

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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Th 13a

Addendum

January 7, 2009

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item 13a**, Coastal Commission Permit Application
#A-6-PSD-08-04/A-6-PSD-08-101 (Lane Field), for the Commission
Meeting of January 8, 2009.

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

1. On page 4, Special Condition #1 shall be revised as follows:

1. Compliance with the San Diego Unified Port District Conditions of Approval. All conditions of approval of San Diego Unified Port District January 8, 2008 and October 7, 2008 decisions (CDP-2008-01 & CDP-2008-01a) for the proposed project as shown in Exhibit #5 are hereby incorporated as special conditions of the subject permit unless specifically modified by any special conditions set forth herein. ~~**PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT**, the Commission must receive notice from the Port District that it has determined that all applicable conditions of approval imposed in its District January 8, 2008 and October 7, 2008 decisions (unless specifically modified by any special condition of this permit) have been complied with.~~ For purposes of condition compliance, the Port District shall be responsible for reviewing and determining compliance with the special conditions referenced above, except for those specifically modified by any special condition set forth herein. **PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the Port District shall notify the Executive Director when all of the conditions have been met. Any proposed changes shall be limited to immaterial or minor changes which do not have the potential for adverse impacts, either individually or cumulatively, on coastal resources or public access to and along the shoreline. All proposed changes shall be reported to the Executive Director for review and written approval. Changes that are not immaterial or that alter the physical aspect of the project (e.g. building height, building footprint, number of rooms, setbacks, parking or public access) shall require None of the conditions of approval imposed by the Port District shall be modified or eliminated unless authorized by the California Coastal Commission in a Coastal Development Permit or an amendment to this Coastal Development Permit, unless the Executive Director determines that no amendment is legally required.

2. On page 4, Special Condition #3 shall be revised as follows:

3. Public Access Program. The applicant shall comply with all requirements contained in the "Lane Field Public Access Program" by Lane Field San Diego Developers, LLC, dated July 17, 2008, as revised August 20, 2008. During the site selection process, the applicant will work with the Port and the Coastal Commission Executive Director to identify a suitable site on the land to lease for a new hostel.

Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the approved program shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. On page 4, Special Condition #4 shall be revised as follows:

4. Hostel Location. The location of the hostel required per Special Condition #3 of CDP A-6-PSD-08-004 shall be located within the Coastal Zone on Port Tidelands within the City of San Diego. No changes to this condition shall occur without an amendment to this coastal development permit.

4. On pages 5 and 6, Special Conditions #5, #6, and #7 shall be revised to replace the requirement that the terms of the condition be satisfied "**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**" with the requirement that the terms be satisfied "**PRIOR TO COMMENCEMENT OF CONSTRUCTION.**"

5. On page 5, Special Condition #8 shall be revised as follows:

8. Landscaping. By acceptance of this permit, the applicant agrees that all landscaping on the site shall be drought-tolerant (or irrigated via reclaimed water) and (1) native or (2) non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.

6. The following new language shall be inserted after the last paragraph on page 6:

Special Condition #1 requires that the applicant comply with all of the conditions in the coastal development permit originally approved by the Port District. Because the majority of these conditions are related to detailed construction requirements typically enforced by the Port District, the condition requires the Port District to

confirm that all of conditions of the previous Port permit not otherwise revised through this coastal development permit have been complied with. Any revisions must be reported to the Executive Director for review and written approval. Revisions that alter the physical aspect of the project (e.g. building height, building footprint, number of rooms, setbacks, parking or public access) will require a new coastal development permit or amendment to this permit, unless the Executive Director determines that the revision is immaterial and is consistent with the intent of this permit, and that no amendment is legally required.

7. The last paragraph on page 13 continuing to page 14 shall be revised as follows:

To further ensure that the hostel will be constructed in the area most impacted by the proposed high-end hotel, Special Condition #4 requires that the location of the hostel be on Port Tidelands within the City of San Diego. Special Condition #3 informs the applicant that the Executive Director must be involved in the site planning effort, to ensure coastal issues are taken into account in the earliest stages of planning. Construction of the hostel will require a coastal development permit appealable to the Commission, and potentially a Port Master Plan Amendment, ensuring that the Commission will have oversight authority over the development.

8. Starting on page 15, the entire section on biological resources and water quality shall be replaced as follows:

The Lane Field project, as proposed, includes a ~~comprehensive~~ runoff control system designed to minimize storm water runoff, eliminate capture and treat all dry weather runoff from landscape irrigation, treat and reuse up to 100% of stormwater from the 85th percentile storm event and non-storm runoff and minimize runoff pollutants generated on site using source control best management practices. The initial stages of the project will clean up contaminated soil and groundwater left by past uses of the site for parking, dry cleaning, and transportation. The project includes ~~detailed~~ construction Best Management Practices (BMPs), site design BMPs, source control BMPs, and treatment control BMPs designed to address the potential runoff from the site.

In recognition of the fact that this project is conducting cleanup operations within a few hundred feet of San Diego Bay, those cleanup activities will be closely regulated by both state and local agencies. In particular, the staff of the San Diego Regional Water Quality Control Board (RWQCB) have communicated to the Port that the RWQCB will be providing regulatory oversight of the environmental investigations and cleanup activities required at the Lane Field site due to the proximity of the site to the Bay (see Exhibit #21). This means that the regulatory staff of the RWQCB will ~~be funded to~~ closely monitor the cleanup project and ~~have~~ will use their authority to require additional soil removal and groundwater treatment, if ~~needed~~ necessary, to protect waters of the state.

For this project, the Coastal Commission's water quality staff reviewed the Lane Field draft Water Quality Technical Report (March and October 2008), the draft Storm Water Pollution Prevention Plan (March 7, 2008), a Preliminary Drainage Report (March 2008), a letter report on Additional Phase II Environmental Site Assessment Services (February 15, 2007), the Supplemental Phase II Environmental Site Assessment – Groundwater Assessment Addendum (November 2, 2007), letters from Adams Broadwell Joseph & Cardozo (January 7, January 23, and October 22, 2008), a letter from SWAPE consultants (December 28, 2007), a letter from Lane Field Developers to the Port of San Diego dated October 17, 2008 (see Exhibit #19), the draft Coastal Development Permit dated October 24, 2008, Sediment Quality Assessment Study at the B Street/Broadway Piers, Downtown Anchorage and Switzer Creek, San Diego Bay – Phase I Final Report (March 2004), ~~and~~ TMDL Sediment Quality Assessment Study at the B Street/Broadway Piers, Downtown Anchorage and Switzer Creek, San Diego Bay – Phase II Final Report (June 2005) and a memo from Jerry Trammer, of Lane Field Developers dated December 22, 2008.

The Lane Field site exhibits soil contaminants related to the former commercial uses of the property. ~~There are residual contaminants in the soil from past uses of the site including parking, dry cleaning, and transportation. The project description includes actions to remove and properly dispose of the known contaminated soils and groundwater on site. It also specifies additional sampling and analysis if more contamination is found during the excavation process.~~ The Commission's water quality staff reviewed the environmental site assessment reports and concluded that appropriate sampling techniques, sample densities and follow up sampling have been conducted to allow site cleanup to go forward. Additional soil and groundwater information will be analyzed as the cleanup progresses allowing regulators from the RWQCB to require additional soil removal and groundwater treatment, if needed, to protect waters of the state. The project will be subject to the requirements of both the statewide Construction Storm water Permit (Construction General Permit 99-08-DWQ) and the San Diego Municipal Storm Water Permit (R9-2007-0001).

The applicant has submitted a Water Quality Technical Report (WQTR) describing how the project will eliminate capture and treat all dry weather runoff from landscape irrigation the site and treat and reuse up to 100% runoff from at least the 85th percentile of storm water runoff from event the project site using site design, source control and treatment control BMPs. According to a memo from Lane Field Developers on December 22, 2008, (see Exhibit #22) the project will treat at least 0.55 inches per 24 hour storm event, which is slightly more than the 85th percentile storm event estimated by San Diego County for the site location. While treatment of the dry weather flow and the 85th percentile storm event are required by the San Diego Municipal Storm Water Permit (R9-2007-0001), this project includes efforts to reuse a portion of those flows (along with chiller blowdown and grey water) for sanitary waste flushing. In recognition of the proximity of San Diego Bay, this project goes well beyond the more typical requirements of minimizing dry weather flow and treating the 85th percentile storm events with subsequent discharge of the treated water to the bay. By reusing up to 100% of the stormwater onsite and

~~eliminating dry weather flow from landscape irrigation, the potential adverse impacts of this project are negligible.~~

There has been some concern expressed about runoff from a small portion of the site that would have drained directly to the streets without passing through treatment control BMPs and that this discharge may adversely impact the bay. According to the December 22, 2008 memo this concern has been addressed by modifying the runoff capture system (through addition of a trench drain) to capture dry weather runoff and stormwater runoff (up to 0.55 inches per 24 hours) from 100% of the site based on information provided by Project Design Consultants on December 17, 2008, the project design now provides for capture and treatment of 100% of site runoff from storms up to the 85th percentile storm event and for all non-storm runoff.

Concern has also been expressed about the effect of discharge from this project on the contaminated sediments that exist between the Broadway and B Street Piers. The sediments in this area were identified by the statewide Bay Protection and Toxic Cleanup Program in the 1990's as having elevated concentrations of polycyclic aromatic hydrocarbons (PAHs), copper, chlordane, and mercury. While some of these pollutants may have been present in stormwater from the site in the past, they also could have been generated by commercial shipping¹, anti-fouling paints and creosote pilings. In the Phase I Sediment Quality Assessment report completed for the RWQCB in 2004, the authors concluded that the sources of these contaminants were stormwater and commercial shipping. While some of the sources of highly polluted stormwater may have been a significant contributing factor to the contaminated sediments in the past (e.g., railroad right of way wastes that may have generated PAH in runoff) have been removed from the Lane Field site and others such as chlordane are no longer being applied anywhere in the watershed². the primary sources of contamination: automobile byproducts, railroad right of way wastes (e.g., insecticides, oils and creosote) and spills from dry cleaning operations, the Lane Field development will not be a source of these chemicals and as stated above the project will capture, treat and reuse up to 100% of dry weather and stormwater runoff. The source control and treatment control BMPs proposed for Lane Field will ensure that the runoff from that site will not add to the residual sediment contamination identified by the Bay Protection and Toxic Cleanup program.

Site Cleanup

The Lane Field project includes the cleanup of soil and groundwater on the property to reduce the threat to San Diego Bay and to make way for construction of the underground portions of the project.

This project will remove most of the shallow soil contamination at the site through excavation of 198,000 cubic yards of soil for building foundations and subterranean parking. Although some residual soil contamination may be left in place (as with

¹ Sediment Quality Assessment Study at the B Street/Broadway Piers, Downtown Anchorage and Switzer Creek, San Diego Bay – Phase I Final Report (March 2004).

² Chlordane use as a pesticide was banned by the United States Environmental Protection Agency in 1988.

most soil and groundwater cleanup projects), this will be done under the oversight of state and local regulators and only if the risk to human health and the environment has been reduced to legally acceptable levels. Special Provisions 6 through 17 of the Port's Coastal Development Permit (Exhibit #5) commits the Port to complete soil cleanup at the site and Special Provision 6 specifically commits the Port to complete a risk assessment of any hazardous materials remaining at the site. (Special Condition #1 of this permit requires implementation of all of the conditions in the Port's original permit). In any case, the levels and potential exposure of contaminants at the site will be reduced by the development project to levels that are not adversely impacting human health or the environment.

The RWQCB staff sent a letter to the Port of San Diego on September 16, 2008 indicating that “the site may pose a threat to water quality due to 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). This type of letter is used by the RWQCB staff to notify project developers that their project may cause adverse water quality impacts unless the project implements appropriate controls on soils, groundwater and runoff. The letter gives notice to the property owner that the RWQCB staff expects to provide close “regulatory oversight of the environmental investigations and any cleanup activities required” and will be followed up with an agreement that describes the RWQCB oversight and the responsibilities of the developer. Condition #7 requires that the project developer provide evidence of an agreement with the RWQCB for regulatory oversight during the site cleanup and construction.

Proposed Best Management Practices

The draft Water Quality Technical Report (WQTR) dated March 2008 specifies that the project will include the following Site Design BMPs: increased building density (multi-story building), minimized width of streets and sidewalks (while still addressing public safety and maintaining a “walkable environment”), minimized directly connected impermeable surfaces and use of native and drought-tolerant species in landscaping.

Source Control BMPs specified include an efficient irrigation system, use of pest-resistant native plants (to eliminate or minimize the use of pesticides), use of only professional pest controllers, provision of Integrated Pest Management (IPM) educational materials to maintenance personnel and employees, storm drain stenciling, and covered parking that will be cleaned using dry methods (i.e., no runoff generated). In addition, all kitchen discharge pipes will be equipped with grease interceptors and pool maintenance will be conducted by certified pool maintenance crews.

Priority Development Project (PMP) Individual BMPs listed in the WQTR include: cleaning the drive way with dry methods (sweeping and vacuuming), loading docks designed to preclude run-on and runoff, any vehicle or equipment cleaning to be completed on-site will be done within the building or in a area that discharges to a

biofiltration treatment control BMP and all mop water will be discharged to the sanitary sewer.

~~The WQTR also makes recommendations for Treatment Control (TC) BMPs that are appropriate and feasible for this project, only recommending BMPs that have medium to high efficiency for removing the expected target pollutants to be generated by the completed project. The WQTR indicates the expected pollutants that may be generated by this project as follows: bacteria and viruses, heavy metals, sediment, organic compounds, pesticides and trash and debris. The WQTR indicates that since pesticides and bacteria since are not effectively removed by most TC BMPs that the project will depend on extensive source control BMPs as the primary method to address those pollutants. The project description states that, at a minimum, the post-construction TC BMPs will be designed to treat storm water runoff up to, and including, the 85th percentile storm event.~~

The WQTR ~~indicates~~ recommends that the following treatment control (TC)TC BMPs listed below are as feasible for this project, but does not identify which will be included in the final project design. Recommended TC ~~BMPs~~ include: bioretention, flow-through planter boxes (e.g., in a roof garden), modular wetlands, a proprietary filtration system, downspout filters, catch basin inserts and trench drain inserts. For the buildings, the WQTR recommends that pollutants from roofing materials and air deposition be addressed by flow-through planter boxes as part of a Garden Roof. Rain barrels are also recommended as a method to mitigate increases in peak flow due to the development. Pollutants from the courtyard will include air deposition and litter and the WQTR recommends regular sweeping and vacuuming to address those pollutants. Runoff from the courtyard will be directed to inlet catch basins or a constructed wetland. The WQTR specifies that all spills and leaks will be addressed in a timely manner and any non-storm water that collects in the parking garage will be sent to the sanitary sewer.

The WQTR describes the site design, source control, and priority development project BMPs that will be included in the project, but it does not specify the treatment control BMPs to be used. The analysis does provide a selection of treatment control BMPs that are appropriate to address the water quality issues of site runoff, but the applicant plans to identify the selected TC BMPs when the final development plans are completed. Therefore Condition #5 requires a Water Quality Management Plan describing the complete post-construction stormwater and non-stormwater runoff pollution control system and the selected mechanisms to capture, treat and reuse runoff from the site. Condition #6 requires an Operation and Maintenance plan that includes description of the long-term operation and maintenance requirements of complete post-construction stormwater and non-stormwater runoff pollution control system described in the Water Quality Management Plan described in Condition #5 and a description of the mechanisms that will ensure ongoing long-term maintenance.

Summary

As described above, the Coastal Commission's water quality staff has reviewed the site investigation reports and water quality plans for the Lane Field site. The project plans includes a system of construction BMPs, site design BMPs, source control BMPs, and recommends treatment control BMPs that will adequately protect the aquatic organisms and other bay resources from site cleanup activities, construction activities, ~~as well as~~ post-construction storm water and dry weather runoff. The site cleanup and construction activities will be closely regulated by both state (RWQCB) and local agencies.

Therefore, the Commission finds that the project as conditioned by the Port, will be consistent with the water quality provisions of the certified Port Master Plan cited above.

9. The attached 9/16/08 letter from the San Diego Regional Water Quality Control Board shall be added as Exhibit #21, and the attached 12/22/08 memo from Jerry Trammer shall be added as Exhibit #22.

CALIFORNIA COASTAL COMMISSION

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(619) 767-2370



Staff: D. Lilly-SD
Staff Report: December 18, 2008
Hearing Date: January 7-9, 2009

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STAFF REPORT AND RECOMMENDATION ON APPEAL DE NOVO

LOCAL GOVERNMENT: San Diego Unified Port District

DECISION: Approval with Conditions

APPEAL NO.: A-6-PSD-08-04/A-6-PSD-08-101

APPLICANT: Lane Field San Diego Developers, LLC

PROJECT DESCRIPTION: Redevelopment of the former Lane Field: Lane Field North will have a 205-foot high hotel with 275 guest rooms, a health club/spa, pools, ballrooms, and meeting rooms; and a 3-story building surrounding the hotel with 30,000 sq.ft. of visitor-serving retail and restaurants. Lane Field South will have a 275-foot high hotel with 525 guest rooms, a health club/spa, pools, ballrooms, and meeting rooms, and a 3-story building surrounding the hotel with 50,000 sq.ft. of visitor-serving retail and restaurants. Also included are 1,330 underground parking spaces and public plazas, development of a public downtown shuttle system, and a hostel development program.

PROJECT LOCATION: North of Broadway Street between Pacific Highway and Harbor Drive, Port District, San Diego, San Diego County

APPELLANTS: Coastal Commissioners Patrick Kruer and Mary Shallenberger; UNITE-HERE Local 30; Ian Trowbridge.

STAFF NOTES:

At its November 13, 2008 hearing, the Commission found Substantial Issue exists with respect to the grounds on which the appeal was filed. This report represents the de novo staff recommendation.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends the Commission approve the de novo permit with several special conditions. The primary issues raised by the subject development relate to the Port Master Plan (PMP) requirements to protect and provide public access and lower cost visitor-serving facilities. The proposed project would redevelop the site with a variety of

visitor-serving uses including two hotels, retail, restaurants, and a 1,300 space underground parking garage to serve the new uses. While these are high-priority uses, the existing site is currently an 880-space surface public parking lot. The proposed parking garage would include only 300 public parking spaces beyond that necessary to serve the proposed hotel and retail development; thus, the development would actually result in 580 fewer parking spaces available to downtown and waterfront visitors. The proposed removal of existing parking, combined with a significant increase in intensity of development at the site, is more than sufficient to trigger the need for the provision of new transit linkages from the development to and along the waterfront.

The project also includes the construction of 800 luxury hotel rooms on a prime waterfront location that might otherwise be used for more affordable accommodations available to a wide range of the public. Originally, the project did not include any offsetting mitigation measures that would promote lower-cost overnight accommodations.

Therefore, the Port District, the applicant, and Commission staff worked together to develop two important changes to the project: a new Multimodal Transit Opportunity Promotion Plan, and a revised Public Access Program. On October 7, 2008, the Board of Port Commissioners approved an amendment to the original coastal development permit incorporating these programs into the Port approval. In addition to describing proposed employee and guest mass transit incentives and opportunities, the Multimodal Transit Opportunity Plan includes implementation of a public Bayfront shuttle service during the summer for a period of three years, after which time the shuttle could be extended or discontinued through an amendment to the coastal development permit. The Transit Plan has been incorporated as Special Condition #2, to ensure that the Commission has the ability to oversee and enforce all aspects of the shuttle program.

The Public Access Program, required through Special Condition #3, includes a pedestrian access and circulation plan, and a program that will fund, in partnership with the Port District, construction of a non-profit hostel in the downtown area providing a minimum of 400 beds (see Exhibit #6). Although a site has not been identified at this time, Special Condition #4 requires that the site be within Port Tidelands in the City of San Diego. Thus, a coastal development permit appealable to the Commission, and potentially a Port Master Plan Amendment, will be required for the new hostel, ensuring that the Commission will have oversight authority over the development. If an appropriate site cannot be found within specific time limits outlined in the permit, the program also requires that a mitigation fee of \$30,000 for 25% of the approximately 800 higher cost units constructed (approximately \$6,000,000) must be paid. Therefore, as conditioned, the project will ensure that public access to and along the coast is enhanced, and that new high and lower-cost overnight accommodations will be encouraged and provided.

Commission water quality staff has reviewed the project plans and the detailed water quality programs for the project, including the Storm Water Pollution Prevention Plan (SWPPP), and determined that the project will not have an adverse impact on water quality or biological resources. To ensure the project meets all of the required water

quality standards, conditions require submittal of a final water quality management plan, an operation and maintenance plan, and evidence of final regional water quality control board oversight.

As proposed, the project includes some minor exceptions to the required upper-floor building “stepbacks.” However, the proposed encroachment are minor and will not significantly impact the bulk and scale of the proposed project, which is generally much smaller and provides larger view corridors than required under the PMP.

Standard of Review: Certified Port Master Plan.

SUBSTANTIVE FILE DOCUMENTS: Appeal by Commissioners Krueer and Shallenberger filed 1/31/08; Appeal by Ian Trowbridge filed 1/17/08; Appeal by UNITE-HERE Local 30 filed 1/25/08; Appeal of CDP Amendment by UNITE HERE LOCAL 30 filed October 23, 2008; Port Draft Coastal Development Permit 2008-1; Lane Field Initial Study; Certified San Diego Unified Port District Port Master Plan Amendment.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-PSD-08-4 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified Port Master Plan. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following special conditions:

1. Compliance with the San Diego Unified Port District Conditions of Approval. All conditions of approval of San Diego Unified Port District January 8, 2008 and October 7, 2008 decisions (CDP-2008-01 & CDP-2008-01a) for the proposed project as shown in Exhibit #5 are hereby incorporated as special conditions of the subject permit unless specifically modified by any special conditions set forth herein. **PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT**, the Commission must receive notice from the Port District that it has determined that all applicable conditions of approval imposed in its District January 8, 2008 and October 7, 2008 decisions (unless specifically modified by any special condition of this permit) have been complied with. None of the conditions of approval imposed by the Port District shall be modified or eliminated unless authorized by the California Coastal Commission in a Coastal Development Permit or an amendment to this Coastal Development Permit.

2. Multimodal Transit Opportunity Promotion Plan. The applicant shall comply with all requirements contained in the "Lane Field Multimodal Transit Opportunity Promotion Plan" by Lane Field San Diego Developers, LLC, dated July 16, 2008.

Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Public Access Program. The applicant shall comply with all requirements contained in the "Lane Field Public Access Program" by Lane Field San Diego Developers, LLC, dated July 17, 2008, as revised August 20, 2008.

Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the approved program shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Hostel Location. The location of the hostel required per Special Condition #3 of CDP A-6-PSD-08-004 shall be located on Port Tidelands within the City of San Diego. No changes to this condition shall occur without an amendment to this coastal development permit.

5. Water Quality Management Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and written approval of the Executive Director, a final Water Quality Management Plan, prepared by a licensed water quality professional, in substantial conformance with the

draft Water Quality Technical Report dated October 2008 and the letter from Lane Field Developers to the Port of San Diego, dated October 17, 2008 as Exhibit #19.

- a. The Water Quality Management Plan (WQMP) shall document how the elements of the water quality treatment system will meet the following conditions:
 - i. The project water quality treatment system will treat all dry weather runoff and all storm runoff from storms smaller than or equal to the 85th percentile design storm (0.55 in./24 hours for volume based Best Management Practices (BMPs) and 0.2 in./hr for flow based BMPs), with a suite of BMPs that meet the design criteria below;
 - ii. The design criteria for BMPs shall be based on the recommendations in the latest edition of the California Association of Stormwater Quality Agencies (CASQA) BMP Handbook; and
 - iii. If the proposed suite of BMPs cannot meet the two conditions above, then the applicant will provide an alternative water quality treatment system with documentation that the system provides equivalent water quality protection, for review and approval of the Executive Director.

6. Operation and Maintenance Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and written approval of the Executive Director, an Operation and Maintenance (O&M) plan that includes description of the long-term operation and maintenance requirements of proposed best management practices described in the Water Quality Management Plan described in Condition #5 of this permit, and a description of the mechanisms that will ensure ongoing long-term maintenance.

7. Regional Water Quality Control Board Oversight. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall provide evidence of an agreement with the RWQCB for regulatory oversight of the project during the site cleanup and construction.

The applicant shall undertake development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the approved program shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Landscaping. By acceptance of this permit, the applicant agrees that all landscaping on the site shall be drought-tolerant and (1) native or (2) non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.

V. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/History. The proposed project is redevelopment of an approximately 5.7 acre, 880-space public surface parking lot with two hotels with a total of 800 rooms, approximately 80,000 sq.ft. of retail uses, restaurants, and public plazas, and 1,330 underground parking spaces. The site is located at the northeast corner of Harbor Drive and Broadway Street, directly east of San Diego Bay.

Lane Field North, the parcel north of the prolongation of "C" Street between Pacific Highway and Harbor Drive, will be developed with a 205-foot high hotel, including approximately 275 guest rooms, a health club/spa, pools, ballrooms, and meeting rooms. A 3-story building surrounding the hotel will include approximately 30,000 sq.ft. of visitor-serving retail. The rooftop of that building will include a publicly-accessible terrace activated by outdoor dining and special events areas. The rooftop will be accessible to the public and hotel guests via an elevator located at the street level on Harbor Drive.

Lane Field South, the parcel immediately south of Lane Field North, includes the prolongation of "C" Street and the area between Pacific Highway and Harbor Drive south to Broadway. The site will include a 275-foot high hotel with approximately 525 guest rooms, a health club/spa, pools, ballrooms, and meeting rooms. A 3-story building surrounding the hotel will include approximately 50,000 sq.ft. of visitor-serving retail, and a publicly-accessible terrace accessible by an elevator at Harbor Drive. If found suitable, as approved by the Port, the material excavated for the underground parking garage must be used to replenish beaches.

On October 7, 2008, the Board of Port Commissioners approved an amendment to the original coastal development permit adopting a new Multimodal Transit Opportunity Promotion Plan and an expanded Public Access Program into the Port approval. In addition to describing proposed employee and guest mass transit incentives and opportunities, the Multimodal Transit Opportunity Plan includes implementation of a public Bayfront shuttle service during the summer for a period of three years, after which time the shuttle could be extended or discontinued through an amendment to the coastal development permit (see Exhibit #7).

The Public Access Program includes a pedestrian access and circulation plan that lays out the various public plazas provided in the development, and requires signage identifying the public areas, and a program that will fund, in partnership with the Port District, construction of a non-profit hostel in the downtown area providing a minimum of 400 beds (see Exhibit #6). As approved by the Port, if an appropriate site cannot be found within specific time limits outlined in the permit, a mitigation fee of \$30,000 for 25% of the approximately 800 higher cost units constructed (approximately \$6,000,000) must be paid.

The standard of review is the certified San Diego Unified Port District Port Master Plan.

2. Public Access/Recreation/Visitor-Serving. The following PMP policies are relevant:

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.

VII. THE PORT DISTRICT WILL REMAIN SENSITIVE TO THE NEEDS, AND COOPERATE WITH ADJACENT COMMUNITIES AND OTHER APPROPRIATE GOVERNMENTAL AGENCIES IN BAY AND TIDELAND DEVELOPMENT.

- The Port District will at all times attempt to relate tidelands to the uplands.

- The Port District will cooperate, when appropriate, with other local governmental agencies in comprehensive studies of existing financing methods and sources which relate to the physical development of the tidelands and adjacent uplands.

Page 17 of the PMP states:

Maximum access to the shoreline is encouraged except where security or public safety factors would negate.

Page 38 of the PMP states:

Circulation and Navigation System

...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.

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, the development itself will be fully parked, but there would be 580 fewer public parking spaces available to serve 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 and promote public access to the coast. As such, the proposed project could have adverse impacts on public access, circulation, and public recreation.

In response to these concerns, the developer has proposed a "Multimodal Transit Opportunity Promotion Plan," identifying programs that the hotels would be implementing to promote non-automobile transit. Guest services would include a shuttle program 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.

In addition to the programs for hotel guests and employees, in consultation with Commission staff, the applicant and the Port District have developed a plan to specifically address the lack of "non-automobile linkage systems to bridge the gap

between pedestrian and major mass systems”—namely 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 traffic congestion which reduces the public’s ability to gain access to the shoreline, particularly in the summer.

Unlike many cities along California’s shoreline, San Diego does not have any kind of a shuttle service for visitors to the downtown bayfront. There are several transit systems that bring people downtown, but once there, there is currently no easy way to get around and along the waterfront.

In order to address this deficiency in San Diego’s transportation system, the Plan requires that the applicant operate a summer shuttle in partnership with the Port daily from June 1 through August 31 for three years 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.

The proposed route for the daily summer shuttle will include stops along Harbor Drive between Hawthorn and Park Boulevard. The route will 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 destinations:

- 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)

The program states that the shuttle system will commence operations in the month of June concurrent with occupancy of the hotels on Lane Field North and South. (The Port District has submitted correspondence clarifying that as approved by the Port, the program "does not distinguish development of one or both hotels and would be enforced upon occupancy of a hotel: if one hotel is completed first the provision will be enforced upon occupancy of that one hotel; if both hotels are constructed simultaneously then the

provision will be enforced upon simultaneous occupancy. The language in the Multimodal Transit Plan is intended to reaffirm this. The intent of the applicant is to construct one hotel at a time and to provide the shuttle service upon occupancy of the first hotel..." (email from Matthew Valerio 10/29/08).

After three years, the applicant will fund a market-feasibility and demand study to assess the impact and effectiveness of the shuttle. At that time, the shuttle program could be terminated, but only through approval of a coastal development amendment to this permit. Therefore, the Commission will have an opportunity to evaluate these studies and ensure termination of the shuttle would not adversely impact coastal resources.

In the meantime, the applicant has taken the lead in organizing a committee of downtown stakeholders, including local government officials, hotel representatives, transit agency members, and residents to form a shuttle committee to share preliminary concepts, identify key issues, and plan next steps for creating a downtown region shuttle serving a broader area and other clients, including residents and commuters. It is expected that the downtown shuttle committee, including Commission staff, will continue to work on establishing a more extensive shuttle with a broader focus that could supersede the proposed bayfront shuttle. Special Condition #2 requires implementation of the Transit Opportunity Promotion Plan.

Any new development downtown will put additional stresses on the surrounding circulation system. However, as noted, the downtown region is well served with mass transit (buses, trolleys, trains) that will help get people to the proposed hotel. Lane Field is located immediately adjacent to multiple transit connections and services that are within easy walking distance of the site. Thus, concentrating dense development at this site is consistent with the Port Master Plan. The proposed public downtown shuttle system will offset the additional impact the development will have on public access and circulation and significantly improve the ability of visitors and residents to access the waterfront during the peak summer season.

Furthermore, the Commission finds that any temporary impacts to public access that might occur during construction will not be a significant adverse impact to public access or recreation. Development of Lane Field was approved in concept by the Commission in March 2001 as part of the North Embarcadero Port Master Plan Amendment (PMPA #27). This amendment included adoption of a Parking Management & Monitoring Program for the North Embarcadero to address the potential parking demand and impacts to traffic and circulation through requiring the construction of additional surface parking lots and alternatives to on-site parking, including the promotion of mass transit and planning for shuttle stops in the area.

It is likely that the availability of public parking will be reduced during construction. However, this kind of short-term impact was anticipated during build-out of the North Embarcadero, and overall, the Parking Management & Program for the area, and for Lane Field specifically is expected to improve parking and access opportunities in and around the site. The downtown area is fully built out, and there is no feasible way the

applicant could provide temporary replacement public parking elsewhere during construction. The applicant has entered into an agreement with Five Star Parking, the Parking Operator for Lane Field and numerous other parking lots downtown to accommodate all of the parking demand over the entire term of the construction. Exhibit #20 shows the Five Star public parking locations and spaces around the project site. The Port District is also working with the cruise ship operators to provide shuttles from off-site lots. The long-term, permanent benefits of the development are expected to outweigh and mitigate the short-term construction impacts to public access and recreation.

In summary, the project will significantly increase the density and intensity of use along the waterfront, but in conjunction with providing significant offsetting benefits to public access, consistent with the certified Port Master Plan. Connectivity or linkage to offsite public parking reservoirs within and adjacent to Port tidelands will be provided through the proposed public downtown shuttle system serving the waterfront, which will distribute public use of Port tidelands. The Multimodal Transit Opportunity Promotion Plan is specific and mandatory, and no adverse impacts to public access or circulation will occur. Therefore, as conditioned, the project can be found consistent with the certified Port Master Plan.

3. Public Access/Lower-Cost Visitor-serving Commercial. In addition to the above listed Port policies encouraging non-exclusory uses on Port tidelands and increased public access, the Port Master Plan also includes the following policy:

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 adverse 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 recreation and wildlife habitat uses. A balanced approach also takes into account the social and economic needs of the people of the State.

A detailed “Lane Field Public Access Program” has been developed as a condition of the permit that lays out the public access corridors, plazas, viewing terraces and other features that will be provided throughout the development as well as the required public access signage and hours of operation for the public areas. As proposed, this plan will ensure that public access and recreational opportunities are available in association with the hotel and retail uses, which are themselves high-priority visitor-serving uses.

Nevertheless, the project would consist entirely of high-end luxury hotel rooms, thus encouraging exclusory uses on tidelands. The room rate at the proposed hotels is expected to be in the high \$200 per night range. When exclusive visitor accommodations are located on the waterfront, they occupy area that would otherwise be available for lower cost visitor and public recreational facilities. The problem with exclusivity of

shoreline accommodations has 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 can and should be provided and encouraged along San Diego Bay. However, at this time, there are no lower-cost 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 overnight accommodations available to serve all segments of the population, to ensure the shoreline is available to everyone. This concept is referenced in the PMP policy that requires a balanced approach to development that “takes into account the social and economic needs of the people of the State.”

Recognizing that the proposed project does not provide such facilities and in response to these policies, in consultation with Commission staff, the applicant and the Port District have developed an innovative and hopefully precedential program to fund and construct a new non-profit hostel in the downtown region.

As proposed by the applicant and approved by the Board of Port Commissioners as part of the required public access program, the applicant will work with the Port District to design and construct a non-profit hostel on Port controlled land, funding half of the construction costs. The hostel operator would have to provide a matching grant for the rest of the construction costs, and the land value of the hostel site would be the Port’s contribution to the project.

The minimum number of lower cost units proposed to be constructed was derived from the Commission's past practice of requiring a mitigation fee based on a percentage of the number of high-cost hotel units being constructed. Although the Commission prefers the actual provision of lower-cost accommodations in conjunction with projects, where necessary, the Commission has used in-lieu fees to provide lower-cost opportunities. For example, for Oceanside LCPA #1-07 (Downtown District), the Commission approved a requirement that a fee be paid per hotel room for 25% of the total quantity of proposed new units that are not lower cost. The subject development is for 800 hotel rooms, thus, the Commission would typically require that a mitigation fee be assessed for 25% (200) of the rooms, to offset the cost of constructing new lower cost accommodations.

However, hostels often have varying room sizes than can accommodate different numbers of people. So rather than assume that construction of 200 lower-cost units would be the most appropriate amount of mitigation, the applicant has proposed constructing a hostel with a minimum of 400 beds (200 hotel rooms would typically have 400 beds). The applicant has indicated that approximately 133 hostel rooms would accommodate 400 beds and thus be equivalent to providing 200 new units.

The plan acknowledges that developing a new hostel 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. However, a strict timetable for meeting particular project goals is included in the plan. For example, prior to issuance of the coastal development permit, the applicant must enter into a memorandum of understanding or other legal arrangement with a qualified nonprofit hostel operator establishing the requirements and responsibilities contained in the Public Access Plan.

Within twelve months from issuance of the coastal development permit for the project, the applicant must identify one or more sites in conjunction with the Port and the hostel operator and complete an appropriate site feasibility analysis. Within six (6) months from completion of Task #1, the applicant must negotiate an agreement with the Port to establish a development program and an entitlement process for an approximately 133 unit hostel. And so on, until construction of a hostel commences.

If the milestones are not met on time, the Port must notify the Executive Director, and the Executive Director may at that time require the applicant to pay a fee in lieu of construction, consisting of \$30,000 for 25% of the units being, having been and to be constructed on Lane Field (\$6,000,000 total). The Commission required a similar in-lieu fee for the conversion of a 130-unit hotel (not yet constructed) located on the bluffs in Encinitas to a 100-unit condo-hotel, with 30 units required to remain as traditional hotel units (6-92-203-A4/KSL), and for the Surfer's Point Resort development in Encinitas (#A-6-ENC-07-51). The \$30,000 fee amount was established based on figures provided to the Commission by 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), in an October 26, 2007 letter. The figures provided by HI are based on two models for a 100-bed, 15,000 sq. ft. hostel facility in the Coastal Zone.

To ensure that mitigation funds would be available in the event the hostel program is not executed, prior to execution of the lease with the Port District, a bond or other financial instrument acceptable to the Port must be executed to ensure the fee amount, including any interest that would have accrued since issuance of the Coastal Development Permit, is paid.

If the hostel planning and design milestones are not met on time, the Executive Director also has the option of granting a time extension. The applicant could also apply for an amendment for a revised affordable accommodations proposal. Thus, in all cases, the Commission can be assured that a hostel will be built, a mitigation fee will be paid, or they will have the opportunity to review a revised proposal to ensure all impacts are fully mitigated. Special Condition #3 requires implementation of the Public Access Program.

To further ensure that the hostel will be constructed in the area most impacted by the proposed high-end hotel, Special Condition #4 requires that the location of the hostel be on Port Tidelands within the City of San Diego. Construction of the hostel will require a coastal development permit appealable to the Commission, and potentially a Port Master

Plan Amendment, ensuring that the Commission will have oversight authority over the development.

The proposed program is expected to establish an on-going program and mechanism for the development of lower-cost units that future high-end development projects on Port Tidelands will be able to participate in. If the appraised value of the hostel exceeds the Coastal Commission's typical fee of \$30,000 for 25% of higher cost units constructed, any excess value can be credited to a Port "bank" to be applied to future Port projects. Those projects could pay an additional mitigation fee to offset the remaining impacts, or develop a similar program to establish low-cost overnight accommodations.

As noted, planning and construction of a hostel could take until several years after completion of the Lane Field project. This is not, however, atypical for projects where the Commission has imposed requirements to provide fees in lieu of providing lower cost accommodations. In past projects, the Commission has required mitigation fees to be used for land acquisition, construction and/or to subsidize the provision of an as-of-yet unidentified lower cost visitor-serving accommodations within a high-cost facility or off-site in the project vicinity. While these requirements are a very good first step towards mitigating the impacts of high-cost accommodations, in-lieu fees also do not result in the immediate creation of lower-cost facilities, but are pooled for future development opportunities. In contrast, the proposed project, with its built-in, specific milestones, is very likely to result in construction of an actual facility far sooner than payment of an in-lieu fee would.

In summary, the proposed project, as condition, will provide adequate mitigation for impacts to lower-cost visitor-serving overnight accommodations associated with the construction of exclusory uses. Therefore, the Commission finds the conditioned project consistent with the certified Port Master Plan.

4. Protection of Sensitive Biological Resources/Water Quality. Relevant PMP policies include the following:

VIII. THE PORT DISTRICT WILL ENHANCE AND MAINTAIN THE BAY AND TIDELANDS AS AN ATTRACTIVE PHYSICAL AND BIOLOGICAL ENTITY.

- Establish guidelines and standards facilitating the retention and development of an aesthetically pleasing tideland environment free of noxious odors, excessive noise, and hazards to the health and welfare of the people of California.

X. THE QUALITY OF WATER IN SAN DIEGO BAY WILL BE MAINTAINED AT SUCH A LEVEL AS WILL PERMIT HUMAN WATER CONTACT ACTIVITIES.

- Insure through lease agreements 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.
- Adopt ordinances, and take other legal and remedial action to eliminate sources of pollution.

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.

The Lane Field project, as proposed, includes a comprehensive runoff control system to minimize storm water runoff, eliminate dry weather runoff from landscape irrigation, treat and reuse up to 100% of stormwater and non-storm runoff and minimize runoff pollutants generated on site using source control best management practices. The initial stages of the project will clean up contaminated soil and groundwater left by past uses of the site for parking, dry cleaning, and transportation. The project includes detailed construction Best Management Practices (BMPs), site design BMPs, source control BMPs, and treatment control BMPs designed to address the potential runoff from the site.

In recognition of the fact that this project is conducting cleanup operations within a few hundred feet of San Diego Bay, those cleanup activities will be closely regulated by both state and local agencies. In particular, the staff of the San Diego Regional Water Quality Control Board (RWQCB) have communicated to the Port that the RWQCB will be providing regulatory oversight of the environmental investigations and cleanup activities required at the Lane Field site due to the proximity of the site to the Bay. This means that the regulatory staff of the RWQCB will be funded to closely monitor the cleanup project and have authority to require additional soil removal and groundwater treatment, if needed to protect waters of the state.

For this project, the Coastal Commission's water quality staff reviewed the Lane Field draft Water Quality Technical Report (March and October 2008), the draft Storm Water Pollution Prevention Plan (March 7, 2008), a Preliminary Drainage Report (March 2008), a letter report on Additional Phase II Environmental Site Assessment Services (February 15, 2007), the Supplemental Phase II Environmental Site Assessment – Groundwater Assessment Addendum (November 2, 2007), letters from Adams Broadwell Joseph & Cardozo (January 7, January 23, and October 22, 2008), a letter from SWAPE consultants (December 28, 2007), a letter from Lane Field Developers to the Port of San Diego dated October 17, 2008 (see Exhibit #19), the draft Coastal Development Permit dated October 24, 2008, Sediment Quality Assessment Study at the B Street/Broadway Piers, Downtown Anchorage and Switzer Creek, San Diego Bay – Phase I Final Report (March 2004) and TMDL Sediment Quality Assessment Study at the B Street/Broadway Piers, Downtown Anchorage and Switzer Creek, San Diego Bay – Phase II Final Report (June 2005).

The Lane Field site exhibits soil contaminants related to the former commercial uses of the property. There are residual contaminants in the soil from past uses of the site including parking, dry cleaning, and transportation. The project description includes actions to remove and properly dispose of the known contaminated soils. It also specifies additional sampling and analysis if more contamination is found during the excavation process. The Commission's water quality staff reviewed the environmental site assessment reports and concluded that appropriate sampling techniques, sample densities and follow up sampling have been conducted to allow site cleanup to go forward. Additional soil and groundwater information will be analyzed as the cleanup progresses, allowing regulators from the RWQCB to require additional soil removal and groundwater treatment, if needed, to protect waters of the state. The project will be subject to the requirements of both the statewide Construction Storm water Permit (Construction General Permit 99-08-DWQ) and the San Diego Municipal Storm Water Permit (R9-2007-0001).

The applicant has submitted a Water Quality Technical Report (WQTR) describing how the project will eliminate dry weather runoff from landscape irrigation and treat and reuse up to 100% of storm water runoff from the project site using site design, source control and treatment control BMPs. In recognition of the proximity of San Diego Bay, this project goes well beyond the more typical requirements of minimizing dry weather flow and treating the 85th percentile storm events with subsequent discharge of the treated water to the bay. By reusing up to 100% of the stormwater onsite and eliminating dry weather flow from landscape irrigation, the potential adverse impacts of this project are negligible.

There has been some concern expressed about runoff from a small portion of the site that would have drained directly to the streets without passing through treatment control BMPs and that this discharge may adversely impact the bay. This concern has been addressed; based on information provided by Project Design Consultants on December 17, 2008, the project design now provides for capture and treatment of 100% of site runoff from storms up to the 85th percentile storm event and for all non-storm runoff.

Concern has also been expressed about the affect of discharge from this project on the contaminated sediments that exist between the Broadway and B Street Piers. The sediments in this area were identified by the statewide Bay Protection and Toxic Cleanup program in the 1990's as having elevated concentrations of polycyclic aromatic hydrocarbons (PAHs), copper, chlordane, and mercury. In the Phase I Sediment Quality Assessment report completed for the RWQCB in 2004, the authors concluded that the sources of these contaminants were stormwater and commercial shipping. While stormwater may have been a significant contributing factor to the contaminated sediments in the past, the primary sources of contamination: automobile byproducts, railroad right of way wastes (e.g., insecticides, oils and creosote) and spills from dry cleaning operations, the Lane Field development will not be a source of these chemicals and as stated above the project will capture, treat and reuse up to 100% of dry weather and stormwater runoff.

Site Cleanup

The Lane Field project includes the cleanup of soil and groundwater on the property to reduce the threat to San Diego Bay and to make way for construction of the underground portions of the project.

This project will remove most of the shallow soil contamination at the site through excavation of 198,000 cubic yards of soil for building foundations and subterranean parking. Although some residual soil contamination may be left in place (as with most soil and groundwater cleanup projects), this will be done under the oversight of state and local regulators and only if the risk to human health and the environment has been reduced to legally acceptable levels. Special Provisions 6 through 17 of the Port's Coastal Development Permit (Exhibit #5) commits the Port to complete soil cleanup at the site and Special Provision 6 specifically commits the Port to complete a risk assessment of any hazardous materials remaining at the site. (Special Condition #1 of this permit requires implementation of all of the conditions in the Port's original permit). In any case, the levels and potential exposure of contaminants at the site will be reduced by the development project to levels that are not adversely impacting human health or the environment.

The RWQCB staff sent a letter to the Port of San Diego on September 16, 2008 indicating that “the site may pose a threat to water quality due to 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). This type of letter is used by the RWQCB staff to notify project developers that their project may cause adverse water quality impacts unless the project implements appropriate controls on soils, groundwater and runoff. The letter gives notice to the property owner that the RWQCB staff expects to provide close “regulatory oversight of the environmental investigations and any cleanup activities required” and will be followed up with an agreement that describes the RWQCB oversight and the responsibilities of the developer. Condition #7 requires that the project developer provide evidence of an agreement with the RWQCB for regulatory oversight during the site cleanup and construction.

Proposed Best Management Practices

The draft Water Quality Technical Report (WQTR) dated March 2008 specifies that the project will include the following Site Design BMPs: increased building density (multi-story building), minimized width of streets and sidewalks (while still addressing public safety and maintaining a “walkable environment”), minimized directly connected impermeable surfaces and use of native and drought-tolerant species in landscaping.

Source Control BMPs specified include an efficient irrigation system, use of pest-resistant native plants, use of only professional pest controllers, provision of Integrated Pest Management (IPM) educational materials to maintenance personnel and employees, storm drain stenciling, and covered parking that will be cleaned using dry methods (i.e.,

no runoff generated). In addition, all kitchen discharge pipes will be equipped with grease interceptors and pool maintenance will be conducted by certified pool maintenance crews.

Priority Development Project (PMP) Individual BMPs listed in the WQTR include: cleaning the drive way with dry methods (sweeping and vacuuming), loading docks designed to preclude run-on and runoff, any vehicle or equipment cleaning to be completed on-site will be done within the building or in a area that discharges to a biofiltration treatment control BMP and all mop water will be discharged to the sanitary sewer.

The WQTR also makes recommendations for Treatment Control (TC) BMPs that are appropriate and feasible for this project, only recommending BMPs that have medium to high efficiency for removing the expected target pollutants to be generated by the completed project. The WQTR indicates the expected pollutants that may be generated by this project as follows: bacteria and viruses, heavy metals, sediment, organic compounds, pesticides and trash and debris. The WQTR indicates that since pesticides and bacteria are not effectively removed by most TC BMPs that the project will depend on extensive source control BMPs as the primary method to address those pollutants. The project description states that, at a minimum, the post-construction TC BMPs will be designed to treat storm water runoff up to, and including, the 85th percentile storm event.

The WQTR indicates that the following TC BMPs are feasible for this project: bioretention, flow-through planter boxes (e.g., in a roof garden), modular wetlands, a proprietary filtration system, downspout filters, catch basin inserts and trench drain inserts. For the buildings, the WQTR recommends that pollutants from roofing materials and air deposition be addressed by flow-through planter boxes as part of a Garden Roof. Rain barrels are also recommended as a method to mitigate increases in peak flow due to the development. Pollutants from the courtyard will include air deposition and litter and the WQTR recommends regular sweeping and vacuuming to address those pollutants. Runoff from the courtyard will be directed to inlet catch basins or a constructed wetland. The WQTR specifies that all spills and leaks will be addressed in a timely manner and any non-storm water that collects in the parking garage will be sent to the sanitary sewer.

The WQTR describes the site design, source control, and priority development project BMPs that will be included in the project, but it does not specify the treatment control BMPs to be used. The analysis does provide a selection of treatment control BMPs that are appropriate to address the water quality issues of site runoff, but the applicant plans to identify the selected TC BMPs when the final development plans are completed. Therefore Condition #5 requires a Water Quality Management Plan describing the complete post-construction stormwater and non-stormwater runoff pollution control system and the selected mechanisms to capture, treat and reuse runoff from the site. Condition #6 requires an Operation and Maintenance plan that includes description of the long-term operation and maintenance requirements of complete post-construction stormwater and non-stormwater runoff pollution control system described in the Water

Quality Management Plan described in Condition #5 and a description of the mechanisms that will ensure ongoing long-term maintenance.

Summary

As described above, the Coastal Commission's water quality staff has reviewed the site investigation reports and water quality plans for the Lane Field site. The project plans include a system of construction BMPs, site design BMPs, source control BMPs, and treatment control BMPs that will adequately protect the aquatic organisms and bay resources from site cleanup activities, construction activities, as well as post-construction storm water and dry weather runoff. The site cleanup and construction activities will be closely regulated by both state (RWQCB) and local agencies.

Therefore, the Commission finds that the project as conditioned by the Port, will be consistent with the water quality provisions of the certified Port Master Plan cited above.

5. Visual Quality. Relevant PMP policies include the following:

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

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. The concept includes possible multiple utilization of activities that could provide for commercial recreation; international trade, travel and cultural complexes; commercial and office space for maritime business; support facilities related to the Port; and subject to negotiation with the U.S. Navy, the provision of equal or better building space for the relocation of the Naval Facilities Engineering Command. The FAR for Lane Field parcel is 7.0 and 6.5, while building height limits range from 400 feet to 200 feet sloping toward the Bay. Special setback requirements along the Broadway side of this parcel range from 55 feet to 65 feet, widening toward the Bay (See Figure 4.7 of the Visionary Plan, which also illustrates the special radius setback on North Harbor Drive/ Broadway SW corner). 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. (See Visionary Plan Figures 4.5, 4.6, 4.7 and 4.8.)

The proposed project does include two deviations to the required stepbacks in the PMP. Specifically, the Initial Study for the project states:

There are two minor intrusions into the setback area. 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. This is proposed to be a glass, partially transparent feature. Both 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 100 square foot approximately 20 foot tall structure. This structure would be mostly transparent and located within the 25-foot setback on the 50-foot podium level. The elevators would be visible features located on the outside of each building to insure that the public is aware that the elevators are available for public uses. It is necessary to locate the penthouse in the setback to accommodate this location.

As cited above, the Port Master Plan requires ground level setbacks along the Broadway side of Lane Field, and on North Harbor Drive. The proposed project is consistent with all required setbacks.

The PMP also requires setbacks, which are building setbacks for the upper floors intended to reduce bulk and scale, and preserve view corridors. The PMP requirements for setbacks for upper stories are 25-feet minimum at 50-foot building height except for east-west streets, where they are 15 feet. There are no setback requirements along Pacific Highway. Thus, the PMP requires a 15 foot setback on C Street at a height of 50 feet. As approved by the Port, a portion of the proposed project consisting of a single story spa at the fifth floor of the Lane Field South hotel and an emergency stairwell adjacent to the restaurant/bar would provide only a 10-foot setback on the C Street frontage.

The above-quoted description from the Initial Study of a 15-foot intrusion in the 25-foot setback on the 50-foot podium level is a reference to the North Embarcadero Visionary Plan (NEVP) requirements. The NEVP has additional setback and setback requirements for the area, some of which are stricter than the PMP requirements, but the NEVP also allows various minor exceptions to the standards. In any case, the NEVP is used by the Port for guidance, and is not part of the certified Port Master Plan, and is not the standard of review.

Thus, as proposed, a very small portion of the project would provide only a 10-foot setback (5 stories up), where the PMP specifies a 15-foot setback is required. However, the proposed intrusion is fairly minor. The single-story spa located on the southeast corner of C Street and Pacific Highway steps back 10 feet from the C street building face at the 50 foot level and extends 85 feet to the west. The emergency stairwell, also just a single story, is located west of the spa, and is 60 feet across. At a height of 50 feet, in a structure 275 feet high, the proposed structure will not represent a significant increase in bulk and scale beyond that envisioned in the PMP (see Exhibit #11). The exhibit demonstrates that the project overall will be far smaller than would have been allowed under the PMP standards.

Nor will the project adversely impact views along the C Street corridor, or any other public view corridors. The project proposes construction of a publicly accessible plaza and accessway along the extension of C Street, which will separate the two hotel towers and retail development and will create a significant new physical and visual linkage to the bay. However, the extension of C Street is not identified as a view or access corridor in the PMP. The two towers will be set 250 feet apart, and the 5-foot intrusion into the stepback at 50 feet in height will not adversely impact public views, and is consistent with the stated intent of the PMP to retain flexibility for considering a wide array of development options on the site.

The proposed project also includes two glass elevators on North Harbor Drive that will be open to the public to access the podium building public terraces. These elevators are within the required ground-level setbacks, but would encroach 9 feet into the required 25 foot stepback at 50 feet in height. However, elevators are narrow columns not typically considered "upper stories" subject to stepback requirements. The elevators could be removed from the project, which would preserve the full 25 foot stepback. However, the proposed elevators will substantially improve public access to the proposed viewing terraces. Part of the purpose of stepbacks is to ensure development has a pedestrian orientation, and the elevators will draw pedestrians to and into the structure by being visible and on the street level, accessible to the public without having to go into the hotel building itself. The minor intrusion in the stepback at 50 feet in height for glass elevators for public use is not expected to have any significant adverse visual impact, and is consistent with the intent of the PMP to provide and expand public access to the structure.

The PMP allows development at Lane Field at height limits ranging from 400 feet to 200 feet sloping towards the bay. The proposed towers will be 275 feet high (South Tower) and 200 feet high (North Tower), down to 50 feet along Harbor Drive. The development overall will be significantly smaller in bulk and scale than the maximum permitted in the PMP, with public plazas through the center of the site, and along the southern edge of the site adjacent to Broadway Street. No adverse impacts to visual quality are anticipated.

The project includes extensive landscaping, which is expected to visually enhance the area. Special Condition #8 requires the applicants to use drought-tolerant native or non-invasive plant material.

Therefore, the Commission finds that the project as conditioned by the Port, will be consistent with the visual quality provisions of the certified Port Master Plan cited above.

6. Climate Change. Relevant Port Master Plan policies include XI and VIII, cited above.

While any new development is likely to result in some increased energy demand and fuel usage, the proposed development includes a plan to incorporate environmentally sustainable initiatives into the project. The initiatives include meeting the requirements of LEED (Leadership in Energy and Environmental Design) Silver Certification,

construction waste management, the use of renewable energy generation, high efficiency heating design, water use reduction, and so forth. Thus, the project is consistent with the certified Port Master Plan provisions requiring protection of coastal resources from adverse impacts associated with climate change.

7. Local Coastal Planning. As described above, the proposed project has been designed and conditioned to avoid impacts on visitor-serving accommodations, public access, water quality, and climate change and will be consistent with the certified PMP. Therefore, the Commission finds that approval of the project, as conditioned, will not prejudice the ability of the San Diego Unified Port District to continue to implement its certified Port Master Plan.

8. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit or amendment to be supported by a finding showing the permit or permit amendment, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As described above, the proposed project has been conditioned to avoid adverse environmental impacts. Mitigation measures include implementation of a transit opportunity plan that includes a public shuttle, and a public access plan that includes construction of a hostel, and these conditions will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

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