

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Mary Shallenberger
Mailing Address: 45 Fremont Street, Suite 2000
San Francisco, CA 94105

Phone Number: (415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government: San Diego Unified Port District
2. Brief description of development being appealed: Redevelopment of the former Lane Field site with two hotels with 800 rooms, approximately 80,000 sq.ft. of retail uses, restaurants, public spaces and underground parking.
3. Development's location (street address, assessor's parcel no., cross street, etc.): North of Broadway Street between Pacific Highway and Harbor Drive, San Diego, San Diego County.
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-6-PSD-08-004DATE FILED: January 31, 2008DISTRICT: San Diego

RECEIVED

JAN 31 2008

CALIFORNIA

EXHIBIT #1
APPLICATION NO. A-6-PSD-08-4
Commission Appeal Forms California Coastal Commission

5. Decision being appealed was made by (check one):

a. Planning Director/Zoning
Administrator

c. Planning Commission

b. City Council/Board of
Supervisors

d. Other Port Commission

Date of local government's decision: January 8, 2008

Local government's file number (if any): CDP-2008-01

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Lane Field San Diego Developers, LLC
655 West Broadway Street, Suite 1450
San Diego, CA 92101

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

Suma Peesapati
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Ian Trowbridge
3444 Hawk Street
San Diego, CA 92103

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated 1/31/08

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Signature on File
Appellant of _____

bug

Date: 1/31/08

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

The subject project consists of redevelopment of the former Lane Field site with two hotels with 800 rooms and 1,330 underground parking space surrounded by approximately 80,000 sq.ft. of retail uses, restaurants, and public plazas. The 5.7-acre site is located at the northeast corner of Harbor Drive and Broadway Street, directly east of San Diego Bay.

While the proposed project has many positive features, including the proposed visitor-serving retail uses and the public access amenities, there are several significant inconsistencies with the following Port Master Plan goals and policies:

IV. THE PORT DISTRICT, IN RECOGNITION OF THE POSSIBILITY THAT ITS ACTION MAY INADVERTENTLY TEND TO SUBSIDIZE OR ENHANCE CERTAIN OTHER ACTIVITIES, WILL EMPHASIZE THE GENERAL WELFARE OF STATEWIDE CONSIDERATIONS OVER MORE LOCAL ONES AND PUBLIC BENEFITS OVER PRIVATE ONES.

- Develop the multiple purpose use of the tidelands for the benefits of all the people while giving due consideration to the unique problems presented by the area, including several separate cities and unincorporated populated areas, and the facts and circumstances related to the development of tideland and port facilities.
- Foster and encourage the development of commerce, navigation, fisheries and recreation by the expenditure of public moneys for the preservation of lands in their natural state, the reclamation of tidelands, the construction of facilities, and the promotion of its use.
- Encourage non-exclusory uses on tidelands.

VI. THE PORT DISTRICT WILL INTEGRATE THE TIDELANDS INTO A FUNCTIONAL REGIONAL TRANSPORTATION NETWORK

- Encouraging development of improved major rail, water and air systems linking the San Diego region with the rest of the nation.
- Improved automobile linkages, parking programs and facilities, so as to minimize the use of waterfront for parking purposes
- Providing pedestrian linkages
- Encouraging development of non-automobile linkage systems to bridge the gap between pedestrian and major mass systems.

The existing site is currently an 880-space surface public parking lot. The proposed development would include construction of a 1,300 space underground parking garage including 300 public parking spaces beyond that necessary to serve the proposed hotel and retail development. As a result, there would be 580 less parking spaces available to

downtown and waterfront visitors. As noted in the above policies, a parking lot is not necessarily the best or most appropriate use of prime waterfront land, but when removing parking and increasing the intensity of development, providing alternative parking programs and facilities is necessary in order to maintain public access to the coast.

The hotel operator has developed a "Multimodal Transit Opportunity Promotion Plan" identifying programs that the hotel would be implementing to promote non-automobile transit. Guest services would include as a shuttle service with service to and from the airport and other en-route destinations within downtown San Diego, parking spaces reserved for advanced systems low emission vehicles, discounted trolley and bus passes, pedi-cab staging facilities, and shuttle services to and from the Convention Center for guests. Employees would be offered reduced transit fares, reduced parking fees for low emission vehicles, carpooling, and car sharing, and on-site bicycle parking with shower and locker facilities. Although this plan has not specifically been incorporated into the coastal development permit at this time, the Port District has indicated its willingness to do so.

However, while these are positive features, they do not address the lack of "non-automobile linkage systems to bridge the gap between pedestrian and major mass systems"—namely some form of a downtown shuttle that would serve both hotel guests and the general public to ensure that the continuing major development projects occurring on the waterfront do not result in congestion reducing public access to the shoreline, particularly in the summer.

Many California coastal communities operate downtown or shoreline shuttles on a fulltime or seasonal basis, including Santa Monica, Capitola, Long Beach, Santa Barbara, Monterey, and Laguna Beach. These public shuttles provide linkages between visitor-serving amenities, (in some cases, free of charge), in order to reduce congestion and pollution. The Port has long indicated its support for concept of a waterfront/downtown shuttle, but there is currently no timeline to plan, develop, or implement any such system, nor does the Port require new development such as the subject project to contribute to the development of a shuttle service. The Port included a requirement in the approved coastal development permit that the applicant "comply with all applicable public access requirements including participation in a bayside shuttle system upon District implementation of that system." Instead of a vague requirement to "participate" in a shuttle, at the project level of approval, the Port should be identifying specifically how and when this particular development will be assessed a fairshare contribution to implementation of a bayside shuttle system.

Port policies call for encouraging the development of recreation by the expenditure of public moneys the construction of facilities and the promotion of tidelands. The Port has pointed to the significant challenges involved in coordinating implementation of a downtown shuttle given the need to coordinate with the City of San Diego and the Metropolitan Transit District. Certainly, a shuttle service would ideally link downtown, the Gaslamp District, and Balboa Park to the waterfront. However, even a preliminary shuttle service that operated in the summer linking all of the waterfront hotels from Shelter Island, to Harbor Island, to the North Embarcadero, Seaport Village, the South

Embarcadero, and the Convention Center, all of which are within the Port District jurisdiction, could be developed through a public/private partnership between the Port District and its lessees. Such a service would be hugely beneficial to the public in traversing the shoreline and reducing reliance on automobile transit.

The proposed development will significantly increase the density and intensity of use along the waterfront without providing offsetting benefits to public access, inconsistent with the certified Port Master Plan.

In addition, the project would consist entirely of high-end luxury hotel rooms, thus encouraging exclusory uses on tidelands. When exclusive visitor accommodations are located on the waterfront, they occupy area that would otherwise be available for lower cost visitor and recreational facilities. The problem with exclusivity of shoreline accommodations is becoming increasingly acute throughout California. The particular distinction in the subject case is that the site is publicly owned land held in trust by the Port District. The Port District therefore has the ability to ensure the provision of lower-cost overnight facilities in a way that is much more difficult for the Commission or local governments to accomplish when regulating development of privately owned land. Lower-cost overnight facilities *could* be provided and encouraged along San Diego Bay, consistent with the policies of the Coastal Act. However, the Port Master Plan currently does not contain any specific policy statements addressing the provision of lower-cost visitor and recreational facilities in new development. It also does not contain any policies protecting existing or encouraging new lower cost facilities within Port tidelands. As a result, there are no motels, campgrounds, or youth hostels on Port tidelands. Even transient boat mooring rates in San Diego Bay have increased substantially in recent years.

There is a place for higher-end facilities in the Port District, but it should be as one component of a wide range of facilities available to serve all segments of the population, to ensure the shoreline is available to everyone. There are several ways in which the increasing exclusivity of San Diego shoreline development could have been addressed at the proposed project site. In review of coastal development elsewhere in the coastal zone, the Commission has required either the provision of lower cost visitor accommodations within proposed development or allowed for the payment of a fee in-lieu of actual construction of affordable units (ref. CDP #5-87-675 Marina Del Rey Ritz Carlton; CDP A5-RPV-91-46 Rancho Palos Verdes; CDP #6-92-203 Sport Shinko). These requirements were associated with proposals for new development which precluded development of lower cost facilities. The Marina Del Rey Ritz Carlton and the Sport Shinko developments did not involve loss of existing affordable recreational opportunities. Such fees are used for land acquisition, construction and/or to subsidize the provision of lower cost visitor-serving accommodations within a high-cost facility or off-site in the project vicinity. Provision of low-cost accommodations either directly or through contributions to organizations such as San Diego Hostelling International USA (Hostelling International is a non-profit organization with more than 4,000 hostels in over 60 countries, including two in San Diego), and/or developing campgrounds on public tidelands would also be a suitable means to offset the impact of high-cost hotels on public

Lane Field
Attachment "A" dated 1/31/08

4

tidelands otherwise available to serve a larger segment of the population with lower cost visitor facilities.

Thus, the proposed permit is not consistent with the project approved in the certified Port Master Plan, or with the goals of the Port Master Plan supporting public access and recreational opportunities for all of the people.

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Patrick Kruer
Mailing Address: 7727 Herschel Avenue
La Jolla, CA 92037

Phone Number: (858) 551-4390

SECTION II. Decision Being Appealed

1. Name of local/port government: San Diego Unified Port District
2. Brief description of development being appealed: Redevelopment of the former Lane Field site with two hotels with 800 rooms, approximately 80,000 sq.ft. of retail uses, restaurants, public spaces and underground parking.
3. Development's location (street address, assessor's parcel no., cross street, etc.): North of Broadway Street between Pacific Highway and Harbor Drive, San Diego, San Diego County.
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-PSD-08-004

DATE FILED: January 31, 2008

DISTRICT: San Diego

RECEIVED
JAN 31 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator
- b. City Council/Board of Supervisors
- c. Planning Commission
- d. Other Port Commission

Date of local government's decision: January 8, 2008

Local government's file number (if any): CDP-2008-01

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Lane Field San Diego Developers, LLC
655 West Broadway Street, Suite 1450
San Diego, CA 92101

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

Suma Peesapati
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Ian Trowbridge
3444 Hawk Street
San Diego, CA 92103

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

The subject project consists of redevelopment of the former Lane Field site with two hotels with 800 rooms and 1,330 underground parking space surrounded by approximately 80,000 sq.ft. of retail uses, restaurants, and public plazas. The 5.7-acre site is located at the northeast corner of Harbor Drive and Broadway Street, directly east of San Diego Bay.

While the proposed project has many positive features, including the proposed visitor-serving retail uses and the public access amenities, there are several significant inconsistencies with the following Port Master Plan goals and policies:

IV. THE PORT DISTRICT, IN RECOGNITION OF THE POSSIBILITY THAT ITS ACTION MAY INADVERTENTLY TEND TO SUBSIDIZE OR ENHANCE CERTAIN OTHER ACTIVITIES, WILL EMPHASIZE THE GENERAL WELFARE OF STATEWIDE CONSIDERATIONS OVER MORE LOCAL ONES AND PUBLIC BENEFITS OVER PRIVATE ONES.

- Develop the multiple purpose use of the tidelands for the benefits of all the people while giving due consideration to the unique problems presented by the area, including several separate cities and unincorporated populated areas, and the facts and circumstances related to the development of tideland and port facilities.
- Foster and encourage the development of commerce, navigation, fisheries and recreation by the expenditure of public moneys for the preservation of lands in their natural state, the reclamation of tidelands, the construction of facilities, and the promotion of its use.
- Encourage non-exclusory uses on tidelands.

VI. THE PORT DISTRICT WILL INTEGRATE THE TIDELANDS INTO A FUNCTIONAL REGIONAL TRANSPORTATION NETWORK

- Encouraging development of improved major rail, water and air systems linking the San Diego region with the rest of the nation.
- Improved automobile linkages, parking programs and facilities, so as to minimize the use of waterfront for parking purposes
- Providing pedestrian linkages
- Encouraging development of non-automobile linkage systems to bridge the gap between pedestrian and major mass systems.

The existing site is currently an 880-space surface public parking lot. The proposed development would include construction of a 1,300 space underground parking garage including 300 public parking spaces beyond that necessary to serve the proposed hotel and retail development. As a result, there would be 580 less parking spaces available to

downtown and waterfront visitors. As noted in the above policies, a parking lot is not necessarily the best or most appropriate use of prime waterfront land, but when removing parking and increasing the intensity of development, providing alternative parking programs and facilities is necessary in order to maintain public access to the coast.

The hotel operator has developed a "Multimodal Transit Opportunity Promotion Plan" identifying programs that the hotel would be implementing to promote non-automobile transit. Guest services would include as a shuttle service with service to and from the airport and other en-route destinations within downtown San Diego, parking spaces reserved for advanced systems low emission vehicles, discounted trolley and bus passes, pedi-cab staging facilities, and shuttle services to and from the Convention Center for guests. Employees would be offered reduced transit fares, reduced parking fees for low emission vehicles, carpooling, and car sharing, and on-site bicycle parking with shower and locker facilities. Although this plan has not specifically been incorporated into the coastal development permit at this time, the Port District has indicated its willingness to do so.

However, while these are positive features, they do not address the lack of "non-automobile linkage systems to bridge the gap between pedestrian and major mass systems"—namely some form of a downtown shuttle that would serve both hotel guests and the general public to ensure that the continuing major development projects occurring on the waterfront do not result in congestion reducing public access to the shoreline, particularly in the summer.

Many California coastal communities operate downtown or shoreline shuttles on a fulltime or seasonal basis, including Santa Monica, Capitola, Long Beach, Santa Barbara, Monterey, and Laguna Beach. These public shuttles provide linkages between visitor-serving amenities, (in some cases, free of charge), in order to reduce congestion and pollution. The Port has long indicated its support for concept of a waterfront/downtown shuttle, but there is currently no timeline to plan, develop, or implement any such system, nor does the Port require new development such as the subject project to contribute to the development of a shuttle service. The Port included a requirement in the approved coastal development permit that the applicant "comply with all applicable public access requirements including participation in a bayside shuttle system upon District implementation of that system." Instead of a vague requirement to "participate" in a shuttle, at the project level of approval, the Port should be identifying specifically how and when this particular development will be assessed a fairshare contribution to implementation of a bayside shuttle system.

Port policies call for encouraging the development of recreation by the expenditure of public moneys the construction of facilities and the promotion of tidelands. The Port has pointed to the significant challenges involved in coordinating implementation of a downtown shuttle given the need to coordinate with the City of San Diego and the Metropolitan Transit District. Certainly, a shuttle service would ideally link downtown, the Gaslamp District, and Balboa Park to the waterfront. However, even a preliminary shuttle service that operated in the summer linking all of the waterfront hotels from Shelter Island, to Harbor Island, to the North Embarcadero, Seaport Village, the South

Embarcadero, and the Convention Center, all of which are within the Port District jurisdiction, could be developed through a public/private partnership between the Port District and its lessees. Such a service would be hugely beneficial to the public in traversing the shoreline and reducing reliance on automobile transit.

The proposed development will significantly increase the density and intensity of use along the waterfront without providing offsetting benefits to public access, inconsistent with the certified Port Master Plan.

In addition, the project would consist entirely of high-end luxury hotel rooms, thus encouraging exclusory uses on tidelands. When exclusive visitor accommodations are located on the waterfront, they occupy area that would otherwise be available for lower cost visitor and recreational facilities. The problem with exclusivity of shoreline accommodations is become increasingly acute throughout California. The particular distinction in the subject case is that the site is publicly owned land held in trust by the Port District. The Port District therefore has the ability to ensure the provision of lower-cost overnight facilities in a way that is much more difficult for the Commission or local governments to accomplish when regulating development of privately owned land. Lower-cost overnight facilities *could* be provided and encouraged along San Diego Bay, consistent with the policies of the Coastal Act. However, the Port Master Plan currently does not contain any specific policy statements addressing the provision of lower-cost visitor and recreational facilities in new development. It also does not contain any policies protecting existing or encouraging new lower cost facilities within Port tidelands. As a result, there are no motels, campgrounds, or youth hostels on Port tidelands. Even transient boat mooring rates in San Diego Bay have increased substantially in recent years.

There is a place for higher-end facilities in the Port District, but it should be as one component of a wide range of facilities available to serve all segments of the population, to ensure the shoreline is available to everyone. There are several ways in which the increasing exclusivity of San Diego shoreline development could have been addressed at the proposed project site. In review of coastal development elsewhere in the coastal zone, the Commission has required either the provision of lower cost visitor accommodations within proposed development or allowed for the payment of a fee in-lieu of actual construction of affordable units (ref. CDP #5-87-675 Marina Del Rey Ritz Carlton; CDP A5-RPV-91-46 Rancho Palos Verdes; CDP #6-92-203 Sport Shinko). These requirements were associated with proposals for new development which precluded development of lower cost facilities. The Marina Del Rey Ritz Carlton and the Sport Shinko developments did not involve loss of existing affordable recreational opportunities. Such fees are used for land acquisition, construction and/or to subsidize the provision of lower cost visitor-serving accommodations within a high-cost facility or off-site in the project vicinity. Provision of low-cost accommodations either directly or through contributions to organizations such as San Diego Hostelling International USA (Hostelling International is a non-profit organization with more than 4,000 hostels in over 60 countries, including two in San Diego), and/or developing campgrounds on public tidelands would also be a suitable means to offset the impact of high-cost hotels on public

tidelands otherwise available to serve a larger segment of the population with lower cost visitor facilities.

Thus, the proposed permit is not consistent with the project approved in the certified Port Master Plan, or with the goals of the Port Master Plan supporting public access and recreational opportunities for all of the people.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
VOICE (619) 767-2370 FAX (619) 767-2384



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Ian Trowbridge (3444 Hawk St.)
Mailing Address: 344 Hawk St.
City: San Diego Zip Code: 92103 Phone: 619-755-0155

SECTION II. Decision Being Appealed

RECEIVED

JAN 10 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

1. Name of local/port government:

Port of San Diego

2. Brief description of development being appealed:

Lane Field

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Harbor Drive and Broadway

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-PSD-08 804

DATE FILED: [scribble]

DISTRICT: San Diego

EXHIBIT #2
APPLICATION NO. A-6-PSD-08-4
Trowbridge Appeal Form
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: January 8, 2008

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Unknown

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Available as a matter of public record from the Port of San Diego

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

 Signature on File

Signature of Appellant(s) or Authorized Agent

Date: January 9, 2008

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
 7575 METROPOLITAN DRIVE, SUITE 103
 SAN DIEGO, CA 92108-4421
 VOICE (619) 767-2370 FAX (619) 767-2384

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Marc D. Joseph & Suma Peesapati on behalf of UNITE-HERE Local 30

Mailing Address: Adams Broadwell Joseph & Cardozo, 601 Gateway Blvd., Suite 1000

City: South San Francisco

Zip Code: 94080

Phone: 650/589-1660

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Diego Unified Port District

2. Brief description of development being appealed:

The Proposed Project includes: 1) Prolongation of "C" Street, which may be flanked by retail shops/restaurants, and landscaping. 2) An approximately 200-foot tall hotel north of the prolongation of "C" Street, which would include approximately 275 guest rooms and suites, approximately 30,000 square feet of retail and restaurants, ballrooms, meeting rooms, and other ancillary uses on Lane Field North. (See attached for continued description)

3. Development's location (street address, assessor's parcel no., cross street, etc.):

North of Broadway between North Harbor Drive and Pacific Highway, San Diego, California.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
 Approval with special conditions:
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-PSD-08-004

DATE FILED: 1/25/08

DISTRICT: San Diego

EXHIBIT #3

APPLICATION NO.

A-6-PSD-08-4

UNITE HERE Appeal Form

California Coastal Commission

2. Brief description of development being appealed
(continued from page 1)

3) An approximately 275-foot tall hotel south of the prolongation of "C" Street, between Pacific Highway and Harbor Drive, which would include approximately 525 guest rooms and suites, approximately 50,000 square feet of retail and restaurants, ballrooms, meetings rooms and other ancillary uses on Lane Field South. 4) An approximately 1,276 space public and private subterranean parking garage. 5) Demolition of the existing surface parking lot and removal of all surface features.
(Application No. 2007 07-49-144)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other Port District Commissioners

6. Date of local government's decision: January 8, 2008

7. Local government's file number (if any): UPD #83356-702; CDP-2008-01

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Lane Field San Diego Developers, LLC
c/o Lankford & Associates, Inc.
Attn: Jerome M. Trammer
655 West Broadway, Suite 1450
San Diego, CA 92101

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See attached

(2)

(3)

(4)

Attachment to Section III, b.

1.	Mayor Sanders City of San Diego 202 C Street San Diego, CA 92101
2.	Nancy Graham CCDC 225 West Broadway San Diego, CA 92101
3.	Cheryl Kendrick Chair, Board of Directors San Diego Convention Center Corp. 111 W. Harbor San Diego, CA 92101
4.	Julie Meier Wright San Diego Regional EDC 530 B Street, 7 th Floor San Diego, CA 92101
5.	Ian Trowbridge 3444 Hawk Street San Diego, CA 92102
6.	Gregory Pollock (Seed time to Ian Trowbrire)
7.	Don Wood Bayfront Complex Coalition 4539 Lee Avenue La Mesa, CA 91941
8.	Diane Coombs Citizens Coordinate for Century 3 6424 Del Paso Avenue San Diego, CA 92120
9.	John McNab 1333 29 th Street San Diego, CA 92102
10.	Lorena Gonzalez Labor Council
11.	Graham Forbes UNITE HERE Local 30 3737 Camino Del Rio South San Diego, CA 92108

12.	Suma Peesapati UNITE HERE Local 30 601 Gateway Blvd., Suite 1000 South San Francisco, CA 94080
13.	Scott Andrews Save Everyone's Access 2241 4 th Avenue San Diego, CA 92101
14.	Ramona Kiltz 1199 Pacific Highway San Diego, CA 92101
15.	Sherman Harmer Downtown Builders Alliance 620 First Avenue San Diego, CA 92101
16.	Todd Voorhees Downtown San Diego Partnership 401 B Street San Diego, CA 92101
17.	Salvatore Giametta San Diego Convention & Visitors Bureau 2215 India Street San Diego, CA 92101
18.	Howard Greenstein City of San Diego City Planning & Community Investment Dept. 202 C Street, M.S. 5A San Diego, CA 92121
19.	Gary Smith San Diego Downtown Residents Group 701 Kittner Boulevard San Diego, CA 92101
20.	Angelika Villagrana San Diego Reg. Chamber of Commerce 402 W. Broadway #1000 San Diego, CA 92101
21.	Michael Burton Grubb & Ellis 350 10 th Avenue #910 San Diego, CA 92101

22.	Daniel Fitzgerald Grubb & Ellis/BRE 350 10 th Avenue #910 San Diego, CA 92101
23.	Tom Sullivan Irvine Co. 500 W. Broadway San Diego, CA 92101
24.	Rob Lankford Lane Field San Diego Developers 655 W. Broadway San Diego, CA 92101
25.	Sharon Cloward San Diego PTA 2390 Shelter Island Drive #210 San Diego, CA 92106
26.	Jerry Trammer Lane Field San Diego Developers 655 W. Broadway San Diego, CA 92101
27.	Stacey Lankford Pennington SLP Urban Planning 655 W. Broadway San Diego, CA 92101

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

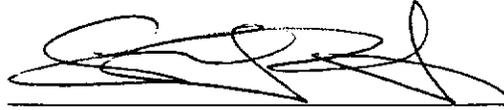
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See attached letter re: Reasons Supporting This Appeal of the Issuance of a Coastal Development Permit to the Lane Field Hotel Development Project (dated 01/23/08).

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



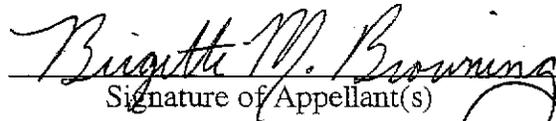
Signature of Appellant(s) or Authorized Agent

Date: January 23, 2008

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Adams Broadwell Joseph & Cardozo (M.D. Joseph/Suma Peesapati)
to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date: January 23, 2008

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660
FAX: (650) 589-5062

speesapati@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4715

TEL: (916) 444-6201
FAX: (916) 444-8209

DANIEL L. CARDOZO
RICHARD T. DRURY
THOMAS A. ENSLOW
TANYA A. GULESSERIAN
MARC D. JOSEPH
OSHA R. MESERVE
LOULENA A. MILES
SUMA PEESAPATI
GLORIA D. SMITH

FELLOW
RACHAEL E. KOSS

OF COUNSEL
THOMAS R. ADAMS
ANN BROADWELL

January 23, 2008

California Coastal Commission
C/o Diana Lilly, Coastal Program Analyst
San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

RECEIVED

JAN 25 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Reasons Supporting This Appeal of the Issuance of a Coastal
Development Permit to the Lane Field Hotel Development Project

Dear Commissioners and Ms. Lilly:

I. INTRODUCTION

On behalf of UNITE-HERE Local 30 ("Local 30"), I am writing to provide the reasons supporting this appeal of the San Diego Unified Port District's ("Port District" or "Port") decision to issue a Coastal Development Permit ("CDP") to the Lane Field Development Project, UPD # 83356-702, Application No. 2007 07-49-144 ("Project"). On January 8, 2008, after holding a public hearing, the Port issued a CDP for the Project (Permit Number: CDP-2008-01). Local 30 appeals that decision because the Project does not comply with the Port Master Plan and was therefore not eligible for a CDP. The Port District thus erred in issuing a CDP for the Project.

As documented by our attached comments (12/20/07 comments and 01/07/08 comments) to the Port, there are significant inconsistencies between the Project and the Port Master Plan ("PMP"). Undisclosed contamination of soil and groundwater at the Project site carries the potential to harm water quality and marine life in the San Diego Bay. It also threatens the health and welfare of the people of California, especially those on-site workers who may come into contact with the contamination during construction. Also, because the Project is prohibitively expensive to the vast majority of the public, and it does not comply with the setback and building orientation requirements in the PMP, it is not consistent with that plan.

Furthermore, the Project's retail uses are also not defined and not expressly limited

2105-010a

January 23, 2008

Page 2

to water-dependent and/or visitor-serving uses, as required by the public trust doctrine. For these reasons, along with the other adverse significant impacts identified in our December 20, 2007 and January 7, 2008 comments on the Project (attached), the Project was not eligible for a CDP from the Port under the Coastal Act.

Union members will breathe more polluted air, lose productive time sitting in traffic jams, and suffer adverse health and safety impacts caused by this Project. Because union members are often in close proximity to the Project areas and other polluting sources, their exposure is often at significantly higher levels than that of the general population. In fact, Local 30 represents approximately 150-200 workers at the Holiday Inn by the Bay, who work immediately adjacent to the Lane Field site and will be affected by the environmental impacts of the Project.

Local 30 also has members who regularly fish in San Diego Bay for recreation and as a means to provide food for their families. While some people practice catch and release, many Local 30 members belong to ethnic groups for whom it is customary to eat the fish they catch. Until the Bay contamination issues are addressed, these people will continue to be unnecessarily exposed to persistent toxic chemicals.

More broadly, degraded water quality and the compromised integrity of marine life affects Local 30's members' ability to enjoy the natural resources offered by the Bay. A failure to proceed with the cleanup in a timely manner has a direct impact on the health and safety of the working community and undermines the physical beauty of the region.

II. THE PROJECT'S INCONSISTENCIES WITH THE PMP MADE IT INELIGIBLE FOR A CDP FROM THE PORT

Under the California Coastal Act ("Coastal Act")¹, "no development within the area covered by the certified port master plan shall be approved by the port governing body unless it finds that the proposed development conforms with such certified plan." Coastal Act § 30715.5. Similarly, in reviewing an appeal of a port's decision to issue a CDP for a development under a PMP, the Coastal Commission determines whether there is a "substantial issue . . . as to conformity with the certified port master plan." Coastal Act § 30625(a)(3). Additionally, as stated in the

¹ Cal. Pub. Res. Code §§ 30000, *et seq.*
2105-010a

January 23, 2008

Page 3

PMP, the “specific recommendations of the Visionary Plan that pertain to Port District land and water areas within the Planning District 3 Precise Plan area [Centre City Embarcadero] **are incorporated into the Master Plan.**” PMP, p. 58, emphasis added. Because the PMP expressly incorporates the North Embarcadero Visionary Plan (“NEVP”), the Project must conform to both plans under the Coastal Act. Coastal Act § 30715.5. Here, the Port cannot find that the Project conforms to the PMP and NEVP because (1) the Project conflicts with the PMP’s development and conservation goals; (2) the Project conflicts with the PMP’s minimum setback requirements; (3) the orientation of the Project’s buildings (perpendicular, rather than parallel, to the Bay) conflicts with the PMP; (4) the luxury hotel complex, which will be unaffordable and thus inaccessible to the vast majority of the public, is an exclusory use of tidelands that is inconsistent with the PMP; and (5) the Project’s retail uses may conflict with uses of tidelands allowed by the public trust doctrine. Because the Project is inconsistent with the PMP, the Project was ineligible for a CDP under the Coastal Act. We therefore request a new hearing on the CDP and respectfully request the Coastal Commission to deny the CDP for the Project.

A. The Project Conflicts With the PMP’s Development and Conservation Goals

According to the PMP, the fundamental development and conservation strategy for the coastal zone is as follows:

The basic direction of development and conservation efforts in the coastal zone is, where feasible, to protect, maintain, enhance and restore the overall quality of the man-made and natural coastal zone environment. *Port development seeks to minimize substantial adverse environmental impacts.*

PMP, p.11, section entitled “Development and Conservation Strategy,” emphasis added. In a similar vein, one of the stated goals of the PMP is to “protect, preserve, and enhance natural resources, including natural plant and animal life in the bay as a desirable amenity, an ecological necessity, and a valuable and usable resource.” *Id.* at p. 9. The PMP further directs the Port to “[a]dminister the natural resources so that impacts upon natural resource values remain compatible with the preservation requirements of the public trust.” *Id.* at p. 10. These conservation and development policies find their root in the Coastal Act itself, which calls for maintaining and restoring “the biological productivity and the quality of coastal

January 23, 2008

Page 4

waters" (Coastal Act § 30231), "minimiz[ing] risks to life, . . . be[ing] consistent with requirements imposed by an air pollution control district or the States Air Resources Control Board . . . , and minimiz[ing] energy consumption and vehicle miles traveled." (Coastal Act § 30253)

Additionally, as stated in the PMP, the "specific recommendations of the Visionary Plan that pertain to Port District land and water areas within the Planning District 3 Precise Plan area [Centre City Embarcadero] *are incorporated into the Master Plan.*" PMP, p. 58, emphasis added. Because the PMP expressly incorporates the NEVP, the Project must conform to both plans under the Coastal Act. Coastal Act § 30715.5. The NEVP states that "[i]n planning for the future development of the North Embarcadero area, the Alliance [which includes the Port] will honor these guiding principles: . . . Preserve the environmental integrity of land and water." NEVP, Appendix A.2 (attached as Exhibit C to our 01/07/08 comments).

As more fully explained below and in our CEQA comments on the Project, filed on December 20, 2007 and attached to this letter, the Lane Field Development Project will cause a number of significant adverse environmental impacts that threaten the "overall quality of the man-made and natural coastal zone environment" in a way that *does not* "protect, preserve, [or] enhance natural resources . . ." *Id.* at 10-11. Specifically, inconsistent with the PMP and the Coastal Act itself, the Project will have significant adverse impact on the Bay's water quality, on air quality, on climate change, on traffic (vehicle miles traveled), on public services (such as fire protection services) and utilities (such as water supply) in the area. As also discussed below, the Port's failure to properly mitigate these impacts is inconsistent with the PMP's requirement that the Port "administer the natural resources so that impacts upon natural resource values remain compatible with the preservation requirements of the public trust." *Id.* at 10.

1. Potential Disturbance of Contaminated Soil on the Project Site Will Cause a Substantial Adverse Environmental Impact That Makes the Project Inconsistent with the PMP

As discussed by our soil expert Mr. Matt Hagemann in his attached comments (attached as Exhibit B to our 01/07/08 comments), in 2006, the Port prepared a Phase II report that documented significant pesticide contamination in soil at the Project site. Hagemann reports that the maximum concentrations of

January 23, 2008

Page 5

dichlorodiphenyltrichloroethane (commonly known as "DDT") exceed the California criterion for hazardous waste. Additionally, according to Hagemann, the concentrations of DDT and dichlorodiphenyldichloroethylene (commonly known as "DDE") in soil on the Project site greatly exceed ecologic screening criteria established by the National Oceanic and Atmospheric Administration ("NOAA"). The potential disturbance of this contaminated soil during construction is a substantial environmental impact that makes the Project inconsistent with the PMP. Failure to fully address this contamination before commencing construction is also inconsistent with Port's obligation to "protect, preserve, and *enhance* natural resources . . ." and to "[a]dminister the natural resources so that impacts upon natural resource values remain compatible with the preservation requirements of the public trust." PMP, pp. 9-10, emphasis added. Failure to fully investigate and analyze the contamination prior to approving the Project is inconsistent with the Port's obligation to "[p]reserve the environmental integrity of land and water." NEVP, Appendix A.2 (attached as Exhibit C to our 01/07/08 comments).

2. Potential Impact of Contamination on Marine Life is A Substantial Adverse Environmental Impact That Makes the Project Inconsistent with the PMP

Upon construction, soil may become mobilized and deposited as sediment in the Bay where the organisms may be exposed. According to our soil resources expert (Mr. Matt Hagemann) in Exhibit B to our 01/07/08 comments and our biology expert (Dr. Petra Pless) in Exhibit A to our 01/07/08 comments, the soil contaminants may pose a risk to organisms in San Diego Bay. Such a risk to the health of the Bay and its marine life is inconsistent with PMP Goal VIII, which states that "the Port District will enhance and maintain the bay and tidelands as an attractive physical and biological entity." PMP, p. 9. The risk from release of contaminants to the Bay is consistent with governmental findings on this issue. When the United States Environmental Protection Agency ("EPA") banned DDT in 1972, its then-Administrator issued an opinion and order stating as follows:

I am convinced by a preponderance of the evidence that, once dispersed, DDT is an uncontrollable, durable chemical that persists in the aquatic and terrestrial environments. Given its insolubility in water and its propensity to be stored in tissues, it collects in the food chain and is passed up to higher forms of aquatic and terrestrial life. There is ample evidence to show that under certain conditions DDT or

January 23, 2008

Page 6

its metabolites can persist in soil for many years, that it will volatilize or move along with eroding soil. . . . evidence in the record shows that it is occasionally found in remote areas or in ocean species, such as whales, far from any known area of application.

Persistence and biomagnifications in the food chain are, of themselves, a cause for concern, given the unknown and possibly forever undeterminable long-range effects of DDT in man, and the environment. Laboratory tests have, however, produced tumorigenic effects on mice when DDT was fed to them at high levels.

The evidence . . . compellingly demonstrates the adverse impact of DDT on fish and birdlife. Several witnesses testified to first-hand observed effects of DDT on fish and birdlife, reporting lethal or sub-acute effects on aquatic and avian life exposed in DDT-treated areas. Laboratory evidence is also impressively abundant to show the acute and chronic effects of DDT on avian animal species and suggest that DDT impairs their reproductive capabilities.

37 Fed. Reg. 13371 (June 30, 1972) (Opinion and Order of Administrator Ruckelshaus concerning the registrations of products concerning DDT), attached as Exhibit D to our 01/07/08 comments.² Also, according to the Department of Health and Human Services, "DDT, and especially DDE, build up in plants and in fatty tissues of fish, birds, and other animals."³

In their attached comments, Mr. Hagemann and Dr. Pless state that the potential additional pollutant load on the Bay represents a substantial adverse environmental impact. The Project is thus inconsistent with the PMP. This inconsistency is a particular cause for concern here because, as both experts note, the water quality in the San Diego Bay is already severely degraded. Any additional pollutant load to the Bay must be prevented.

Dr. Pless also explains that even though the use of DDT and Aroclor was discontinued in the 1970s, both pesticides and their breakdown products are very

² Also see, <http://www.epa.gov/history/topics/ddt/index.htm>

³ <http://www.atsdr.cdc.gov/tfacts35.html#bookmark02>

2105-010a

January 23, 2008

Page 7

persistent in the environment. DDT and Aroclor are very highly toxic to many aquatic invertebrate and fish species. In addition to acute toxic effects, both pesticides and their metabolites have a tendency to bioaccumulate significantly in fish and other aquatic species, leading to long-term exposure. This occurs mainly through uptake from sediment and water into aquatic flora and fauna, and bioaccumulation may occur in some species at very low environmental concentrations. Bioaccumulation may also result in exposure to species which prey on fish or other aquatic organisms, e.g., birds of prey. Persons eating fish contaminated with these pesticides and their metabolites may be exposed via bioaccumulation of the compound in fish. PCBs are of particular concern because of their potential to cause cancer in those who consume the fish as food.

According to Dr. Pless's expert opinion, the concentrations of DDT and DDE found in the soil at the Lane Field Project site are high enough to potentially result in adverse impacts on sensitive species if mobilized. In her comments (attached as Exhibit A to our 01/07/08 comments), Dr. Pless further explains that mobilization of contaminants could occur throughout the construction phase during rainfall events via stormwater to the San Diego Bay or by wind erosion. Soil particles with adsorbed contaminants would then disperse in the water column and settle out onto the sea bottom. Critical habitats and food chains supporting many estuarine fish and wildlife species involve the benthic environment on the sea bottom. Contaminants in sediments often pose both ecological and human-health risks through degraded habitats, loss of fauna, propagation of contaminants in the coastal ecosystem, and human consumption of contaminated fish and wildlife. In many instances, fish consumption advisories are coincident with severely degraded sediments in coastal water bodies.

Dr. Pless's investigation also revealed that the San Diego Bay is considered to be the second most polluted bay in the United States. Recent studies conducted in some of the most contaminated sites in the Pueblo watershed, which drains into San Diego Bay, have found organic contaminants including PCBs and DDT to be the principal sources of impairment and both ecological and potential human health risk. In many areas, edible fish contain sufficient concentrations of organochlorine pesticides to be a threat to cause cancer for those who consume the fish as food. Five areas within the San Diego Bay are so severely polluted as a result of combined point and non-point source pollution discharges that they have been designated by the Regional Water Quality Control Board ("RWQCB") as Toxic Hot Spots. One of these toxic hot spots is between the B Street and Broadway Piers, 200

January 23, 2008

Page 8

feet from the Project site. Contaminants mobilized from the Project site would contribute to the already severe sediment contamination in the San Diego Bay.

Given the level of contamination at the site and its proximity to the San Diego Bay, it is Dr. Pless's expert opinion (see Exhibit A to our 01/07/08 comments) that the San Diego Unified Port District should have conducted an ecological risk assessment to properly assess the potential adverse impacts due to contaminant mobilization from the site before permitting development on the site.

Although the Addendum states that "[s]tormwater runoff would be captured on site and would be prevented from flowing into the Bay without prior treatment," according to Hagemann, this proposed measure is unreliable because it lacks sufficient detail. For example, it does not address the more specific issue of pesticide contamination, let alone disclose a treatment method for pesticides. This vague and unsupported statement fails to show how stormwater will be managed to prevent pesticide pollution from reaching the Bay and its marine life.

Hagemann concludes that further evaluation of risk to water quality and organisms in the Bay is necessary. The 2006 Phase II Environmental Site Assessment found that "constituents of potential concern" ("COPCs") do exist in soil at the site in the form of DDT and DDE; the detected COPCs are at concentrations that exceed ecologic screening and hazardous waste criteria; and the pathway for ecologic exposure are complete – organisms in San Diego Bay may be exposed to contaminated sediment transported to the Bay during storm events. Because the Project will have substantial adverse impacts to biological resources, we respectfully request the Coastal Commission to deny the CDP for the Project.

3. Groundwater Contamination is a Substantial Adverse Environmental Impact that Makes the Project Inconsistent with the PMP

According to Hagemann, the groundwater beneath the site is contaminated with total petroleum hydrocarbons, tetrachloroethylene, and cis-1,2-DCE, among other contaminants. The 2006 Phase II documents cis-1,2-DCE in Boring B-13 at a concentration of 24 $\mu\text{g/L}$, in excess of the California drinking water standard of 6 $\mu\text{g/L}$. This groundwater contamination is a substantial adverse environmental impact that makes the Project inconsistent with the PMP and thus ineligible for a CDP. PMP, p. 11. The Port's failure to disclose and fully investigate this was inconsistent with the Port's obligation to "restore the overall quality of the man-

made and natural coastal zone environment" under the PMP. *Id.* The failure to fully investigate and address this contamination also violated the Port's obligation to preserve the environmental integrity of land and water. NEVP, Appendix A.2 (attached as Exhibit C to our 01/07/08 comments). We therefore respectfully request the Coastal Commission to deny the CDP for the Project.

4. Failure to Notify Regulatory Agencies of Project Site Contamination Is Inconsistent With the PMP

The PMP states that "[t]he quality of water in San Diego Bay will be maintained at such levels as will permit human water contact activities." PMP, page 9, Goal X. To achieve this goal, the PMP states that the Port will "cooperate with the Regional Water Quality Control Board, the County Health Department and other public agencies *in a continual program of monitoring water quality and identifying source of any pollutant.*" *Id.*, emphasis added. Equally alarming to the detection of contamination, Hagemann's investigation revealed that *none of the relevant regulatory agencies have been notified of the detection of significant amounts of contamination, including DDT and DDE, on the Project site.* The Port's failure to notify the RWQCB was inconsistent with the PMP's above directive. We therefore respectfully request the Coastal Commission to deny the CDP for the Project

In his comments to the Port District, Hagemann recommended notification of the presence of these serious contaminants to the proper agencies, along with development of specific mitigation measures to address the presence of the known contaminants in soil and groundwater. The Port District completely ignored these recommendations of our expert before issuing a CDP for the Project.

5. Significant Pesticide Contamination on the Project Site Threatens Human Health which is Inconsistent with the PMP

In his attached comments, Hagemann further explains that humans may come into contact with the soil contamination discussed above. Hagemann explains that this is a particularly important issue for construction workers when the soil is disturbed during construction. The potential substantial adverse impacts to human health is inconsistent with the PMP's goal of establishing "standards facilitating the retention and development of an aesthetically pleasing tideland environment free of . . . hazards to the health and welfare of the people of California." PMP, p. 9.

Because the Port did not disclose or fully mitigate this issue before issuing a CDP for the Project, we respectfully request the Coastal Commission to deny the CDP for the Project.

6. The Project's PM 2.5 Emissions Are A Substantial Adverse Air Quality Impact Making the Project Inconsistent with the PMP

Both the PMP and the Coastal Act seek to minimize adverse impacts to air quality from new development. The PMP does so by stating, "Port development seeks to minimize substantial adverse environmental impacts." PMP, p. 11. The Coastal Act specifically addresses air quality by stating that "new development shall . . . [b]e consistent with requirements imposed by an air pollution control district or the States Air Resources Control Board as to each particular development." Coastal Act § 30253(3). As explained in our attached December 20, 2007 comments on the Project, the Project may have substantial, unmitigated and adverse impacts on air quality.

According to Dr. Pless's expert opinion, new information on the adverse health impacts of particulate matter in ambient air has become available and, in response, the EPA and the California Air Resources Board ("CARB") adopted new ambient air quality standards. The Coastal Act mandates compliance with CARB requirements. Coastal Act § 30253.

Dr. Pless notes that EPA and CARB promulgated ambient air quality standards for particulate matter smaller than 2.5 micrometers ("PM2.5"). These standards are not subsets of the old standards for PM10, i.e. particulate matter smaller than 10 micrometers, but new standards for a separate pollutant with distinguishable impacts. As acknowledged in the Port's response to comments, the MEIR did not include these new PM2.5 standards. The Port's Addendum for the Project similarly failed to address and mitigate air quality impacts from PM2.5.

As Dr. Pless explains, to understand the Project's impacts on public health and welfare, it is important to understand the severity of health impacts caused by elevated concentrations of PM2.5 in the ambient air. Since 1996, more than 2,000 peer-reviewed studies have been published validating earlier epidemiologic studies that link both acute and chronic fine particle pollution with serious morbidity and mortality. The EPA concluded with respect to short-term exposure studies that "epidemiological evidence was found to support likely causal associations between

PM2.5 and both mortality and morbidity from cardiovascular and respiratory diseases." In response to this new information of substantial importance, the EPA recently tightened the national 24-hour PM2.5 ambient air quality standard from 65 µg/m³ to 35 µg/m³, effective December 17, 2006. Existing and historical ambient concentrations of PM2.5 in the San Diego air basin considerably exceed this new standard and, according to Dr. Pless's expert opinion, PM2.5 emissions from the Project's construction and operation would further aggravate the already severely compromised air quality. Dr. Pless further opines that, especially in light of these existing levels of excess PM2.5 in the region, the Project's PM2.5 emissions are likely to be significant. Such substantial adverse air quality impacts would make the Project inconsistent with the PMP. PMP, p.11.

As Dr. Pless explains, a large portion of PM2.5 emissions arises from diesel exhaust. Diesel exhaust contains nearly 40 toxic substances, and diesel soot particles are particularly damaging to human health. Diesel exhaust has been linked to a range of serious health problems, including an increase in respiratory disease, lung damage, cancer, and premature death.

Dr. Pless's research shows that in the San Diego air basin, where the Project is located, in 2005, diesel exhaust from construction equipment caused 90 premature deaths, 80 hospitalizations for respiratory and cardiovascular disease, 170 cases of acute bronchitis, more than 2,000 incidents of asthma and other lower respiratory symptoms, 38,500 days of lost work and school absences, and more than 100,000 restricted activity days. Total annual costs were estimated at 718 million dollars. Before it may make a finding of consistency with the PMP, the Port must first ensure that the Project minimizes its diesel exhaust emissions, which are a substantial adverse environmental impact. PMP, p. 11.

According to Dr. Pless's expert opinion (see Exhibit 1 to our 12/20/07 comments), the Project may result in substantial adverse impacts on air quality and public health that were not analyzed or minimized by the Port. Such an analysis must be performed to minimize the Project's impacts on the region's ambient air quality with respect to federal and state PM2.5 standards and to minimize health effects due to diesel particulate matter emissions, particularly during the construction phase of the Project. The failure to address these impacts is inconsistent with the PMP's requirement to "minimize substantial adverse environmental impacts." PMP, p. 11.

The Port responded by acknowledging the new PM2.5 standards, but failed to compare the Project's impacts against those standards. Port's Response to Comments, page 18. It then stated that the CDP included "measures to reduce the emission of diesel pollutants and fugitive dust that include PM2.5 during construction." *Id.* Yet, here again, the response did not calculate the emissions reductions that will be gained from the measures proposed in the Project's CDP. The Port provides no evidence to show that this vague and ambiguous mitigation strategy for PM2.5 will minimize the substantial air quality impacts of the Project to the fullest extent feasible. Because there is no evidence to show that the Port actually minimized the Project's substantial PM2.5 emissions, we respectfully request the Coastal Commission to deny the CDP for the Project.

7. The Project Will Have A Substantial Adverse Impact on Climate Change

The Port simply ignored the carbon dioxide emissions from the Project itself, combined with the increase in traffic caused by the Project, and their substantial adverse impact on climate change.

In 2006, Governor Schwarzenegger signed AB 32, a landmark law to control and reduce the emission of global warming gases in California. AB 32 requires both reporting of greenhouse gas emissions and their reduction on an ambitious time line, including a reduction of carbon dioxide ("CO2") emissions to 1990 levels by 2020. Local governments, like all agencies, must comply with the legislation's provisions and identify both CO2 and other greenhouse gas sources and offer actions for mitigation of the increases in emissions in greenhouse gases that result from new development projects.

Because global warming is perhaps the most serious environmental threat currently facing California, the Port has a duty to do its part to comply with AB 32 by providing full environmental disclosure of the Project's effects on greenhouse gas emissions, and adopting serious and real mitigation measures to minimize those effects and emissions.

Climate change results from the accumulation in the atmosphere of "greenhouse gases" produced by the burning of fossil fuels for energy. Because greenhouse gases, primarily CO2, methane and nitrous oxide, persist and mix in the atmosphere, emissions anywhere in the world impact the climate everywhere.

January 23, 2008

Page 13

The impacts on climate change from greenhouse gas emissions have been extensively studied and documented.

In adopting AB 32, the Legislature made specific findings that global warming will "have detrimental effects on some of California's largest industries, including agriculture, wine, tourism, skiing, recreational and commercial fishing, and forestry." Climate change impacts frustrate the PMP's goal to "provide for the present use and enjoyment of the bay and tidelands in such a way as to *maintain options and opportunities for future use and enjoyment*" and to "administer the tidelands so as to provide the greatest economic, social and aesthetic benefits to present *and future generations*." PMP, p. 8, emphasis added. Similarly, to prevent these future harms, AB 32 mandates that greenhouse gas emissions be reduced to 1990 levels through a regulatory program to be adopted and carried out by CARB. Governments are not exempt from AB 32. The Port of San Diego and the businesses within its borders will each have to comply with the regulations and plans that will be adopted to achieve the reduction of greenhouse gas emissions mandated by this legislation.

According to Dr. Pless's expert opinion(see Exhibit 1 to our 12/20/07 comments), the Project would directly emit CO2 from heating and transportation fuels. Dr. Pless further stated that the Project would also contribute to indirect emissions of greenhouse gases due to increased demand on electricity generation and other energy sources. These are substantial adverse environmental impacts of the Project that make it inconsistent with the PMP.

The Port cited to a list of mitigation measures related to climate change for the first time in its response to comments. By requiring mitigation for the first time, the Port tacitly acknowledged that the Project carries potentially substantial adverse impacts related to climate change that require mitigation, but provided no analysis of the issue. Because the Port has neither estimated nor analyzed the Project's climate change impacts, it is impossible to determine whether the Port's proposed mitigation sufficiently minimizes those impacts. In sum, because the Port's proposed mitigation exists in a vacuum, the record contains no evidence that the Port's proposed mitigation measures will "minimize substantial adverse environmental impacts" as required by the PMP. For this reason, we respectfully request the Coastal Commission to deny the CDP for the Project.

8. The Project Will Have a Substantial Adverse Impact on Traffic and Vehicle Miles Traveled Which Makes it Inconsistent with the PMP

Traffic expert Tom Brohard found that when the Lane Field Hotel Development and the 400,000 square foot office space developments are operating, they will generate over 13,000 average daily trips. According to Mr. Brohard's expert opinion attached as Exhibit 2 to our December 20, 2007 comments, this is a new substantial adverse impact on traffic that was not discussed in any of the environmental documents for the Project. This large, unplanned jump in average daily trips from the Project is inconsistent with the PMP's requirement to avoid substantial adverse environmental impacts. PMP, p. 11. It is also inconsistent with the Coastal Act's requirement to "minimize . . . vehicle miles traveled." Coastal Act § 30253(4).

Mr. Brohard further found that the Project's incremental contribution (9,254 average daily trips) is much larger than previously estimated by the Port in its MEIR. According to Mr. Brohard, these additional, unplanned-for vehicle trips will cause substantial adverse environmental impacts. Under the PMP, these project-specific impacts must be minimized.

Because the Addendum showed that the Lane Field Project, combined with the 1220 Pacific Highway office space, will generate more trips than that estimated by the previous environmental documents for the Project, Mr. Brohard opined that additional I-5 Freeway mainline segments and additional ramps not identified in those previous documents may also experience substantial adverse traffic impacts. The Port was required to analyze and minimize those impacts before it could make a finding of consistency with the PMP and the Coastal Act. Because the Project's substantial, unmitigated traffic impacts make it inconsistent with the PMP and the Coastal Act, we respectfully request the Coastal Commission to deny the CDP for the Project.

9. The Project Will Have a Substantial Adverse Impact on Public Services, Making It Inconsistent with the PMP

As discussed in our December 20, 2007 comments on the Project, San Diego's fire protection services are woefully under funded and are thus unable to achieve national response-time standards. And, due to drought conditions and a recent

Court decision severely curtailing San Diego's water supply from the State Water Project, the region's water supply scenario is dire. These are just a few examples of the challenges facing San Diego's provision of utilities and public services. The Project is a new development that only exacerbates these existing problems. These are substantial adverse environmental impacts that make the Project inconsistent with the PMP. The PMP directs the Port to "[c]urb the misuse of land so that it will not injuriously affect the people of the State of California through the prevention of substandard construction or unnecessarily add inappropriate developments." PMP, p. 10.

In its response to our comments on the lack of fire protection services to serve the Project, the Port stated that a firehouse may be built two blocks from the hotel development. This statement tacitly *acknowledges that the current firefighting protection service levels are inadequate to serve the Project*. The response makes general statements about potential sources of funding for that new fire station and claims that this new facility will be built by 2012.⁴ These statements are unsupported and, more importantly, unenforceable. The Port must first disclose this impact as significant and substantial and impose *enforceable* mitigation for it before it can make a finding that it has minimized substantial adverse environmental impacts, as required by the PMP.

With respect to the water supply issue we raised in our comments on the Project, the Port's response to those comments also claimed that the requirement to obtain a water supply assessment applies only to cities and counties. Yet, according to the NEVP's own language, the NEVP is

"the outcome of a unique alliance among five government agencies with significant jurisdictional and/or ownership interests in the North Embarcadero. Created through a Memorandum of Understanding (MOU) signed in the summer of 1997, *the North Embarcadero Alliance consists of the Centre City Development Corporation (designated agent of the Redevelopment Agency of the City of San Diego), the City of San Diego, the County of San Diego, the San Diego Unified Port District, and the United States Navy.*"

⁴ Even if this date were enforceable, the Port offers no analysis of whether this new firehouse will fully minimize the existing fire protection shortfalls in downtown San Diego. Also, the Project is scheduled to open in 2010, well before the new fire station would be operational.

January 23, 2008

Page 16

NEVP, p. 5, emphasis added. The NEVP's MOU states that the

“[CCDC], the City of San Diego, the County of San Diego, and San Diego Unified Port District, and the United States Navy enter into this [MOU] in order to formalize their voluntary commitment to working together to plan and facilitate the future use and development of the North Embarcadero area. *All of these agencies have endorsed the concept of a voluntary multi-jurisdictional planning program*”

NEVP MOU, attached as Exhibit C to our 01/07/08 comments, emphasis added. The NEVP and all its subsequent projects are not exclusively Port District projects, but also projects of the City and County of San Diego, making the Project subject to the water supply assessment requirement established by SB 610. In fact, in its response to comments, the Port plainly acknowledges that the Project will need “*a building permit, which is a City action, as part of the City building permit process.*” Port's Response to Comments, page 6, emphasis added. The Port's decision to act as lead agency for purposes of CEQA does not change the multi-jurisdictional nature of the Project itself.

Also, as evidenced by our December 20, 2007 comments, the ever-dwindling water supply scenario in San Diego is well documented. Just as in the Addendum, the Port's response to comments again relied on outdated water planning documents and forecasts that are no longer relevant in the wake of the recent court decision from Judge Wanger severely curtailing San Diego's access to water from the State Water Project. In light of San Diego's existing water shortage, the additional water demand created by a new luxury hotel complex is a substantial adverse environmental impact that makes the Project inconsistent with the PMP. On this basis, we respectfully request the Coastal Commission to deny the CDP for the Project.

10. **Piecemealed Analysis of the Project's Impacts Is Inconsistent with the PMP**

In numerous places, the Port's responses to comments state that the Project's impacts have been reduced since the Project no longer includes development of 1220 Pacific Highway. This response is both misleading and incorrect. The response is misleading because the Port intends to develop 1220 Pacific Highway, but has simply deferred that development into the future. The response is incorrect because

it improperly relies on a piecemealed analysis of the Project. As originally contemplated by the 2000 MEIR, the Lane Field Development Project included both the Lane Field site and 1220 Pacific Highway. The Port cannot now artificially segment the Project into two pieces to claim that impacts from the Lane Field development are somehow reduced. To the contrary, as explained by our December 20, 2007 comment letter, the traffic impacts of the Project as a whole (including 1220 Pacific Highway) are, in fact, much larger than contemplated by the 2000 MEIR. This is a project-specific substantial impact that makes the Project inconsistent with the PMP.

Putting the issue of piecemealing aside, the cumulative development scenario has not changed. Furthermore, the Port could not rely on the cumulative analysis in an expired MEIR to claim that further environmental review is not necessary. As discussed in our attached December 20, 2007 comments, the conclusions in that long-expired document are no longer valid. Finally, as the Port's responses to comments acknowledge, the Port was required to make *project-specific* findings for the Project. Thus, findings of no substantial changes that the Port made for the B Street Pier or other projects undertaken in the past year were not relevant to the Project. Because the Project will have substantial adverse cumulative environmental impacts, it is inconsistent with the PMP. On this basis, we respectfully request the Coastal Commission to deny the CDP for the Project.

B. The Project Fails To Comply With The PMP's Minimum Setback Requirements

1. The Proposed Spa and Restaurant Intrudes on the Setback Requirement Along "C" Street

During the public hearing on the Project, consistent with the information in the Addendum, the Port plainly acknowledged that on the "Lane Field South hotel, a portion of the proposed spa and restaurant/bar intrudes approximately 15 feet into the 25-foot setback on the 50-foot podium level along the C Street frontage." Addendum, p. 59. The PMP clearly states that "[s]teppbacks for upper stories are 25-foot *minimum* at 50-foot building height . . ." PMP, p. 63 (emphasis added). The setback intrusion by the Project's proposed spa and restaurant is inconsistent with the PMP, rendering the Project ineligible for a CDP. For this reason, we respectfully request the Coastal Commission to deny the CDP for the Project.

2. The Elevator Penthouse Intrudes on the PMP's Setback Requirements

During the public hearing on the CDP, the Port also confirmed the accuracy of the Addendum's statement that "[b]oth hotels propose to provide public realm elevator access to the podium roof levels from the Harbor Drive sidewalk. The elevator penthouses would consist of an approximately 20 feet tall structure. This structure would be mostly transparent and *located within the 25-foot setback* on the 50-foot podium level." Addendum, p. 59. Again, as explained above, the PMP clearly sets a *minimum* setback requirement of 25 feet. PMP, p. 63. The PMP provides no exceptions to this minimum setback requirement. For this reason, we respectfully request the Coastal Commission to deny the CDP for the Project.

3. The Project Is Inconsistent with the NEVP's Setback Requirements

To be consistent with the PMP, the Project must also be consistent with the NEVP's requirements for the planning area. PMP, p. 58. With respect to consistency with the NEVP's setback requirements, the Port offered an incoherent discussion related to building height requirements in the NEVP. Addendum, p. 59. It states that the NEVP exempts from maximum building heights structures that occupy no more than 10 percent of the roof area. *Id.* Based on this *non sequitor*, the Port claimed that the spa, restaurant and elevator penthouse setback intrusions "are consistent with the building height requirements." *Id.* Yet, the NEVP's building height requirements are completely separate from, and have no connection to, its setback requirements. In fact, the NEVP itself states:

[u]pper-story setbacks assure that buildings maintain a pedestrian scale and that views to the bay are enhanced from inland areas.

Along North Harbor Drive, and Broadway, the upper stories of buildings (between 40 feet/three stories and 50 feet) should step back a minimum of 25 feet from the property line, leasehold line, or minimum setback requirement. Along 'C' Street, and 'E' Street, the upper stories of buildings (between 30-50 feet) should step back a minimum of 25 feet.

NEVP, p. 67. These spa, restaurant, and elevator penthouse intrusions on both the PMP and NEVP's minimum setback requirements render the Project inconsistent

with the PMP and ineligible for a CDP under the Coastal Act. As a result of this inconsistency, the design of the buildings frustrate the NEVP's above-stated goal of enhancing views to the Bay from inland areas.

Furthermore, as is evident from the setback requirements in the NEVP, the 25-foot setback requirement along North Harbor Drive and Broadway is triggered at a height of **40 feet**. *Id.* And, the 25-foot stepback requirement along C Street is triggered at **30 feet**. *Id.* Page 58 of the Addendum incorrectly states that the setback trigger occurs at 50 feet along all three of these streets. There is no evidence to show that the Project will comply with the 25-foot stepback requirement at a height of 40 feet along North Harbor Drive and Broadway. There is also no evidence to show that the Project will comply with the 25-foot setback requirement at a height of 30 feet along C Street. Because these setback intrusions make the Project ineligible for a CDP, we respectfully request the Coastal Commission to deny the CDP for the Project.

C. The Lane Field Luxury Hotel Complex Represents An Exclusionary Use of Tidelands That Is Inconsistent with the PMP

The PMP states that it will "encourage non-exclusionary uses on tidelands" and will "[d]evelop the multiple purpose use of the tidelands for the benefit of all the people" in an effort to satisfy its goal to "emphasize . . . public benefits over private ones." PMP, p. 8, Goal IV. This goal is consistent with the Coastal Act's policy of protecting, encouraging and providing "[l]ower cost visitor and recreational facilities." Coastal Act § 30213. Yet, the Lane Field Hotel Development would be a luxury hotel complex, which will be unaffordable, and thus inaccessible, to the vast majority of the public.

The developer plans to flag the hotel brand planned for Lane Field South with the *upper-upscale* InterContinental Hotels brand. According to Port staff, "[i]n 2006, the 21 InterContinental in North America achieved an average room rate *in excess of \$200* (which is *higher* than Marriott, Hilton, Hyatt, and Westin . . .)." See, page 1 of a February 2, 2007 memorandum from Port staff to Board of Port Commissioners, attached as Exhibit F to our 01/07/08 comments (emphasis added). With respect to the suites hotel planning for Lane Field North, according to Port staff, it would be "the largest and finest of [Woodfin's] all-suite hotels. . . . As proposed, Woodfin's standards will be at least equal to those of Intercontinental." *Id.* at p. 2. The staff goes on to report that "Woodfin Suites is in the process of

transitioning away from its historical niche of limited-service, extended-stay, mid-priced hotel product *into a much higher-end*, all-suite, full-service hotel product. . . [Staff's hotel consultant] believes that the new Woodfin Suites would be a welcome addition to the San Diego *upscale* hotel market." *Id.* at p. 3. Leaving aside the issue of whether Woodfin can pull off a high-end, expensive product, the fact is that they intend to try.

In short, the Lane Field Development represents yet another upscale hotel complex in downtown San Diego that will be economically inaccessible to the vast majority of the public. The Port erred in granting the Project a CDP because its luxury hotel concept is an "exclusory use on tidelands" that is inconsistent with the PMP. PMP, p. 8, Goal IV. On this basis, we respectfully request the Coastal Commission to deny the CDP for the Project.

D. Because the Project Did Not Demonstrate Consistency With The Public Trust Doctrine, It Was Not Eligible For A CDP

The Project area resides in tidelands that are subject to the public trust doctrine. In its introduction, the PMP refers to section 87 of the Port Act to explain the allowed utilization of tide and submerged lands. PMP, p. 1. With respect to the purposes and use of tidelands held in trust by the Port District, Section 87(b) of the Port Act states that the Port "may lease those lands, or any part thereof, for limited periods, not exceeding 66 years, for *purposes consistent with the trusts upon which those lands are held by the State of California, . . .*" *Id.* As explained by the State Lands Commission in a letter dated December 18, 2007 and attached as Exhibit 3 to our 12/20/07 comments, the proposed retail uses on the project site are not yet defined. As stated by the letter:

The Port has not yet received detailed plans regarding the Lane Field Development. . . . When reviewing the proposal, it is important to take into account the general commercial, recreational, office, and retail uses are not uses consistent with the public trust doctrine as such uses serve the local citizenry and are not water-related or visitor-serving. Commercial, recreational, office and retail uses, which are maritime related or waterfront visitor-serving and cater to the regional or statewide general public, may be considered incidental and necessary in promoting the public's use of public trust lands and hence consistent with the land use requirements of the trust.

Id. When it issued the CDP for the Project, the Port still had not “received detailed plans” for Project’s retail space. Therefore, the Port’s record contains no evidentiary basis to support a finding of consistency with the public trust doctrine with respect to the retail space. The Port must clearly specify the types of retail uses that will be allowed before it may make a conformity finding with the PMP.

The PMP also mentions the public trust doctrine on page 10 when it states that the Port will “[a]dminister the natural resources so that impacts upon natural resource values remain compatible with the preservation requirements of the public trust.” In light of the environmental concerns with the project discussed above, the Port cannot make a finding of consistency with this aspect of the public trust doctrine. Thus, the Project is inconsistent with this PMP goal, making the Project ineligible for a CDP. On this basis, we respectfully request the Coastal Commission to deny the CDP for the Project.

E. The Orientation of the Project’s Buildings Is Inconsistent with the PMP

The front of the Project’s buildings are perpendicular to the Bay, rather than parallel to it. See, page 4 of Lane Field Concept Plan, dated April 23, 2007 (attached as Exhibit E to our 01/07/08 comments), which states that “the hotel is designed as a slender tower located perpendicular to the waterfront . . .” Yet, according to the NEVP, the very purpose of the Project’s proposed location is that “the North Embarcadero is an excellent location for hotel development *due to potential waterfront views* . . .” NEVP, p. 30, emphasis added. The NEVP goes on to state that the “buildings in the North Embarcadero should maximize their frontage along the street . . .” NEVP, p. 67.

The orientation of the buildings not only frustrates the NEVP’s only justification for allowing a luxury hotel complex to occupy public tidelands, but also results in a greater potential for noise impacts. Specifically, one of the mitigation measures for noise listed in the Master Environmental Impact Report (“MEIR”) for the NEVP is that “New hotels shall face toward the Bay to use the building mass as a supplemental noise barrier, if feasible.” MEIR, 4.10-15. The Port’s administrative record contains no evidence showing that a parallel orientation to the Bay is not feasible. The Port again failed to provide this explanation at the hearing on the CDP. Especially in light of the Project’s environmental impacts and public trust inconsistencies, the Project’s failure to achieve the NEVP’s only stated goal for a hotel project on the site renders the Project ineligible for a CDP. On this

basis, we respectfully request the Coastal Commission to deny the CDP for the Project.

III. CONCLUSION

Under the PMP, the Port had an obligation to “[c]urb the misuse of land so that it will not injuriously affect the people of the State of California” and an obligation to “curtail[] unfounded pollution contributors.” PMP, p. 10. The NEVP further states that “[i]n planning for the future development of the North Embarcadero area, the Alliance will honor these guiding principles: . . . ‘Preserve the environmental integrity of land and water.’” NEVP, Appendix A.2 (Exhibit C to our 01/07/08 comments). As discussed in our attached comments to the Port, the Lane Field Hotel Development Project is inconsistent with these obligations and is thus ineligible for a Coastal Development Permit under the Coastal Act. We respectfully request the Coastal Commission to reverse the Port’s decision on the Project and to deny the CDP for the Project.

Sincerely,

 Signature on File

Suma Peesapati

Suma Peesapati
SP

SP:bh
Attachments

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
 7575 METROPOLITAN DRIVE, SUITE 103
 SAN DIEGO, CA 92108-4421
 VOICE (619) 767-2370 FAX (619) 767-2384

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Tanya A. Gulesserian and Marc D. Joseph on behalf of UNITE HERE Local 30

Mailing Address: Adams Broadwell Joseph & Cardozo, 601 Gateway Boulevard, Suite 1000

City: South San Francisco

Zip Code: 94080

Phone: 650-589-1660

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Diego Unified Port District

2. Brief description of development being appealed:

The Project includes an amendment to the Lane Field Hotel Development to add public access and transit improvements to the project. The project includes prolongation of "C" Street, an approx. 200-foot tall hotel with 275 guest rooms and approximately 30,000 square feet of retail and restaurants, ballrooms, meeting rooms, and other ancillary uses on Lane Field North, an approximately 275-foot tall hotel with 525 guest rooms and approximately 50,000 square feet of retail and restaurants, ballrooms, meetings rooms and other ancillary uses on Lane Field South, a subterranean parking garage, and demolition of the existing surface parking lot and removal of all surface features.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

North of Broadway Street between North Harbor Drive and Pacific Highway, San Diego, California.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
 Approval with special conditions:
 Denial

Receiver
 OCT 23 2008
 California Coastal Commission
 San Diego Coast District

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-6-PSD-08-101

DATE FILED:

10/23/08

EXHIBIT #4

APPLICATION NO.

A-6-PSD-08-4

Amendment Appeal Form

California Coastal Commission

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
VOICE (619) 767-2370 FAX (619) 767-2384



DISTRICT: SAN Diego

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: October 7, 2008

7. Local government's file number (if any): CDP-2008-01a

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Lane Field San Diego Developers, LLC
c/o Lankford & Associates, Inc.
Attn: Jerome M. Trammer
655 West Broadway, Suite 1450
San Diego, CA 92101

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See Attachment A.

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See Attachment B dated October 22, 2008.

PROOF OF SERVICE

I am employed in the County of San Mateo, State of California. I am over the age of 18 years and not a party to the within action; my business address is 601 Gateway Blvd., Suite 1000, South San Francisco, California 94080.

On October 22, 2008, I served a copy of the complete notice of appeal to the domicile(s), office(s), or mailing address(es) of the applicant, any persons known to be interested in the application, and the local government of the filing of the appeal, by placing a true and correct copy(ies) thereof in a sealed envelope with postage affixed thereon fully prepaid in the United States mail at South San Francisco, California

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, all mail is deposited with the U.S. Postal Service on the same day with postage thereon, fully prepaid at South San Francisco, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postage meter date is more than one day after date of deposit for mailing in the affidavit.

I declare under penalty of perjury, pursuant to the laws of the State of California, that the above is true and correct.

Executed on October 22, 2008, at South San Francisco, California.

Signature on File

Bonnie Heeley

ATTACHMENT A

Section III, b.

1.	Mayor Sanders City of San Diego 202 C Street San Diego, CA 92101
2.	Nancy Graham CCDC 225 West Broadway San Diego, CA 92101
3.	Cheryl Kendrick Chair, Board of Directors San Diego Convention Center Corp. 111 W. Harbor San Diego, CA 92101
4.	Julie Meier Wright San Diego Regional EDC 530 B Street, 7 th Floor San Diego, CA 92101
5.	Ian Trowbridge 3444 Hawk Street San Diego, CA 92102
6.	Gregory Pollock (Seed time to Ian Trowbridge)
7.	Don Wood Bayfront Complex Coalition 4539 Lee Avenue La Mesa, CA 91941
8.	Diane Coombs Citizens Coordinate for Century 3 6424 Del Paso Avenue San Diego, CA 92120
9.	John McNab 1333 29 th Street San Diego, CA 92102
10.	Lorena Gonzalez Labor Council
11.	Graham Forbes UNITE HERE Local 30 3737 Camino Del Rio South San Diego, CA 92108

12.	Tanya A. Gulesserian Adams Broadwell Joseph & Cardozo [UNITE HERE Local 30] 601 Gateway Blvd., Suite 1000 South San Francisco, CA 94080
13.	Scott Andrews Save Evereyone's Access 2241 4 th Avenue San Diego, CA 92101
14.	Ramona Kiltz 1199 Pacific Highway San Diego, CA 92101
15.	Sherman Harmer Downtown Builders Alliance 620 First Avenue San Diego, CA 92101
16.	Todd Voorhees Downtown San Diego Partnership 401 B Street San Diego, CA 92101
17.	Salvatore Giametta San Diego Convention & Visitors Bureau 2215 India Street San Diego, CA 92101
18.	Howard Greenstein City of San Diego City Planning & Community Investment Dept. 202 C Street, M.S. 5A San Diego, CA 92121
19.	Gary Smith San Diego Downtown Residents Group 701 Kittner Boulevard San Diego, CA 92101
20.	Angelika Villagrana San Diego Reg. Chamber of Commerce 402 W. Broadway #1000 San Diego, CA 92101
21.	Michael Burton Grubb & Ellis 350 10 th Avenue #910 San Diego, CA 92101

22.	Daniel Fitzgerald Grubb & Ellis/BRE 350 10 th Avenue #910 San Diego, CA 92101
23.	Tom Sullivan Irvine Co. 500 W. Broadway San Diego, CA 92101
24.	Rob Lankford Lane Field San Diego Developers 655 W. Broadway San Diego, CA 92101
25.	Sharon Cloward San Diego PTA 2390 Shelter Island Drive #210 San Diego, CA 92106
26.	Jerry Trammer Lane Field San Diego Developers 655 W. Broadway San Diego, CA 92101
27.	Stacey Lankford Pennington SLP Urban Planning 655 W. Broadway San Diego, CA 92101
28.	Rebecca Reid Hostelling International 739 4 th Avenue #203 San Diego, CA 92101

ATTACHMENT B

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660
FAX: (650) 589-5062

tgulesserian@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4715

TEL: (916) 444-6201
FAX: (916) 444-6209

DANIEL L. CARDOZO
THOMAS A. ENSLOW
PAUL F. FOLEY*
TANYA A. GULESSERIAN
MARC D. JOSEPH
LOULENA A. MILES
GLORIA D. SMITH

FELLOW
RACHAEL E. KOSS

OF COUNSEL
THOMAS R. ADAMS
ANN BROADWELL

October 22, 2008

*Licensed in New York only

By Overnight Mail

Chairman Patrick Kruer and
Honorable Commissioners
c/o Diana Lilly, Coastal Program Analyst
San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Re: Reasons Supporting Appeal of Coastal Development Permit for Lane
Field Hotel Development Project

Dear Chairman Kruer and Commissioners:

We are writing on behalf of UNITE HERE Local 30 to provide the reasons for our appeal of the San Diego Unified Port District's ("Port District" or "Port") decision to issue an Amended Coastal Development Permit ("Amended CDP") and related documents for the Lane Field Hotel Development Project ("Project").¹ On October 7, 2008, after holding a public hearing, the Port issued an Amended CDP for the Project.²

The Lane Field Project entails demolition of 880 existing parking spaces, construction of a two-level underground parking garage, construction of two hotels – one 17-stories tall and the other 22-stories tall – with a total of 800 high-end rooms, and construction of approximately 80,000 square feet of retail space on 5.7 acres of land at the northeast corner of Harbor Drive and Broadway Street in the City of San Diego on State tidelands managed by the Port. On January 8, 2008, the Port approved a Coastal Development Permit ("CDP") and an Addendum to the North

¹ See Notice of Board Action on an Amendment to An Appealable Coastal Development Permit (October 8, 2008), Attachment 1: Amended Appealable Coastal Development Permit (Draft), October 7, 2008, Amendment 2008-211, 2007 07-49-144a, CDP-2008-01a (hereinafter "Amended CDP").

² See Amended CDP. The Port also approved an Addendum to the Master Environmental Impact Report for the North Embarcadero Visionary Plan certified in 2000, pursuant to the California Environmental Quality Act.

2105-111a

October 22, 2008

Page 2

Embarcadero Visionary Plan certified in 2000 ("2000 NEVP MEIR"), pursuant to the California Environmental Quality Act ("CEQA"), for the Project. On January 23, 2008, we filed an appeal of the Port's approval of the CDP to the California Coastal Commission. That appeal is currently pending.

On October 7th, the Port approved the Amended CDP for the Project in an attempt to address the pending appeal to the Coastal Commission regarding the Project's inconsistencies with the Port Master Plan ("PMP") and the public access policies of the California Coastal Act ("Coastal Act").³ The Amended CDP incorporates a Public Access Plan⁴ that includes a conceptual proposal for a hostel and a Multimodal Transit Opportunity Promotion Plan⁵ that includes a proposal for a 9-month shuttle program. The Amended CDP did not address any other issue that is currently pending at the Coastal Commission.

UNITE HERE was formed when the Union of Needletrades, Textiles and Industrial Employees joined one of the nation's oldest unions, the Hotel Employees & Restaurant Employees International. Today, UNITE HERE represents over 440,000 active members and 400,000 retirees throughout North America. UNITE HERE Local 30 ("Local 30") represents more than 4,000 workers in San Diego. Local 30 has represented its members on employment, civil rights, and public health issues before municipal, county, and state bodies for over 50 years. Local 30 members provide professional service in hotels, casinos, foodservice, airport concessions, and restaurants in the City and County of San Diego. As a result, it will likely be Local 30 members whose public access and enjoyment of coastal resources would be adversely affected by construction and operation of the Project. Local 30's comments are made in its representative capacity on behalf of Local 30 members and their families who currently reside in San Diego and are directly affected by coastal development in San Diego.

Furthermore, Local 30 members are concerned about sustainable land use and development in the City and County of San Diego. Like the public at large, Local 30 members and their families have a direct and substantial interest in assuring that new coastal development is developed, constructed and operated in a manner that will not result in significant impacts. Local 30 members live, work,

³ Cal. Pub. Res. Code §§ 30000, *et seq.*

⁴ Lane Field Public Access Plan, July 17, 2008, as revised August 20, 2008 (hereinafter "Public Access Plan")

⁵ Lane Field Multimodal Transit Opportunity Promotion Plan, Coastal Development Permit Special Provision/Condition # 19, July 16, 2008 (hereinafter "Transit Plan")

October 22, 2008

Page 3

and recreate in the communities that suffer the impacts of environmentally detrimental and poorly planned projects. Ill-conceived development, in turn, may jeopardize human health and safety. This is particularly true here because Local 30 members who regularly fish in San Diego Bay for recreation and as a means to provide food for their families will continue to be unnecessarily exposed to persistent toxic chemicals.

Local 30 also represents approximately 150-200 workers at the Holiday Inn by the Bay, who work immediately adjacent to the Lane Field site, park around the Project site, and will be affected by the environmental impacts of the Project. These union members will breathe more polluted air, suffer the effects from a lack of parking and impacts to public access, lose productive time sitting in traffic jams, and lose access to recreational opportunities caused by the Project. Finally, Local 30 members are concerned that poorly planned and environmentally detrimental projects may jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making it less desirable for businesses to locate here, for tourists to visit here, and for people to live here. Local 30 therefore has a strong interest in enforcing environmental laws such as the Coastal Act and the California Environmental Quality Act to protect its members.

Local 30 appeals the Port's approval of the Amended CDP, because the Project does not comply with the PMP and the public access policies of the Coastal Act. Specifically, the record shows that the Project and Amended CDP are inconsistent with the PMP, because (1) the Transit Plan is a generalized and vague plan that fails to ensure mitigation of impacts to public access, (2) the Amended CDP, Public Access Plan, and Transit Plan fail to mitigate impacts to public access from loss of public parking during construction and operation of the Project, (3) the Project remains inconsistent with the non-exclusory public access policies of the PMP and Coastal Act since the Public Access Plan is vague and unenforceable, (4) the Project and Amended CDP fail to mitigate the Project's inconsistencies with the PMP's Development and Conservation goals to protect water quality and to address groundwater contamination, and (5) the Project and Amended CDP fail to correct the Project's violations of the visual resource standards and policies in the PMP and Coastal Act. Thus, the Amended CDP fails to correct the Project's inconsistencies with the Port Master Plan and public access policies of the Coastal Act.

Requested Action: The CCC should determine that the appeal raises a substantial issue with respect to the grounds on which the appeal has been filed under the Port Master Plan and Coastal Act.

I. Legal Standards Under the Port Master Plan and Coastal Act

The Coastal Act prohibits the Port from approving a development within the area covered by the PMP unless the Port finds that the proposed development conforms with the PMP.⁶ In this case, the Project and the Amended CDP remain inconsistent with the public access, parking, and non-exclusory use policies, development and conservation goals for water quality and groundwater contamination, and visual resource policies, including the minimum setback requirements, of the certified PMP.

The Coastal Act also prohibits the Port from approving a coastal development permit that violates the public access policies of the Coastal Act.⁷ In this case, the Project and Amended CDP impede public access by failing to include an enforceable shuttle plan, enforceable transportation demand management measures, and enforceable low-cost visitor facilities, and by impacting public parking during construction and operation of the Project.

II. The Amended CDP Is Inconsistent with the PMP and Public Access Policies of the Coastal Act

The Amended CDP is inconsistent with the following PMP and Coastal Act policies identified in the Coastal Commission staff report dated February 14, 2008⁸:

- Goal IV: The Port District, in recognition of the possibility that its action may inadvertently tend to subsidize or enhance certain other activities, will emphasize the general welfare of statewide considerations over more local ones and public benefits over private ones. This includes encouraging non-exclusory uses on tidelands.

- Goal V: The Port District will integrate the tidelands into a functional regional transportation network. This includes improving automobile linkages, parking programs and facilities, so as to minimize the use of waterfront for parking purposes.

⁶ Coastal Act § 30715.5.

⁷ Coastal Act § 30603(b).

⁸ Staff Report and Recommendation on Appeal, Substantial Issue, San Diego Unified Port District, Approval with Conditions, Appeal No. A-6-PSD-08-04, Lane Field San Diego Developers, LLC (February 14, 2008), pp. 5-8. The staff report identifies other policies that are also relevant.

- Maximum access to the shoreline is encouraged except where security or public safety factors would negate. (PMP, p. 17.)

- The provision of adequate access to and circulation within the San Diego Bay area is a key element in the success of economic activities, of the viability of public services and amenities, and the preservation of the area's environmental setting. The various modes of transport must be coordinated not only to the various land and water uses they support, but to each other to avoid incompatibilities, congestion, hazardous movements and unnecessary expenditures. (PMP, p. 38.)

- Coastal Act Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resources from overuse.

- Coastal Act Section 30211: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

- Coastal Act Section 30212: Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military needs, or the protection of fragile coastal resources, or adequate access exists nearby.

- Coastal Act Section 30222: The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

- Coastal Act Section 30252: The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute

means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings.

- Coastal Act Section 30253: New development shall minimize energy consumption and vehicle miles traveled.

- Coastal Act Section 30708: All port-related developments shall be located, designed, and constructed so as to (a) minimize substantial adverse environmental impacts, (b) minimize potential traffic conflicts between vessels, (c) give highest priority to the use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries, and necessary support and access facilities, (d) provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible, (e) encourage rail service to port areas and multicompany uses of facilities.

The Amended CDP implicitly recognizes that the Project is inconsistent with the PMP and public access policies of the Coastal Act. However, the Amended CDP fails to rectify or mitigate these conflicts.

The CDP must require conditions that are adequate to address the impact, timely, and resolved by the lead agency before a project can be approved.⁹ The conditions must be fully enforceable through permit conditions, agreements, or other legally binding instruments. A lead agency is precluded from making findings of consistency unless the record shows that all uncertainties regarding consistency have been resolved.¹⁰ An agency may not rely on mitigation measures of uncertain efficacy or feasibility.

The Commission is required to have substantial evidence in the record that mitigation conditions will maximize public access to the coast. In *La Costa Beach Homeowners' Association v. California Coastal Commission* (2002) 101 Cal.App.4th 804, the issue was whether the Commission's acceptance of off-site mitigation for view corridor impacts from residential development would maximize public access to the coast, as required by the Coastal Act. The Commission accepted as a

⁹ See *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal.App.4th 1344, 1354.

¹⁰ *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727-728 (groundwater purchase agreement found to be inadequate mitigation because there was no record evidence that replacement water was available).

condition of approval a grant to the California Coastal Conservancy of an undeveloped 80-foot-wide-parcel, representing the combined width of the view corridor requirements.¹¹ The mitigation parcel was located on La Costa Beach, less than one mile and one-half mile from the proposed residential development projects.¹² In the condition, the parcel would be deed restricted to provide for public views of and public access to the beach.¹³ A condition was also added to require that the mitigation parcel be held in escrow pending any legal challenges, and if no legal challenges were filed or none were successful, the deed would be released to the Conservancy.¹⁴ If a legal challenge precluded the parcel from being opened for access, the deed would be returned to the project proponents who would pay the Conservancy the greater of \$1 million or, if sold within one year, the net proceeds of the sale, to provide public access.¹⁵

The California Court of Appeal upheld the Coastal Commission's decision to allow off-site mitigation for impacts to views and public access.¹⁶ The basis for the Court's decision was evidence that such access will be, or is likely to be, provided.¹⁷ Specifically, the Court found that the Commission determined that "the mitigation parcel was appropriate for public access and the Conservancy agreed to assume ownership of the parcel and take responsibility for implementing an access plan."¹⁸ The Court recognized that the project proponents "have purchased the mitigation parcel and tendered it to the public in good faith."¹⁹ Thus, the homeowners provided evidence of the location of the parcel, purchased the parcel, restricted the deed on the parcel to provide for public views and public access, and tendered the parcel to the Coastal Conservancy, which agreed to assume ownership and implement a public access plan. Based on these factors and others, the court held that "substantial evidence supported the Commission's findings and its decision to accept the mitigation parcel for public views and public access."²⁰

¹¹ *La Costa Beach Homeowners' Association v. California Coastal Commission* ("La Costa") (2002) 101 Cal.App.4th 804, 808-809.

¹² *Id.* at 809.

¹³ *Id.*

¹⁴ *Id.* at 811.

¹⁵ *Id.*

¹⁶ *Id.* at 817.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 819.

In this case, the Amended CDP proposes to reference and incorporate a Public Access Plan that includes a conceptual proposal for a hostel and a Transit Plan that includes a proposal for a 9-month shuttle program. The Amended CDP does nothing more than place the burden on the Port – which is not a permittee – to provide some as-of-yet unidentified State tideland to the Lane Field hotel developer to propose a plan for a hostel. The record contains no evidence of the location of the parcel, no party has purchased or leased a parcel, no deed restrictions are in place to ensure continued use of a parcel for a hostel, and a parcel has not been tendered or subleased to a hostel operator to mitigate impacts to public access in this case. The Amended CDP also places the burden on the Port – again not a permittee – to create a 9-month shuttle program that is not yet in place.

1. The Multimodal Transit Opportunity Promotion Plan is Vague and Unenforceable As Mitigation For Impacts To Public Access

The Project will impact public access to the waterfront due to increased intensity of uses in and around the Project site, increased traffic, and increased parking. This increased intensity of development is inconsistent with the PMP and public access policies of the Coastal Act. Therefore, the Applicant proposes to implement a Transit Plan to mitigate impacts to public access.

UNITE HERE Local 30 consulted with an independent traffic engineer, Tom Brohard, to review the Amended CDP. Tom Brohard reviewed the Transit Plan, the Amended CDP, the October 10, 2007 Parking Requirement Analysis prepared by Walker Parking Consultants, and the November 2, 2007 Lane Field Mixed Use Project Parking Management Plan (“Parking Plan”). As set forth in comments submitted to the Port, Brohard found that several parking and transit issues associated with the Project have not been adequately disclosed, analyzed or mitigated.²¹ As set forth below, the Transit Plan is too vague to constitute enforceable mitigation for impacts to public access. Therefore, the Project remains inconsistent with the PMP and Coastal Act.

²¹ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit B (Letter from Tom Brohard to Tanya A. Gulesserian dated August 28, 2008).

a. Transit Plan Is Generalized and Vague

Brohard concluded that the shuttle component of the Transit Plan is generalized and vague. Therefore, the plan does not constitute adequate mitigation for the Project's violations of the PMP and Coastal Act.

Special Provision 20 of the Amended CDP states "Permittee shall comply with all applicable public access requirements including mandatory participation in a bayside shuttle system upon District implementation of that system as described in the applicant's "Lane Field Multimodal Transit Opportunity Promotion Plan" dated July 16, 2008, attached hereto as Attachment 'B'."²²

The proposed "Bayfront Shuttle System" as described on pages 5 through 7 of the Transit Plan provides two vans that would operate for three months for three years from June 1 to August 31 between 10 AM and 9 PM. The shuttle system will only operate for a total of nine months (3 months for 3 summers). After three years, the shuttle could be discontinued and a "market feasibility and demand study" would be prepared to determine whether the shuttle achieved the goals of "reducing traffic congestion during summer months," to determine whether the shuttle duplicates other systems, to assess usage, and to determine if the shuttle should continue operations.

According to Special Provision 20, the hotel developer must comply with public access requirements including mandatory participation in a bayside shuttle system *upon District implementation of that system* as described in the Transit Plan. The language of this provision is wholly dependent on the Port's implementation of a bayside shuttle system. However, the Port is not a permittee and thus is not subject to enforcement under the CDP.

Moreover, the method of District implementation is not set forth in the Transit Plan. The plan does not specify when Lane Field will develop a partnership with the Port to implement the system. A partnership between Lane Field and the Port must be solidified in a formal agreement rather than merely relying on Lane Field's participation in a program that is not yet developed by the Port.

If the Port finds the shuttle not feasible, Lane Field may terminate the shuttle through an amendment to the CDP. There are no provisions for continuing

²² Amended CDP, Condition 20 (emphasis in original).
2105-111a

the shuttle during the study period. There is also no requirement for how long Lane Field has to seek an amendment to its CDP.

In addition, there is no evidence in the record that the shuttle program will be effective in reducing traffic or addressing the loss of parking. According to Brohard, the shuttle is described as being attractive for employees while providing no evidence that a significant number of Project employees would actually use it. For example, work shifts would likely not fall within the 10 AM to 9 PM service hours. In addition, the shuttle would be provided at "low cost to all riders," but what Lane Field considers "low cost" is not defined. (Transit Plan, p. 5.) Finally, there are no provisions for measuring, monitoring, and adjusting the shuttle plan to ensure use by employees and compliance with the alleged mitigation. Thus, the shuttle component of the Transit Plan is generalized, vague, and does not contain enough specificity to ensure its ability to mitigate impacts.

b. The Transportation Demand Management Provision Is Generalized and Vague

As set forth in comments submitted to the Port, traffic engineer Tom Brohard found that the Transportation Demand Management ("TDM") Provision of the Transit Plan is generalized and vague. Therefore, the plan does not constitute adequate mitigation for the Project's inconsistencies with the PMP and Coastal Act.

Special Provision 18 of the Amended CDP requires implementation of TDM measurements for high-occupancy events at the hotels. According to Tom Brohard, the CDP does not define "high-occupancy events," what TDM measures will be employed, and by what percentage trips will be reduced. In addition, the Amended CDP includes no provisions for monitoring the results of planned TDM measures, for future adjustment of the TDM plan, or for penalties if it fails to achieve the goal to reduce vehicle trips by a given percentage. According to Brohard, specifics of the individual measures and the overall TDM plan must be identified so they can be monitored for compliance to ensure that mitigation will reduce impacts to less than significant. Without this specificity, impacts remain significant, and there is no evidence that impacts to public access have been rectified.

c. Alternative Transit Opportunities Are Generalized and Vague

According to Special Condition #19, alternative transit opportunities shall be provided as described in the Transit Plan. However, the Transit Plan merely reiterates existing alternative transit systems in San Diego. The only new opportunities provided by the Project to guests, visitors, and employees are a summer shuttle for three summers and bike racks.²³

Special Provision 19 of the Amended CDP states that “[a]lternative transit opportunities shall be provided by the Permittee for guests and employees as described in the applicant’s [Transit Plan] dated July 16, 2008, attached hereto as Attachment ‘B’, which may include but are not limited to a shuttle service to San Diego International Airport and the provision of bike racks.” However, a shuttle service to the airport is not described in the Transit Plan and is not shown on the exhibits. Therefore, there is no evidence that the Project will provide a shuttle to the airport.

Moreover, according to Tom Brohard, the provision to provide bike racks does not reduce trips made by hotel guests. Similarly, there is no evidence that bike racks will be used or that biking to work is required. Thus, providing bike racks is also unlikely to have any measurable benefit for employees.

Finally, like lack of enforceability of TDM measurements for high-occupancy events at the hotels in Special Condition 18, there are no provisions for monitoring the results of the transit opportunities, for their future adjustment, or for penalties if it fails to achieve the goal to reduce vehicle trips by a given percentage. Again, specifics of the individual measures and the overall plan must be identified so they can be monitored for compliance and ensure that mitigation will reduce impacts to public access. Without this specificity, impacts to public access have not been rectified.

²³ Transit Plan, pp. 3-4.
2105-111a

2. The Project and Amended CDP Fail to Address the Project's Impacts On Public Parking and Public Access Policies of the Coastal Act

The proposed Project and Amended CDP are inconsistent with the public access and parking policies of the PMP and Coastal Act. Tom Brohard reviewed whether the Amended CDP and Transit Plan address the Project's impacts to public parking and, hence, public access in this critical shoreline area. He found that the Amended CDP does not address the Project's substantial adverse impacts on parking and public access during construction and operation.

The Amended CDP admits that the proposed Project will result in the loss of 880 existing parking spaces. Construction is anticipated to take approximately three years. According to Tom Brohard, the loss of 880 parking spaces for three years during construction of the proposed Project raises several significant impacts. These impacts will impede public access in the shoreline area. Brohard concluded that the Amended CDP must be revised to replace 880 public parking spaces that will be lost for three years during construction of the Project and to provide a plan to accommodate construction activities and construction parking on site.

a. Amended CDP and Transit Plan Fail To Mitigate Impacts To Public Access From Loss Of Public Parking During Construction

The Amended CDP does not address inadequacies in the plan for public parking space replacement during construction and, thus, the Project continues to impact public access. According to Brohard, the November 2, 2007 Parking Plan states that Five Star Parking has requested that the Port make available the current "Airport Employee Parking Lot" located on Harbor Island Way and Harbor Drive. If the lot is available, Five Star Parking will provide "public parking in support of waterfront activities and a shuttle service to the project site at reasonable cost."

This replacement parking plan is untenable. The Port has not indicated whether it is available, it does not address where existing users will park, it does not indicate how distinctions will be made for public parking and other parking, and it depends on a shuttle system to the waterfront. Brohard specifically found that it is "unreasonable to assume that any significant amount of 'public parking' in support of waterfront activities will occur several miles away in the Airport

Employee Parking Lot.”²⁴ Brohard notes that the Port has not approved the use, the number of parking spots available for public parking has not been provided, and the cost to use the shuttle service has not been defined. Thus, the parking plan is vague, fails to ensure that impacts will be mitigated, and fails to remedy the Project’s impacts to public access. The Amended CDP which purports to set forth a Transit Plan to mitigate public access issues completely fails to address replacement parking during construction.

The lack of parking during construction is especially critical in light of the Port’s approval of the Broadway Pier cruise ship terminal, a 51,550 square foot terminal building on Broadway Pier next to the Lane Field Project site. Coastal Commission staff commented in March 2008 that the proposed new cruise ship terminal on Broadway Pier was not included or contemplated in the Port Master Plan, as certified by the Commission in July 2001, and not mentioned in the 2000 NEVP MEIR. The Broadway Pier project was also not discussed in the Lane Field addendums to the 2000 NEVP MEIR.

The environmental review document for the Port’s approval of the Broadway Pier cruise ship terminal building reveals innumerable potentially significant impacts that compound the impacts from the Lane Field Project.²⁵ For example:

- The Broadway Pier Addendum states that the Broadway Pier project would result in an “increase in visitor traffic to the San Diego waterfront” that “could result in an increase in the demand for all public services including fire protection, police protection, [and] maintenance of public facilities...”²⁶
- The Broadway Pier Addendum states that the Broadway Pier project “has the potential to significantly impact parking in the City’s downtown area when cruise ships are in port (MEIR Page 4.2-9).”²⁷ “In addition, the existing 43

²⁴ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit B (Letter from Tom Brohard to Tanya A. Gulesserian dated August 28, 2008).

²⁵ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit H: Addendum to the Master EIR and Initial Study, North Embarcadero Visionary Plan Broadway Pier Cruise Ship Terminal And Infrastructure Improvement Project, Unified Port of San Diego, April 23, 2007 (hereinafter “Broadway Pier Addendum”).

²⁶ *Id.*, p. 37.

²⁷ *Id.*, p. 42.

parking spaces that exist on Broadway Pier would be lost once Project construction commences and would not be replaced on-site.”²⁸

- The Broadway Pier Addendum recognizes that the Broadway Pier Project will result in significant cumulative freeway (mainline and ramp) traffic impacts that cannot be mitigated to below a level of significance.²⁹

Tom Brohard commented that a replacement parking plan is needed to avoid significant parking impacts and inconsistency with the PMP and Coastal Act. The Amended CDP does not address replacement public parking during construction. No document addresses the combined parking impacts during construction of various projects in the waterfront. According to Tom Brohard, a replacement public parking plan must specifically identify how the 880 parking space deficiency during construction will be mitigated. Mitigation must explain where the replacement spaces will be located, how they will be accessed, when they will be available, and who is responsible to provide them.

b. The Amended CDP and Transit Plan Fail To Mitigate Impacts To Public Access From Construction Parking

The Amended CDP does not address impacts to public access from construction parking management. The Amended CDP states:

“To the extent possible, construction staging for equipment, materials as well as vehicular parking will occur primarily on site. Construction employee parking will be accommodated both onsite and offsite at a location which will be chosen based on its proximity to the proposed project site and to public transportation. As part of the Lane Field development, the Permittee will provide a construction parking management plan.”

(Amended CDP, p. 4.) The Parking Plan states:

“...we anticipate a requirement for 200 to 250 construction crew parking spaces and construction trailer space. Five Star Parking operates a full city block of parking known as Lot #57, located at the

²⁸ *Id.*

²⁹ *Id.*, pp. 42-43.

SE corner of Broadway and Pacific Highway. This lot contains 200 spaces and will be available throughout the construction term for parking and construction jobsite office use. In addition, Five Star Parking has requested that the [Port] make available for construction parking the current "Airport Employee Parking Lot" located on Harbor Island Way and Harbor Drive. If this lot is available, we will provide monthly construction parking...and a shuttle service to the project site at reasonable cost."³⁰

According to Tom Brohard, the Amended CDP does not address inadequacies in the construction parking aspects of the Parking Plan for four reasons. One, contrary to the Amended CDP which indicates "...construction staging for equipment, materials as well as vehicular parking will occur primarily on site," the Parking Plan does not include any vehicular parking onsite.

Two, while the adjacent 200 space parking lot could accommodate a portion of the construction parking needs, there is no guarantee that the entire parking lot would be continuously available during the three year construction of Lane Field. Also, if the entire 200 spaces are reserved exclusively for Lane Field, then current patrons of this parking lot, such as cruise ship passengers, would be required to park elsewhere. Substantial evidence in the record shows that this parking lot is used for cruise ship guests and other members of the public. According to Brohard, shifting parking to other lots where there may or may not be available parking capacity within a reasonable distance has not been evaluated and is not addressed by the Amended CDP.

Three, while the Parking Plan indicates a request has been made to use this lot, District approval of this request, an analysis of the public access impacts, and the number of parking spaces that would be available for Lane Field construction workers have not been provided.

Finally, the cost to construction workers to use the shuttle service to the project site "at a reasonable cost" has not been defined. Thus, neither the Amended CDP, the Transit Plan, nor the Parking Plan adequately demonstrates how the construction employee parking will be accommodated to address significant adverse impacts to public access in the waterfront.

³⁰ Parking Plan, p. 1.
2105-111a

According to Tom Brohard, a detailed construction parking management plan for the Project must be prepared that specifically demonstrates how construction employee parking will be accommodated to avoid otherwise significant parking and public access impacts that will occur for the Project. The construction parking management plan must also evaluate and mitigate cumulative parking impacts during construction from other concurrent construction projects in the immediate area, such as the Broadway Pier cruise ship terminal, to avoid further significant impacts to parking and public access that will otherwise occur during construction of Lane Field.

c. The Amended CDP and Transit Plan Fail to Mitigate Impacts to Public Access From A Parking Shortfall During Operation

There is no dispute that the Project will result in a parking shortfall of 150 spaces upon completion. According to the Amended CDP, a subterranean parking structure containing approximately 1,330 spaces will be constructed as part of the proposed Project.³¹ The proposed Project “will be self-parked with an additional 300 public parking spaces not dedicated to hotel operations or to the retail.”³² Special Provision 2 of the CDP states that the Applicant “shall maintain no less than 300 parking spaces available to the public within its managed parking facility throughout project operation, consistent with the North Embarcadero Visionary Plan Parking Management requirements.”³³

According to the Applicant’s parking analysis, a parking study was prepared by LLG for the NEVP, as referenced in Special Provision 2 of the Lane Field Amended CDP.³⁴ The LLG Parking Study provided an analysis of “current” parking in 1999 and any projected parking shortfalls. The study summarized the findings of an earlier parking study and the required mitigation in the MEIR as follows:

Lane Field falls within sub-district/Area 3, which according to LLG’s analysis would have a future deficit of 242 spaces on the weekdays and

³¹ Amended CDP, p. 2.

³² *Id.*

³³ Amended CDP, p. 7.

³⁴ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit D: Memorandum, Lane Field Parking Requirements Analysis, Ezra Kramer, Walker Parking Consultants, to Joseph Wong, Joseph Wong Design Associates, October 10, 2007, p. 9.

529 spaces on the weekends once the North Embarcadero is developed according to the Visionary Plan. The management plan notes that 92 spaces of this shortfall could be 'borrowed' from Area 4 reducing the Area 3 requirement. They suggest that 150 public spaces be provided on the weekdays and 450 public spaces be provided on the weekends within Area 3. The MEIR suggests that 150 spaces be provided either within the Lane Field development or at the 1220 Pacific Highway site. The remaining 300 spaces would be accommodated within the Lane Field Development.³⁵

Tom Brohard commented on December 18, 2007 that the Lane Field Project raised potentially significant traffic impacts. Several of the comments focused on the omission of trips to and from the development of 400,000 square feet of office usage on the Navy leasehold at 1220 Pacific Highway. In the Port's Response to Comments, the Port stated that "[t]he Addendum clearly states that no development at 1220 Pacific Highway is proposed at this time, even though the Master EIR analyzed such development as part of the Lane Field subsequent project. If and when development is actually proposed for 1220 Pacific Highway, CEQA review will be required at that time based upon the specific project proposed."³⁶

According to Tom Brohard, since there is no development planned at 1220 Pacific Highway, then the shortfall of 150 public parking spaces cannot be provided at that location. With this change, the shortfall of 150 public parking spaces must be provided within the Lane Field development, as indicated in the MEIR. Thus, the Amended CDP fails to mitigate impacts to public access from a parking shortfall during operation of the Project.

d. The Amended CDP and Transit Plan Fail to Mitigate Impacts to Public Access Within the Project Itself

According to Tom Brohard, the Parking Plan states that "[g]uest and public parking will be all valet parking during peak demand days with Self Park available at all other times."³⁷ The Plan also provides that "[i]n the event that actual parking

³⁵ *Id.*, p. 9.

³⁶ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit B (Letter from Tom Brohard to Tanya Gulesserian dated August 28, 2008).

³⁷ Parking Plan, p. 2.

demand during major events at the hotel exceeds the demand projected by Walker Parking, valet drop-off and pickup will be provided onsite while overflow vehicles will be parked at either the Bosa Development parking lot located at Broadway and Pacific Highway or the 700 West Broadway Office Building...projected for completion in late 2010.”³⁸

According to Tom Brohard, providing only valet parking “during peak demand days” would discourage use of the onsite parking by the public. In addition, planning to park overflow vehicles elsewhere and using all parking spaces to accommodate the needs of hotel guests, restaurant, and retail patrons fails to comply with Special Provision 2. Special Provision 2 of the Amended CDP requires the Applicant to “maintain no less than 300 parking spaces available to the public within its managed parking facility throughout project operation.”³⁹ Therefore, the Amended CDP fails to address potential impacts to public parking and public access, as set forth in the current Parking Plan. Either the Amended CDP must be revised or the Parking Plan must be revised to ensure that mitigation for the loss of public parking spaces and public access during operation is feasible and will be implemented.

3. The Amended CDP Fails to Mitigate the Project’s Inconsistencies with the Non-Exclusory Public Access Policies of the PMP and Coastal Act

UNITE HERE Local 30 commented on the CDP that Lane Field’s luxury hotel concept for a 17-story hotel and a 22-story hotel would be economically inaccessible to the vast majority of the public and is thus inconsistent with the PMP and public access policies of the Coastal Act.⁴⁰ The Lane Field hotel would be a luxury hotel complex, which will be unaffordable, and thus inaccessible, to the vast majority of the public.

The developer plans to flag the hotel brand planned for Lane Field South with the upper-scale InterContinental Hotels brand. According to Port staff, “[i]n 2006, the 21 InterContinental in North America achieved an average room rate in

³⁸ *Id.*, p. 2.

³⁹ Amended CDP, p. 2.

⁴⁰ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit K.
2105-111a

excess of \$200 (which is higher than Marriott, Hilton, Hyatt, and Westin . . .).⁴¹ With respect to the suites hotel planning for Lane Field North, according to Port staff, it would be “the largest and finest of [Woodfin’s] all-suite hotels. . . . As proposed, Woodfin’s standards will be at least equal to those of Intercontinental.”⁴² The staff goes on to report that “Woodfin Suites is in the process of transitioning away from its historical niche of limited-service, extended-stay, mid-priced hotel product into a much higher-end, all-suite, full-service hotel product. . . . [Staff’s hotel consultant] believes that the new Woodfin Suites would be a welcome addition to the San Diego upscale hotel market.”⁴³

The Amended CDP is inconsistent with the following PMP and Coastal Act policies identified in the Coastal Commission staff report dated February 14, 2008,⁴⁴ in addition to the above-listed PMP and Coastal Act policies, which encourage non-exclusory uses on Port tidelands and public access:

- **Development and Conservation Strategy:** The basic direction of development and conservation efforts in the coastal zone is, where feasible, to protect, maintain, enhance, and restore the overall quality of the man-made and natural coastal zone environment. Port development seeks to minimize substantial environmental impacts; minimize potential traffic conflicts between vessels in the port; give highest priority to the use of existing land space within harbors for port purposes; and provide for a full array of beneficial activities including recreational and wildlife habitat uses. A balanced approach also takes into account the social and economic needs of the people of the State.

- **Coastal Act Section 30213:** Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

⁴¹ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit F to Adams Broadwell Joseph and Cardozo 01/07/08 comments (see, page 1 of February 2, 2007 memorandum from Port staff to Board of Port Commissioners).

⁴² *Id.* at p. 2.

⁴³ *Id.* at p. 3.

⁴⁴ Staff Report and Recommendation on Appeal, Substantial Issue, San Diego Unified Port District, Approval with Conditions, Appeal No. A-6-PSD-08-04, Lane Field San Diego Developers, LLC (February 14, 2008), pp. 5-8. The staff report identifies other policies that are also relevant.

The Lane Field site on State tidelands is a feasible location to ensure protection of lower cost visitor and recreational facilities. However, the Amended CDP merely incorporates a Public Access Plan that includes a conceptual proposal for a hostel on some other, yet unknown, property. Thus, the Amended CDP fails to rectify or mitigate the Project's inconsistencies with the non-exclusory and lower-cost public access policies of the PMP and Coastal Act.

The Applicant proposes a "concept" to address the issue of affordable accommodations in a way that avoids providing affordable accommodations within any of the 800 hotel rooms in the 17-story and 22-story buildings proposed for the site, and in a way that avoids requiring the Applicant to pay an in lieu fee of – in one estimate – approximately \$6,000,000, if a hostel is not constructed, until years after approval of the Project, if ever.⁴⁵ The conceptual plan is vague and the timing of potential implementation may result in years of impacts to (if not permanent denial of) public access in this critical shoreline area.

The CDP must require feasible conditions that are adequate, timely, and resolved by the lead agency before a project is approved.⁴⁶ The mitigation conditions must be fully enforceable through permit conditions, agreements, or other legally binding instruments. A lead agency is precluded from making the findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved.⁴⁷ An agency may not rely on conditions of uncertain efficacy or feasibility.

As discussed earlier in Section II of this appeal, in *La Costa*, the California Court of Appeal upheld the Coastal Commission's decision to allow offsite mitigation for impacts to views and public access from construction of new homes, because the homeowners provided evidence of the location of the parcel, purchased the parcel, restricted the deed on the parcel to provide for public views and public access, and tendered the parcel to the Coastal Conservancy, which agreed to assume ownership and implement a public access plan.⁴⁸ Based on these factors and others,

⁴⁵ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit J, Public Access Plan, p. 6; Draft Affordable Accommodations Proposal, July 11, 2008, p. 3.

⁴⁶ See *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal.App.4th 1344, 1354.

⁴⁷ *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727-728 (groundwater purchase agreement found to be inadequate mitigation because there was no record evidence that replacement water was available).

⁴⁸ *La Costa*, 101 Cal.App.4th at 817-818.

the court held that substantial evidence supported the Commission's findings and its decision to accept the mitigation parcel for public views and public access.

Unlike the mitigation in *La Costa*, the record contains no evidence that a parcel for a hostel has been identified, no party has purchased or secured a lease on a parcel, no deed restrictions are in place to ensure continued use of a parcel for a hostel, and a parcel has not been tendered or subleased to a hostel operator to mitigate impacts to public access. Therefore, the "concept" is not adequate mitigation for significant impacts on public access.

There are at least eight significant problems with the proposed Public Access Plan for affordable accommodations. First, the plan specifically states that it is a "concept." Using a "concept" as mitigation is not adequate to remedy inconsistencies with the PMP or the Coastal Act, among other laws.

Second, the Public Access Plan provides a long list of requirements that would be needed for the concept to move forward. According to the Plan, "[a]ny concept will take several years to implement, requiring a development program, a suitable site, entitlements under CEQA and the Port Master Plan, and design and construction."⁴⁹ The conceptual program is contingent upon the following:

- Obtaining the necessary entitlements, including review and approval by the Board of Port Commissioners,
- A Port Master Plan Amendment (if applicable),
- CEQA review including a project-specific EIR,
- A Coastal Development Permit,
- The acceptance and consent of the Coastal Commission, and
- The commencement of construction on Lane Field.

It is notable that the plan requires an EIR for the hostel, where none was required for the 800 room, 17- and 22-story, Lane Field hotels. Regardless, the plan admits that the concept is far from being implemented. The conceptual plan notes that planning and construction of a hostel "could take several years after completion of the Lane Field project."⁵⁰ Thus, it would be untimely, and there would be no mitigation for the non-exclusory uses in the interim.

⁴⁹ Public Access Plan, p. 6.

⁵⁰ *Id.*, p. 9.

Third, the concept proposal itself is unenforceable. The very first sentence is that the hotel developer “proposes to negotiate an agreement with the Port to entitle and construct a hostel on Port-controlled land.”⁵¹ Therefore, an agreement has not been negotiated, and the Port currently has no obligation to do anything. The Port is not a permittee and is not subject to enforcement under the Amended CDP.

Fourth, no site has been selected. The conceptual proposal merely states that the Applicant will seek a lease with the Port for land suitable for construction of a new hostel.⁵² In fact, according to the Applicant, “[v]acant tidelands without committed leases are extremely rare...”⁵³ Proposing a conceptual plan without a selected site in an area where sites are “extremely rare” does not constitute adequate mitigation for the loss of public access.

Fifth, the Applicant proposes that the Port contribute the land value, and a hostel operator fund half the construction costs.⁵⁴ Thus, the concept is entirely dependent on entities not subject to enforcement under the Amended CDP.

Sixth, the Plan includes an unsupported statement that the appraised value of the hostel will likely exceed the Coastal Commission’s fee of \$30,000 for 25% of higher cost units constructed.⁵⁵ However, the record shows that this may not be the case. According to a draft Memorandum of Understanding, construction of a hostel shall not exceed \$5,000,000.⁵⁶ According to a draft Public Access Plan, a potential fee would be \$6,000,000.⁵⁷

Seventh, the conceptual plan is contingent on the Applicant petitioning the Port and the Port establishing a low-cost accommodations bank and policy.⁵⁸ Currently, no low-cost accommodations bank exists.

⁵¹ *Id.*, p. 7.

⁵² *Id.*, p. 7.

⁵³ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit E: Draft Public Access Program, June 11, 2008, p. 6.

⁵⁴ Public Access Plan, p. 7.

⁵⁵ *Id.*, p. 8.

⁵⁶ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit C.

⁵⁷ Public Access Plan, p. 6; Draft Affordable Accommodations Proposal, July 11, 2008, p. 3.

⁵⁸ *Id.*, p. 8.

Eighth, the conceptual hostel may not be provided in the coastal zone. The conceptual proposal contemplates that the Port may acquire a site “not presently within the Port’s jurisdiction” for the conceptual hostel.⁵⁹

The conceptual plan then has milestones that are vague or unenforceable. For example, all milestones are dependent on identifying a site for the conceptual hostel. In addition, the plan provides complete discretion to Lane Field to delay the milestone schedule. Finally, should Lane Field or the Port fail to meet any of the milestones, then the Port is required to “promptly” notify the Executive Director of the Coastal Commission of such failure.⁶⁰ There is no definition of “promptly,” the plan puts the burden on the Port, which is not a permittee, and the plan puts no burden on Lane Field to notify the Commission. This requirement to promptly notify in the event of failure is inconsistent with the provision that allows the Port or Lane Field to request an extension of time from the Executive Director of the Coastal Commission within 90 days of missing any milestone. It is unclear whether promptly means sooner than 90 days.

Should the concept for a hostel not pan out after several years, the Amended CDP includes a provision that the Executive Director of the Coastal Commission *may* require an in lieu fee. Specifically, after receiving notice, the Executive Director *may* require that Lane Field “pay a fee in lieu of affordable accommodations calculated on the basis of \$30,000 for 25% of the units being, having been and to be constructed on Lane Field.” In the alternative, Lane Field could seek an extension to complete the milestone, or Lane Field could apply for yet another amendment for a revised accommodations proposal. Given the choices provided to the Port and Lane Field, there is no assurance regarding if and when mitigation will be provided for the Project’s impacts to public access to the waterfront.

⁵⁹ *Id.*, p. 9.

⁶⁰ *Id.*, p. 11.

III. The Project and Amended CDP Fail to Mitigate the Project's Inconsistencies With the PMP's Development and Conservation Goals

The Amended CDP is inconsistent with the following PMP and Coastal Act policies identified in the Coastal Commission staff report dated February 14, 2008⁶¹:

- **Development and Conservation Strategy:** The basic direction of development and conservation efforts in the coastal zone is, where feasible, to protect, maintain, enhance, and restore the overall quality of the man-made and natural coastal zone environment. Port development seeks to minimize substantial environmental impacts; minimize potential traffic conflicts between vessels in the port; give highest priority to the use of existing land space within harbors for port purposes; and provide for a full array of beneficial activities including recreational and wildlife habitat uses. A balanced approach also takes into account the social and economic needs of the people of the State.

- **Goal VIII:** The Port District will enhance and maintain the Bay and tidelands as an attractive physical and biological entity.

- **Goal X:** The quality of water in San Diego Bay will be maintained at such a level as will permit human water contact activities. To implement this goal, the Port must ensure through lease agreement that Port District tenants do not contribute to water pollution, cooperate with the Regional Water Quality Control Board, the County Health Department, and other public agencies in a continual program of monitoring water quality and identifying source of any pollutant, and adopt ordinance, and take other legal and remedial action to eliminate sources of pollution.

- **Goal XI:** The Port District will protect, preserve, and enhance natural resources, including natural plant and animal life in the Bay as a desirable amenity, an ecological necessity, and a valuable and usable resource.

- **Coastal Act Section 30230:** Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas

⁶¹ Staff Report and Recommendation on Appeal, Substantial Issue, San Diego Unified Port District, Approval with Conditions, Appeal No. A-6-PSD-08-04, Lane Field San Diego Developers, LLC (February 14, 2008), pp. 5-8. The staff report identifies other policies that are also relevant.
2105-111a

and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

- Coastal Act Section 30231: The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

- Coastal Act Section 30240(b): Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

- Coastal Act Section 30708: All port-related developments shall be located, designed, and constructed so as to (a) minimize substantial adverse environmental impacts, (b) minimize potential traffic conflicts between vessels, (c) give highest priority to the use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries, and necessary support and access facilities, (d) provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible, (e) encourage rail service to port areas and multicompany uses of facilities.

The Project will cause a number of impacts that threaten the overall quality of the man-made and natural coastal zone environment in a way that does not protect, preserve, or enhance natural resources.⁶² Specifically, the Project will have significant adverse impact on the Bay's water quality. Also, the Port's failure to properly mitigate these impacts is inconsistent with the PMP's requirement that

⁶² PMP, pp. 10-11.
2105-111a

the Port “administer the natural resources so that impacts upon natural resource values remain compatible with the preservation requirements of the public trust.”⁶³

1. The Amended CDP Fails to Mitigate Substantial Adverse Impacts From Potential Disturbance of Contaminated Soil and Groundwater on the Project Site

UNITE HERE Local 30 consulted with independent expert and former Environmental Protection Agency scientist, Matt Hagemann, to review the Amended CDP. Hagemann reviewed the Draft Amended CDP, as well as a number of documents prepared for the Project after the Port’s January 8, 2008 approval of the CDP.⁶⁴ Hagemann’s comments are attached to comments submitted to the Port.⁶⁵

Hagemann found that groundwater under the site flows westerly towards the Bay. Hagemann confirmed that the Phase II Environmental Site Assessment for the Project site documented significant pesticide contamination in soil at the Project site. Hagemann reported that the maximum concentrations of dichlorodiphenyltrichloroethane (“DDT”) exceed the California criterion for hazardous waste. Additionally, according to Hagemann, the concentrations of DDT and dichlorodiphenyldichloroethylene (“DDE”) in soil on the Project site greatly exceed ecologic screening criteria established by the National Oceanic and Atmospheric Administration (“NOAA”). The potential disturbance of this contaminated soil and groundwater during construction remains a significant environmental impact that makes the Project inconsistent with the Port’s obligation under the PMP. The Port and the Applicant’s continued failure to fully investigate and analyze the contamination prior to approving the Amended CDP is inconsistent

⁶³ *Id.* at 10.

⁶⁴ Matt Hagemann reviewed the following documents: Amended CDP for the North Embarcadero Visionary Plan Lane Field Development Project, September xx, 2008; March 7, 2008 Storm Water Pollution Prevention Plan (SWPPP), Lane Field WDID: San Diego, California; March 2008 Water Quality Technical Report, Lane Field, City of San Diego, California; March 28, 2008 letter from the Port of San Diego to the California Coastal Commission re: Substantial Issue Hearing on Appeal of Coastal Development Permit No. CDP2008- 01 for the Development of Lane Field, San Diego, California (Reference Appeal No. A-6-PSD-08-04); and February 15, 2008 Coastal Development Permit Appeal Comments on Lane Field Hotel Development Project, Submitted to the California Coastal Commission by Adams Broadwell Joseph & Cardozo on January 23, 2008.

⁶⁵ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit A (Letter from Matt Hagemann to Tanya A. Gulesserian dated October 1, 2008).

with the PMP. The Amended CDP's failure to include mitigation also violates the PMP.

a. Stormwater from the Project Site Will Discharge Directly Into the Bay

According to the Stormwater Pollution Prevention Plan (SWPPP), all stormwater runoff from the Project *indirectly* discharges to San Diego Bay.⁶⁶ However, Matt Hagemann found that 5.5% of runoff on the site will discharge directly into the Bay, a 303(d)-listed impaired waterway for sediment toxicity.⁶⁷ The RWQCB defines "direct discharge" as "storm water runoff that flows from a construction site directly into a 303(d) water body listed for sedimentation, siltation, or turbidity. Storm water runoff from the construction site is considered a direct discharge to a 303(d) listed water body unless it first flows through a municipal separate storm sewer system (MS4), a separate storm water conveyance system, or a tributary or segment of a water body that is not listed on the 303(d) list before reaching the 303(d) listed water body or segment.

Hagemann determined that the SWPPP fails to document this discharge that results from sheet flow across Harbor Drive toward a point of discharge at the B Street Pier, as described in the Water Quality Report. Hagemann confirmed his conclusion by reviewing a City of San Diego storm drain system map showing no storm drain system underlies Harbor Drive.⁶⁸

Since San Diego Bay is an impaired waterway for sediment toxicity under Section 303(d) of the Clean Water Act and because discharge of stormwater flows directly to the Bay, the SWPPP must make provisions for sediment sampling and analysis, as required by State of California Water Resources Control Board Construction Activity Water Quality Order No. 99-08-DWQ as modified in 2001 by Resolution No. 2001-046 (General Construction Permit). The SWPPP asserts that the Project does not require sampling and analysis for sedimentation/siltation. The basis for not requiring sampling and analysis is that storm water runoff from the Project discharges to an MS4 beneath Harbor Drive and, thus, does not discharge

⁶⁶ SWPPP, p. 4.

⁶⁷ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit A (Letter from Matt Hagemann to Tanya Gulesserian dated October 1, 2008).

⁶⁸ City of San Diego Draft Urban Runoff Management Program, Appendix IV Storm Drain System Map, 2007.

directly into a 303(d)-listed water body.⁶⁹ The SWPPP is incorrect. According to Hagemann, the Port's analysis, the SWPPP, and the Amended CDP must be revised to address this issue and to include a sampling and analysis plan, including a schedule for sediment sampling, the details and requirement for which are set forth in Hagemann's comments.

On September 16, 2008, the Regional Water Quality Control Board ("RWQCB") sent a letter to the Port confirming that wastes on the Project site "may pose a threat to water quality given (1) the proximity of the site to San Diego Bay and (2) the potential transport mechanisms associated with the proposed redevelopment of the site (e.g., storm water runoff and dust)."⁷⁰ The RWQCB also stated that "wastes may pose a potential risk to human health during and after site redevelopment."⁷¹ Thus, the RWQCB will be providing regulatory oversight of the environmental investigations that have not yet been conducted on these impacts. The RWQCB's confirmation that stormwater may be transported to the Bay and could pose a risk to human health supplements substantial evidence in the record that, as proposed, the Amended CDP and conditions are inconsistent with the Development and Conservation goals of the PMP.

Although these issues were presented to the Port, the Port did not address the contamination issue, and the Amended CDP failed to rectify the Project's inconsistencies with PMP provisions applicable to maintaining and enhancing the quality of coastal waters. The Commission should analyze this impact and amend the CDP to include feasible measures to mitigate the adverse impacts. Specifically, the Applicant must be directed to revise the SWPPP to include provisions for sediment sampling before directly discharging to the Bay.

b. Groundwater Contamination May Flow to the Bay

The Amended CDP's failure to analyze and mitigate the potential for contaminated groundwater to flow to the Bay is inconsistent with the PMP. The

⁶⁹ SWPPP, p. 34.

⁷⁰ See Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit L: Letter from Tom C. Alo, Regional Water Quality Control Board, to Bill Hays, San Diego Unified Port District, Subject: Regulatory Oversight Notification, Former Lane Field, Northeast Corner of Broadway Avenue and North Harbor Drive, San Diego, CA, September 16, 2008.

⁷¹ *Id.*

PMP states that “[t]he quality of water in San Diego Bay will be maintained at such levels as will permit human water contact activities.”⁷²

Hagemann confirmed that groundwater on the site is understood to flow in a westerly direction beneath the site, toward San Diego Bay.⁷³ Groundwater beneath the site is contaminated with total petroleum hydrocarbons and chlorinated solvents, including tetrachloroethylene and cis-1,2-DCE among other contaminants. The 2006 Phase II documents cis-1,2-DCE in Boring B-13 at a concentration of 24 ug/L, in excess of the California drinking water standard of 6 ug/L. The detections of chlorinated solvents are in the general area of the former dry cleaner in the southern part of the site. The contaminants in groundwater in this vicinity are within approximately 400 feet of San Diego Bay in an area where groundwater flows in a westerly direction toward San Diego Bay. According to Hagemann, groundwater flow toward the Bay may be preferentially accommodated in conduits such as relict storm drains and water mains and associated subsurface fill materials.

Because the record is clear that contaminated groundwater may enter San Diego Bay, there is a substantial issue regarding inconsistencies with the PMP and Coastal Act. A full site investigation with oversight by the RWQCB must be conducted *before* the Amended CDP is approved.

c. The March 2008 SWPPP and Water Quality Report Fail To Recognize a Toxic Hot Spot Adjacent to the Site

Matt Hagemann commented on December 28, 2007 that the site lies adjacent to a Toxic Hot Spot as designated by the California State Water Resources Control Board (“SWRCB”) under the Bay Protection and Toxic Cleanup Program.⁷⁴ The Port responded that the issue would be addressed in a SWPPP prepared for the Project. However, the SWPPP and the Water Quality Report prepared in March 2008 do not identify the presence of the toxic hot spot between B Street and Broadway piers adjacent to the site and therefore do not identify how potential

⁷² PMP, page 9, Goal X.

⁷³ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit A (Letter from Matt Hagemann to Tanya A. Gulesserian).

⁷⁴ SWRCB Consolidated Toxic Hot Spot Lists and Findings, June 1999; *see also*, Consolidated Toxic Hot Spots Cleanup Plan, Volume 1, Policy, Toxic Hot Spot Lists and Findings, Draft Functional Equivalent Document, April 1999.

discharge from the Project site may impact the toxic hot spot. Thus, the Amended CDP's reliance on the SWPPP and failure to address the inadequacies in the SWPPP are inconsistent with the PMP.

The SWRCB Consolidated Toxic Hot Spots Cleanup Plan requires the RWQCB to evaluate waste discharge requirements for discharges associated with toxic hot spots that may cause or contribute further contamination to the toxic hot spot. In implementing actions to prevent the further degradation of toxic hot spots, the Consolidated Toxic Hot Spots Cleanup Plan states that the Applicant should address known toxic hot spots through voluntary implementation of corrective actions. Given the proximity of Lane Field to the toxic hot spot, the SWPPP should have included such voluntary corrective actions to prevent surface runoff of contaminated soil and sediment as a component of the SWPPP. According to Hagemann, practical measures include implementation of construction BMPs that conform to the County of San Diego's Low Impact Development program to ensure the greatest degree of contaminant reduction.

Because the SWPPP and the Water Quality Report did not identify the toxic hot spot and therefore did not identify how potential discharge from the Project site may impact the toxic hot spot, the Project and Amended CDP that rely on these documents violate the development and conservation standards of the PMP and the applicable Coastal Act policies.

d. Known Site Contaminants Are Not Addressed in the March 2008 SWPPP

Matt Hagemann commented on December 28, 2007 that significant levels of contamination, including pesticides, have been documented at the Project site. The Port responded that the issue would be addressed in a SWPPP and other post-approval documents prepared for the Project. However, the SWPPP made no specific mention of pesticide contamination and makes no provisions for sampling. Because the SWPPP does not address pesticide contamination, as indicated by the Port, the Amended CDP's reliance on the SWPPP and failure to require a condition for sampling violates the development and conservation standards of the PMP and the applicable policies of the Coastal Act.

e. Excavation of the Parking Garage and Dewatering Activities Pose Potential Risks to Health and the Environment

The Project involves digging a two-level underground parking structure. The January 8, 2008 Addendum to the Master EIR and Initial Study for the Lane Field Project states that construction of the underground parking structure would require dewatering and excavation of approximately 115,000 cubic yards of material.⁷⁵ According to documents since the Port's approval of the Project and CDP in January, in addition to construction of the underground parking structure, extensive trenching and associated dewatering may be required to investigate the potential presence of an active fault beneath the proposed development site.⁷⁶

As documented by Matt Hagemann, soils and groundwater beneath the proposed development site are known to be contaminated. To address the concerns that disturbance of soil upon excavation may pose risks to construction workers and to organisms in San Diego Bay, the Port, in their March 28, 2008 response to California Coastal Commission staff comments, stated:

To minimize the possibility of mobilization, the impacted soil excavation activities will be conducted in accordance with a site-specific soil management plan (SMP), storm water pollution prevention plan (SWPPP), and Site Health and Safety Plan (HSP). The SMP will include detailed procedures for excavation, characterization, management, and disposal of the impacted soil; health and safety measures to be implemented during the excavation activities; and provisions for dust control and the prevention of off-site transport of soil by storm water runoff. These provisions will be consistent with, or in addition to, related conditions of the State of California General Stormwater National Pollutant Discharge Elimination System (NPDES) permit for construction activities that will be obtained for the Proposed Project.⁷⁷

⁷⁵ July 8, 2008 Addendum, p. 10.

⁷⁶ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit F: Letter from Werner Landry, City of San Diego, to Joseph Vettel, GEOCON Inc., January 7, 2008.

⁷⁷ March 28, 2008 Letter from the Port of San Diego to the California Coastal Commission, p. 14.
2105-111a

However, to date, a site-specific soil management plan and health and safety plan have not yet been made available for public review despite the plans for significant excavation of soils that are known to be contaminated.

In its September 16, 2008, the RWQCB confirmed that “wastes may pose a potential risk to human health during and after site redevelopment.”⁷⁸ According to the RWQCB, “[t]hese wastes could adversely affect receptors of concern such as construction/trench workers via dermal contact and hotel guest via vapor inhalation.”⁷⁹

Since soil and groundwater contamination have been identified on the Project site, investigations and plans for site cleanup must be, but were not, prepared and provided to the public and decision makers during the public review process. Specific provisions for testing for contaminants in groundwater to comply with RWQCB discharge requirements must also be provided along with an analysis of feasible options for disposal of groundwater that does not meet the requirements for discharge.

Because the Amended CDP fails to include further site investigation, the public has no assurance that inconsistencies with the PMP will be resolved – as evidenced by the inadequate post-approval SWPPP. Importantly, these impacts and inconsistencies with the PMP and Coastal Act have not yet been analyzed or mitigated during the public review process.

IV. The Project and Amended CDP Fail To Correct Violations of the PMP’s Visual and Minimum Stepback Requirements

The Amended CDP is inconsistent with the following PMP and Coastal Act policies identified in the Coastal Commission staff report dated February 14, 2008:⁸⁰

- Views should be enhanced through view corridors, the preservation of panoramas, accentuation of vistas, and shielding of the incongruous and inconsistent. (PMP, p. 9.)

⁷⁸ Exhibit A: Letter from Tanya A. Gulesserian to John Helmer, San Diego Unified Port District, Re: Lane Field Hotel Development Project (October 6, 2008) and attached Exhibit L.

⁷⁹ *Id.*

⁸⁰ Staff Report and Recommendation on Appeal, Substantial Issue, San Diego Unified Port District, Approval with Conditions, Appeal No. A-6-PSD-08-04, Lane Field San Diego Developers, LLC (February 14, 2008), pp. 13-14.

- **Civic Zone:** The most important element in this zone is the conversion of the old Lane Field site and Navy Engineering building into a new complex of buildings and open spaces. Primary consideration is a 600-to-800-room hotel. The intent of the plan is to retain flexibility for considering a wide array of development options....Special setback requirements along the Broadway side of this parcel range from 55 to 65 feet, widening toward the Bay...Stepbacks for upper stories are 25-foot minimum at 50-foot building height except for the B Street side of the parcel and on other east-west streets where they are 15 feet. There are no stepback requirements along Pacific Highway.

- **Coastal Act Section 30251:** The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

UNITE HERE Local 30 submitted extensive comments that the Project's bulk and scale violates the visual resource policies of the PMP. The PMP clearly states that "[s]tepbacks for upper stories are 25-foot minimum at 50-foot building height . . ." ⁸¹ The purpose of the stepback is to maintain a pedestrian scale and to maintain views to the Bay from inland areas.

The Applicant acknowledges that on the Lane Field South hotel, the spa and restaurant intrude approximately 15 feet into the 25-foot stepback on the 50-foot podium level along the C Street frontage. ⁸² This setback intrusion by the Project's proposed spa and restaurant is inconsistent with the PMP standard.

The Port responds that because it is a minor intrusion and, in the Port's opinion, does not diminish the development's consistency with the intent of the stepbacks, the Project is not inconsistent with the PMP. However, there are no qualifications or exceptions to the stepback standards. Specific stepback standards were included in the PMP for a reason. If the Port meant for the stepback to be 10 feet, instead of 25 feet, as proposed in this case, then the Port must amend the PMP.

⁸¹ PMP, p. 63.

⁸² January 8, 2008 Addendum, p. 59.

The Applicant also admits that elevators on North Harbor Drive protrude approximately 9 feet into the stepback area. However, the Applicant argues that the elevator is not an upper story of a building. The stepback requirements in this area apply to any development on the upper stories of buildings between 40 feet and 50 feet. If the elevator exceeds 40 feet, then the stepback requirement applies. Again, the Port cannot change the requirements of the PMP on a case-by-case basis without amending the PMP.

Since the Amended CDP fails to include design changes to comply with the stepback requirements, the Amended CDP is inconsistent with the PMP and Coastal Act.

V. Conclusion

In conclusion, we urge the Commission to find that the appeal raises a substantial issue with respect to the grounds on which the appeal has been filed under the PMP and Coastal Act.

Thank you for your consideration of this appeal.

Sincerely,

Signature on File Signature on File

Tanya A. Gulesserian
Attorney for UNITE HERE, Local 30

TAG:bh
Attachments

cc: Diana Lilly
Coastal Program Analyst
California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421



Unified Port
of San Diego

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

[DRAFT] COASTAL DEVELOPMENT PERMIT AMENDMENT

Receiver

001 08 2008

California Coastal Commission
San Diego Coast District

Applicant: Lane Field San Diego Developers, LLC
655 West Broadway Street, Suite 1450
San Diego, California 92101

Project: North Embarcadero Visionary Plan Lane Field Development Project

Location: North of Broadway Street between Pacific Highway and Harbor Drive

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 [] Non-appealable [X] Appealable Coastal Development Permit.

Date of Board Action: January 08, 2008

Amendment: October 07, 2008

BPC Resolution Number: 2008-15

Amendment: 2008-211

Application Number: 2007 07-49-144

Amendment: 2007 07-49-144a

Permit Number: CDP-2008-01

Amendment: CDP-2008-01a

Date of Amended Permit: October 24, 2008

The proposed project is located between the first inland continuous public road paralleling the sea (as defined in the California Coastal Act) and the second inland continuous public road paralleling the sea. The project is fully consistent with Public Resource Code Sections 30604(c), 30210-30224, and the California Coastal Act public access and recreation policies referenced therein.

This permit is limited to the development 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 project is situated in the city of San Diego on Coastal Zone State Tidelands administered by the San Diego Unified Port District under a certified PMP. Lane Field Developers San Diego, LLC (referred to herein as ("Permittee"))

EXHIBIT #5
APPLICATION NO.
A-6-PSD-08-4
Amended Port Permit
California Coastal Commission

proposes to redevelop the Lane Field leasehold with the following: (1) demolition/removal of existing temporary structures and existing surface parking, (2) construction of a two-level subterranean project and public parking garage containing approximately 1,330-spaces, (3) creation of a public pedestrian landscaped park/plaza along the Broadway Street frontage in front of retail stores and restaurants as well as public terraces at the fifth floor ("Podium Level"), (4) construction of an approximately 205-foot tall hotel with approximately 275 rooms and approximately 30,000 square feet of retail/restaurant tower on the northerly portion of the leasehold (Lane Field North), and (5) construction of an approximately 275-foot tall hotel with approximately 525 rooms and approximately 50,000 square feet of retail/restaurant on the southerly portion of the leasehold (Lane Field South). The project area is approximately 5.7 acres.

1. Existing Surface Parking

The approximately 5.7 acre Lane Field leasehold is currently a 880-space surface parking lot operated by Five Star Parking. Temporary structures are also located on the leasehold including an information booth, ticket sales booth, a shed, and an ATM. All existing facilities will be removed/demolished. Necessary infrastructure components will remain or be relocated as necessary. An existing monument for the former Lane Field will be relocated within the project boundaries.

2. Parking Structure

A subterranean parking structure containing approximately 1,330 spaces will be constructed as part of the proposed project. The parking structure will be two-levels constructed across the majority of the leasehold below grade and beneath the proposed structures and plaza. Access to the parking structure will be from the project driveway at the prolongation of C Street off Pacific Highway with additional access directly off Pacific Highway at the northern extremity of the leasehold.

The proposed project will be self-parked with an additional 300 public parking spaces not dedicated to hotel operations or to the retail. The parking structure will be operated by Permittee or its designee as a combined self-park and valet facility with the ability to be operated entirely as a valet facility dependant on management's assessment of needs but in such a manner that the additional 300 parking spaces will remain available to the public. Parking fees will be set at market rates. Additionally, parking garage capacity could expand to 1,552 spaces by utilizing additional valet parking to allow the operator to accommodate peak parking demand during special events if the need should arise.

3. Lane Field North

On the parcel north of the prolongation of "C" Street, between Pacific Highway and Harbor Drive, the proposed Lane Field North hotel will include a hotel lobby, approximately 275 guest rooms and suites, approximately 30,000 square feet of retail and restaurants, a health club and spa of approximately 15,000 square feet, and ballrooms and meeting rooms. Retail and restaurant areas will be located at the ground to third floor elevations along the western, southern, and eastern frontage of Lane Field North. Additional amenities will include a Podium Level event terrace with dining and refreshment facilities at the west end of the structure, to which public access will be provided by a glass-faced elevator from the sidewalk and by both escalators and elevators from the hotel lobby. Offering views toward the San Diego Bay, the terrace deck will feature outdoor dining and event areas. Public art will also be incorporated into the public spaces on the site. A rooftop lounge and event terrace will also be available for public access using express elevators available from within the hotel lobby. The proposed Lane Field North hotel will be approximately 17-stories with an approximate height of 205-feet.

4. Lane Field South

The proposed Lane Field South hotel will include approximately 525 guest rooms and suites, approximately 50,000 square feet of retail uses, including street level restaurants and shopping, ballrooms, meetings rooms, and pools. Retail and restaurant areas will be located at ground to third floor elevations along the western, southern, northern and eastern frontage of Lane Field South. Additional amenities will include a Podium Level event terrace with dining and refreshment facilities at the west end of the structure, to which public access will be provided by an elevator from the sidewalk and by both escalators and elevators from the hotel lobby. The terrace deck will feature outdoor dining, event areas, and provide views of the Bay and Broadway. Public art will also be incorporated into the public spaces on the site. The proposed Lane Field South hotel will be approximately 22-stories, with a height of approximately 275 feet.

5. Public Access and View Corridors

The proposed project includes the prolongation of "C" Street approximately 10 feet to the north of its original location as a designated view corridor described in the North Embarcadero Visionary Plan schematic design. The purpose of this adjustment is to allow better alignment and coordination of the site development plan with site planning efforts on an adjacent parcel to the east (being developed by the Irvine Company), to facilitate ingress and egress to the site, and to enhance the view corridor. "C" Street is proposed to be a private drive facilitating access through the proposed project, but historically has never been and is not intended to be a dedicated public street or undedicated tidelands street.

The proposed project will provide public access into the site and parking facilities at the prolongation of "C" Street off Pacific Highway as well as public pedestrian access through the development from Pacific Highway to Harbor Drive and the waterfront. Plaza areas will also be open to the public along the prolongation of "C" Street, the Broadway Street frontage of the project and on the third floor terraces of each of the proposed hotels. These public areas will be activated by restaurant and retail facilities as well as seating and public art provisions in addition to the beneficial near waterfront location of the site. The plazas and public areas in combination with the set backs and step backs applied to structures maintains the public view corridors along Broadway and C Street. Street trees and landscaping along Broadway Street have been coordinated with and are consistent with NEVP JPA requirements, the members of which include the District, City of San Diego, and Center City Development Corporation.

6. Construction

The underground parking structure will require dewatering during construction only and excavation of approximately 115,000 cubic yards of material. The excavated material will be exported off-site and disposed of or used for beach sand replenishment if determined suitable. The estimated duration of construction is approximately 36 months. To the extent possible, construction staging for equipment, materials as well as vehicular parking will occur primarily onsite. Construction employee parking will be accommodated both onsite and offsite at a location which will be chosen based on its proximity to the proposed project site and to public transportation. As part of the Lane Field development, the Permittee will provide a construction parking management plan.

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.
10. All Port of San Diego tidelands are regulated under Regional Water Quality Control Board Order No. R9-2007-0001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District (Municipal Permit). This permit was recently adopted in January of 2007, and replaces the previous permit Order No 2001-01. All jurisdictions are required to be in full compliance with Order R9-2007-0001 by January 24, 2008. The Municipal Permit prohibits any activities that could degrade stormwater quality.

Post-construction / operational use of this project site must comply with the Municipal Permit and District direction related to permitted activities including the requirements found in the District Jurisdictional Urban Runoff Management Document (JURMP). The JURMP is available on the District website: http://www.portofsandiego.org/sandiego_environment/susmp.asp or by contacting the Environmental Services Department, (619) 686-6254.

11. This project is subject to the Port Standard Urban Stormwater Mitigation Plan (SUSMP) process. As such, approval of the project by the District is necessarily conditioned upon submission by the project proponent of a project specific urban Stormwater Mitigation Plan (USMP) that meets District requirements. Project approval requires full implementation of all USMP structural and non-structural BMPs throughout the life of the project.

The Port is currently modifying its development and redevelopment processes that will include modifications to the Port SUSMP, greater reliance of low impact design techniques and the incorporation of a Hydromodification plan. These changes are being made to meet the requirements of the newly adopted Municipal Permit. During this transition period and until the updated Port SUSMP is final, the project USMP is to be designed to follow the County

of San Diego's Draft Model SUSMP as revised November 6, 2007, and the Municipal Permit. A link to these interim guidance documents can be found on the District website

http://www.portofsandiego.org/sandiego_environment/susmp.asp

The implementation and maintenance of the USMP BMPs constitute regulatory obligations for the lessee, and failure to comply with the Municipal Permit, the JURMP, or the Port approved USMP, including the specific BMPs contained therein, may be considered a default under the lease.

SHORT TERM CONSTRUCTION MEASURES

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 5 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.
14. Permittee shall require all employees that are exposed to noise levels in excess of Occupational Safety and Health Administration hearing protection thresholds, during construction or operation, to wear noise protection devices (ear plugs and covers) that are protective of individual hearing.
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. Following construction, the applicant shall implement the "Lane Field Public Access Program" dated July 17, 2008, attached hereto as Attachment "A," throughout operation of the project to the satisfaction of the District.
2. The applicant shall maintain no less than 300 parking spaces available to the public within its managed parking facility throughout project operation, consistent with the North Embarcadero Visionary Plan Parking Management requirements.
3. The applicant shall implement the "Lane Field Construction Parking Management Plan" throughout project construction to the satisfaction of the District.

4. Prior to development, a subsurface remediation plan shall be developed and implemented. Such plan shall be consistent with the requirements of "Short Term Construction Measures" Item 13 above.
5. A subsurface mitigation plan shall be implemented during site excavation by a qualified archaeologist/paleontologist who meets the City's standards for an archaeological principal investigator. The plan shall include a detailed review of Sanborn fire insurance maps, directory search, and if warranted, limited testing of where the project archaeologist deems necessary for cultural materials recovery within the area impacted. The archaeologist/paleontologist shall conduct on-site observation during the site excavation process. All cultural material recovered and associated records shall be delivered to the curator of an appropriate San Diego County institution that meets the standards of the State Historical Resource Commission's "*Guidelines for the Curation of Archaeological Collections*" dated May 7, 1993.
6. A complete site contamination report in conformance with federal, State, and local regulations shall be completed for the project. The report shall include an existing conditions survey, detailed project description, and specific measures proposed to preclude upset conditions (accidents) from occurring. If hazardous materials are identified, a risk assessment and remediation efforts shall be conducted in conformance with federal, State, and local regulations.
7. A site-specific soil/groundwater assessment shall be performed by a qualified geologist/hydrologist in conformance with federal, State, and local regulations prior to soil disturbance in all areas where soil or water contamination sources are suspected of containing hazardous materials storage systems. Such an assessment shall include collecting and analyzing soil and/or groundwater samples. The presence of soils or groundwater contamination shall be remediated, if necessary, according to applicable federal, State, and local regulations prior to development of the site.
8. The proposed project will be designed and constructed so that permanent dewatering is not required. Dewatering activity will be limited to the construction period as may be necessary. The North Embarcadero Visionary Plan Master Environmental Impact Report (certified in March 2000) (Master EIR) recommends that dewatering shall occur to lower the groundwater table to a minimum of 2 feet below the bottom of all removals and excavations.

9. Dewatering discharge shall meet the effluent limits specified by the RWQCB (order No. 90-31) and Federal National Pollution Discharge Elimination System (NPDES) requirement. Order No. 90-31 includes a prohibition of the discharge of dewatering effluent to San Diego Bay for new permanent dewatering operations. If the effluent is discharged to the City of San Diego sewer system, then the discharge shall meet the discharge requirements of the City.
10. In the event that dewatering effluent is discharged to surface waters, groundwater quality data will be required in advance, and possibly, a treatment system will be needed to meet federal, State, and local regulations.
11. If necessary, to identify locations of Underground Storage Tanks (USTs), a site-specific informational review and geophysical survey shall be conducted.
12. A contingency plan for UST removal and remediation shall be prepared. Such plan shall address contractor procedures in the event that an unknown UST is encountered during site redevelopment.
13. Permits to operate or close tanks must be obtained by the tank owner or operator in conformance with federal, State, and local regulations.
14. Soil/groundwater testing shall be performed prior to soil disturbance in conformance with federal, State, and local regulations, and subject to the approval of the jurisdictional agency (i.e., City of San Diego or Port District). Such an assessment shall include collecting and analyzing soil and/or groundwater samples. Soil or groundwater contamination shall be remediated according to applicable federal, State, and local regulations prior to development of the site. Implementation of BMPs to control erosion during construction shall be required regardless of whether or not the soil / groundwater is contaminated.
15. All earthwork activities shall be governed by the provisions of the NPDES general permit, which includes the preparation and implementation of a SWPPP and BMPs to control runoff and sedimentation during construction and post construction.
16. Additional assessment of soil and/or groundwater shall be performed prior to soil disturbance in conformance with federal, State and local regulations.
17. Remediation shall be conducted according to applicable federal, State and local regulations prior to development of the site.
18. Transportation Demand Management (TDM) measurements, including Regional Air Quality Strategy (RAQS) mandated trip/Vehicle Miles

Traveled (VMT) reduction and land use measures, shall be implemented for high-occupancy events at the hotels. Project related traffic is less than previously incorporated into the RAQS, which concludes that as long as forecast levels of growth and associated traffic are not exceeded, the RAQS contains enough mitigation of such growth to allow regional air quality standards to be met.

19. Alternative transit opportunities shall be provided by the Permittee for guests and employees as described in the applicant's "Lane Field Multimodal Transit Opportunity Promotion Plan" dated July 16, 2008, attached hereto as Attachment "B," which may include but are not limited to a shuttle service to San Diego International Airport and the provision of bike racks.
20. Permittee shall comply with all applicable public access requirements including mandatory participation in a bayside shuttle system upon District implementation of that system as described in the applicant's "Lane Field Multimodal Transit Opportunity Promotion Plan" dated July 16, 2008, attached hereto as Attachment "B."
21. Energy conservation measures will be implemented throughout project operation such that a 20 percent reduction compared to satisfying current Title 24 requirements is achieved. Measures from the applicants "Lane Field Sustainability Initiatives Global Warming Assessment" may be used and include but are not limited to: use of recycled water for landscaping; heat reclamation from central air conditioning; use of fuel cell technology for power cogeneration; and noticing of laundry reuse to guests.
22. Permittee shall investigate the suitability of excavated material for use as sand replenishment on a beach subject to approval by the US Army Corps of Engineers. Beaches within the District shall have first priority for selection. If material is deemed suitable for depositing on a District beach then such an action shall occur. If the material is deemed unsuitable for any District beach but suitable for another beach within San Diego County then that action shall occur. If the material is deemed unsuitable for use as beach replenishment for any beach within San Diego County then the material shall be disposed of or recycled in accordance with applicable local, state, and federal regulations.
23. The project design shall comply with Title 24 of the California Code of Regulations, which includes establishing permissible horizontal sound transmission through shared walls, as well as vertical transmission of impulsive noise through floor/ceiling assemblies. In addition, the use of upgraded interior finishing and heavy window glass are standards

required by Title 24. Compliance with these regulations meets the required 45 dBA CNEL interior levels even if the 65 dBA exterior levels are not met. Documentation of compliance shall be provided when building plans are filed.

24. If windows face the tracks along Pacific Highway, use of heavily upgraded glazing and/or heavy drapes is recommended to reduce hotel sleep interference from peak train noise levels.
25. An interior noise study shall be conducted for hotels at the time building plans are developed and measures required to ensure a 45 dB interior level for transient occupancy rooms shall be implemented. Documentation of compliance shall be when building plans are filed.
26. 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.
27. Use pre-drilled piles or vibratory drivers if subsurface conditions can accommodate such methods.
28. Perform all pile driving activities on weekdays between 9:00 am and 5:00 pm.
29. Pile driving shall extend past the loose and unconsolidated bay deposits to a depth within the Bay Point Formation that is suitable for the support of proposed piles.
30. All structures shall be designed in accordance with the recommendation of the geotechnical evaluation, and with all 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 shall include foundation design parameters and specifications for deep foundations.
31. It is expected that large structures will be founded on some type of deep foundation system, which may consist of driven or cast-in place piles embedded into the underlying Bay Point Formation.
32. All structures shall be reinforced and supported using ground modification (e.g., dynamic compaction) or deep foundation piles.
33. Remedial grading or surcharging and monitoring by means of settlement monuments shall be incorporated into construction within the project area.

34. To assess and offset impacts associated with hydrostatic uplift, an evaluation of potential hydrostatic uplift activities during the time of geotechnical plan review regarding the design and construction of below-grade basement levels shall occur.
35. 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:
- The type and quantity of solid waste expected to enter the waste stream.
 - Source separation techniques to be used and the location of on site storage for separated materials as required by Municipal Code Section 101 2001.
 - The method of transport and destination of separated waste and/or construction debris not re-used on site.
 - A "buy-recycled" program for the project.
 - An impact analysis spreadsheet completed by an ESD analyst. A copy of the waste management plan shall be submitted to ESD and the Port District. With respect to construction/demolition debris, the amount of this material being deposited in the landfill should be reduced by implementing any or all of the following mitigation techniques.
 - Onsite re-use of demolition material in the construction of the development activities
 - Separating construction debris for recycling-reuse by others

If you have any questions on this permit, please contact the Land Use Planning Department of the San Diego Unified Port District at (619) 686-6283.

BRUCE B. HOLLINGSWORTH
Executive Director

By: _____
John Helmer
Director, Land Use Planning

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

Lane Field Public Access Program

Received
OCT 03 2008
California Coastal Commission
San Diego Coast District

Lane Field San Diego Developers, LLC
655 West Broadway, Suite 1450
San Diego, California 92101

July 17, 2008
As revised August 20, 2008

EXHIBIT #6
APPLICATION NO. A-6-PSD-08-4
Public Access Program
 California Coastal Commission

Lane Field Public Access Program

Project Location

The Lane Field project encompasses approximately 5.7 acres of land in downtown San Diego, located on the north side of Broadway, between North Harbor Drive and Pacific Highway. Lane Field is in Subarea 33 of Planning District 3 in the certified Port Master Plan (PMP) and encompassed within the Master Environmental Impact Report (MEIR) for the North Embarcadero Visionary Plan (NEVP). The Port of San Diego Board of Port Commissioners (Board) certified the Final MEIR on April 25, 2000. The Board issued a Notice of Determination on August 8, 2006 finding that there were no substantial changes in the circumstances under which the Final MEIR was certified. The project site is adjacent to the core of San Diego's downtown with the Broadway Pier and B Street Pier immediately to the west; the Irvine Company proposed office building to the east and the Navy Broadway Complex development to the south.

Public Access Program Components

The purpose of the Lane Field Public Access Program is to define the proposed public pedestrian access integrated throughout the site and identify the management of the public access. The Public Access Program includes the ground level, the podium roof level, vertical circulation elements, a signage program, and a conceptual affordable accommodations program.

Site Access and Public Parking

A critical feature of the Public Access Plan is the proximity to multiple modes of public transit and inclusion of on-site public parking. Lane Field is located one block away from Santa Fe Depot (Amtrak and the Coaster), two blocks away from One America Plaza (San Diego Trolley Orange Line and Blue Line) and within three blocks of seven bus lines. The Lane Field project includes an approximately 1,330 space subterranean parking garage for public and private use. Public vehicular access to self-park is located in two locations: the northeast edge of the project off of Pacific Highway and off C Street on the eastern edge of the project. Four public access elevator banks connect the subterranean parking structure to the one or more of the street, plaza, lobby and ballroom levels.

Lane Field North:

- Parking Garage Elevator bank with two elevators on the North side of C Street, mid-block - access between Garage and Street levels
- Parking Garage Elevator on the northeast corner along Pacific Highway - access between Garage and Street levels

Lane Field South:

- Parking Garage Elevator bank with two elevators on the North side of C Street – access between Garage, Street and Ballroom levels

Lane Field Public Access Program

- Parking Garage Elevator on the southeast corner along Broadway Plaza
– access between Garage and Street levels

The elevators off of C Street are within immediate proximity to adjacent retail uses, the C Street Plaza, the hotel lobbies, and the NEVP promenade along North Harbor Drive.

Ground Level Access and Circulation

The Lane Field project is a fundamental part of the NEVP, integrating the public realm improvements along Broadway, Harbor Drive and Pacific Highway and extending C Street west of Pacific Highway to Harbor Drive. The ground level access and circulation includes the streetscapes and plaza areas as well as connections into and through the first floor. The ground level use is visitor-serving retail and restaurants, directly accessible from the streets and plazas.

- **Broadway:** the minimum setback requirement along Broadway creates a public plaza (“Broadway Plaza”) that expands from 55’ between the eastern building edge and Broadway to 110’ wide between the western building edge and Broadway at Harbor Drive. The Broadway Plaza will integrate decorative paving (in accordance with the NEVP design principles) with permeable surfaces, seating, and an informal water feature. The design intent of the public realm along Broadway is to create diverse opportunities for the scale and nature of enjoyment, ranging from large civic gatherings and celebrations to intimate spaces for relaxation and conversation.
- **C Street:** C Street provides a critical link for the public between Pacific Highway and Harbor Drive and serves as the primary vehicular circulation path for the hotel, retail and restaurant uses. To accomplish both, the streetscape with optimal sun exposure on the northern side includes a 34’ sidewalk at the east and west ends to facilitate heavy pedestrian use and outdoor seating/café areas. The sidewalk narrows to 17’8” at the curve of the ellipse. The sidewalk on the southern side of C Street is 22’6” at the western edge, 12’6” along the traffic ellipse and 10’0” on the eastern edge. On an urban scale, C Street physically and visually connects Santa Fe Depot (Amtrak, Coaster and Trolley services) to the Bay, serving visitors, tourists, residents and local employees. To celebrate the importance of this connection, the central ellipse within C Street will incorporate a public art waterscape designed to mimic the natural phenomenon of waves. Pedestrian connections to this water feature will be provided at its western edge and will integrate a viewing platform for public use.

Lane Field Public Access Program

The western portion of C Street extending 180' east from the curb edge of North Harbor Drive is designed as flexible plaza space that will accommodate both pedestrians and vehicles. The area's primary use will be as a public plaza with direct access to adjacent ground level retail and restaurants, both the North and South public access elevators and connections to the public art waterscape.

The central 'ellipse' mentioned above defines vehicular circulation. This feature includes three traffic lanes and integrates valet parking drop-off and pick-up locations at each hotel's porte-cochere. Valet services are available to the public. Self-park access on the eastern edge of C Street is achieved through ingress/egress ramps that connect to the below grade parking structure.

- **Harbor Drive:** The project is set back 10' beyond the public sidewalk resulting in 25' sidewalks that will accommodate activated outdoor cafés and retail shops, including seating.
- **Pacific Highway:** The at-grade sidewalk along Pacific Highway is 12' wide and is constructed at an elevation that places it within the potential 100-year flood. To allow the building to be constructed with a first floor elevation adequately above the potential high water mark, a raised 12' wide private walkway ramped for public access will be provided in front of the retail establishments. This design will allow the existing sidewalk grade to be maintained while providing safe public access to the retail shops. The private walkway may be eliminated if the final storm water runoff elevation at Pacific Highway allows, as developed by the NEVP Public Improvements design. In this scenario, the building façade would meet the sidewalk level rather than a ramped walkway.
- **North - South Connection:** In addition to the streetscape and plaza areas, the Lane Field public access plan includes a north/south connection established through the Lane Field South lobby, a 70' high space that opens up onto Broadway and offers a mid-block connection through to C Street. Further, the hotel lobbies of both Lane Field South and North are accessible to the public.

Vertical Circulation Elements

- **Layered Public Realm:** The Lane Field project integrates the concept of a 'layered public realm,' which begins on the ground level with the streetscapes, plaza and activating uses and continues to the podium roof level with viewing terraces and restaurants and on to the tower roof level of Lane Field North.

Lane Field Public Access Program

- The activated podium rooftop will be visible from the ground level
- To assure and encourage public access, two public access elevators are located on Harbor Drive.
- The design of the elevators will include transparent glass to showcase the direct accessibility from Harbor Drive to the podium roof level to the public.

Podium Roof Level

The Lane Field project includes two roof levels accessible by the public in varying degrees: public terrace and circulation, terrace and event space, restaurant/bar and hotel amenities with appropriate management structures, as discussed below.

- Lane Field South (InterContinental Hotel): the public realm elevator arrives on the podium at the northwest corner of the InterContinental Hotel podium roof, connecting to the restaurant and bar on the same corner and linking directly to the viewing terrace on the southwest corner with expansive views of the city and the bay.
 - Public terrace and circulation – A promenade is designed to connect the core vertical circulation elements through the lobby with the public realm elevator and all adjacent uses. The circulation area includes restrooms and a dedicated viewing terrace.
 - Terrace and event space – the southwest corner is a multi-purpose space designed to accommodate private functions and, during a non-event hours, provide a public viewing platform.
 - Restaurant/Bar – the Food and Beverage facilities are available to all customers, including guests, visitors, and residents.
 - Hotel Amenities – the hotel amenities include a pool deck and luxury spa facility and are designated specifically for guest access only.
- Lane Field North (Vivara): the public realm elevator arrives in the middle of the western edge of the Hotel podium with direct access to restaurant and bar and visual connection to the bar terrace and outdoor terrace. The Vivara also features a tower roof level terrace.
 - Public terrace and circulation – the public access elevator connects along the southern edge of the terrace level, wrapping around the restaurant/bar area to connect to the elevator and escalator access
 - Restaurant/Bar – the Food and Beverage facilities are located on the northwestern corner and are available to all customers, including guests, visitors, and residents.
 - Hotel Amenities – the hotel amenities include guest suites located on the terrace level.

Lane Field Public Access Program

- Tower roof level – presuming that the rooftop lounge and event terrace are constructed, public access will be provided through a clearly identified promenade linking the public realm elevator to the building's vertical transportation core. The core contains two designated elevators linking the podium roof level to both the hotel lobby and the terrace at the Tower roof. Access to the rooftop may occasionally be limited for private events. This access will be managed by the hotel operator.

Management

- All facilities included in Lane Field are open to the public, defined by business hours.
 - Access to the podium level will be allowed during normal business hours, which are expected to be between 6am to 2am.
 - The Broadway Plaza will be publicly accessible to the public 24 hours a day for all days except for those dedicated to civic events.
 - C Street Plaza will be accessible to the public 24 hours a day for all days when it is not reserved for private functions sponsored by the Manager of the Development. This area will be operated and managed by the entity that operates the common spaces and parking garage.
 - Access to the podium and rooftop levels of the hotels will be allowed during normal business hours, which are expected to be between 6am to 2am.

Signage

A comprehensive signage system will be integrated into the project to indicate areas of public access and hours of availability. The signage system provides appropriate direction to specific points of access, including the parking garage elevators and the public access elevators.

Affordable Accommodations

The Applicant (Lane Field San Diego Developers, LLC [LFSDD]), proposes the concept below to address the issue of affordable accommodations raised by Coastal Commission staff in reviewing the application for Coastal Development Permit CDP-2008-01.

Any concept will take several years to implement, requiring a development program, a suitable site, entitlements under CEQA and the Port Master Plan, and design and construction. LFSDD believes, however, that this concept will

Lane Field Public Access Program

substantially advance the Coastal Commission's interest in preserving and growing the inventory of low-priced accommodations in the coastal zone.

The conceptual program described below is contingent upon (1) obtaining the necessary entitlements, including review and approval by the Board of Port Commissioners, a Port Master Plan Amendment (if applicable), CEQA review including a project-specific EIR, and a Coastal Development Permit; (2) the acceptance and consent of the Coastal Commission; and (3) the commencement of construction on Lane Field.

Concept Proposal

LFSDD proposes to negotiate an agreement with the Port to entitle and construct a hostel on Port-controlled land. Development of the hotels on Lane Field will directly result in the funding necessary for LFSDD to partner with the Port in developing the hostel. LFSDD proposes the following four-point program to address affordable accommodations:

(1) LFSDD will seek a lease with the Port for land suitable for construction of a new hostel.

- LFSDD will work with the Port to identify a suitable site on land to lease for a new hostel.
- The hostel operator's criteria, such as proximity to mass transit and major tourist destinations, will be used to site the hostel.
- Land value as discussed below would be considered the Port's contribution to affordable accommodations in fulfillment of the Coastal Commission's interests.

(2) LFSDD will construct a hostel on the site selected by the Port and directly fund half of the construction costs.

- LFSDD will design and construct the hostel on a site selected with the Port.
- LFSDD will fund half of the construction subject to a matching grant from the hostel operator.
- The minimum number of units to be constructed will be based on the following formula:

$$\begin{aligned} 400 \text{ beds} &= 800 \text{ assumed hotel rooms on} \\ &\quad \text{Lane Field} \\ &\quad \times 2 \text{ people (beds) per room} \\ &\quad \times 25\% \text{ of units} \end{aligned}$$

400 beds = 133 assumed units per
the hostel operator's standards

(3) The Hostel Operator will match LFSDD's contribution.

- Hostel operator matches LFSDD's contribution for construction.
- Hostel operator will operate the hostel as either a Port tenant or subtenant.
- Lease/sublease structured in accordance with the hostel operator's pro formas and brand standards as reviewed and approved by the Port.

(4) LFSDD will petition the Port to establish a low-cost overnight accommodations bank and a comprehensive low cost facilities policy. LFSDD recommends the following:

- The Port will maintain records of when and how the bank is used including the amount of units or dollars in the bank at any given time, and will notify the Executive Director of the Coastal Commission when units or dollars are allocated or withdrawn.
- The value of the completed project will be established by an appraiser acceptable to LFSDD and the Port and will consider the total market value of the land to the Port as if available for construction of a high-end hotel or other comparable highest and best use for the site and the value of designing and constructing the hostel improvements.
- The appraised value of the Hostel will likely exceed the Coastal Commission's recommended fee of \$30,000 for 25% of higher cost units constructed.
- Any value of the Hostel that exceeds the recommended fee described above will be credited to the Port bank to be applied to future Port projects consistent with the Coastal Commission's recommended fee.
- If the value of the Hostel does not exceed the recommended fee, then provided the Hostel is constructed with approximately 133 units according to the hostel operator's standards, then there will be no excess value to credit to the Port bank but no additional fee will be required.
- If the Port acquires a site not presently within the Port's jurisdiction, all costs to acquire the land plus any increase in market value at the time construction of the Hostel is complete will be appraised.

Lane Field Public Access Program

Hostel Project Milestones

Planning and constructing the hostel will require substantial effort and, depending upon several factors, could take several years after completion of the Lane Field project. Following is a schedule of actions to be taken prior to and following issuance of the Coastal Development Permit.

Prior to issuance of the Coastal Development Permit, LFSDD will enter into a memorandum of understanding or other legal arrangement with a qualified non-profit hostel operator establishing the requirements and responsibilities contained in this Public Access Plan. The agreement will be submitted to the Executive Director of the Port for review and approval to ensure that it is consistent with this Public Access Plan.

Prior to execution of the lease, a bond or other financial instrument ("Guaranty") acceptable to the Port shall be executed to ensure the fee amount, including any interest that would have accrued since issuance of the Coastal Development Permit, is available in the event of the hostel project default. The Port shall notify the Coastal Commission Executive Director when the Guaranty is executed.

The following milestones establish a reasonable timeline for this concept:

Task #1: Identify one or more sites in conjunction with the Port and the hostel operator and complete appropriate site feasibility analysis.

Due: Within twelve (12) months from issuance of the Coastal Development Permit for the Lane Field project.

Task #2: Negotiate an agreement with the Port to establish a development program and for an entitlement process for an approximately 133 unit hostel sized in accordance with the Coastal Commission's formula. The development may be stand-alone, single-use, or mixed use. The selected hostel site will be secured through a lease with the Port for use as a hostel. If the hostel is part of a mixed-use development, the lease shall stipulate that a hostel will be developed and maintained as part of the improvements to the site. Any change of use on the site to a use other than a hostel would require an amendment to both the Lane Field Coastal Development Permit and the Coastal Development Permit for the hostel.

Due: Within six (6) months from completion of Task #1.

Lane Field Public Access Program

Task #3: Seek site-specific entitlements which will include CEQA review and may include a Port Master Plan Amendment followed by issuance of an appealable Coastal Development Permit. Prior to completion of this task, LFSDD will petition the Port to draft and seek the approval of the Coastal Commission for a comprehensive Low Cost Facilities Policy to include, but not be limited to, an affordable overnight accommodations bank concept for use on future Port hotel projects as described in (4) above.

Due: Within eighteen (18) to twenty-four (24) months from completion of Task #2.

Task #4: Complete design and commence construction of a Hostel pursuant to a to-be negotiated agreement with the Port and entitlements to be obtained as described above.

Due: Within twelve (12) months from completion of Task #3.

The milestone schedule will be extended one day for each day that a delay is caused by:

- (i) litigation by a third party not affiliated with or under the direction of LFSDD or the Port that prevents LFSDD from completing the milestone task and advancing development of the hostel; and
- (ii) if it causes a delay in the development of the hostel or in LFSDD's or the Port's ability to perform as described above despite LFSDD's diligent and commercially reasonable best efforts to proceed with the hostel development: riots; natural disasters and other acts of God, including, without limitation, fires, earthquakes, floods, unusually severe weather conditions, and hurricanes; labor strikes; delays caused by governmental agencies other than the Port; acts of terrorism; and war on United States soil.

Hostel Project Default

Should LFSDD or the Port fail to meet any of these milestones subject to any extensions if any as described above, then the Port will promptly notify the Executive Director of the Coastal Commission of such failure. Following receipt of the notice, the Executive Director of the Coastal Commission may require that LFSDD pay a fee in lieu of affordable accommodations calculated on the basis of

Lane Field Public Access Program

\$30,000 for 25% of the units being, having been and to be constructed on Lane Field.

Within ninety (90) days of missing any milestone, either the Port or LFSDD or both may request an extension of time from the Executive Director of the Coastal Commission, and if the extension is granted, may complete the remaining task(s) within the time granted. If an extension is not granted, then the Port or LFSDD or both may complete the remaining task(s) within the ninety (90) day period or LFSDD may pay the fee if requested by the Executive Director of the Coastal Commission as described above, or apply for an amendment for a revised affordable accommodations proposal.

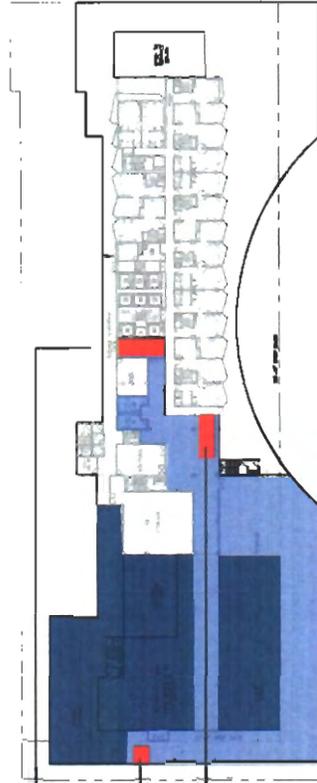
In no event will LFSDD or the Port pay the abovementioned fee to the Coastal Commission and additionally construct the Hostel as described above. Construction of a hostel is intended to supplant entirely the Coastal Commission's request for payment of a fee, based upon LFSDD's belief that the appraised total value of the Hostel will exceed the in-lieu fee amount and it will therefore work with the Port to establish an affordable accommodations bank with the "excess" paid to construct the hostel. The bank concept will be more fully described in a Low-Cost Facilities Policy to be drafted by the Port and submitted for Coastal Commission approval as a Port Master Plan amendment.

Lane Field Public Access Diagrams

- Site Access and Public Parking
- Site Plan Diagram
- Podium Roof Level
- Vertical Circulation

II. LANE FIELD PUBLIC ACCESS DIAGRAMS: PODIUM ROOF LEVEL

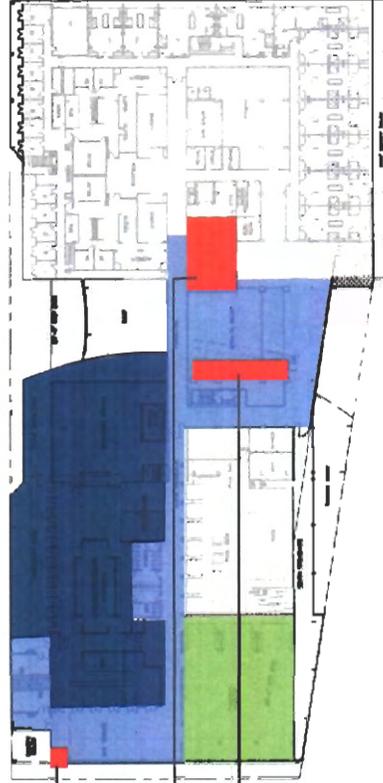
Direct Access Points identify public access from the ground level to the podium roof level.



LOBBY ELEVATOR

HARBOR DRIVE (STREET LEVEL) ELEVATOR

LOBBY ESCALATOR

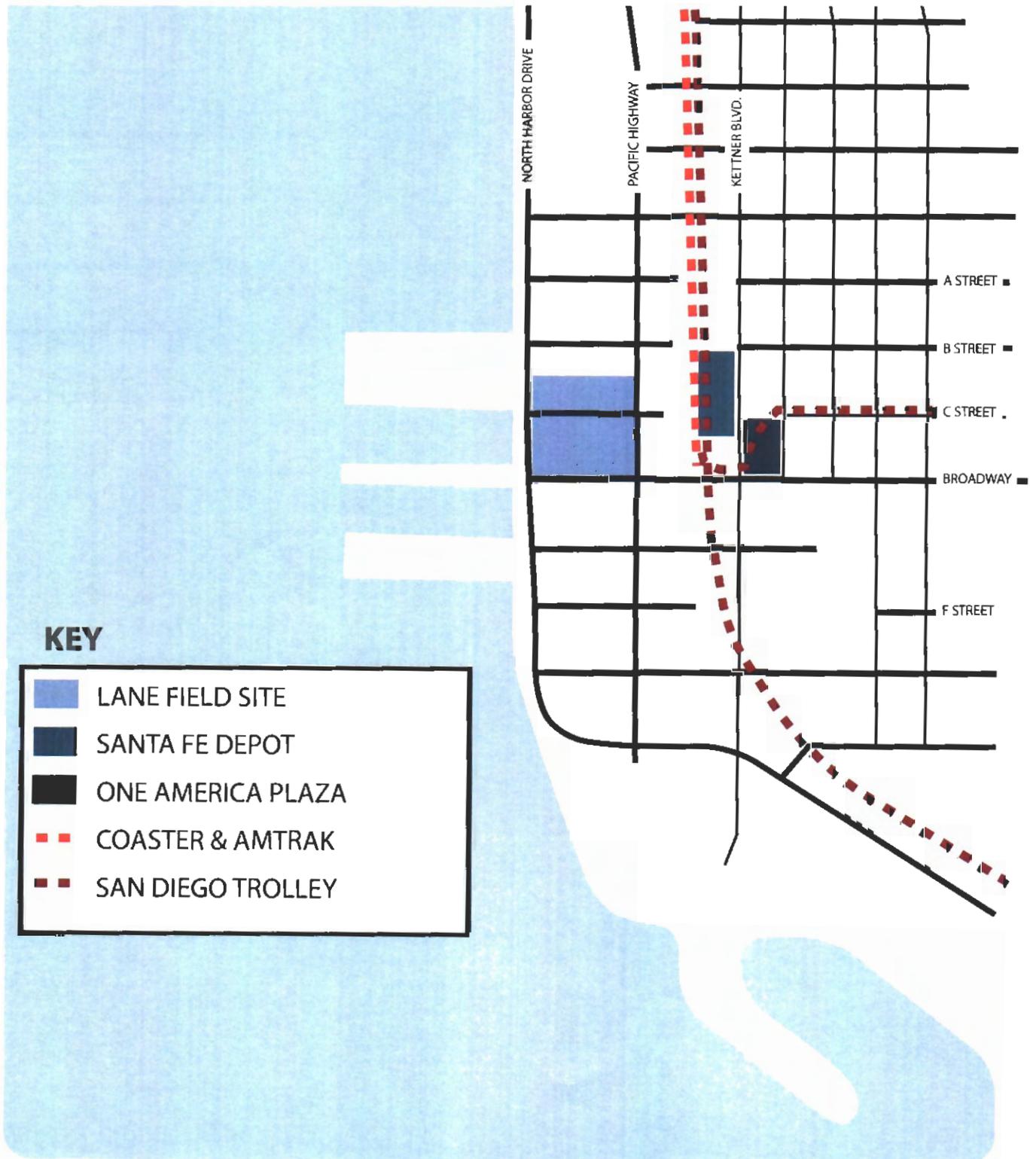


HARBOR DRIVE (STREET LEVEL) ELEVATOR

LOBBY ELEVATOR

LOBBY ESCALATOR

II. LANE FIELD PUBLIC ACCESS DIAGRAMS: SITE ACCESS AND PUBLIC PARKING



II. LANE FIELD PUBLIC ACCESS DIAGRAMS: VERTICAL CIRCULATION

KEY

- DIRECT ACCESS POINTS
- INTERIOR ELEVATOR
- PUBLIC ACCESS AREAS



Lane Field
Multimodal Transit Opportunity Promotion Plan

Coastal Development Permit
Special Provision/Condition # 19

Lane Field San Diego Developers, LLC
655 West Broadway, Suite 1450
San Diego, California 92101

July 16, 2008

EXHIBIT #7
APPLICATION NO. A-6-PSD-08-4
Transit Opportunity Plan  California Coastal Commission

Lane Field Multimodal Transit Opportunity Promotion Plan

I. Purpose

The transportation plan outlined herein describes the measures Lane Field San Diego Developers, LLC (LFSD) will implement as stated in the draft Coastal Development Permit Special Provision/ Condition # 19 approved by the Board of Port Commissioners on January 8, 2008, to promote alternative mass transit opportunities for visitors, guests, and employees.

II. Overview

Lane Field San Diego Developers, LLC will encourage the use of public transportation for employees and provide alternative transit opportunities for visitors and guests.

The Lane Field project encompasses approximately 5.7 acres of land in downtown San Diego, located on the north side of Broadway, between North Harbor Drive and Pacific Highway. Lane Field is in Subarea 33 of Planning District 3 in the certified Port Master Plan (PMP) and encompassed within the Master Environmental Impact Report (MEIR) for the North Embarcadero Visionary Plan (NEVP). The project site is adjacent to the core of San Diego's downtown with the Broadway Pier and B Street Pier immediately to the west; the Irvine Company proposed office building to the east and the Navy Broadway Complex development to the south.

Lane Field is located immediately adjacent to multiple transit connections and services, including:

Transportation	Proximity to Hotels/walking distance	Areas Served
Amtrak	.15 miles a 2 minute walk	Pacific Surfliner Route, service between Downtown San Diego ,San Luis Obispo, and Los Angeles with connections to national rail routes
Coaster	.15 miles a 2 minute walk	Rail service between Downtown San Diego and Oceanside.
Trolley	.21 miles a 3 minute walk	Red, Blue and Orange lines with direct services from Downtown San Diego through Old Town and Mission Valley to Santee, through downtown, and La Mesa to El Cajon and through Barrio Logan, National City, and Chula Vista to San Ysidro. Direct service to Qualcomm Stadium, Petco Park, and the International Border.
5 region wide bus stops	Within .25 miles a 3 minute walk	City and region wide bus routes to most Visitor serving destinations such as the Zoo, Balboa Park, Sea World etc.

Lane Field Multimodal Transit Opportunity Promotion Plan

Bus to San Diego International Airport/Commuter Terminal	.15 miles a 2 minute walk; airport is 2.3 miles away	Bus access to all terminals of the San Diego International Airport, Lindbergh Field.
Water Taxi	.15 miles a 2 minute walk	On-call transportation along San Diego Bay, serving Shelter Island, Harbor Island, Coronado and Downtown.
Ferry	.15 miles a 2 minute walk	Daily service between Broadway Pier (Downtown San Diego) and The Ferry Landing Marketplace (Coronado).
Convention Center Shuttle	On-site service	Routes connect conference attendees to convention center facilities.
Pedi-Cab	On-site service	Managed service extending throughout the boundaries of Downtown San Diego.

The Downtown San Diego Community Plan Update¹ includes the following proposed transit systems, which would further enhance access to the site:

- Downtown shuttle
- "Bay-to-Park" shuttle
- Potential Bus Rapid Transit (BRT) route/shuttle

This plan identifies separate and shared transit strategies for employees and visitors to Downtown.

III. Mass Transit Incentives for Employees & Visitors

The table below identifies incentive and collaborative programs offered by transit providers within the San Diego region and specifies the intended user as either employees and/or guest/visitors.

Program	Target Transit User
MTS – ECO Pass ²	Employee & Guest/Visitor
SANDAG – Ridelink ³ Carpool Matching Services	Employee
Bike to Work	Employee

¹ Centre City Development Corporation Community Plan Update approved February 26, 2006. Actual implementation date unknown.

² <http://www.sdmts.com/Marketing/EcoPass.asp>

³ <http://www.ridelink.org/>

Lane Field Multimodal Transit Opportunity Promotion Plan

Guaranteed Ride Home Program	Employee
Regional Vanpool Program	Employee & Guest/Visitor
Carsharing Program	Employee
Public Shuttles	Employee & Guest/Visitor
NCTD – Employer Transportation Services and Monthly/Regional passes	Employee

IV. Guest and Visitor Transit Opportunities

Lane Field benefits from the close proximity to multiple forms of transit, ranging in scale from existing bus lines connecting Lane Field to the larger metropolitan area and San Diego International Airport, to water taxis that service the waterways of San Diego Bay both locally and over to Coronado. In addition to existing services, a Summer Bayfront Shuttle system will be implemented to connect major destinations along the North Embarcadero. Together, the variety and extent of mass transit opportunities creates a network, which will not only serve the employees, but also the guests/visitors to Lane Field as well as San Diego's bayfront, with a myriad of transit options.

In an effort to maximize use of transit and minimize vehicular reliance, Lane Field commits to the following:

- **Summer Bayfront Shuttle Service:** a will provide guests, visitors and members of the public with service along the North Embarcadero, including stops at Lane Field, bayfront destinations, the Convention Center, and other bayfront hotels.
- **Designated guests and visitor parking spaces** will be reserved for advanced systems low emission vehicles.
- **Discounted Trolley and Bus passes:** through the Metropolitan Transit System's ECO Pass and Group Day Pass programs, guests and visitors will have access to discounted trolley and bus passes.
- **Downtown San Diego Pedi-cab network:** Pedi-cabs offer an alternative for intra-downtown connectivity with a unique exposure of guests and visitors to Downtown's amenities and destination points. Pedi-cab staging facilities will be provided within the project site and managed service will be provided.

Lane Field Multimodal Transit Opportunity Promotion Plan

- San Diego Water Transportation: The water taxi and ferry dock is less than a 2 minute walk away, located immediately west of the project site across Harbor Drive. Arrangements will be made with both operators for guests/visitors to obtain ticketing at the concierge stations within each hotel.
- Concierge Transit Service and Coordination: Hotel concierge employees will be thoroughly trained to understand and promote the various public transportation opportunities available to the guests/visitors and offer discounted tickets when applicable.
- Convention Center Shuttles: Shuttle services to and from the Convention Center will include routes to the project and be coordinated to suit guests/visitors needs.

V. Employee Transit Opportunities

Employees will be encouraged to utilize transit through incentives and amenities. LFSDD will offer employees the following options:

- Use of any transit incentives identified in table above, offering up to a 20% savings in cost of transportation, as compared standard fares.
- Access to Summer Bayfront Shuttle during hours and seasons of operation to utilize peripheral parking structures.
- Access to on-site parking at reduced monthly Employee Rate for:
 - Advanced system low emission vehicles
 - Carpooling
 - Car sharing
- Per the requirements of USGBC LEED Silver rating, on-site bicycle parking together with shower and locker facilities for use by bicyclists will be provided in the underground garage.
- The project's parking operator will encourage "park and ride" scenarios, identifying where employees may drive to the perimeter of the city to reasonably priced parking and connect to Downtown via trolley, bus, Pedi-cab or other public transportation opportunities.
- Human Resources personnel for both hotels will offer all employees assistance in maximizing use of public transportation.

VI. Bayfront Shuttle System

The Coastal Commission and the Port of San Diego have indicated their support for the concept of a bayfront shuttle. Ideally, San Diego would have a shuttle service linking Downtown, the Gaslamp District, and Balboa Park to the bayfront. Full implementation of such a system is beyond the ability of LFSDD to implement at Lane Field alone. Significant inter-agency cooperation will be required to implement such a system, including financial and logistical support from SANDAG, the City of San Diego, the Centre City Development Corporation (CCDC), the Metropolitan Transit Authority, and the Port.

Despite these challenges, a bayfront-only program will be implemented by LFSDD or a third party, concurrent with the opening of the Lane Field project for business, to provide linkages from existing transit facilities. LFSDD and the Port have identified privately-operated transit systems which may provide the pedestrian linkages sought by the Coastal Commission. Should it be feasible to expand or support these existing systems, LFSDD will do so to achieve the concept of a bayfront shuttle as described below.

Regardless of whether expansion or support of these existing systems proves feasible, as part of its compliance with Special Condition No. 19 of the Coastal Development Permit for Lane Field, LFSDD will form a partnership with the Port, the terms of which will be negotiated, to implement a scalable system linking major mass transit and parking reservoirs to bayfront attractions. Together with this system, LFSDD will participate in ongoing planning efforts currently underway at CCDC and the Port for a downtown shuttle as described in the Downtown San Diego Community Plan Update.

As described below, this two-pronged approach addresses the immediate interests of both the Coastal Commission and the Port while furthering the long-term transit planning goals of the San Diego region.

Shuttle System Overview

Operation

As recommended by the Coastal Commission, LFSDD will operate a summer shuttle in partnership with the Port daily from June 1 through August 31 of each year or until such time as a regional system is put into place. The shuttle will consist of two or more vehicles available to Lane Field hotel guests and retail visitors and members of the general public. For the first three years of operation, the shuttle will be provided at low cost to all riders.

Lane Field Multimodal Transit Opportunity Promotion Plan

The shuttle route is anticipated to be thirty minutes in duration. Two shuttles in operation will deliver approximately fifteen-minute headways. The first shuttles will depart Lane Field (northbound) at 10 am, and (southbound) at 10:15 am. The final shuttle of the day will depart Lane Field at 9 pm.

Routes

The proposed route for the daily summer shuttle would include stops along Harbor Drive between Hawthorn and Park Boulevard. The route would begin and end at Lane Field, picking up and dropping passengers off in front of Lane Field South along Harbor Drive on the north bound lane. The shuttle will service the following destination:

- Lane Field
- Holiday Inn
- County Administration Building
- Grape Street Pier & Maritime Museum
- Anthony's
- B Street Pier
- Hornblower Cruises
- Midway Museum
- The Fish Market
- Seaport Village
- The Hyatt
- The Marriott
- Convention Center
- Hilton Convention Center Hotel
- Gaslamp - 4TH & J (Alternate Route)

Shuttle stops will be designated within reasonable pedestrian walking distance of each destination. Accordingly, two or more destinations may be grouped together to create a stop. The final configurations of the shuttle stops will be informed by the selected operator and vehicle specific requirements for drop-off and pick-up areas.

Funding

LFSDD will acquire, through purchase or lease, at least two vehicles for the shuttle system. Additional funding, if available, may allow for the acquisition of more than one vehicle. LFSDD will seek additional funding from the Port; other Port tenants; and local, regional, state, and federal agencies. Consistent with any green programs available through these agencies, LFSDD will inquire about and apply for grants and/or low-interest loans where feasible.

Lane Field Multimodal Transit Opportunity Promotion Plan

Initiation and Duration

The shuttle system will commence operations with the month of June concurrent with occupancy of the hotels on Lane Field North and South. The shuttle will continue in operation for three consecutive summer seasons, from June 1 through August 31 unless replaced by another comparable or more comprehensive transit system.

If the shuttle has not been replaced, then at the end of three years of operations, LFSDD will fund, and the Port will contract and administer, a market-feasibility and demand study:

- to determine whether operation of the shuttle system achieves on its face the goals set forth by the Coastal Commission and the Port, namely reducing traffic congestion during summer months;
- to identify transit systems in place or to be implemented at or near the time the study is completed which may render the bayfront shuttle duplicative or into which the shuttle may be incorporated;
- to assess existing and projected usage and demand for a bayfront shuttle as currently programmed; and
- to recommend whether the bayfront shuttle should continue operations considering both external and internal factors affecting transit ridership.

Upon completion of the study, the Port will share the results with local Coastal Commission staff to allow them an opportunity to comment. Port staff will then present the results of the study, and any comments received from the Coastal Commission, to the Board of Port Commissioners for its consideration. Should the Board determine that continued operation is not feasible in light of the considerations above, LFSDD may elect to terminate the bayfront shuttle through an amendment to its Coastal Development Permit.

At any time during operation of the shuttle, whether before, during, or after the initial three-summer operation, the Port may relieve LFSDD of its obligation to operate the shuttle without an amendment to its Coastal Development Permit provided the shuttle described in this plan is replaced with a comparable or more comprehensive shuttle system.

Agency Outreach and Advocacy

Joint Transit Planning

As described by the Coastal Commission, several years ago Port staff and the City of San Diego explored the possibility of a downtown shuttle that served the bayfront. Recently, the concept was revived at a meeting of the Joint Powers Authority for implementation of Phase One of the North Embarcadero Visionary Plan. Following that meeting, representatives from SANDAG, MTS, the City of San Diego, CCDC, LFSDD, Coastal Commission staff, and the Port met and formed a shuttle committee to share preliminary concepts, identify key issues, and plan next steps.

Given the complexity of joint transit planning, CCDC recommended a committee approach. The committee will prepare a Request for Qualifications (RFQ) seeking a consultant with specific experience in planning, designing, and operating downtown shuttle services. The findings and recommendations made by the consultant will form the basis of public and private agreements for one or more shuttle systems.

Following is a generalized outline of required activities:

- Form committee
 - Identify committee members
 - Conduct committee meetings
 - Characterize conceptual framework (i.e. project narrative, phasing, tentative routes, etc.)
- Prepare consultant scope of services for RFQ
 - Case studies
 - Routes and service/operating plan
 - Operating and maintenance costs
 - Funding plan
- Public and private agreements/commitments
 - Implementation
 - Operating contract
 - Vehicle procurement
 - Initiate service

Scaling the Bayfront Shuttle

As the efforts of the shuttle committee intensify, and the shuttle system(s) to be implemented are better defined, there may be an opportunity to integrate the bayfront shuttle to be implemented by LFSDD into a larger transit plan. The shuttle committee has discussed phases of implementation which may either connect with or eventually supplant the bayfront shuttle. Should such a comparable or more comprehensive

Lane Field Multimodal Transit Opportunity Promotion Plan

transit system arise, LFSDD would no longer be required to operate the bayfront shuttle as described above.

One possible route for a subsequent phase would begin at Lane Field and proceed along the bayfront, but loop through Downtown, connecting the Gaslamp District, Horton Plaza, and Little Italy, and then return to Lane Field. Additional phases may expand that route, with departures from Lane Field along the bayfront through Downtown, expanding the stops above to include Balboa Park and additional stops at San Diego International Airport and the Convention Center, again ultimately returning to Lane Field. The Port may also wish to include stops at Harbor and Shelter Island in future phases, or link the bayfront shuttle to other transit systems to reach those destinations.

In this manner, the LFSDD bayfront shuttle could be either scaled up to meet the needs of the greater Downtown area or replaced over time with other, more comprehensive transit systems. Under either approach, the interests of the Coastal Commission and the Port in preserving and enhancing public access to the bayfront would be adequately addressed.

LANE FIELD: PROPOSED SUMMER EMBARCADERO SHUTTLE ROUTES & DESTINATIONS



KEY

-  SUMMER BAYFRONT SHUTTLE
-  SUMMER BAYFRONT SHUTTLE STOPS & DESTINATIONS



300' 1/4 mile

LANE FIELD: ALTERNATE SUMMER EMBARCADERO SHUTTLE ROUTES & DESTINATIONS

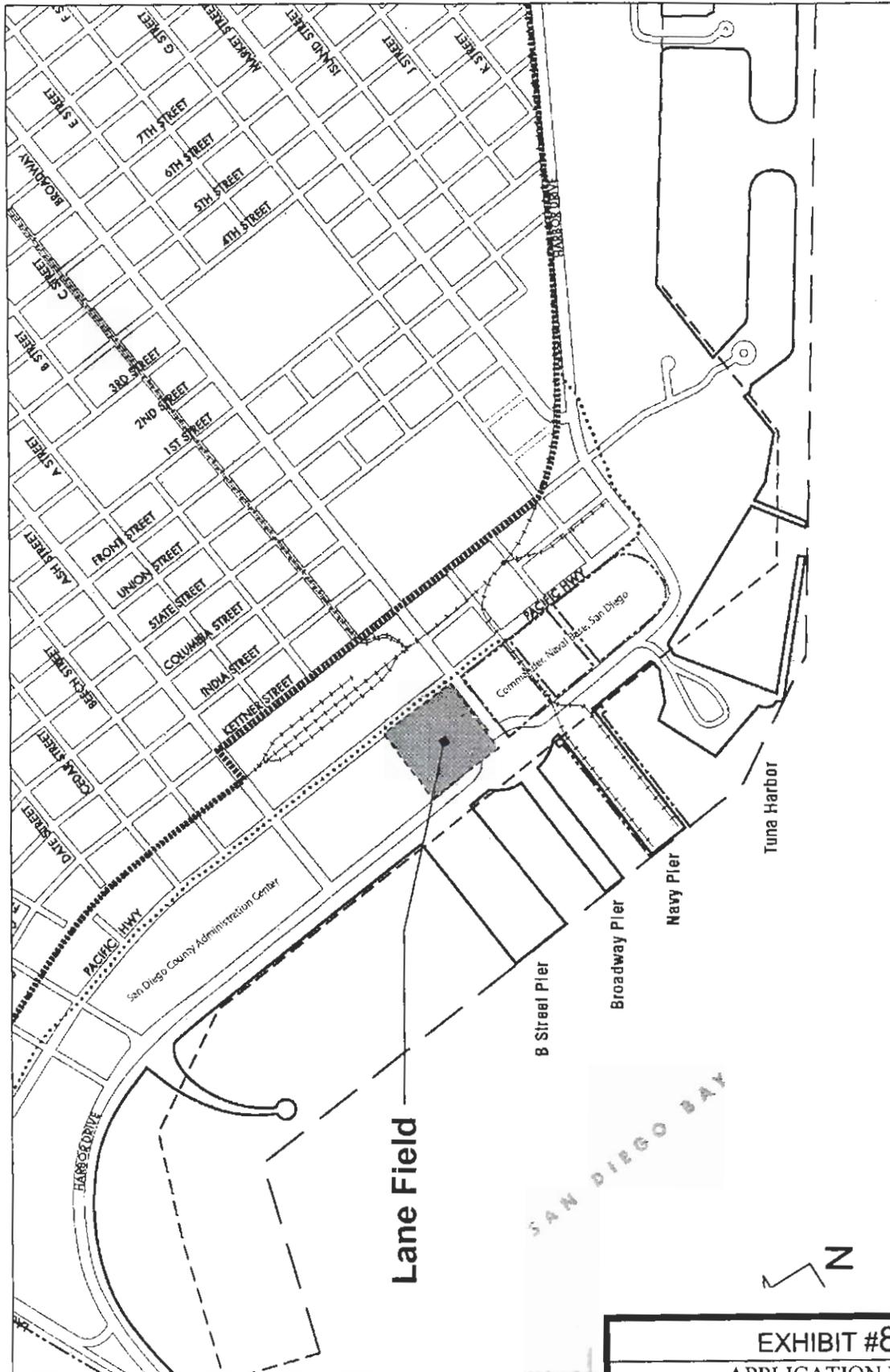


KEY

- SUMMER BAYFRONT SHUTTLE
- SUMMER BAYFRONT SHUTTLE STOPS & DESTINATIONS



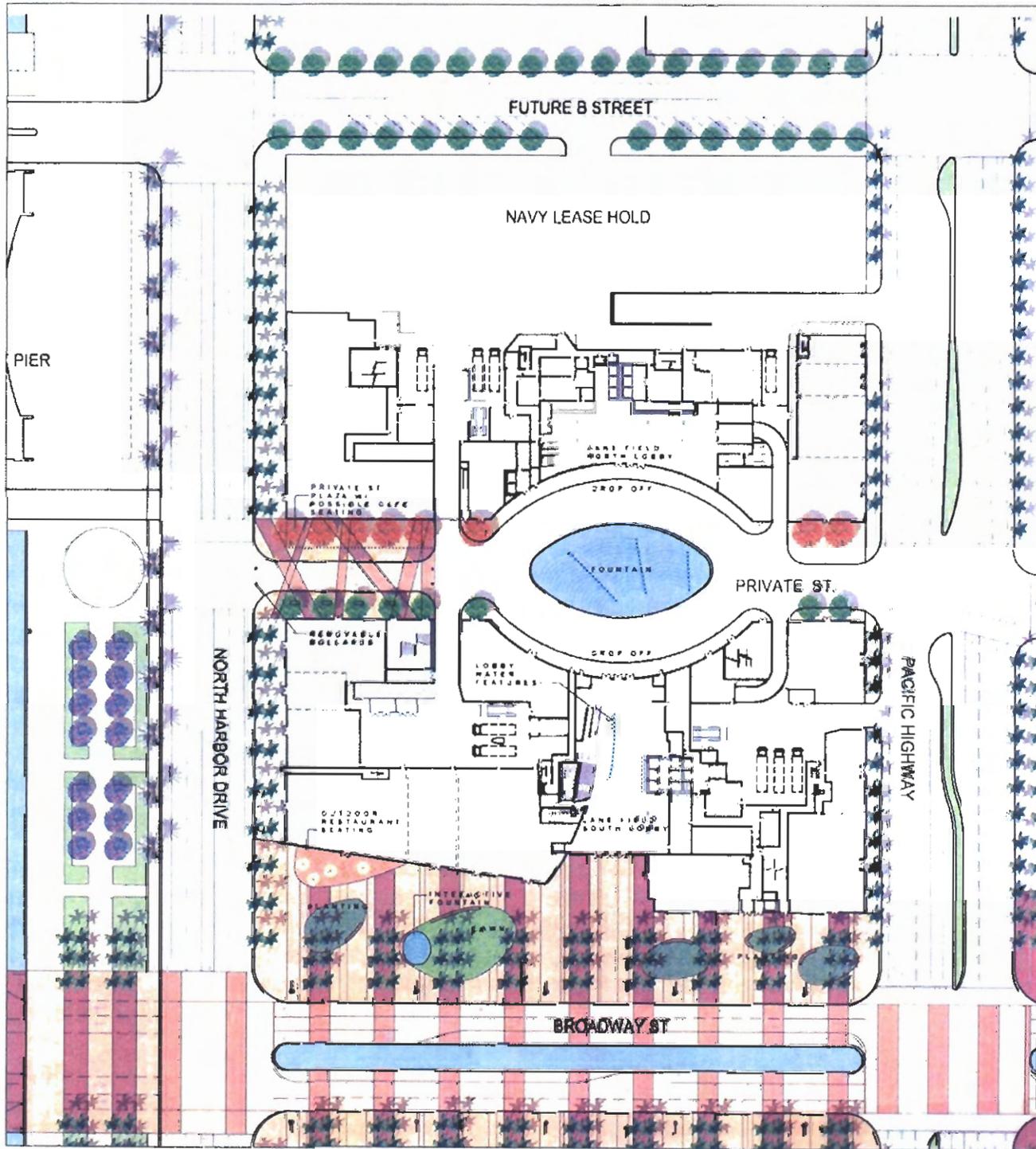
300' 1/4 mile



re 1 – Project location Map: Lane Field Development Project

EXHIBIT #8
APPLICATION NO.
A-6-PSD-08-4
Location Map
 California Coastal Commission

Conceptual Site Plan



Lane Field Development Project
October 2007



EXHIBIT #9
APPLICATION NO. A-6-PSD-08-4
Site Plan
 California Coastal Commission

Conceptual Building Design – View to the Southeast



View of Proposed Lane Field hotels with future Navy Broadway, Irvine and Bosa Development Projects in the Background

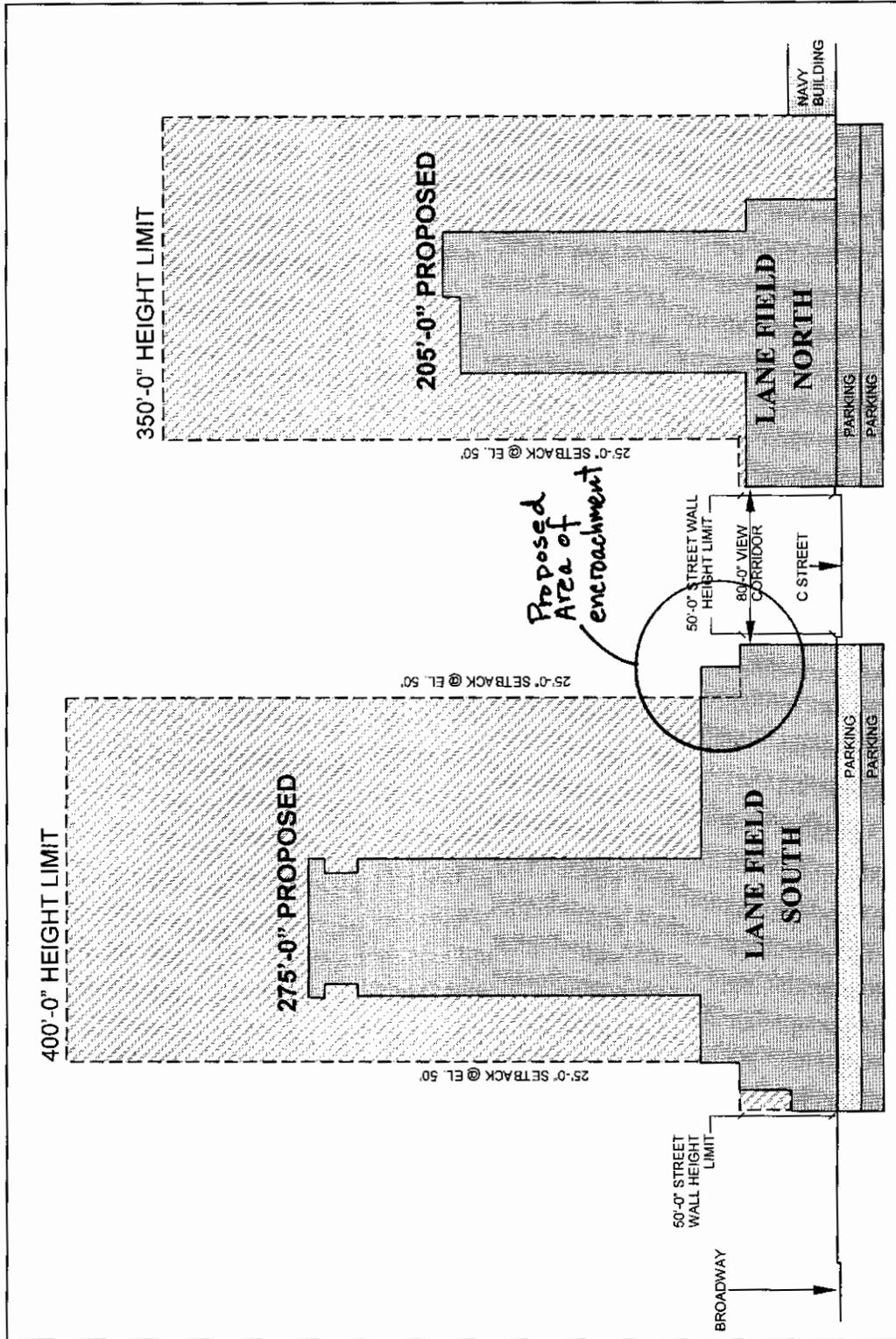
Lane Field Development Project
October 2007



EXHIBIT #10
APPLICATION NO.
A-6-PSD-08-4
Proposed Elevational View
 California Coastal Commission

NOTE: Heights and setbacks requirements shown are for the NEVP, which is not the standard of review. Requirements of the Port Master Plan are slightly less restrictive than the NEVP, so actual encroachment per PMP standards is less than shown here.

APPROVED NEVP BUILDING HEIGHTS AND SETBACKS



NORTH-SOUTH SECTION, EAST ELEVATION VIEW FROM PACIFIC HIGHWAY

EXHIBIT #11
APPLICATION NO.
A-6-PSD-08-4
Proposed Stepback Encroachments
California Coastal Commission

Diana Lilly

From: iantrowbridge [chris70@cox.net]
Sent: Monday, July 07, 2008 9:49 PM
To: Diana Lilly
Cc: Graham Forbes
Subject: CCC meeting on the proposed Lane Field redevelopment in San Diego

Dear Ms. Lilly:

United Here 30, the lead appellant in the Lane field matter currently scheduled to be heard by the CCC at their meeting in Oceanside will be asking that the hearing be delayed to the San Diego meeting in November. As the other appellant in this matter, I want to make sure the Commission knows that I have no objection to this request.

Since we (The Broadway Complex Coalition) recently won a judgement against the Navy in the related matter of the Navy Broadway complex redevelopment, that the CCC will hear at the Oceanside meeting, I think it would be in the Port's self-interest not to be tarred with the same brush as Manchester, but that is their decision.

So just to reiterate, I support delaying the Lane Field matter until November.

Sincerely,

Ian Trowbridge

EXHIBIT #12
APPLICATION NO.
A-6-PSD-08-4
Letters of Comment
 California Coastal Commission

Diana Lilly

Subject: FW: Follow up Gulesserian Letter re: CDP 2008-001, Appeal No. A-6-PSD-08-04

-----Original Message-----

From: spadilla@aquariusgroup.org [mailto:spadilla@aquariusgroup.org]

Sent: Monday, July 07, 2008 9:20 AM

To: Peter Douglas

Cc: Sherilyn Sarb; Deborah Lee; dilly@aquariusgroup.org

Subject: Follow up Gulesserian Letter re: CDP 2008-001, Appeal No. A-6-PSD-08-04

Dear Peter:

As you may be aware, I am and have been providing consulting services to UNITE-HERE Local 30, an appellant in the matter of this CDP and the requested joint Substantial Issue / De Novo hearing for August by the Port of San Diego.

I wanted to reiterate some strong concerns we continue to have with regard to issues we feel are not clearly and adequately resolved including potential impacts to marine life from site and site disturbance related contamination. Moreover, the ability of average citizens and members of UNITE-HERE who will be impacted by this important first permit resulting from a lengthy public process to participate will be severely limited by holding these hearings nearly one-hour travel time from downtown San Diego.

We have spoken many times about our shared philosophy of maximizing public participation and particularly that of parties in interest who have taken an active participation in the entitlement and appeals process. The members of UNITE-HERE who may well be impacted daily are not of the means to travel for more than two hours and to leave their jobs for the additional time required to participate beyond that, and they should not be penalized or have their ability to participate limited by their employment demands and economic situation.

I add my voice in respectfully requesting that CCC staff assert the importance of maximum public participation from all quarters in the pending hearings and appropriately schedule them in the City of San Diego proper.

Most Sincerely,

Stephen C. Padilla
Principal

AQUARIUS GROUP, INC.
619.656-3120

7/7/2008

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660

FAX: (650) 589-5062

tgulesserian@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4715

TEL: (916) 444-6201

FAX: (916) 444-6209

DANIEL L. CARDOZO
THOMAS A. ENSLOW
TANYA A. GULESSERIAN
MARC D. JOSEPH
LOULENA A. MILES
GLORIA D. SMITH

FELLOW
RACHAEL E. KOSS

OF COUNSEL
THOMAS R. ADAMS
ANN BROADWELL

June 24, 2008

JUN 30 2008

By E-Mail and U.S. Mail

Mr. Peter Douglas
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
pdouglas@coastal.ca.gov

Re: Substantial Issue and De Novo Hearings on UNITE-HERE Local 30's
Appeal of Port of Coastal Development Permit for Lane Field Hotel
Development Project (Appeal No. A-6-PSD-08-04)

Dear Mr. Douglas:

We are writing on behalf of UNITE-HERE Local 30 regarding our appeal of the San Diego Unified Port District's approval of a Coastal Development Permit for the Lane Field Hotel Development Project on 5.7 acres of land at the northeast corner of Harbor Drive and Broadway Street in San Diego, California. (CDP-2008-001, Appeal No. A-6-PSD-08-04.) We understand that the Port requested a joint substantial issue and de novo hearing on our appeal.

In scheduling a hearing date on our appeal, we respectfully request that the hearing be scheduled in November in San Diego. The basis for this request is to maximize opportunities for public participation. This includes participation by members of appellant, UNITE-HERE Local 30, and other members of the public.

Scheduling a Coastal Commission hearing in San Diego is especially important in this case, even though there is an earlier Commission meeting in Oceanside. Local 30 represents approximately 150-200 workers at the Holiday Inn by the Bay, who work immediately adjacent to the Lane Field site. Local 30 also has members who regularly fish in San Diego Bay for recreation and as a means to provide food for their families. These individuals will be affected by the Project's

2105-014a

June 24, 2008
Page 2

impacts on marine resources from site contamination, on public access and parking, and from the Project's failure to provide lower cost visitor and recreational facilities – all issues raised in the appeal. While these and other similarly situated individuals are among those most affected by the Project, these members of the public lack the resources to take time off from work to travel outside San Diego and, as such, would benefit from a local hearing.

Finally, the Lane Field Hotel Development project is a permit of first impression born from a lengthy and controversial public process for the North Embarcadero Visionary Plan. That planning process generated significant interest from the citizens of San Diego. Therefore, a hearing in San Diego is especially critical, as the proposed Project will set precedent for future projects in the area.

Please call me at (650) 589-1660 if you have any questions or if I can provide you with further information. Thank you in advance for your consideration.

Sincerely,

 Signature on File

Tanya A. Gulesserian



TAG:bh

cc: Sherilyn Sarb ssarb@coastal.ca.gov
Deborah Lee dlee@coastal.ca.gov
Diana Lilly dlilly@coastal.ca.gov

MEMO

To: California Coastal Commissioners
From: Ian Trowbridge
Re: Lane Field Appeal signature on File
Date: March 25, 2008

I am an Appellant in the appeal of the Port's decision to allow development of Lane Field in San Diego (Permit number A-6-PDS-08-004).

My understanding is that it is currently planned to hear the Lane Field appeal in Los Angeles in May. I respectfully ask the Commission to reconsider and hear this appeal in San Diego. The calendar currently shows that a Commission meeting in San Diego is scheduled in October.

The redevelopment of the North Embarcadero downtown is a crucial issue for San Diego and an opportunity to create a world-class shoreline that future generations will recognize as another jewel of the city on a par with Balboa Park. This can be achieved by a visionary and integrated approach that recognizes the importance of public spaces and the need to connect them.

Piecemeal development for short-term profit that violates the California Coastal Act as currently proposed by CCDC and the Port is a disaster.

The importance of this issue to San Diego is the reason that I ask that the public hearings on Lane Field be held in San Diego so that full public participation by the residents of San Diego can be assured. This will not delay development of Lane Field for a variety of reasons:

1. Unite Here Local 30 has filed a CEQA suit against the Port with regard to the EIR for Lane Field that will not be resolved before October, 2008.
2. The attempt by the Port to build a second cruise terminal on Broadway field is being challenged and is unlikely to be resolved this year.
3. There is evidence the Manchester will not be developing the Navy Broadway Complex this year and likely he will be withdrawing from the Ground Lease Agreement with the Navy.

I hope the commission will allow all San Diegans, including seniors and low-income workers to express their views at a public meeting in San Diego. It would be a hardship for these groups and others to travel to Los Angeles especially on a working day.



**Centre City
Development
Corporation**

April 23, 2008

RECEIVED

APR 24 2008

CALIFORNIA
COASTAL COMMISSION

Chairman Patrick Kruer and Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

**Re: Lane Field – Appeal of Coastal Development Permit No. CDP-2008-01;
Appeal No.: A-6-PSD-08-04**

Dear Chairman Kruer:

On behalf of the Centre City Development Corporation (“CCDC”) and its Board of Directors, we respectfully request your support of the proposed Lane Field project. Together with the City of San Diego and the Port of San Diego, CCDC is an integral part of the transformation of downtown San Diego’s waterfront based on the vision expressed in the North Embarcadero Visionary Plan (“NEVP”). The NEVP is a landmark plan, particularly in how it expresses the citizen’s desires for a world-class waterfront. Further, it is a unique multi-agency process that has crossed jurisdictional lines to achieve a grand vision for San Diego’s waterfront – one that will improve and enhance the experience for visitors and residents alike.

The project proposed by the Lane Field developer is catalytic and sets a high standard for future development in a variety of ways. First, the development team has participated in a very collaborative approach to outreach and design. Second, the project is committed to achieving LEED Silver, a symbolic statement about the importance of creative, sustainable design. Finally, the attention to enhancing public access and preserving view corridors illustrates how a private project can integrate seamlessly into the public realm and offer public amenities.

CCDC has been pleased to participate in the discussions around waterfront/downtown transportation options that have resulted from the Coastal Commission’s interest in connectivity along the waterfront.

In addition, tourism is an important economic engine for downtown and the waterfront. Lane Field will stimulate our visitor-driven economy at an important time in the economic cycle.

We hope that the California Coastal Commission will support this project and allow it to move forward.

Sincerely,

Signature on File

Nancy C. Graham
President

Rec

APR 24

California Coastal
San Diego

EXHIBIT #13
APPLICATION NO.
A-6-PSD-08-4
Letters of Support
California Coastal Commission

Chairman Patrick Kruer and Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: Lane Field Permit No. CDP 2008-01

Dear Chairman Kruer and Commissioners:

On behalf of the San Diego Convention Center Corporation, I am writing in support of the Lane Field Redevelopment Project located in downtown San Diego. The Convention Center, also located downtown, recently completed an enormously successful FY07 generating a record-breaking \$1.6 billion in regional economic impact. As one of the region's strongest economic engines, we fuel the local economy, create jobs and serve as catalyst for the revitalized downtown landscape that both visitors and residents enjoy year round. Our accomplishments are extraordinary when you consider the extremely competitive nature of today's convention and meeting market.

While we celebrate our achievements and continue to attract convention business to our region, we must also tell you that we have lost significant business due to the lack of hotel rooms required to support the demand for San Diego. This puts San Diego's coastal convention industry at a competitive disadvantage when compared to other cities with abundant hotel inventory.

To stay at the top our game competitively, it's critical that we continue to add new hotel rooms in close proximity to the Convention Center. Nearby hotel rooms are one of the main criteria meeting planners use when making decisions about where to book a convention. This project adds to our city's overall appeal as being pedestrian-friendly, but more importantly, reduces shuttle and transportation costs incurred by large scale convention organizers.

The restaurants, retail spaces, public areas and recreational opportunities the Lane Field Project promises to provide are also exactly the type of destination amenities meeting planners look for when choosing host cities. These amenities would create an inviting and energetic waterfront that would not only attract convention and meeting business, but tourists and local visitors alike.

I respectfully ask that you consider these important factors, which benefit the entire San Diego region, as you move forward with reviewing the Lane Field Development Project.

Sincerely,

(Signature on File)

Cheryl Kendrick
Chair of the Board of Directors
San Diego Convention Center Corporation

Received
MAY 12 2008
California Coastal Commission
San Diego Coast District

Diana Lilly

From: Don Wood [dwood8@cox.net]
Sent: Saturday, June 07, 2008 3:22 PM
To: Diana Lilly
Cc: Cory Briggs; Harry Zanville; Charles Kaminski; Ian Trowbridge; Diane Barlow Coombs; Deborah Lee
Subject: FW: 12/20/07 Broadway Complex Coalition Comments to the Unified Port of San Diego on the San Diego Waterfront Lane Field Hotels Project Initial Study

Diana:

Here is a copy of initial comments the Bayfront Complex Coordinating Coalition filed with the Port of San Diego on December 19, 2007 outlining some of our key concerns with the proposed Lane Field Hotels redevelopment project.

I am providing these comments to you for consideration for the Coastal Commission's August meeting deliberations on both the Lane Field and the proposed Navy Broadway Complex redevelopment projects.

The concerns listed in these comments apply equally to the proposed Navy Broadway Complex project.

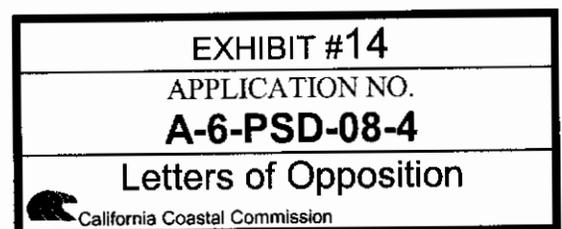
We ask that the Coastal Commission require that the Navy and the Port District develop supplemental EIRs on both these projects to reflect all the changes that have taken place over the last 19 years, including the berthing the US Navy carrier Midway at the Navy Pier and the Ports latest proposal to develop a new cruise ship terminal on the existing Broadway Pier.

We believe that as a precondition of any development of either of these sites, the Commission should mandate that the Navy, the City of San Diego and the Port District complete an independent, peer reviewed seismic investigation of downtown's north embarcadero by a neutral, nationally recognized seismic testing organization or company, with the report of the investigation presented to public via open public workshops.

We also believe that consideration of any future development along the north embarcadero must include full mitigation for loss of public access between downtown and its waterfront created by overdevelopment along the south embarcadero in the 1980s and 1990s, and full resolution of the issues outlined in these comments.

Thank you.

Don Wood
619-463-9035



dwood8@cox.net

-----Original Message-----

From: Don Wood [mailto:dwood8@cox.net]
Sent: Wednesday, December 19, 2007 4:04 PM
To: John Helmer
Cc: Karen Weymann; Ralph Hicks; Dan Wilkens; Robert J. (Rocky) Spane; Bruce B. Hollingsworth; Michael B. Bixler; Robert (Dukie) Valderrama; Stephen P. Cushman; Sylvia C. Rios; Victor A. Vilaplana; William A. Hall
Subject: 12/20/07 Broadway Complex Coalition Comments to the Unified Port of San Diego on the SanDiego Waterfront Lane Field Hotels Project Initial Study

To: John Helmer, Manager
Planning Services
Unified Port of San Diego

From: Don Wood, Secretary
Bayfront Complex Coalition

Subject: **12/20/07 Broadway Complex Coalition Comments to the Unified Port of San Diego**
on the SanDiego Waterfront Lane Field Hotels Project Initial Study



122007 Lane Field
Initial Stud...

Please contact me with any questions or comments.

Don Wood
619-463-9035
dwood8@cox.net

April 10, 2008

California Coastal Commission
C/o Diana Lilly, Coastal Analyst
San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421
VIA FACSIMILE: (619) 767-2384



RE: Appeal of the Lane Field Hotel Development CDP, Appeal No.: A-6-PSD-08-04

Dear Commissioners and Staff:

On behalf of San Diego Coastkeeper, a non-profit environmental organization 5,000 members strong dedicated to protecting the region's bays, beaches, watersheds and ocean, we write in support of the staff recommendation to find substantial issue for the Lane Field Hotel development appeal. The record shows inconclusive analyses regarding soil and ground water contamination at the site that carries the potential to harm water quality and marine life in the San Diego Bay.

The Lane Field site is in downtown San Diego approximately 200 feet from a portion of the Bay that has been designated a toxic hotspot by the Regional Water Quality Control Board. A Phase II Environmental Site Assessment (ESA) performed at the site has revealed disturbing levels of soil and groundwater contamination that have not been properly addressed by Port of San Diego or the project applicant.

The ESA documented organochlorine pesticide dichloro-diphenyl-trichloroethane ("DDT") and its metabolite dichloro-diphenyl-dichloroethylene ("DDE") and the polychlorinated biphenyl ("PCB") pesticide Aroclor 1254 in soil on the proposed Project site, among others. There is also a potential pathway for these toxins to leak from the site to the Bay that requires further investigation and resolution.

In our collective mission to preserve the integrity of our coastal resources, it is vitally important that we prevent further pollution where possible. A finding of substantial issue will allow Commission staff to further investigate the contamination at the site and determine the appropriate mitigations before issuing a permit.

We support staff's recommendation to find substantial issue for the Lane Field Hotel development appeal and urge the Commission to do the same.

Thank you for your time and consideration.

Sincerely,

Signature on File

Gabriel Solmer
Legal Director

RECEIVED

APR 11 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED

MAY 27 2008

CALIFORNIA
COASTAL COMMISSION

DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project:

Redevelopment of the former Lane Field with two hotels and other visitor-serving uses located in downtown San Diego in Port of San Diego jurisdiction. (Appeal #A-6-PSD-08-04)

Date and time of receipt of communication:

Tuesday, May 20, 2008 @ noon

Location of communication:

La Jolla

Type of communication:

Meeting

Person(s) in attendance at time of communication:

Jerry Trammer, Susan McCabe

Person(s) receiving communication:

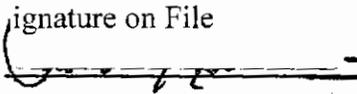
Pat Kruer

Detailed substantive description of the content of communication:

(Attach a copy of the complete text of any written material received.)

I was provided a brief project overview and status of the appeal at the Commission. Mr. Trammer and Ms. McCabe discussed the two major issues raised by Commission staff relating to creation of a bayfront shuttle and affordable overnight lodging opportunities as well as the major appeal contentions of other appellants. The applicants have been working with the Port and other local public entities to institute a bayfront shuttle and are working with the Port and Hostelling International to establish a hostel on Port land. They indicated that they are hoping to resolve the issues raised by coastal staff and to schedule the appeal for the Commission's August hearing.

Date: 5/22/08

Signature of Commissioner:  Signature on File

Received
MAY 28 2008
California Coastal Commission
San Diego Coast District

EXHIBIT #15
APPLICATION NO.
A-6-PSD-08-4
Commissioner ex parte Form
 California Coastal Commission