

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

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**STAFF REPORT: REGULAR CALENDAR**

<b>Application No.:</b>	<b>6-16-0258</b>
<b>Applicant:</b>	<b>San Diego Unified Port District</b>
<b>Agent:</b>	Wileen Manaois
<b>Location:</b>	960 North Harbor Drive, San Diego, San Diego County
<b>Project Description:</b>	Maintain parking facilities on Navy Pier for a four-year period, increase parking rates, demolish the Head House building, reconfigure parking to add an additional 150 parking spaces for a total of 660 parking spaces, reconfigure circulation, and install public access amenities including a 7,840 sq. ft. public viewing deck.
<b>Staff Recommendation:</b>	Approval with Conditions

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**SUMMARY OF STAFF RECOMMENDATION**

Navy Pier is located on northeastern San Diego Bay directly north of the U.S.S. Midway Museum (“Midway”). The pier was originally owned and utilized by the United States Navy (“Navy”), but the title was approved to be transferred to

the Midway which had the option to accept ownership of the pier or transfer it to another agency. Midway chose to transfer ownership to the San Diego Unified Port District (“Port”), and the transfer occurred in 2003. Since then, Midway has leased 31,436 square feet of the southern portion of Navy Pier from the Port, which is used for ticket sales, an ADA-compliant elevator, stairs, emergency backup generator, vending machines, ATMs, and parking for employees and volunteers. The remainder of the pier has been used as a parking lot, primarily by visitors and employees of the Midway, since 2004 when the museum first opened. The proposed project would allow parking on Navy Pier to continue for an interim period of four years, while the Port develops a long term plan for conversion of the pier into a public park. The applicant also proposes to raise parking rates, demolish a two-story building on the eastern portion of the pier, called the Head House, that is currently used as a parking garage; restripe the demolished area and reconfigure existing parking to add 150 new parking spaces for a total of 660 parking spaces; and install interim public amenities, including new pedestrian walkway connections, benches, lighting, landscaping, planter boxes, bicycle racks, coastal access signage, new and reconfigured curbs, and a 7,840 square foot public viewing deck at the west end of the pier.

On March 14, 2001, the Commission approved Port Master Plan Amendment (PMPA) No. 27 that included, among other development, docking of the U.S.S. Midway Aircraft Carrier for use as a museum on the south side of Navy Pier. The primary issue related to the project-driven PMPA was the visual impacts that would occur as a result of the Midway berthing. As discussed in the PMPA staff report, docking of the 1,000 foot long and 50-190 foot tall Midway would “block existing public views, contribute to the walling off of San Diego Bay, block a potential view corridor down F Street, and create a ‘tunnel’ effect on Harbor Drive at the subject site.” The landowner of Navy Pier at that time, the Navy, agreed to lease the pier to Midway for use as a parking lot; however, there were indications that the Navy would transfer ownership of the pier to the Port in the future. Not only were visual impacts of the Midway a concern, but also the visual and public access impacts that would occur if the Navy’s structure and parking were to remain on Navy Pier long-term. As discussed in the PMPA staff report, Navy Pier was “not an appropriate place for a permanent parking lot, due to adverse visual impacts a parking lot will have on the surrounding waterfront and the loss of the prime waterfront location for public access and recreational purposes.”

To mitigate for the visual impacts of the Midway, the proponents of the museum proposed to create a 5.7-acre memorial park on Navy Pier once it was relinquished to the Port by the Navy. The proposal included a conceptual plan to demolish the existing Head House, and redevelop the pier as a pedestrian-oriented memorial park with plazas, grassy lawns, benches, promenades, design features, and a Navy spouses club and chapel for small social functions. Further, the proponents of the Midway museum committed to establishing a reserve account into which they would deposit \$100,000 per year for the first

five years, and \$150,000 per year for the next five years to be used to relocate the parking from Navy Pier. However, because the Port was unwilling to include any language in the Port Master Plan to assure that the proposed parking lot would be converted to a public park in the future, Commission staff recommended denial of the portion of the PMPA related to the Midway. However, during the Commission hearing, the Port changed its position and agreed to include the language and the Commission approved the PMPA. Thus, parking on Navy Pier was approved on an interim basis only. The certified Port Master Plan contains the following description of the plan to convert Navy Pier to a park once ownership was transferred from the Navy to the Port:

*When and if the Navy determines that its use of the Navy Pier is no longer necessary, the Port will accept the proposal by the San Diego Aircraft Carrier Museum to convert the Navy Pier into a ‘public park’ use, thereby allowing the pier to be converted into a memorial park complementing the Midway and its museum, while affording additional public open space and bay vistas. Vehicle parking for museum visitors will then be shifted to nearby offsite locations. However, since the Navy Pier’s future is uncertain and will be determined by decisions of the federal government, the conversion of the pier to a 5.7-acre memorial park is a specific planning goal of the Port, and environmental analysis for the park conversion will be conducted prior to the Navy relinquishing ownership and/or control of the Navy Pier such that construction of the park can occur as soon as feasible thereafter. The park conversion will be subject to all appropriate laws at the time the Navy Pier Park is proposed. (Emphasis added)*

Despite these commitments from the Port and Midway, the pier has yet to be converted into a public park even though the transfer of ownership from the Navy to the Port occurred fourteen years ago in 2003. The applicant maintains that the proposed project is an interim solution that is necessary in order to provide the Port and Midway additional time to develop a long term plan for the pier. Because the Port has not incorporated the pier into the Port Master Plan, the pier is within the Commission’s permitting jurisdiction.

The primary issues raised by this project are visual impacts from the continuation of parking on Navy Pier and docking of the Midway that has yet to be mitigated; and impacts to public access and recreation from (1) the delay of the conversion of the pier to a park by an additional four years and (2) the increase of public parking rates on the pier. However, the demolition of the dilapidated Head House building and installation of public amenities for the interim period would improve the public’s experience from the public promenade and Harbor Drive and facilitate future development of the pier to a park. To ensure that continued parking on the pier is temporary, **Special Condition No. 1** sets a four year permit term. **Special Condition No. 2** requires that the applicant submit a Port Master Plan Amendment application no later than three years into the permit term to incorporate Navy Pier into the Port

Master Plan, including a land use designation identifying at minimum 75% of the pier as a public park. Special Condition No. 2 further requires that the applicant provide annual reports detailing the progress made towards the conversion of the pier into a park to be reviewed by the Commission in any future decisions regarding the pier. Any increase in parking rates may impact the public's ability to visit the coast if they cannot afford it. While it is reasonable to raise parking rates to that of the market, additional increases at this time are not warranted. **Special Condition No. 3** limits parking rates on the pier to rates that were proposed by the applicant in the original application and that are consistent with existing market rates so that the public has equal access to the waterfront. To ensure that the public is aware of the free public access available at Navy Pier, **Special Condition No. 6** requires the applicant to submit a signage plan that clearly identifies the existing public viewing deck on the Midway and the proposed public viewing deck at the west end of the pier. To address potential impacts to water quality that could occur during and following demolition and restriping of the pier, **Special Condition Nos. 8 and 9** require the applicant to submit a Construction and Pollution Prevention Plan and a Post-Development Runoff Plan. Additional special conditions require final plans to be submitted for the demolition of the Head House, restriping and installation of public amenities, and landscaping.

Commission staff recommends **approval** of Coastal Development Permit 6-16-0258 as conditioned.

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## APPENDICES

### [Appendix A – Substantive File Documents](#)

### **EXHIBITS**

[Exhibit 1 – Vicinity and Site Map](#)

[Exhibit 2 – Proposed Site Plan](#)

[Exhibit 3 – Existing Site Plan](#)

[Exhibit 4 – Port and U.S.S. Midway Correspondence](#)

[Exhibit 5 – Pre-Midway Views](#)

[Exhibit 6 – Recommended Maximum Future Parking Area](#)

[Exhibit 7 – Midway lease](#)

[Exhibit 8 – Midway CDP](#)

[Exhibit 9 – Revised Findings on San Diego Unified Port District Port Master  
Plan Amendment No. 27 \(North Embarcadero\)](#)

## I. MOTION AND RESOLUTION

### **Motion:**

*I move that the Commission approve Coastal Development Permit Application No. 6-16-0258 subject to the conditions set forth in the staff recommendation.*

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

### **Resolution:**

*The Commission hereby approves coastal development permit 6-16-0258 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Port Master Plan conforming to the provisions of Chapter 3. 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

This permit is granted subject to the following 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 of 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.

### **III. SPECIAL CONDITIONS**

This permit is granted subject to the following special conditions:

1. **Permit Term.**
  - (a) This coastal development permit authorizes development on a temporary basis only. The development is authorized for a period of four (4) years, commencing upon the date of Commission approval of Coastal Development Permit No. 6-16-0258, after which time the authorization for continuation or retention of any development approved as part of this permit shall cease. After the permit expires, the retention of parking on Navy Pier will require the issuance of a new or amended coastal development permit.
  - (b) If the applicant does not obtain a coastal development permit or amendment from the California Coastal Commission to continue parking on Navy Pier prior to expiration of the permit, the applicant shall cease parking on the pier upon expiration of the permit.
  - (c) All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to all special conditions. Any deviation from the approved project plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is legally required.
2. **Port Master Plan Amendment and Progress Reports.**
  - (a) Port Master Plan Amendment. By acceptance of this permit, the applicant agrees that no later than three (3) years following Commission approval of Coastal Development Permit No. 6-16-0258, the applicant shall submit an application to the Commission for a Port Master Plan Amendment (PMPA) to incorporate Navy Pier into the Port Master Plan with at least 75% of the pier designated as a public park and up to 25% of the pier designated as public parking. In order to open up views to

the San Diego Bay, future parking shall be located directly adjacent to the Midway along the southern perimeter of the pier, as generally depicted in [Exhibit 6](#). The PMPA may be part of a larger Port Master Plan update. The PMPA application shall include changes to the text of the Port Master Plan that describe the park and associated public amenities, and a land use designation identifying at least 75% of Navy Pier as a public park.

- (b) Progress Reports. One year following Commission approval of Coastal Development Permit No. 6-16-0258, the applicant shall submit to the Executive Director a report on the progress made towards converting Navy Pier from a parking lot into a public park. Each calendar year thereafter, the applicant shall submit to the Executive Director an annual progress report documenting the progress that has occurred throughout the previous year. Each report shall include, but not be limited to, discussion and documentation of the following:
- i. Park planning studies;
  - ii. Park environmental review pursuant to the California Environmental Quality Act and the Coastal Act;
  - iii. Park design plans;
  - iv. Planning meetings;
  - v. Permit approvals; and
  - vi. Relocation of all or at a minimum 75% of public parking off Navy Pier, including the identification of existing and planned parking reservoirs and appropriate transportation links from the parking reservoirs to the U.S.S. Midway.

The information contained in the annual progress reports will be used by the Commission in review of the Port Master Plan Amendment application required in subsection (a) of this special condition and any future development on Navy Pier requiring a coastal development permit.

**3. Parking Management.** By acceptance of this permit, the applicant agrees that the paid parking program shall operate under the following parameters:

- (a) Parking rates on Navy Pier shall be clearly posted and shall be no higher than the following:
- i. Transient rate:
    - a. \$8 for up to one hour;
    - b. \$20 for up to 6 hours;
    - c. \$25 for up to 24 hours;

- ii. Special event rate: \$30;
  - iii. U.S.S. Midway educational overnight rate: \$10;
- (b) The maximum rates shall be in effect regardless of holidays or weekends; and
- (c) The applicant shall reduce transient and special event rates by at least 25% below the maximum parking rates identified in Special Condition 3(a)i. during the off-season, specifically October 1 – March 31 annually, and during other low demand periods as determined by the Port.

The applicant shall undertake the parking program in accordance with the approved parking provisions. Any proposed changes to the approved paid parking program shall be reported to the Executive Director. No changes to the approved parking program, including an increase in parking rates beyond the maximum rates identified in subsection (a) of this special condition, shall occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**4. Head House Demolition Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and written approval of the Executive Director, a full-size demolition plan for the Head House.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

**5. Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and written approval of the Executive Director, a full-size set of final plans for the interim parking and public amenities on Navy Pier that substantially conform with the plans submitted to the Commission, titled Navy Pier Interim Parking Striping, dated October 14, 2016.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

**6. Public Access Signage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and written approval of the Executive Director, a comprehensive Public Access Signage Plan. The plan shall include, but not be limited to, the following:

- (a) Plans, dimensions, and locations of signage to notify the public of the public access available on the U.S.S. Midway deck when the U.S.S. Midway is open to the general public. Signage shall be large enough to be seen by the public and clearly identify that public access on the U.S.S. Midway deck is available free of charge. Signage shall be located, at minimum, on the public promenade at the pedestrian entrances to Navy Pier and at the entrance to the ticket booth.
- (b) Plans, dimensions, and locations of signage to notify the public of the public access available on the viewing deck at the end of Navy Pier. Signage shall be large enough to be seen by the public and be located, at minimum, on the public promenade at the pedestrian entrances to Navy Pier and along the pedestrian walkways prior to reaching the viewing deck.

**7. Final Landscape Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, in a form and content acceptable to the Executive Director, a full-size set of final landscaping plans, which shall include and be consistent with the following:

- (a) Vegetated landscaped areas shall consist of native plants or non-native drought tolerant plants that are non-invasive. No plant species listed as problematic or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), 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 a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).
- (b) Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.

The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**8. Construction and Pollution Prevention Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a Construction and Pollution Prevention Plan. The Plan shall demonstrate that all construction, including, but not limited to, clearing, grading, staging, storage of equipment

and materials, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:

(a) **Protect Public Access.** Construction shall protect and maximize public access, including by:

- i. Demolition may not occur from Memorial Day weekend to Labor Day unless, due to extenuating circumstances (such as tidal issues, extensive delays due to severe weather, or other environmental concerns) the Executive Director authorizes such work.
- ii. Public access shall be maintained around the project site to provide a continuous connection to the public promenade north and south of Navy Pier, throughout project demolition and construction.
- iii. Staging and storage of construction equipment and materials (including debris) may not take place on the public promenade outside the project area. Staging and storage of construction equipment and materials shall occur at least 25 feet from coastal waters, drainage courses, and storm drain inlets, if feasible. Construction is prohibited outside of the defined construction, staging, and storage areas.
- iv. All construction methods to be used, including all methods to keep the construction areas separated from public recreational use areas (e.g., using unobtrusive fencing or equivalent measures to delineate construction areas), shall be clearly identified on the construction site map and described in the narrative description.
- v. All bay access points and other recreational use areas impacted by construction activities, other than those approved as part of this project, shall be restored to their pre-construction condition or better within three days of completion of construction.

(b) **Minimize Erosion and Sediment Discharge.** During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:

- i. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.
- ii. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction,

- where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
- iii. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sand bag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.
  - iv. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.
  - v. Runoff control BMPs (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area) that will be implemented during construction to retain, infiltrate, or treat stormwater and non-stormwater runoff.
- (c) **Minimize Discharge of Construction Pollutants.** The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:
- i. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:
    - A. Covering stockpiled construction materials, soil, and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers.
    - B. Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on site.
    - C. Proper disposal of all wastes; providing trash receptacles on site; and covering open trash receptacles during wet weather.
    - D. Prompt removal of all construction debris.
    - E. Detaining, infiltrating, or treating runoff, if needed, prior to conveyance off-site during construction.
  - ii. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall take place at a

designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.

(d) **Minimize Other Impacts of Construction Activities.** Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:

- i. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.
- ii. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.
- iii. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.

(e) **Construction In, Over, or Adjacent to Coastal Waters and Habitat.** Construction taking place in, over, or adjacent to coastal waters and habitat shall protect the coastal waters and habitat by implementing additional BMPs, including:

- i. No construction equipment or materials (including debris) shall be allowed at any time in the intertidal zone or in coastal waters.
- ii. Construction activity shall not be conducted in the intertidal zone or in coastal waters.
- iii. To the extent feasible, work shall take place during daylight hours. Lighting of the bay area, beyond project area lighting needed for any nighttime work, is prohibited. Any lighting needed for nighttime work shall be shielded and directed away from the bay. Lighting directed at the bay is prohibited.
- iv. All construction equipment and materials shall be stored beyond the reach of tidal waters.

- v. Tarps or other devices shall be used to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills to protect the quality of coastal waters.
  - vi. All erosion and sediment controls shall be in place prior to the commencement of construction, as well as at the end of each workday. At a minimum, if grading is taking place, sediment control BMPs shall be installed at the perimeter of the construction site to prevent construction-related sediment and debris from entering the bay, ocean, waterways, natural drainage swales, and the storm drain system.
  - vii. All debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project.
  - viii. If preservative-treated wood is used, appropriate BMPs shall be implemented that meet industry standards for the selection, storage, and construction practices for use of preservative-treated wood in aquatic environments; at a minimum, those standards identified by the Western Wood Preservers Institute, et al. in *Treated Wood in Aquatic Environments: A Specification and Environmental Guide to Selecting, Installing and Managing Wood Preservation Systems in Aquatic and Wetland Environments* (2012) or the latest revision. The preservative-treated wood shall be certified by a third party inspection program, as indicated by the presence of a BMP Quality Mark or Certificate of Compliance, to have been produced in accordance with industry BMP standards designed to minimize adverse impacts in aquatic environments.
- (f) **Manage Construction-Phase BMPs.** Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.
- (g) **Construction Site Map and Narrative Description.** The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
- i. A map delineating the construction site, construction phasing boundaries, staging site, temporary public access route, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
  - ii. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing

- schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
- iii. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
  - iv. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.
- (h) **Construction Site Documents.** The Construction and Pollution Prevention Plan shall specify that copies of the signed CDP and the approved Construction and Pollution Prevention Plan be maintained in a conspicuous location at the construction job site at all times, and be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction and Pollution Prevention Plan, and the public review requirements applicable to them, prior to commencement of construction.
- (i) **Construction Coordinator.** The Construction and Pollution Prevention Plan shall specify that a construction coordinator be designated who may be contacted during construction should questions or emergencies arise regarding the construction. The coordinator's contact information (including, at a minimum, a telephone number available 24 hours a day for the duration of construction) shall be conspicuously posted at the job site and readily visible from public viewing areas, indicating that the coordinator should be contacted in the case of questions or emergencies. The coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
- (j) **Notification.** The permittee shall notify planning staff of the Coastal Commission's San Diego Coast District Office at least three working days in advance of commencement of construction or maintenance activities, and immediately upon completion of construction or maintenance activities.

The permittee shall undertake development in accordance with the approved Construction-Phase Pollution Prevention Plan, unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

9. **Post-Development Runoff Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a Post-Development Runoff Plan. The final Post-Development Runoff Plan shall demonstrate that the project complies with the following requirements:

(a) **Low Impact Development Strategies.** The project shall comply with the following Low Impact Development standards:

- i. Minimize disturbance of coastal waters and natural drainage features such as stream corridors, rivers, wetlands, natural drainage patterns, drainage swales, groundwater recharge areas, floodplains, and topographical depressions.
- ii. Minimize removal of native vegetation, and plant additional non-invasive vegetation, particularly native plants that provide water quality benefits such as transpiration, interception of rainfall, pollutant uptake, shading of waterways to maintain water temperature, and erosion control.
- iii. Maintain or enhance appropriate on-site infiltration of runoff to the greatest extent feasible. Use strategies such as avoiding building impervious surfaces on highly permeable soils; amending soil if needed to enhance infiltration; and installing an infiltration Best Management Practice (BMP) (e.g., a vegetated swale, rain garden, or bio retention system).
- iv. Minimize the addition of impervious surfaces, and where feasible increase the area of pervious surfaces in re-development. Use strategies such as minimizing the footprint of impervious pavement; and installing a permeable pavement system where pavement is required.
- v. Disconnect impervious surface areas from the storm drain system, by interposing permeable areas between impervious surfaces and the storm drain system. Design curbs, berms, and similar structures to avoid isolation of vegetative landscaping and other permeable areas, and allow runoff to flow from impervious pavement to permeable areas for infiltration. Use strategies such as directing runoff from impervious pavement into distributed permeable areas (e.g., turf, medians, or parking islands); installing a vegetated swale or filter strip to intercept runoff sheet flow from impervious surfaces; and installing a rain barrel or cistern to capture and store roof-top runoff for later use in on-site irrigation.
- vi. Where on-site infiltration is not appropriate or feasible, use alternative BMPs to minimize post-development changes in runoff flows, such as installing an evapotranspiration BMP that does not infiltrate into the ground but uses evapotranspiration to reduce runoff (e.g., a flow-through planter or retention pond);

directing runoff to an off-site infiltration facility; or implementing BMPs to reduce runoff volume, velocity, and flow rate before directing runoff to the storm drain system.

- (b) **Implement Source Control BMPs.** Appropriate and feasible long-term Source Control BMPs, which may be structural features or operational practices, shall be implemented to minimize the transport of pollutants in runoff from the development by controlling pollutant sources and keeping pollutants segregated from runoff. Use strategies such as covering outdoor storage areas; using efficient irrigation; proper application and clean-up of potentially harmful chemicals and fertilizers; and proper disposal of waste.
- (c) **Manage BMPs for the Life of the Development.** Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and training) to keep the water quality provisions effective for the life of the development.
- (d) **Site Plan and Narrative Description.** The Post-Development Runoff Plan shall include a site plan and a narrative description addressing, at a minimum, the following required components:
- i. A site plan, drawn to scale, showing the property boundaries, building footprint, runoff flow directions, relevant drainage features, structural BMPs, impervious surfaces, permeable pavements, and landscaped areas.
  - ii. Identification of pollutants potentially generated by the proposed development that could be transported off the site by runoff.
  - iii. An estimate of the proposed changes in (1) impervious surface areas on the site, including pre-project and post-project impervious coverage area and the percentage of the property covered by impervious surfaces; (2) the amount of impervious areas that drain directly into the storm drain system without first flowing across permeable areas; and (3) site coverage with permeable or semi-permeable pavements.
  - iv. A description of the BMPs that will be implemented, and the Low Impact Development approach to stormwater management that will be used. Include a schedule for installation or implementation of all post-development BMPs.
  - v. A description and schedule for the ongoing management of all post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development, if required for the BMPs to function properly.

The permittee shall undertake development in accordance with the Post-Development Runoff Plan, unless the Commission amends this permit or the

Executive Director determines that no amendment is legally required for any proposed minor deviations.

#### **10. Assumption of Risk, Waiver of Liability, and Indemnity.**

- (a) By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, and flooding, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- (b) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of subsection (a) of this condition.

### **IV. FINDINGS AND DECLARATIONS**

#### **A. PROJECT DESCRIPTION**

The proposed project is located on Navy Pier and consists of maintaining existing parking; increasing existing parking rates; demolishing the Head House building; restriping the demolished area and reconfiguring existing parking to add 150 new parking spaces for the interim period; enhancing the existing vehicular and pedestrian ingress and egress; and installing additional public access amenities, including benches, walkways, planters and a public viewing deck. Navy Pier is located on the San Diego Bay just north of the aircraft carrier U.S.S. Midway (“Midway”) ([Exhibit 1](#)) and is currently used for parking primarily by Midway employees, volunteers and visitors. The San Diego Unified Port District (“Port”) proposes the subject project as an interim solution which will allow them additional time to plan for the conversion of Navy Pier from a parking lot into a public park. The specific project components are described in greater detail below:

##### **(1) Maintain Parking**

The Port proposes to maintain existing parking on Navy Pier for a period of four years. In its initial coastal development permit application, the Port requested a

term of seven years or until completion of an unrelated adjacent development, Manchester Pacific Gateway; however, after discussions with Commission staff, the Port revised the project to reflect the shorter term.

## **(2) Modification of Parking Rates**

The applicant proposes to increase existing parking rates on Navy Pier and allow for a range of rates depending on the season, with a lower rate charged during the off-peak season of October through March, and a higher rate charged during peak spring and summer months (April through September).

In the original application, the Port proposed parking rates that were identified by the Port as consistent with existing market rates for parking lots within the adjacent area. However, the Port subsequently revised the project to increase parking rates to fund the demolition of the Head House building. The existing, originally proposed, and final proposed parking rates are as follows:

Rate Category	Existing Rates	Originally Proposed Rates	Final Proposed Rates
Transient: Up to 1 Hour	\$5	\$6 to \$8	\$6 to \$10
Transient	\$10 (1-12 hrs.)	\$15 to \$20 (up to 6 hrs.)	\$15 to \$25 (up to 6 hrs.)
Transient Daily Maximum *	None stated	\$18 to \$25 (up to 24 hrs.)	\$18 to \$30 (up to 24 hrs.)
Special Event	\$20	\$20 to \$30	\$20 to \$40
Educational Overnight**	\$10	\$10	\$10 to \$15
Monthly Parking	\$145 to \$180	\$150 to \$200	eliminated
Midway Only Monthly Parking (max 20 spaces/ month)	\$145	\$150	eliminated
Midway Employee & Volunteer Daily Overage Rate	None	\$10	\$15 to \$25

\* Parking for greater than 6 hours requires payment of the Daily Maximum Rate.

\*\*Overnight parking will be allowed for participants of the Midway Educational Overnight Program and short-term during times when demand is low and spaces are available.

Note: Motorcycles that park in a designated motorcycle parking space will pay fifty percent (50%) of the posted rate.

**Note:** The original application included only the continuation of parking on Navy Pier and the parking rate increase; however, the subsequent components were added by the Port following coordination with Commission staff:

**(3) Demolition of the Head House building**

The Head House is a two-story, 48,000 square foot building formerly used by the Navy and located on the easternmost portion of the pier adjacent to the public promenade. The building is vacant except for parking on the 1<sup>st</sup> floor for Midway staff and volunteers. The proposed demolition would include: abatement of hazardous materials; removal of the interior, roof, walls and foundation system, capping of existing utilities; and installation of structural infills in pier deck openings.

**(4) Installation of Interim Public Access Amenities**

Upon completion of the Head House demolition, the applicant proposes to install interim public access amenities until such time as the parking lot is converted into a public park. The proposed public access improvements incorporate several pedestrian walkways, including from the Embarcadero Promenade to the Midway entrance along the southern perimeter of the pier, from the Embarcadero Promenade to the public viewing area on the west end of the pier, and north/south pedestrian walkway connections on the pier; benches, lighting, landscaping, planter boxes, bicycle racks, and coastal access signage; new and reconfigured curbs and striping; and a new 7,840 square foot public viewing area at the east end of the pier ([Exhibit 2](#)).

**(5) Reconfigured Parking on Navy Pier and Ingress/Egress Enhancements**

Upon completion of the Head House demolition, the applicant proposes to install asphalt and concrete pavement to match the existing pier surface; conduct grading for drainage purposes; and stripe the area to create surface parking spaces within the footprint of the demolished building. These parking spaces would be integrated with the existing parking located west of the Head House footprint, which would be reconfigured to maximize parking efficiency, improve traffic flow, and enhance pedestrian and bicyclist access on the pier. Additionally, the pier entry and exit driveways would be realigned to improve traffic and pedestrian flow. The existing and proposed parking totals are shown in the table below.

Description	Existing	Proposed	Change
Public Regular	383*	499	116
Public Accessible	9	12	3
Public Motorcycle	5	37	32
<b>Subtotal – Public Parking</b>	<b>397</b>	<b>548</b>	<b>151</b>
Midway Employee	105	105	0
Midway Service Parking	8	7	-1
<b>Total Pier Parking</b>	<b>510</b>	<b>660</b>	<b>150</b>

- \* 20 of the existing 383 public spaces are currently rented out exclusively to the Midway. Port staff has indicated that they will no longer offer Midway monthly rentals following approval of the CDP and these 20 spaces will return to the public parking reservoir.

#### (6) Other Improvements

Other improvements would include a storm water drainage system with required retention and filtration installation, and reconfiguration of existing utilities.

### B. PROJECT HISTORY

On June 28, 2001, the Commission approved Port Master Plan Amendment (“PMPA”) No. 27 that included, among other development, docking of the U.S.S. Midway Aircraft Carrier for use as a museum on the south side of Navy Pier ([Exhibit 9](#)). The land owner of Navy Pier at that time, the United States Navy (“Navy”), agreed to lease the pier to Midway for use as a parking lot; however, there were indications that the Navy would transfer ownership of the pier to the Port in the future. Commission staff initially recommended denial of the portion of the PMPA related to the Midway due, in part, to the impacts that the Midway would have on public views and the lack of language in the PMPA regarding mitigation. As discussed in the PMPA staff report, docking of the 1,000 foot long and 50-190 foot tall Midway would “block existing public views, contribute to the walling off of San Diego Bay, block a potential view corridor down F Street, and create a ‘tunnel’ effect on Harbor Drive at the subject site.” Not only were visual impacts of the Midway a concern, but also the visual and public access impacts that would occur if parking were to remain on Navy Pier long-term. As discussed in the PMPA staff report, Navy Pier was “not an appropriate place for a permanent parking lot, due to adverse visual impacts a parking lot will have on the surrounding waterfront and the loss of the prime waterfront location for public access and recreational purposes.”

To mitigate for the visual impacts of the Midway, the proponents of the museum proposed to create a 5.7-acre memorial park on Navy Pier once it was relinquished to the Port by the Navy. The proposal included a conceptual plan to demolish the existing Head House, and redevelop the pier as a pedestrian-oriented memorial park with plazas, grassy lawns, benches, promenades, design features, and a Navy spouses club and chapel for small social functions. Further, the proponent of the Midway museum committed to establishing a

reserve account into which it would deposit \$100,000 per year for the first five years, and \$150,000 per year for the next five years to be used to relocate the parking from Navy Pier.

The Port, however, was unwilling to include language in the PMPA specifying the conversion of the Navy Pier into a public park until during the Commission hearing. These commitments by the Port and Midway were accepted by the Commission and later included by the Port as conditions of the Port-issued coastal development permit and lease agreement with the Midway. As a result of the proposal, the following language was incorporated into the PMP:

*Parking for visitors to the Midway and its museum will be provided, on an interim basis, at the Navy Pier, pursuant to the museum's lease with the United States Navy. When and if the Navy determines that its use of the Navy Pier is no longer necessary, the Port will accept the proposal by the San Diego Aircraft Carrier Museum to convert the Navy Pier into a "public park" use, thereby allowing the pier to be converted into a memorial park complementing the Midway and its museum, while affording additional public open space and bay vistas. Vehicle parking for museum visitors will then be shifted to nearby offsite locations. However, since the Navy Pier's future is uncertain and will be determined by decisions of the federal government, the conversion of the pier to a 5.7-acre memorial park is a specific planning goal of the Port, and environmental analysis for the park conversion will be conducted prior to the Navy relinquishing ownership and/or control of the Navy Pier such that construction of the park can occur as soon as feasible thereafter. The park conversion will be subject to all appropriate laws at the time the Navy Pier park is proposed.* (Emphasis added.)

In 2002, the Secretary of the Navy was given the authority to transfer title of Navy Pier to the Midway. Midway had the option to accept ownership of the pier or transfer title to another agency and chose to transfer ownership to the Port in 2003. Since the Port acquired ownership of Navy Pier from the Navy, however, progress towards converting the pier to a park has been delayed. Environmental review for the conversion was begun by the Port in 2009, but put on hold in 2013 prior to completion. In 2012, the Midway submitted conceptual park designs to the Port and the Port responded via letter in 2014 ([Exhibit 4](#)) that the conceptual designs were sufficient for the Port to conduct environmental review and process a PMPA; however, the Port has yet to do either and, as such, the Commission retains permitting jurisdiction over Navy Pier.

Thus far, the only requirement that has been satisfied has been the reserve account set up by the Midway to fund the relocation of parking off Navy Pier. Although the Midway has saved \$1.25 million in this account to fund relocation of parking to nearby offsite locations, the Midway has yet to identify an alternative location for parking. The Midway has also failed to satisfy certain

lease requirements – mainly the requirement to commence construction of the park on Navy Pier within ten years from the commencement date of the lease, or no later than October 1, 2015 ([Exhibit 7](#)).

## C. VISUAL RESOURCES

Section 30251 of the Coastal Act states, in part:

*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 public views to and along the ocean and scenic coastal areas and, where feasible, to restore and enhance visual quality in visually degraded areas...*

Section 30251 of the Coastal Act requires that development is sited to protect public views to and along coastal areas. The proposed project includes continuing parking on Navy Pier, which would further delay the opening of visual access to the San Diego Bay that would have been achieved by converting the pier from a parking lot into a public park. In addition, it defers the provision of mitigation for the berthing of the Midway which blocked existing public views along the Bayfront on a primary coastal access corridor.

The PMPA that incorporated the Midway into the PMP was approved by the Commission based on the commitment by the Port and Midway that parking on Navy Pier would be an interim use and that the pier would be converted to a public park to mitigate for the visual impacts that occurred from the docking of the 50-190 foot tall, 1,000 foot long aircraft carrier. Prior to the Midway's arrival, existing views were expansive and allowed the public to see to Coronado and San Diego Bay ([Exhibit 5](#)); however, docking the Midway replaced the scenic open water and coastline views with views of the Midway. Because the conversion of the pier from a parking lot to a park has not occurred, the visual impacts associated with docking of the Midway have not been appropriately mitigated. Thus, these visual impacts to the public viewshed still occur and will continue to occur with approval of the subject project and until such time as the park is built.

The Port maintains that the Midway does not have a negative impact on public views but is instead advantageous, an argument based on the popularity of the Midway, which has attracted more than a million visitors a year. However, in addition to the findings that the project would impact visual resources memorialized in the PMPA No. 27 staff report adopted by the Commission, the EIR conducted for the docking of Midway and adopted by the Board of Port Commissioners also concluded that there would be potentially significant impacts to public views caused by the docking of the Midway. There is no doubt that the Midway is a popular visitor-serving destination, however, that status does not negate the loss of visual access that resulted from its docking. While many visitors do attend the museum and some members of the public

may take advantage of the free public access to the Midway deck, the vast majority of visitors who drive, bike, or walk along this scenic route and the Embarcadero Promenade lost significant public views.

As detailed in the “Project History” section, although transfer of the pier occurred 14 years ago, the Port has yet to complete any of the necessary steps to convert the pier into a public park. These steps include conducting environmental review of the project, incorporating the project into the PMP through a PMPA, and approving plans for the park. To ensure that the Port will undertake these steps prior to the expiration of the proposed permit term, **Special Condition No. 2** requires the applicant to submit a PMPA application to incorporate the pier into the PMP, with clear policy language and a land use designation designating the pier as a public park, no later than three years following Commission approval. Special Condition No. 2 further requires that the Port document progress made towards conversion of the pier on an annual basis, including detailing the environmental review process, and submit progress reports to the Executive Director to be used by the Commission to review any future development of Navy Pier. Thus, the project has been conditioned to ensure that the necessary steps to convert the pier to a park will occur before the end of the proposed four year permit term and avoid any further delay.

After coordinating with Commission staff, the applicant revised the project to include demolition of the Head House building, which sits on the eastern boundary of the Navy Pier. The building is dilapidated and blocks any view that would be available to the public walking on the promenade that runs along the San Diego Bay and views from Harbor Drive. Its removal will significantly improve the pedestrian experience along the promenade and is a necessary step in the process to re-open direct bay views. **Special Condition No. 4** requires that the applicant submit demolition plans for Executive Director review and approval. While demolition of the Head House does not mitigate for the visual impacts caused by the Midway and continued parking on Navy Pier, it will provide visual benefits to the public walking along the waterfront promenade and driving along Harbor Drive.

In the PMPA, the Port committed to converting the entire 5.7-acre pier into a park; however, Port staff now insists that maintaining some parking on Navy Pier may be necessary, depending on efforts that are currently being undertaken by the Port to plan for future redevelopment of the North Embarcadero. Because the public park at Navy Pier was originally proposed to mitigate for bay views blocked by the Midway, the future park should be designed to open up views to the bay. Thus, to ensure that any future retention of parking on the pier does not conflict with opening up bay views, **Special Condition No. 2** requires that future permanent parking only occur directly adjacent to the Midway along the southern perimeter of the pier to avoid obstruction of views ([Exhibit 6](#)), and be limited to 25% of the pier with the remaining 75% dedicated to the public park.

In summary, visual resource impacts will continue to occur until Navy Pier is converted into a public park. However, the proposed project has been conditioned to ensure the necessary steps to convert the pier to a public park are completed prior to expiration of the subject permit term and, during the interim planning period, the public will benefit from increased visual access as a result of the removal of the Head House building. Therefore, the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

#### **D. PUBLIC ACCESS AND RECREATION**

Section 30210 of the Coastal Act states:

*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 resource areas from overuse.*

Section 30212 of the Coastal Act states, in part:

- (a) *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*
  - (1) *it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
  - (2) *adequate access exists nearby [...]*

Section 30212.5 of the Coastal Act states:

*Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

Section 30213 of the Coastal Act states, in part:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30210 of the Coastal Act requires that maximum public access and recreational opportunities be provided. Section 30212 requires that access from the nearest public roadway to the shoreline be provided except where it is inconsistent with public safety or the protection of fragile coastal resources, or

adequate access exists nearby. Section 30212.5 requires parking facilities to be distributed throughout an area to avoid overcrowding of a single area. Section 30213 states that lower cost visitor and recreational facilities shall be provided where feasible. The proposed project will provide short term public access benefits by increasing the amount of parking available to the public. However, the largest benefit to public access and recreation will be realized once Navy Pier is converted from a parking lot into a public park, which will provide direct access to the shoreline and a low-cost visitor and recreational facility, priorities under Sections 30212 and 30213 of the Coastal Act.

There are currently 510 parking spaces on Navy Pier. Of those, 60 spaces are located in the Head House building which is rented out to Midway for exclusive use for \$5,900 a month (approximately \$3 a day per space); another 45 spaces on the southern brow of the pier are included in the Midway's lease from the Port, of which Midway pays 4% of gross income from food and beverage sales; 20 spaces of the public parking inventory are rented to Midway for \$145 per space per month (approximately \$5 a day per space); and 8 parking spaces are used by Midway for service parking. The 125 spaces that are used for employee and volunteer parking are rented to Midway at a much lower rate than what the public pays. According to a parking utilization study conducted for the Midway in 2016, of the 377 remaining public parking spaces, visitors to the Midway comprise 74% of the daily parkers and the lot sells out almost daily. The Midway also hosts approximately 650 events throughout the year and groups attending these events are allowed to purchase parking spaces on Navy Pier in advance.

As identified in the PMP, Navy Pier was never intended to be a long term parking solution. Instead it was envisioned that the pier would be converted to a public park upon transfer of the pier from the Navy to the Port. Transfer of the pier occurred in 2003; thus, for the past 14 years the Port has had the benefit of charging for parking on the pier and the Midway has had the benefit of discounted and free parking for its employees and volunteers, and adjacent parking for visitors.

The Port and Midway maintain that it is necessary to continue parking on the pier until a long-term plan for the pier and relocation of parking is developed. While the Port and Midway have already had adequate time to develop a plan but have yet to do so, a shortage of parking in the surrounding area does exist and removal of parking on Navy Pier, without relocation, would adversely impact the public's ability to access the coast by car. Thus, **Special Condition No. 1** establishes that the permit is temporary and limits continued parking on Navy Pier for a period of four years only, which will give the Port and Midway additional time to develop a long-term plan for redevelopment of Navy Pier and relocation of all or 75% of the parking to offsite locations. This would result in an approximately 4.3 acre park and leave approximately 1.4 acres for parking. The remaining parking would be equivalent to approximately 165 parking spaces which would maintain existing parking for Midway employees

and volunteers (105 spaces) and leave 60 additional parking spaces for the public.

The goal of the four year period is to plan for the conversion of Navy Pier from a parking lot into a park. However, in order to do so, the pier must first be incorporated into the PMP. Thus, **Special Condition No. 2** requires the applicant to submit an application to the Commission for a PMPA to incorporate Navy Pier into the PMP with policy language supporting the conversion to a public park and a land use designation clearly identifying all or at least 75% of the pier as a public park. To ensure that the application is submitted to the Commission with adequate time to review and process the PMPA and complete final plans for the park, Special Condition No. 2 further requires that this application be submitted no later than three years following approval of the subject permit.

In addition to the incorporation of the pier into the PMPA, the Port will need to complete numerous tasks in order to convert Navy Pier into a public park, including park planning studies, environmental review, design plans, and public meetings. In addition, the applicant will need to obtain permit approvals and relocate existing parking from the pier. To ensure that the applicant is on track to convert the pier into a park following this four year period, **Special Condition No. 2** requires that the applicant submit annual progress reports for Executive Director review that detail the progress made towards the conversion.

Originally, the applicant proposed to increase parking rates over existing rates, but consistent with market rates at nearby lots; however, the Port later revised the project to increase parking rates even more to an amount that the Port estimates would cover all costs to demolish the Head House. There are several reasons why parking rates should not increase over that of surrounding market rates. First, the applicant has collected revenue from public parking on the pier since 2003, or for approximately 14 years. The associated PMPA was approved by the Commission based on the proposal that parking on Navy Pier would be limited to an interim period and that conversion would occur following the Navy's relinquishment of the pier. The PMP clearly states:

*When and if the Navy determines that its use of the Navy Pier is no longer necessary, the Port will accept the proposal by the San Diego Aircraft Carrier Museum into a “public park” use, thereby allowing the pier to be converted into a memorial park complementing the Midway and its museum, while affording additional public open space and bay vistas. Vehicle parking for museum visitors will then be shifted to nearby offsite locations. However, since the Navy Pier’s future is uncertain and will be determined by decisions of the federal government, the conversion of the pier to a 5.7-acre memorial park is a specific planning goal of the Port, and environmental analysis for the park conversion will be conducted prior to the Navy relinquishing ownership and/or control of the Navy Pier such that*

*construction of the park can occur as soon as feasible thereafter.* (Emphasis added.)

Thus, the applicant has benefited from the pier remaining a parking lot by collecting revenues while the public has not received the benefit of a public park. In addition, demolition of the Head House and restriping of the parking lot will result in an additional 151 parking spaces on the pier and associated revenue.

The Midway and Port have also yet to meet a number of the Port-issued CDP ([Exhibit 8](#)) and lease agreement ([Exhibit 7](#)) conditions that were required to ensure that a plan and schedule were in place for the timely conversion of Navy Pier from a parking lot to a public park. For example, the Midway's lease with the Port required the Midway to commence construction of the park on Navy Pier within 10 years of the commencement date of the lease, or no later than October 1, 2015, which has yet to occur. Further, the lease required the Midway take the lead in pursuing funding and development of the Veterans Memorial Park, unless construction of the park has not commenced within 10 years of the commencement date of the lease. Although the Midway completed its requirement to submit plans for a Navy Pier Park in 2012, the environmental review and PMPA necessary to move forward with conversion of the park was never conducted by the Port. Although the Midway funded an account of \$1.25 million to relocate parking, it has yet to identify an offsite location for parking. Thus, it appears that the delay of the park conversion has occurred due to the applicant and its lessee, and that the parking revenue collected in the past should be used to fund the park that the public was promised almost 14 years ago with the approval and incorporation of PMPA #27.

Nevertheless, the Midway is located adjacent to downtown San Diego and parking is limited in the immediate project vicinity as well as in the surrounding area. Therefore, the originally proposed parking rate increases are appropriate, in this case, because the rates are consistent with existing market rates for parking in this area.

Any increase in parking rates will impact the public's ability to visit the coast if they cannot afford it or there are not reasonable options for alternative transit. While it is reasonable to raise parking rates to that of the market, additional increases at this time are not warranted. Thus, **Special Condition No. 3** requires parking rates on Navy Pier to be consistent with existing market rates. The parking rates established in Special Condition No. 3 are the same as those originally proposed by the applicant.

The applicant will reserve 105 parking spaces of the total 660 parking spaces on Navy Pier for use by the Midway following demolition and restriping of Navy Pier, the same amount currently reserved for Midway employees and docents. In addition, the project will result in the addition of 151 new public parking spaces through reconfiguration, which will improve access to the Midway and

the San Diego Bay and result in increased revenues for the Port. However, it is important to note that additional parking resulting from demolition of the Head House is temporary and only to be used during this interim 4-year period.

Following demolition of the Head House, the Port proposes to install interim public amenities including benches, potted plants, walkways, and a public viewing platform at the west end of the pier. To ensure consistency with the preliminary plans, **Special Condition No. 5** requires that the applicant submit Final Plans and **Special Condition No. 7** further requires the applicant to submit Final Landscape Plans for Executive Director review and approval.

Free public access to the Midway deck was required as part of the approval of the PMPA that authorized the berthing of the Midway, as well as by the CDP (2003-3) issued for Midway by the Port. However, the current signage does not maximize public access to the Midway as the language is vague and the signs are not appropriately located to inform the public of the free public viewing deck. For example, one of the public access signs is located on the southern perimeter of the pier west of the ticket booth, where it is visible only to those parking and entering the Midway from the southwest section of the pier. To ensure that the public is notified of the existing and proposed public access points, **Special Condition No. 6** requires creation of a comprehensive and cohesive signage plan to notify the public of all public amenities on both the Navy Pier and the Midway. In addition, Special Condition No. 6 requires that signs are large enough and appropriately located so that they are easily visible by the public. As conditioned, signage would be located on the public promenade and strategically on walkways along the pier to the Midway and to the proposed viewing area. Therefore, the project, as conditioned, is consistent with the public access and recreation policies of the Coastal Act.

## E. WATER QUALITY

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas 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.*

Section 30231 of the Coastal Act states:

*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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30232 of the Coastal Act states:

*Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

Section 30253 of the Coastal Act states:

*New development shall do all of the following:*

*(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. In addition, Section 30231 requires that the biological productivity and quality of coastal waters be maintained. Section 30232 requires protection of coastal waters from spillage of various hazardous substances. Section 30253 requires that new development minimizes risk in areas of high flood hazard.

The proposed project includes demolition of an existing building and expansion of an existing parking lot on an existing pier located over coastal waters in the San Diego Bay. While no work is proposed to take place in coastal waters, the proposed project may result in potential adverse effects to surrounding habitat due to unintentional disturbance from construction and demolition equipment, materials, and debris. Construction and demolition activities associated with the proposed project could result in the generation of debris or presence of equipment, materials and hazardous substances that could be subject to run-off and wind dispersion into the marine environment. The presence of equipment, building materials, and debris on the subject site could pose hazards to sensitive marine organisms if discharged into the marine environment or left inappropriately on the project site. In addition, such potential discharges and disturbances to the marine environment could result in adverse effects to offshore habitat from increased turbidity and pollutant of coastal waters. To ensure that construction material, debris, or other waste associated with project activities does not enter the water, **Special Condition No. 8** requires the

applicant to submit a Construction and Pollution Prevention Plan for review and approval of the Executive Director that includes BMPs to minimize erosion and sediment discharge and the discharge of construction pollutants.

Because parking lot runoff is a major contributor to non-point source pollution of waterways, impacts to water quality are likely to occur during the use of the pier as a parking lot if not properly planned and managed for. Contaminants can originate from paving materials, automobiles (antifreeze, oil, hydrocarbons, metals from wearing brake linings, rubber particles from tires, nitrous oxide from car exhausts, and grease), and waste discarded by people. These contaminants can enter the bay should they be subject to stormwater run-off. Thus, **Special Condition No. 9** requires the applicant to submit a Post-Development Runoff Plan that includes low impact development strategies and implementation of source control BMPs to minimize the discharge of contaminants into coastal waters by run-off.

Finally, there is a risk developing on a pier that is subject to flooding and hazards from waves. Therefore, **Special Condition No. 10** requires the applicant to assume all risks for developing in a location that is subject to waves, storms, and flooding.

In conclusion, the proposed development raises concerns regarding water quality impacts associated with demolition, construction, and operation activities. As conditioned through Special Condition Nos. 9 and 10, potential impacts have been either eliminated or minimized and addressed. Therefore, the Commission finds that the project, as conditioned, is consistent with Sections 30230, 30231, 30232, and 30253 of the Coastal Act.

## F. LOCAL COASTAL PLANNING

Section 30604(a) requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, the Port Master Plan being equivalent to an LCP, such a finding can be made.

The subject site was formerly owned by the U.S. Navy who transferred ownership to the Port in 2003. However, the Port has yet to incorporate the subject site into the San Diego Unified Port District's certified Port Master Plan. Thus, the Coastal Commission retains permit jurisdiction of this site and Chapter 3 of the Coastal Act remains the legal standard of review with the PMP used as guidance. As conditioned, the development is consistent with Chapter 3 of the Coastal Act. Approval of the project will not prejudice the ability of the local government to incorporate this area into the certified PMP.

## **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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. In April 2000, the Port adopted a Master EIR regarding the relocation and operation of the Midway and other potential development on the North Embarcadero that identified parking impacts and the mitigation measure of parking on Navy Pier or other nearby parking locations. Newer aspects of the project (fee increases, demolition) are exempted from CEQA review. (See Guidelines 15273, 15301(l).)

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing the protection of visual resources, public access and water quality, 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Certified Port Master Plan
- Revised Findings on San Diego Unified Port District Port Master Plan Amendment No. 27
- Treated Wood in Aquatic Environments: A Specification and Environmental Guide to Selecting, Installing and Managing Wood Preservation Systems in Aquatic and Wetland Environments (2012) Western Wood Preservers Institute, et al.