

CALIFORNIA COASTAL COMMISSION

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



Th5c

| | |
|---------------|---------------|
| Filed: | 4/13/18 |
| 180th Day: | 10/10/18 |
| Staff: | M. Lasiter-SD |
| Staff Report: | 5/17/18 |
| Hearing Date: | 6/7/18 |

STAFF REPORT: CONSENT CALENDAR

| | |
|------------------------------|---|
| Application No.: | 6-18-0282 |
| Applicant: | San Diego Unified Port District |
| Agent: | Juliette Orozco |
| Location: | 960 North Harbor Drive, San Diego, San Diego County |
| Project Description: | Repair concrete structural components of the underdeck of Navy Pier, including structural piles, beams, curtain wall, sheet pile wall, and deck soffit. |
| Staff Recommendation: | Approval with Conditions |

SUMMARY OF STAFF RECOMMENDATION

The proposed project is the repair and maintenance of concrete structural components of the underdeck of Navy Pier, which is severely deteriorated. The primary issue raised by this project is potential impacts to water quality due to construction over coastal waters. **Special Condition No. 1** requires the applicant to submit a Construction and Pollution Prevention Plan that demonstrates best management practices will be implemented to avoid the discharge of sediment and construction pollutants into coastal waters. Additional Coastal Act issues associated with this project, including potential impacts to biological resources and public access, have been addressed in the design of the project.

Therefore, Commission staff recommends **approval** of coastal development permit application 6-18-0282 as conditioned.

TABLE OF CONTENTS

| | |
|---|----------|
| I. MOTION | 3 |
| II. STANDARD CONDITIONS | 3 |
| III. SPECIAL CONDITIONS | 3 |
| IV. FINDINGS AND DECLARATIONS..... | 8 |
| A. PROJECT DESCRIPTION | 8 |
| B. BIOLOGICAL RESOURCES AND WATER QUALITY | 10 |
| C. PUBLIC ACCESS/PARKING | 10 |
| D. LOCAL COASTAL PLANNING..... | 10 |
| E. CALIFORNIA ENVIRONMENTAL QUALITY ACT | 11 |

EXHIBITS

[Exhibit 1 – Location Map and Aerial Image](#)

[Exhibit 2 – Site Photos](#)

[Exhibit 3 – Site Plan](#)

I. MOTION

Motion:

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

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. **Construction and Pollution Prevention Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION the applicant shall submit, for the review and written approval of the Executive Director, a final Construction and Pollution Prevention Plan. The final Plan shall demonstrate that all construction, including, but not limited to staging, storage of

equipment and materials; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:

- A. Responsibilities for Use of Preservative-Treated Wood for Piles and Over-water Structures.** The applicant shall comply with the following best management practices for the use of preservative-treated wood (“treated wood”) in over-water structures:
- a. The wood preservative selected for use shall minimize the impact on coastal water quality and the aquatic environment.
 - b. Preservative-treated Douglas fir piles shall only be used for repair and replacement, or to visibly blend, and/or structurally integrate with, existing over-water structures.
 - c. Decking shall consist of wood-alternative materials or AZCA-preserved lumber sealed with a penetrating coating. Alternatives to preserved woods, such as concrete, steel, fiberglass, or naturally decay resistant wood species, shall be prioritized over the use of chemically-treated wood.
 - d. Design features, such as a protective wearing surfaces or bumpers, shall be installed on fender piles and floating dock pilings, where appropriate, to resist abrasion and preserve the pile-wrap or coating.
 - e. The amount of preservative used for treating piles shall be the minimum specified by the American Wood Protection Associate to effectively protect the piles. Wood treated to the standards for a higher Use Category (i.e., with a higher preservative retention level) than is necessary for that component shall not be used.
 - f. Treated wood and treated wood debris shall be stored a minimum of 50 feet from coastal waters, drainage courses, and storm drain inlets. The treated wood and treated wood debris shall be stored on impervious pavement or an impervious tarp, and covered during rain events.
 - g. If treated wood is sanded or sawcut during demolition, installation, or maintenance, all sawdust and debris generated shall be contained and removed.
 - h. In order to minimize water quality impacts, piles installations shall prioritize driven or hammered methods. If a water-jetting method is utilized, silt curtains shall be installed in the work area to contain turbidity where coastal resources, such as benthic communities or eelgrass, may be at risk.
- B. Responsibilities for Use of Coatings, Construction and Repair of Bulkheads and Over-water Structures.** The applicant shall comply with the following best management practices for the use of corrosion coatings, and repair of bulkheads and over-water structures:

- a. Coatings and sealants shall be composed of products that are inert after they have cured and dried. Fusion Bonded Epoxy, HDPE, and polyurea products are recommended. No coal tar-based sealants shall be used unless they are themselves coated or wrapped with an inert product to isolate them from the marine environment.
- b. Installation and application of epoxy, resin, or cementitious grout/fill shall be conducted when predicted weather and ocean conditions allow effective control and full containment and will remain dry until cured, in order to prevent any leaching of uncured treatment materials into coastal waters. It is preferable to perform the work in dry conditions (low tide) or off-site in a controlled-environment manufacturing facility, wherever feasible.
- c. All cleaning and preparation of surfaces shall use wet vacuum techniques, containment booms or heavy mesh containment netting so that any debris, chips, dust, dirt, and fine particles are collected and disposed of in a location where they will not enter coastal waters.
- d. Preparation of corroded concrete by chipping, v-notching, or demolition shall be conducted while using a wet vacuum or similar technique so that any debris, dust, and fine particles are collected and disposed of in a location where they will not enter coastal waters. Dip nets shall be on-site and used to retrieve debris if it accidentally falls into the water.
- e. Methods to contain any leaks or spills of treatment materials during application shall be planned in advance, and any necessary equipment or supplies shall be readily accessible onsite. Any leaks or spills of anti-corrosion coatings, epoxy fillers, and waterproofing sealants shall be immediately cleaned up.
- f. All pressure-injection and gravity-feed applications of epoxy, resin, or cementitious materials shall be closely monitored visually to ensure that these materials do not leak or spill into coastal waters during application.
- g. Coatings and waterproofing sealants used in the field shall be carefully applied by brush or roller to limit application to the immediate surfaces intended for protection, and to prevent drips or spills into coastal waters.
- h. All anti-corrosion coatings, epoxy fillers, and waterproofing sealants shall be properly stored and contained so that these products will not leak or spill, or otherwise enter the coastal environment.
- i. Piles installations shall prioritize driven or hammered methods, if feasible, in order to minimize water quality impacts. Vibratory hammer method shall be prioritized over impact hammer methods. However, if an impact hammer is used, pile driving shall use a soft-start/ramping up BMP with hammer strikes that begin at approximately 40 to 60 percent energy levels with no less than a one-minute interval between each strike for a five-minute period. If a water-jetting method is utilized, silt curtains shall be installed in the work area to contain turbidity where coastal resources, such as benthic communities or eelgrass, may be at risk.

- j. Removal of existing piles shall observe the following conditions, where applicable:
 - i. Work shall occur during favorable tidal, ocean, and weather conditions that will enhance the ability to remove, to the maximum extent, the full length of the pile and any associated debris generated during demolition.
 - ii. Piles and debris shall be placed directly into a vessel/container suitable for transport off-site.
 - iii. Degraded pile sections that cannot be recovered from the substrate shall be cut at the deepest feasible elevation to maximize partial-retrieval.
 - iv. All used piles and debris shall be removed to an offsite, authorized disposal site. Sediment adhered to the removed pile shall be removed from coastal waters.
 - v. Piles shall be removed slowly and handled carefully to minimize turbidity. Vibratory extraction shall be prioritized over direct-pull methods, where feasible, in order to limit disturbance.

C. Construction Plan. A Construction Plan shall be provided to the Executive Director that identifies the specific location of all construction areas, all staging areas, all storage areas, all construction access corridors (to the construction sites and staging areas), and all public pedestrian access corridors in site plan view. The Construction Plan shall, at a minimum, include the follow required criteria specified via conspicuous written notes within the Plan:

- a. All areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction encroachment on the tidelands and to have the least impact on public access and the marine environment.
- b. The Plan shall specify all construction methods to be used, including all methods to be used to keep the construction areas separated from beach and other public recreational use areas and shall include a final construction schedule.
- c. All erosion control/water quality best management practices to be implemented during construction and their location shall be noted. For the land side of a construction site, silt fences, or equivalent measures, shall be installed at the site perimeter to prevent construction-related runoff and/or sediment from entering coastal waters. For the water side of a construction site, turbidity curtains shall be used to contain sediment where coastal resources, such as benthic communities or eelgrass, may be at risk.
- d. All work shall be performed during favorable tidal, ocean, wind, and weather conditions that will enhance the ability to contain and remove, to the maximum extent feasible, construction and demolition debris.

- e. Tarps or other devices shall be used to capture debris, sawdust, particulates, oil, grease, rust, dirt, and spills to protect the quality of coastal waters.
- f. Floating booms shall be used to contain debris if discharged into coastal waters, and any debris discharged will be removed as soon as possible but no later than the end of each day.
- g. Unless specifically authorized, all work shall take place during daylight hours and lighting of tidelands and water areas is prohibited.
- h. Construction work or equipment operations below the mean high water line shall be minimized to the maximum extent feasible, and, where possible, limited to times when tidal waters have receded from the authorized work areas.
- i. All construction materials shall be properly stored and contained so that these products will not spill or otherwise enter the coastal environment.
- j. Construction (including but not limited to construction activities, and materials and/or equipment storage) shall be prohibited outside of the defined construction, staging, and storage areas.
- k. Equipment washing, refueling, and/or servicing shall not take place on the tidelands or over-water structures to eliminate the possibility that pollutants may enter coastal waters.
- l. Bulkhead and over-water construction projects that will use heavy equipment for more than 30 days shall use biodegradable hydraulic fluid and biodiesel as an alternative to petroleum products.
- m. The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the tidelands).
- n. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction 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.

- o. A copy of the approved Construction Plan shall be kept at the construction job site at all times and all persons involved with the construction shall be briefed on its content and meaning prior to commencement of construction.
- p. The Coastal Commission's District Office shall be notified at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

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.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project is repair and maintenance of concrete structural components of the under deck of Navy Pier. Navy Pier is located on the San Diego Bay just south of the terminus of Broadway and north of the aircraft carrier U.S.S. Midway ("Midway"), in downtown San Diego ([Exhibit 1](#)). It provides access to and parking for the Midway. Although the pier is now owned and maintained by the San Diego Unified Port District ("Port"), Navy Pier has yet to be incorporated into the certified Port Master Plan, and thus, the Coastal Commission retains permit jurisdiction of the pier. Therefore, the standard of review is the Chapter 3 policies of the Coastal Act.

The Port conducted an inspection that indicated the underdeck of Navy Pier is severely deteriorated and in need of structural repairs. Specifically, there is significant concrete deficiencies, including cracking and spalling, in structural piles, pile caps, beams, curtain wall, deck soffit, and sheet pile wall, as well as exposure of aggregate and rebar ([Exhibit 2](#)). The proposed project includes repairing concrete deficiencies identified on 82 structural piles, two pile caps consisting of 760 linear feet, 648 linear feet of beams, 21 linear feet of curtain walls, 92 linear feet of sheet pile walls, and 423 square feet of deck soffit ([Exhibit 3](#)). Project construction activities will include concrete removal, drilling, installation of reinforcement, patching with epoxy or grout, and pile jacketing. It is anticipated that work will be conducted entirely from the water with the use of a temporary barge. Construction activities will take place for approximately six months.

Because the proposed activities include work over the San Diego Bay, the proposed project has the potential to adversely impact water quality. To ensure that construction material, debris, or other waste associated with project activities does not enter the water, **Special Condition No. 1** requires the applicant to submit a Construction and Pollution Prevention Plan for review and approval of the Executive Director that includes implementation of construction BMPs.

A bay-wide eelgrass survey conducted in 2011 indicates that no eelgrass exists within the project footprint. Due to the depth of the bay floor at Navy Pier, eelgrass is unlikely to

exist at the project site. All work proposed in and above water is covered under an existing U.S. Army Corps of Engineer (ACOE) Regional General Permit. In accordance with the requirements of the ACOE permit, no work will be performed during the California Least Tern nesting season from April 1 to September 15.

The proposed project would be constructed in conjunction with the West End Fender Replacement Project, approved by the Commission in 2013 (CDP No. 6-13-20). Staging and storage for the subject project will utilize the staging and storage site approved for the West End Fender Replacement Project, which includes 24 public parking spaces located along the west end of Navy Pier. In its previous approval, the Commission found that because there are approximately 386 parking spaces on Navy Pier serving the Midway and visitors to the Embarcadero, the temporary loss of 24 spaces is not expected to adversely impact public access or recreation. Regardless, the proposed project will not result in any additional loss of public parking. In addition, no closures along Harbor Drive will be required for delivery of construction materials.

Project History

On March 14, 2001, the Commission approved Port Master Plan Amendment (PMPA) No. 27 that included, among other development, docking of the Midway 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. 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. To mitigate for the visual impacts of the Midway, the proponents of the museum and the Port agreed to create a 5.7-acre memorial park on Navy Pier once it was relinquished to the Port by the Navy. Thus, parking on Navy Pier was approved on an interim basis only.

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 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 of Navy Pier, or no later than October 1, 2015.

Most recently, in May 2017, the Commission approved CDP No. 6-16-0258 which authorized the Port to continue parking on Navy Pier for four years, increase parking rates, demolish the Head House and install interim public access amenities, including a 7,840 sq. ft. public viewing deck. The project was proposed as an interim solution to allow the Port additional time to plan for the conversion of Navy Pier from a parking lot into a public park. The removal of the Head House and interim public access amenities were included in the project to partially offset the visual impacts from the continuation of parking on Navy Pier and docking of the Midway, as well as to offset impacts to public access and recreation from the delay of the conversion of the pier to a park by an additional four years. However, while the Port has continued the parking operations on Navy Pier that were authorized through CDP No. 6-16-0258, it has not satisfied the special conditions that are required prior to issuance of the coastal development permit. As such, the permit has yet to be issued and, the existing activities on Navy Pier, including parking on the pier, are not currently authorized by the Commission and constitute violations of the Coastal Act. The applicant is not proposing to include these activities in this application and, thus, violations remain on the site that will not be addressed by the Commission's action on this application. The Commission's enforcement division will consider how to address said violations as a separate matter.

B. BIOLOGICAL RESOURCES AND WATER QUALITY

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized.

The proposed development consists of repairs and maintenance, and will not have an adverse impact on any sensitive habitat. As conditioned, the proposed development will not result in erosion or adverse impacts to water quality, as adequate construction BMPs will be provided. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

C. PUBLIC ACCESS AND PARKING

The proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. The proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

D. LOCAL COASTAL PLANNING

The Port has yet to incorporate the subject site into the 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 in the certified Port Master Plan.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.