolution No. 80-193, and as amended on December 2, 1980, Resolution No. 80-343, and on February 14, 1984, Resolution No. 84-62, in accordance with the provisions for the issuance of a [] Emergency [X] Non-appealable [] Appealable Coastal Development Permit.

Date of Board Action: June 12, 2007

Board of Port Commissioners Resolution Number: 2007 – XX

Date of Permit: June 20, 2007

Application Number: 2007-017-33-142

Permit Number: CDP-2007-03

This proposed project is located between the sea (as defined in the Coastal Act) and the first inland continuous public road paralleling the sea. The project is fully consistent with applicable Coastal Act policies including public access and recreation policies referenced therein.

This permit is limited to the development described below and set forth in material on file with the San Diego Unified Port District (District), and subject to the terms, conditions, and provisions hereinafter stated:

DEVELOPMENT

The proposed cruise ship terminal, consists of an approximately 51,500 square-foot steel frame structure approximately 38-feet in height, 75-feet in width, and 443-feet in length. Functionally, the proposed terminal and infrastructure improvements have been subdivided into the following areas:

EXHIBIT #4
Port District Terminal Permit
PSD-DM-40-09
Broadway Pier Cruise Ship Terminal
California Coastal Commission

COASTAL DEVELOPMENT PERMIT NO. CDP-2007-03 Page 2 of 6

Draft

- Ground Transportation Area;
- Working North Apron
- Service Area;
- Cruise Ship Terminal; and,
- Public Viewing Area

The Broadway Pier infrastructure improvements are designed to reduce potential stacking of busses, taxis and shuttle vehicles by providing additional designated parking areas for these vehicles on the Broadway Pier.

The site is located at the end of Broadway Street on the west side of Harbor Drive.

A site plan and elevations are attached as Exhibit A, Exhibit B, and Exhibit C.

STANDARD PROVISIONS

1. Permittee shall adhere strictly to the current plans for the project as approved by the District.
2. Permittee shall notify the District of any changes in the project.
3. Permittee shall meet all the local code requirements and ordinances and obtain all necessary permits from local, state and federal agencies.
4. Permittee shall conform to the permit rules and regulations of the District.
5. Permittee shall be responsible for compliance with ADA and Title 24 specifications.
6. Permittee shall commence development within two (2) years following the date of the permit issuance by the District. Construction shall be pursued in a diligent manner and completed within a reasonable period of time.
7. The permit is in no way intended to affect the rights and obligations heretofore existing under private agreements nor to affect the existing regulations of other public bodies.
8. This permit shall not be valid unless two copies have been returned to the Land Use Planning Department of the District, upon which copies the permittee has signed a statement agreeing that the permittee will abide by the terms, conditions, limitations, and provisions of the permit.
9. All best management practices must be performed during construction and maintenance operations. This includes no pollutants in the discharges to storm drains or to San Diego Bay, to the maximum extent practicable.

COASTAL DEVELOPMENT PERMIT NO. CDP-2007-03 Page 3 of 6

SHORT TERM CONSTRUCTION MEASURES

Draft

1. To minimize noise during construction, the permittee will require the construction contractor to (a) restrict normal construction activities from 7:00 am to 7:00 pm; (b) keep construction equipment as far as possible from sensitive receptors; and (c) provide acoustical shielding around equipment operating at night, from 10:00 pm to 7:00 am.
2. To minimize fugitive air emissions during construction, the permittee will require the construction contractor to keep fugitive dust down by regular watering.
3. To minimize nuisance effects from lights or glare during construction, the contractor will shield and direct night lighting away from adjacent areas.
4. All trucks hauling loose material during project construction, either on-site or off-site, shall be adequately protected.
5. Suspend all ground-disturbing activities when wind speeds (as instantaneous gusts) exceed 25 mph at a portable weather station on the project site.
6. Access points onto local paved roads shall be kept clean and swept as necessary if visible soil material is carried onto adjacent public paved roads using a water sweeper.
7. Traffic speeds on all unpaved surfaces shall be limited to 15 mph.
8. Permittee shall prevent inactive trucks from idling more than 10 minutes during construction once they arrive on the construction site.
9. All construction equipment shall be maintained in peak condition to reduce operational emissions.
10. Equipment shall use low-sulfur diesel fuel.
11. Electric equipment shall be used to the maximum extent feasible during construction.
12. Construction employees shall be provided with transit and ride share information.
13. Permittee shall ensure that any site contamination is identified and a site restoration plan, acceptable to the appropriate regulatory agencies, is prepared and implemented to reduce any existing contamination to a level that has no potential to threaten employee or human health as defined under existing regulations. If any potential exists for impacts to employee health from exposure to acidic or caustic soils, workers shall be provided with adequate protective gear.

COASTAL DEVELOPMENT PERMIT NO. CDP-2007-03 Page 4 of 6

14. Permittee shall require all employees that are exposed to noise levels in excess of Occupational Safety and Health Administration hearing protection during construction or operation, to wear noise protection devices (earplugs and covers) that are protective of individual hearing. **Draft**
15. Permittee and/or contractor shall comply with State Water Resources Control Board Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES), General Permit No. CAS000002, and Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (commonly known as the "General Construction Storm Water Permit"), as adopted, amended, and/or modified. The District is responsible for submitting the Notice of Intent to comply with the General Construction Storm Water Permit. The Permittee and/or contractor must comply with the General Construction Storm Water Permit and District direction related to permitted activities. Construction activity subject to the General Construction Storm Water Permit requires development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The Permittee and/or contractor must prepare and submit the SWPPP for review and approval by the District prior to site work.

SPECIAL PROVISIONS

1. Implement a Parking Management Plan
2. Plan for shuttle stops at two locations on Harbor Drive within the Plan area such as at Ash Street and at Broadway.
3. Promote pedi-cab use and provide areas for pick-up and drop-off.
4. Stringent regulations and standards enforced by the California Department of Fish and Game and the State Lands Commission require that advanced notification prior to the handling of hazardous materials during homeporting activities are met. An inspector shall oversee the activities to ensure compliance with federal, state and local regulations. As spill response plan shall be developed and emergency equipment shall be available in the event of a spill to reduce contamination into the Bay. Employees shall be given proper training on handling equipment and how to transport hazardous materials to ensure that certification and standards are met.
5. Prior to demolition of any structures, a licensed asbestos abatement contractor shall remove/abate all ACMs at the Broadway Pier including exterior stucco, acoustic ceiling tiles, vinyl floor tile mastic, floor leveling compound, sheet vinyl flooring and roof penetration mastic.
6. Prior to demolition of any structures, a licensed lead abatement contractor shall remove/abate LBPs and LCSs at the Broadway Pier including fire hydrants, a portion of the red painted curb, ceramic wall tiles, and a floor drain.

COASTAL DEVELOPMENT PERMIT NO. GDP-2007-03 Page 5 of 6

7. Enhanced dust control measures should be implemented including: increased watering frequency at least twice daily, cover haul trucks or maintain at least two feet of freeboard, pave a site access apron and install wheel washers, sweep/wash public streets at the end of the work day, pave or regularly water all parking and staging areas, and suspend excavation when winds exceed 15 mph.
8. All construction activities shall comply with the City of San Diego's Noise Ordinance, which limits the allowable hours and establishes performance standards for construction activities.
9. The recommendations contained in the geotechnical evaluation shall be incorporated into all construction documents and final building plans.
10. All structures shall be designed in accordance with the recommendations of the geotechnical evaluation, and with applicable requirements of the Uniform Building Code (UBC) for Seismic Zone 4. Project specific design recommendations to limit structural damage or maintain function during an earthquake include foundation design parameters and specifications for deep foundations.
11. All structural steel reinforcement shall be protected from the corrosive effects of the marine environment. Special consideration shall be given to the use of plastic pipe or heavy-gauge corrosion-protected underground steel pipe or culverts, if any are planned. Special concrete designs and other anti-corrosive design features shall be incorporated into the project to mitigate for the corrosive marine environment. A corrosion specialist shall be consulted for further recommendations if necessary.
12. The project applicant shall prepare a waste management plan in consultation with the City of San Diego Environmental Services Department (ESD), which shall also approve the plan. The waste management plan shall include the following elements:
 - a. The type and quantity of solid waste expected to enter the waste stream.
 - b. Source separation techniques to be used and the location of on site storage for separated materials as required by Municipal Code Section 101 2001.
 - c. The method of transport and destination of separated solid waste and or construction debris not re-used on site.
 - d. A "buy-recycled" program for the project.
 - e. An impact analysis spreadsheet completed by as ESD analyst. A copy of the waste management plan shall be submitted to the ESD and the Port District. With respect to construction/demolition debris, the amount of this material being deposited in the landfill could be reduced by implementing any or all of the following mitigation techniques.

COASTAL DEVELOPMENT PERMIT NO. CDP-2007-03 Page 6 of 6

- Onsite re-use of demolition material in the construction of the development activities
- Separating construction debris for recycling-reuse by others
- Use recycled materials in construction of the development activities.

If you have any questions on this permit, please contact the Land Use Planning Department of the San Diego Unified Port District at (619) 686-6468.

BRUCE B. HOLLINGSWORTH
Executive Director

By: _____
RALPH T. HICKS
Director, Land Use Planning

Draft

I have read and understand the terms, conditions, limitations, and provisions of this permit and agree to abide by them.

Signature of Permittee

Date



Port of San Diego

and Lindbergh Field Air Terminal

(619) 686-6200 • P.O. Box 120488, San Diego, California 92112-0488

www.portofsandiego.org

September 25, 2000

Sherilyn Sarb, District Manager
 CALIFORNIA COASTAL COMMISSION
 San Diego Area
 7575 Metropolitan Drive, Suite 103
 San Diego, CA 92108-4402

SUBJECT: PORT MASTER PLAN AMENDMENT #27, NORTH EMBARCADERO

Dear Ms. Sarb:

This letter summarizes our responses to the issues discussed in our September 15, 2000 meeting on the Draft North Embarcadero Port Master Plan Amendment #27 (DPMPA 27). References in this letter are made to the North Embarcadero Alliance Visionary Plan (Visionary Plan), the Draft Master Environmental Impact Report for the proposed North Embarcadero Alliance Visionary Plan, December 1999 (DMEIR), and the Final Master Environmental Impact Report for the proposed North Embarcadero Alliance Visionary Plan, April 2000 (FMEIR).

1. **Grape Street Pier** – The redesignation of Commercial Fishing Berthing to Specialized Berthing does not result in a loss of water area available for commercial fishing berthing because the Specialized Berthing water-use designation in Subarea 32, Crescent Zone, continues to allow commercial fishing berthing, but as the highest priority use [DPMPA 27, page 72]. The Commercial-Recreation land use designation at the end of the pier is intended to activate the pier by providing a small (1,000 square foot or less) commercial facility like a bait shop or snack bar to attract and encourage people to walk out to the end of the pier, which will be completely open to the public. The "wave attenuation structure" at the Grape Street pier will be the minimum necessary to allow for public use of the pier and docks. The pier is in the very early stages of design and is conceptual at this time. With regard to impacts on marine biological resources, no significant impacts were identified in the biological resource impact analysis for the Grape Street Pier [DMEIR page 4.8-7 through page 4.8-11].

The proposed 30,000 sq. ft. Grape Street "hook pier" is intended to replace the existing three Grape Street piers (containing about 30,000 sq. ft.) with no net gain in water coverage area, or, said another way, no gain in "fill" or "coverage". Thus, no new filling of open coastal waters is proposed for the Grape Street pier. The new "hook pier" is merely replacing the existing three Grape Street piers, as stated on page 72 of the DPMPA, and further clarified in the project description [DMEIR page 3-3] and Table 4.8-2 [DMEIR page 4.8-8], and it will result in additional public access to the Bay since it will be open to the public where the three previously mentioned piers are not.

EXHIBIT #5

Port District Letter re: North
 Embarcadero PMPA #27

PSD-DM-40-09

Broadway Pier Cruise Ship Terminal

California Coastal Commission

2. **Height Limits** – The 13 foot height reference [DPMPA page 72] refers to the height of the second story above a 12 foot high single story (at the Grape Street restaurant commercial site). Thus, resulting in a 25 foot overall height limit as proposed in the Visionary Plan for that site [Visionary Plan page 64]. The reference to a 50-foot height limit at the Anthony's Restaurant parcel has been deleted from the DPMPA to address a prior concern expressed by the Coastal Commission staff.

3. **Views** – The views on the bay side of Harbor Drive will be adequately protected [Visionary Plan pages 73-77]. The second story of the 5,000 sq. ft. restaurant commercial site at Grape Street Pier is placed to the side, out of the Grape Street view corridor. Grape Street is a one-way street with traffic heading away from the Bay. Thus, a second story on the restaurant would not significantly impact public views [FMEIR page 4.4-26].

Public view corridors were a major point of discussion throughout the six public workshops held on the Visionary Plan. The Visionary Plan Figure 4.11 [Visionary Plan page 75], and DMEIR Figure 4.4-4 [DMEIR page 4.4-9] identify virtually every public street as a public view corridor. Public view corridor protection includes Grape Street, as shown on Figure 4.11 of the Visionary Plan. Visual Quality is thoroughly analyzed in Chapter 4.4 of the DMEIR. No adverse visual impacts were identified in the DMEIR.

4. **Cruise Ship Terminal** – The project description has been revised [FMEIR page 3-39] to delete the "Super 3" Cruise Ship Terminal as the proposed project. The development of the passenger terminal on the south side of the B Street Pier will occur within the existing confines (or footprint) of the B Street Pier. Therefore, no filling of the bay would occur; therefore, there is no requirement to mitigate for the loss of this habitat. The "Super 3 Terminal" that would add 10.4 acres of new pier area and expand the B Street pier beyond the existing pier "footprint" has been deleted from EIR Chapter 6 entirely [FMEIR pages 6.3-1 through 6.3-118]. The Board of Port Commissioners, with approval of the Maritime Master Plan late last year, decided that the Cruise Ship Terminal would be developed with no expansion of the B Street Pier. Food service will continue to be provided in the Cruise Ship Terminal, as is there currently, and a similar service is envisioned for the new passenger terminal, designed to service the cruise ship passengers.

5. **Viewing Piers** – Viewing piers are not listed as a project on Table 11 [DPMPA page 76]. Therefore, construction of four (4) "viewing piers" would require a subsequent Port Master Plan amendment and additional environmental review. The reference to "viewing/vista points" [DPMPA page 72] does not include the word "pier(s)".

6. **Ferry Landing Pier** – This is not a listed project in Table 11 [DPMPA page 76]. Thus, a subsequent Port Master Plan amendment and additional environmental review would be required to build a new ferry landing pier. Harbor Excursions, the current Ferry Operator, does not desire to be relocated at this time and will remain at its current location.

7. **Broadway Landing** – The project list, Table 11 [DPMPA page 73] describes only Broadway Pier infrastructure improvements, i.e. water and sewer lines, electrical improvements, pier repairs, etc. The expansion of park/plaza space into the water area would require subsequent environmental review as required by CEQA and Coastal Act consistency determination. However, this is not expected to occur.
8. **County Terrace** – This is not a listed project in Table 11 [DPMPA page 76]. Thus, a subsequent Port Master Plan amendment and additional environmental review would be required to build the approximate 10,000 square foot County Terrace and 18,000 square foot floating public access dock. The terrace would not constitute a complete filling of bay waters because it would be cantilevered over the water without pilings. The floating public access dock would require an Army Corps of Engineers permit and mitigation to the satisfaction of the State and Federal regulatory resource agencies. Both of these projects are very conceptual in nature and have not been designed beyond the Visionary Plan concepts and are not a part of this PMPA.
9. **Maritime Museum Expansion** – This is not a listed project on Table 11 [DPMPA page 76]. Should the Maritime Museum desire to expand its operations, a subsequent Port Master Plan amendment, additional environmental review, and mitigation would be required for the loss of approximately 1.2 acres of open water area to the satisfaction of the resource agencies. The Maritime Museum has requested to remain in their current location and is not relocating to the new Grape Street pier at this time.
10. **USS Midway Museum** – The USS Midway Aircraft Carrier Museum would result in a loss of 2.1 to 4.1 acres of open water habitat. We acknowledge that this loss must be mitigated to the satisfaction of the State and Federal regulatory resource agencies. Discussions between Federal and State resource agencies in this regard have been ongoing for several months. The resource agencies have approved in concept the 14 acre mitigation site in National City, but have not given any approval of a final mitigation plan. The pilings for two loading platforms for the USS Midway project are described in the EIR [DMEIR Page 3-20]. Figures 3.3-8 through 3.3-12 in the DMEIR illustrate the in-water work proposed for the USS Midway. The San Diego Aircraft Carrier Museum (SDACM) organization must provide documentation that a mitigation site and monitoring program for the loss of habitat is secured and fulfilled to the satisfaction of the resource agencies prior to the issuance of a Coastal Development Permit (FMEIR Mitigation, Monitoring, and Reporting Program, FMEIR Section 4, page 4-7).
- Public view blockage of the USS Midway was raised as a concern. Figures 6.1-5 through 6.1-12 in the DMEIR illustrate the visual appearance of the USS Midway. The Midway Mitigation and Monitoring Program [FMEIR, Section 4, Page 4-12] states that "The significant visual impact on (public) views from the G Street Mole would be offset and mitigated by the similar nearby public views available from the Broadway Pier."
- Alternative sites for the USS Midway are described in the EIR [DMEIR page 6.1-75]. Suggested alternatives at the Marine Terminals and North Island would severely restrict the Port District's Maritime Operations and U.S. Navy's Operations, and would have

limited value as visitor serving locations, since both locations have controlled access due to security concerns.

11. **Parking** – Development projects are expected to provide for their own parking needs on the site where the project is to be constructed [DMEIR page 4.2-7]. To assess the future demand for public parking, the EIR analysis [DMEIR page 4.2-6] included parking demand for the Harbor Excursions, Maritime Museum, Esplanade, Anthony's Restaurant, Ruth Chris' Steakhouse, and the new Grape Street Pier restaurant. An expanded Maritime Museum demand was also factored into the overall analysis (see p. 14, LLG Parking Analysis, DMEIR Appendix D) even though there is no project associated with this PMPA for the Maritime Museum.

Projects that provide adequate off-street parking would not be required to participate in the Parking Management Program. To insure that there is a comprehensive "on the ground" approach to providing parking for the Port jurisdiction, a Parking Management and Monitoring Program has been prepared in conformance with the EIR Mitigation Measures [DMEIR pages 4.2-9 to 4.2-10].

The Visionary Plan will result in an increase of 247 on-street public parking spaces [DMEIR page 4.2-6]. Although on-street parking will be reduced by 140 spaces on Harbor Drive, 232 spaces will be gained on Pacific Highway, and 295 spaces will be gained on new and improved East-West Streets [DMEIR page 4.2-5]. With implementation of the EIR parking management plan, significant impacts associated with parking will be reduced to below a level of significance with no residual impact that could contribute to a cumulative effect [DMEIR page 4.2-12].

12. **Traffic** – North Harbor Drive is proposed to be narrowed to three (3) lanes as described [DPMPA page 73] and depicted on DMEIR Figure 3.3-24 [DMEIR page 3-54]. The traffic lanes will widen beyond three lanes at major intersections, i.e. Grape Street and Broadway to accommodate turning movements. However, the specific design of traffic lanes and turn lanes on Harbor Drive has not yet been completed beyond the conceptual level.

The traffic analysis [DMEIR page 4.1-40] concludes that all street segments within Port District jurisdiction continue to operate at Level of Service C (LOS C) or better at full build-out (2020). Two street segments outside Port District jurisdiction will continue to operate at LOS E, i.e. First Ave. from I-5 to Ash Street, and Laurel Street from Pacific Hwy. to Kettner Blvd. Therefore, because no change in LOS would occur on surface streets, no significant impact will result from the project. The only unmitigated significant cumulative traffic impact occurs on the I-5 freeway ramps [DMEIR page 4.1-44]. These cumulative impacts on the I-5 ramps would be significant with or without the project [DMEIR page 4.1-43].

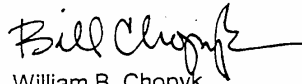
Page 5 of 5

California Coastal Commission

September 25, 2000

I hope this letter helps to bring clarity to the issues we discussed. As always, feel free to call me at (619) 686-6469 if you have any questions or concerns regarding this matter.

Sincerely,



William B. Chopyk
Manager, Planning Services

WBC:jl

cc: Deborah Lee
Diana Lilly
John Lorman
Nancy Lucast
Louis Wolfsheimer

Planning; No Emb: Sarb follow-up issues.doc

February 3, 2009

To: Stephen Cushman, Chairman
Board of Port Commissioners

From: Don Wood

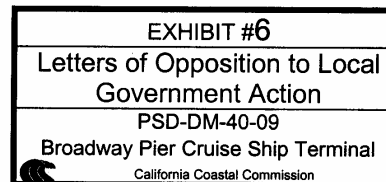
**Subject: San Diego Unified Port District Commission Meeting
Item 25 – Proposed Broadway Pier Cruise Ship Terminal
Project**

These comments are provided regarding the Port staff proposal to build a new permanent cruise ship terminal on the Broadway Pier. I oppose this action on the basis that the Port District has not complied with the California Environmental Quality Act (CEQA) as part of the abbreviated planning process staff has conducted on this proposal. For the Board of Port Commissioners to approve this project today based on the cursory planning process conducted to date would simply invite appeals and litigation.

A year round open, public Broadway Pier was a key component of the North Embarcadero Visionary Plan (NEVP) previously approved by your board and the California Coastal Commission. Project renderings that were provided by Port staff as part of the NEVP master EIR process showed Broadway Pier as an accessible public plaza type facility, open to the public year round.

While there was limited discussion of the possibility of the Port constructing a temporary tent structure on the pier to accommodate cruise ships only during the time that the B St. cruise ship terminal was being reconstructed in the NEVP Master EIR, there was no discussion of building a permanent cruise ship terminal on the pier. Doing so would block what was envisioned in the MEIR as a broad east-west ceremonial corridor directly connecting downtown's central district to the bay, ending up at a long, wide public pier plaza suitable to accommodate large community celebrations and other events.

The Broadway Pier was envisioned as the terminus of this broad public corridor from downtown to the bay, and as such, served as crucial mitigation for other NEVP features and projects like the location of the Midway aircraft carrier at Navy Pier and the Lane Field hotels project that would substantially reduce public access to downtown's waterfront. Building a permanent cruise ship terminal on Broadway Pier would substantially reduce that public access, and would reduce the mitigating effect that an open public pier would have provided to offset other aspects of the NEVP effort.



Thank you for the opportunity to provide these comments on the proposal to construct a new permanent cruise ship terminal on the Broadway Pier.

Don Wood
4539 Lee Avenue
La Mesa, CA 91941
619-463-9035
dwood8@cox.net

>>> "Joe LaCava" <jlacava@san.rr.com> 12/31/2008 11:40 AM >>>

Honorable Port Commissioners:

I urge you to reject the current proposal for the Cruise Ship Terminal.

The proposal has evolved from a small temporary building into a large permanent building and is simply inappropriate for this location. It also appears to be incompatible with the North Embarcadero Visionary Plan that so many agencies and individuals have worked together to formulate.

I recognize the importance of both tourism and the cruise industry to the port and to the city; however, that should not give carte blanche to throw up whatever infrastructure is needed in such a key part of the city's waterfront.

I will add that I am disturbed that no information on this important project is available on the port district's website.

Regards,
Joe

--
Joe LaCava
La Jolla, CA

P Please consider the environment before printing this email.

From: <hartsell@laplayaheritage.com>
To: <publicrecords@portofsandiego.org>, <mbixler@portofsandiego.org>, <scush...>
Date: 1/2/2009 9:31 AM
Subject: Public Comment - Broadway Pier Master Plan Amendments

Hello Port of San Diego:

We do not believe that a valid fault investigation has been turned in and approved for the Broadway Pier Master Plan as of today. We did hear that the Port is planning on requiring a fault investigation at some point. If the fault investigation exist, we would like to know if the fault investigation was approved by both the City and State Geologist.

Before any Master Plan is approved within a Special Studies Zone in the State of California, a valid fault investigation is required by law.

We do not believe there is active faulting on-site under the Broadway Pier. However, currently the scientific evidence does not exist one way or the other. Please only tentatively approve the Master Plan until the required fault investigation is submitted and approved by both the City and State Geologist in accordance with California law and CEQA Guidelines Appendix G.

Also, we just tried sending you Public Comments, but our email address rhodes@laplayaheritage.com was blocked. The reason stated by the Port of San Diego was that we were blocked due to prior abuse. We deny that we have every abused the public comments process, and the Port of San Diego never gave us notice that anything we have done was illegal or improper. Please remove our email address rhodes@laplayaheritage.com from being able to submit public comments. Please contact us to discuss the blocking of our email address from public comment. We are saddened that this has happened and want this misunderstanding resolved.

Regards,

Katheryn Rhodes and Conrad Hartsell, MD
371 San Fernando Street
San Diego, California 92106
619-523-4350
rhodes@laplayaheritage.com

2008 Shirley Leonard
737 Lady Smith Dr.
El Cajon, CA 92020-7732

Dec. 30, 2008

NO.

THE WATERFRONT IS A "PARK"
TO US, COMING IN FROM EAST COUNTY!
A BIG COMMERCIAL BLDG, BLOCKING
OUR VIEW OF THE BAY, SHIPS AND
BOATS, IS CRIMINAL IN EVERY
SENSE.

YES.

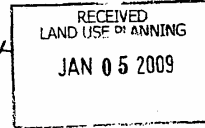
ON BLDG THE #28 HIL
CRUISE SHIP TERMINAL AT
A DIFFERENT LOCATION.
NORTH OR SOUTH OF BROADWAY
PIER IN A MORE COMMERCIALIZED
DISTRICT

RECEIVED
LAND USE PLANNING
JAN 02 2009

Respectfully,
Shirley Sharp Leonard
El Cajon resident
since 1960

17696 Cumare Terrace
San Diego CA 92128
December 31, 2008

Land Use Planning Department
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112



Subject: \$28 million Cruise Ship Terminal
To Whom it May Concern,

I urge you not to approve the proposed
\$28 million Cruise Ship Terminal.

Our waterfront continues the march to wall
of the bay, with the Love Field Project,
The Navy Broadway Complex and now
the expanded Cruise Ship Terminal.

The NEVP promised to keep open bay
accessibility to citizens, downtown
residents and visitors.

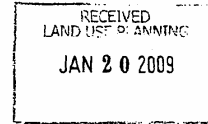
There will be no access to the bay
or beautiful waterfront park with mega
ships coming and going.

How sad that what began as a vibrant
plan for the remaining waterfront has
morphed into the walling off of the
bay from citizens.

We have been deprived of our hopes
for a great public space and open
bay views.

The spirit of the NEVP has been killed.
Cathy O'Leary Cerey

January 17, 2009



Dear Friends -

One need only take a stroll
along the area of this proposed
(Scenic) structure to know
something must be done &
the sooner the better.

this great project has languished
here for too long -

lets move ahead as quickly
as possible.

I love the Design, this area
is a mess - or what are
we wanting for?

Sincerely
Tony Knight