

ATTACHMENT B: BCDC Special Area Plan Amendment proposal

September 6, 2019 Port Commission Staff Report

As part of its efforts to update the Port of San Francisco *Waterfront Land Use Plan* (“Waterfront Plan”), the Port is working with staff of the San Francisco Bay Conservation and Development Commission (BCDC) and California State Lands Commission to align Port, BCDC and State Lands public trust review principles and develop conforming amendments to BCDC’s *San Francisco Waterfront Special Area Plan* (“Special Area Plan”). Some of the key recommendations from the *Waterfront Plan Update* process that are proposed to be addressed with corresponding *Special Area Plan* amendments are:

- Maintain and enhance maritime and water-dependent uses of the Bay
- Provide guidance for safe maritime berthing and public access uses on piers to encourage shared use where feasible, and maximize views of maritime activities
- Support stewardship and rehabilitation of Embarcadero Historic District pier facilities to support maritime and water-dependent uses, public access along the shoreline and over the Bay, a diverse mix of public-oriented uses along the waterfront, and revenue uses necessary to finance historic rehabilitation projects
- Promote coordinated resilience planning to protect the existing waterfront from a variety of hazards and threats, and public collaborations to address long-range sea level rise
- Activate existing waterfront parks and plazas to serve a broader range of users and interests
- Incorporate policies that promote social equity, address environmental justice, and equitably deliver public benefits, including in the southern waterfront

The Port has provided to BCDC a description of the context and proposed policy changes to be included in amendments to the Special Area Plan, presented below.

San Francisco: One City, One Waterfront

The Port seeks a comprehensive planning approach to support an equitable distribution of public benefits, shoreline improvements and fill mitigation required in future projects, from Fisherman’s Wharf to Bayview Hunters Point. The Special Area Plan currently defines “geographic vicinities” along the Port waterfront, which generally limit the delivery of public access improvements or fill removal requirements generated by a project to the geographic vicinity within which it is located. In situations where such requirements are provided outside of the geographic vicinities, BCDC has required additional benefits. For example, the Exploratorium project is required to remove twice the amount of fill if it occurs in the Southern Waterfront geographic vicinity than if it occurs in the Northeast Waterfront geographic vicinity, to meet its BCDC permit requirements. This requirement is more costly

for the Exploratorium and makes it more difficult to remove derelict piers or fill along the San Francisco waterfront.

The Port proposes to eliminate the geographic vicinities designations to allow the Port's entire 7 ½ mile waterfront to be considered for compliance with fill mitigation and public access requirements in BCDC permits. This also would facilitate resilience planning and solution strategies, and promote a more equitable distribution of public access, environmental restoration, and environmental justice benefits.

Elimination of the Replacement Fill "50% Rule" Policy

The 50% Rule is a BCDC policy adopted in the 1970's that applies to Port pile-supported facilities, including piers in the Embarcadero Historic District and several pier restaurants in Fisherman's Wharf. While the policy was originally intended to provide flexibility to allow commercial recreation uses on piers, it has proven to be infeasible, and inhibits seismic retrofit or major repairs to pier substructures. In 2000, BCDC approved SAP amendments which eliminated the 50% Rule in the Northeast Waterfront between Pier 35 and China Basin Channel, and allowed development on piers and pile-supported structures not designated for removal for uses consistent with the Public Trust Doctrine and the Port's legislative trust grant (Burton Act), without regard to whether the use is water-oriented or could be achieved on an alternative upland location. These provisions were included with a package of public benefits and Port obligations to remove designated piers and develop major waterfront parks to meet BCDC public access and fill removal objectives. One of these requirements which has not been implemented is the removal of the eastern end of Pier 23. As further described below, the Port proposes an SAP amendment to allow the entirety of Pier 23 to be preserved.

The 50% Rule still applies to other Port pile-supported piers, including several historic Fisherman's Wharf restaurants. The Port proposes a package of public benefits, described further below, to support the deletion of the 50% Rule in Fisherman's Wharf.

Below is a description of details for each of these Special Area Plan amendments to lift the 50% Rule:

1. **Preserve Pier 23** - Because Pier 23 is included in the Embarcadero Historic District, the Port seeks to preserve Pier 23 in its entirety. BCDC and the Port jointly conducted a public planning process in 2012 with a citizen working group which identified a public benefit appropriate to replace the Pier 23 removal obligation, which the Port proposes in the Special Area Plan amendments: to create a new public plaza located on the bayside of the Ferry Building, a site which currently hosts the Saturday Farmer's Market. A new public plaza in this location would create a major civic gathering place utilized by a great number of city residents, workers, commuters and waterfront visitors, with spectacular views of the Bay and Bay Bridge.
2. **Fisherman's Wharf Public Benefits** – Current SAP policy describes requirements as preconditions to amending the SAP to eliminate the 50% Rule in Fisherman's Wharf. The Port

has completed some but not all of these improvements, and seeks BCDC concurrence that the completion of the public access projects described below will satisfy Special Area Plan requirements and enable the 50% Rule to be lifted in Fisherman's Wharf, and permit the same use provisions as allowed in the Northeast Waterfront.

- The removal of the former Pier 43 ½ parking lot to create a Fisherman's Wharf Open Water Basin, framed by the Pier 43 Historic Railway Arch at the east end, and Pier 45 public plaza at the west end.
- Creation of Pier 43 Bay Trail Promenade between historic Piers 43 and 45, a significant public open space along the length the Fisherman's Wharf Open Water Basin, which connects to public realm improvements along Taylor Street and the Pier 45 plaza, with Bay views and seating, lighting and railing amenities
- Completion of Jefferson Street Phase 1 public realm project, including removal of street parking and widened sidewalks with active edges, and connection to public realm improvements created on Taylor Street, which connects to the Pier 43 Bay Trail Promenade and Fisherman's Wharf Open Water Basin

The Port and City propose to implement public realm improvements in a Phase 2 Jefferson Street project, to complete a connected public access network that slows traffic and enhances pedestrian and bicycle access through the heart of Fisherman's Wharf, between Jones and Powell Streets, and connects to the Taylor Street public realm, Pier 43 Bay Trail Promenade, and Fisherman's Wharf Open Water Basin. The Port seeks the same use authority in Fisherman's Wharf as allowed in the Northeast Waterfront (Pier 35 to China Basin area), and ability to maintain maritime passenger excursion and ferry facilities in the Fisherman's Wharf Open Water Basin.

3. **Pier 48/Mission Rock** - In September 2016, Senate Bill 815, as amended by Assembly Bill 2797, was approved by the State Legislature, which extended the boundary of the Northeastern Waterfront to include Pier 48, located south of China Basin Channel, in recognition of the package of public benefits provided by the Mission Rock project. The Port seeks SAP amendments to recognize the Public Trust Doctrine/Burton Act legislative use authority for Pier 48, consistent with provisions authorized by the State Legislature in SB 815 and AB2797.

A. Stewardship of the Embarcadero Historic District

The Port and BCDC have long recognized that historic piers and maritime activities along The Embarcadero are intrinsically interesting and provide a unique character along the San Francisco waterfront. Current SAP policy required the Port to nominate a Northern Waterfront Historic District in 2000. With much assistance and support from BCDC staff, "The Embarcadero Historic District" was approved for listing on the National Register in 2005, now considered the last and most intact

collection of piers and associated waterfront historic resources in the United States. Together, the Commissions have authorized pier rehabilitation projects that are now beloved by the public. The Ferry Building, Exploratorium, and Piers 1-5 all include a mix of maritime and non-maritime uses, and significant public access. The Waterfront Plan Working Group placed a priority on historic rehabilitation projects for more piers, as quickly as possible. The challenges ahead are both financial and environmental; the cost of rehabilitation and seismic retrofit to enable reuse of these historic facilities require greater financial resources including high revenue generating uses in the development program, along with public-oriented uses, maritime, and public access uses. Rising water levels place limits on the time the public has to enjoy these piers, which the Port believes can incorporate flood protection adaptations to support 50 years of use or longer. The shared objectives of the *Special Area Plan* and *Waterfront Plan*, to protect historic resources and increase public activity on the waterfront, can be achieved through continued cooperation and coordination.

1. Support continued capital investment to rehabilitate and increase the resilience of culturally significant historic pier facilities. Seek resources and partnerships for financially feasible projects that preserve the integrity of the Embarcadero Historic District and include a mix of public-oriented, maritime, public access and revenue generating uses.
2. Encourage a broad range of publicly oriented uses, ensuring that the public is able to access, use and enjoy the rehabilitated structures for as long as possible.
3. Promote continued collaboration among Port, State Lands and BCDC, to feasibly improve the Historic District as expressed in the Embarcadero Historic District Public Trust policies in the Draft Waterfront Plan.

B. A Safe and Active Waterfront for All to Enjoy

The Waterfront Plan Working Group recommendations expressed a clear need for increased activity and diverse experiences within existing Port open space areas, to meet the interests of a broad spectrum of users--local residents as well as regional visitors of all ages. Ideas include public artwork, water-oriented activities, technology or interactive exhibits that may spark youth engagement, programmed cultural events and youth activities and concessions that activate edges and increase security.

The Working Group recommendations led to Draft Waterfront Plan policies that recognize that views of active maritime vessel berthing and operations preserve an authentic maritime character which enhance the public access value and experience of the San Francisco waterfront. Not all maritime operations are compatible with public access, given Department of Homeland Security vessel protocols and other operational requirements. Therefore, guidelines are recommended for the compatible

management and regulation of maritime and public access uses along the shoreline, to maximize safety, visual interest and promote shared use where feasible.

1. Encourage public benefit measures that activate existing public access areas, including active uses within or at park/plaza edges, pilot-ideas, and community programs that engages with all community members and visitors, and allow public space activation to be considered in meeting BCDC 'maximum feasible public access' requirements.
2. Where public access is not compatible alongside maritime operations due to operational, security and safety issues, allow alternative public access benefits such as off-site views of maritime activities from a safe location, providing interpretive signage, benches, or similar amenities.
3. Promote public access where it is safe and compatible with maritime operations and economically feasible for a maritime tenant to maintain, including operational features necessary for public safety and a functional maritime operation.

At the Pier 27 Cruise Terminal, permanently secure a portion of pier apron that includes shore power, lifts and other sensitive equipment immediately adjacent to the Terminal Building, recognizing that this select portion of the berth cannot feasibly be shared with public access while meeting public safety and federal security plan requirements.

C. Resilience Planning and Partnering for Success

Planning and funding resilience programs to protect the Port, the City, and regional, state and federal interests will require intensive multi-jurisdictional planning and massive infusions of funds from many sources, over many decades. The SAP should be amended to recognize the coordinated program for resilience planning along the San Francisco waterfront to support its successful evolution, and strategic partnerships and deep engagement with City and governmental agencies, non-government organizations, Port tenants and development partners, and neighborhood stakeholders. The Port proposes that the following issues be addressed in new resilience policies to update the SAP:

1. The Port and City of San Francisco will continue to collaborate regionally, and with BCDC and State agencies to develop adaptation strategies that may include Bay fill to protect infrastructure and shoreline areas that are vulnerable to hazards and threats with particular attention to funding and financing solutions for urban waterfronts and Ports.
2. Recognize the Port Resilience Program, in coordination with the City of San Francisco, will guide Port planning and capital improvements to address seismic and sea level rise resiliency, organized by three elements: Strengthen, Adapt and Envision.

- Strengthen Element focuses on reducing risks to life safety and emergency response from seismic events and will include flood risk reduction, where feasible;
 - Adapt Element is designed as a 5-year plan to adapt the current waterfront as risks, projections and priorities change over time; and
 - Envision Element provides a longer-term process for identifying alternatives that can address higher water levels at the end of the century and beyond.
3. Consider the California Ocean Protection Council (OPC) 2018 Guidance recommendations for ports, that acknowledge unique characteristics and constraints associated with water-dependent infrastructure and related Public Trust uses located in a densely developed area where managed retreat from sea level rise is not feasible, and recommend an adaptation strategy to protect existing structures in place, such as the Port’s culturally significant collection of historic piers and structures.
 4. Pursue an Adaptive Management Strategy for San Francisco’s Embarcadero Historic District that will maximize the useful life of the Port’s piers at existing elevations, including flood protection measures as required by the Chief Harbor Engineer to protect pier structure, life-safety and public access with ongoing adaptive management to protect against future flood risk from sea level rise, and lease termination provisions that become effective, when necessary.
 5. Support coordination among the Port’s Chief Harbor Engineer, BCDC and its Engineering Criteria Review Board to develop and update flood protection measures for piers, to protect life-safety and public access until such measures are no longer financially or structurally feasible.

D. Encourage Plan-based Public Access Benefits

The Port has worked with BCDC and City agencies and stakeholders to create a planned network of waterfront parks, public access, and public realm and open space improvements along the entire 7½ mile waterfront. The Draft Waterfront Plan includes an updated open space goal and policies to guide future park and public access improvements. Such projects could be implemented either as Plan-based projects by the Port or City (e.g. Embarcadero Promenade, wayfinding signage system, and Blue Greenway parks) using Port/public funds exclusively for construction and maintenance, or through public-private development projects that fund construction and maintenance. The Port uses the term “Plan-based Public Access Benefits” to differentiate standalone public access delivered in Port/City projects from public access provided in lease and development projects.

1. The Port seeks the opportunity to work with BCDC staff to develop policies that encourage and incentivize Plan-based Public Access Benefits that would not otherwise be gained through a development project, and a mechanism to accrue credits from such projects that may be used

to satisfy in-lieu public access benefits for projects that generate demand for, but cannot provide, on-site public access. .

2. Include the financial cost of maintenance and security services of Port-managed parks and public access areas in the analysis and determination of maximum feasible public access.