

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

50 California Street • Suite 2600 • San Francisco, California 94111 • (415) 352-3600 • Fax: (415) 352-3606 • www.bcdc.ca.gov

July 2, 2009

TO: Commissioners and Alternates

FROM: Will Travis, Executive Director (415/352-3653 travis@bcdc.ca.gov)
Joseph LaClair, Chief Planner (415/352-3656 joel@bcdc.ca.gov)

SUBJECT: **Public Hearing and Vote on Whether to Consider Amending the *San Francisco Waterfront Special Area Plan* to Accommodate a Proposal to Relocate the Exploratorium to Piers 15-17, on The Embarcadero, San Francisco**
(For Commission consideration on July 16, 2009)

Summary and Recommendations

The staff recommends that the Commission: (1) adopt the attached proposed descriptive notice to initiate the process of considering a possible amendment to the *San Francisco Waterfront Special Area Plan*; (2) schedule a public hearing for October 1, 2009 to consider the proposed amendment; and (3) authorize the Executive Director to enter into a contract to recover the Commission's costs for reviewing and acting on the proposed amendment application.

Staff Report

Background. On July 20, 2000, at a joint meeting with the San Francisco Port Commission, the Commission adopted amendments to the *San Francisco Waterfront Special Area Plan* (SAP), the *San Francisco Bay Plan* (Bay Plan) and deleted the *San Francisco Waterfront Total Design Plan*. The amendments to the SAP cover the area of the waterfront between Pier 35 and China Basin and set out the location and conditions for the placement and removal of fill, make provisions for new public plazas and public access, set out historic preservation, waterfront design, parking and transportation policies, and include a number of implementation requirements for both the Port and BCDC. The amendments to the Bay Plan created a new basis for allowing replacement fill in the Bay, which, in conjunction with the SAP, effectively relaxed the Commission's control over uses on replacement fill in this area of the San Francisco waterfront. The 2000 SAP amendments were based on findings that the public benefits that the Port would provide would exceed what the Commission could obtain through its regulatory program. The Commission relied on its seldom-used authority to protect the "health, safety and welfare of the entire Bay Area" to approve amendments that were otherwise inconsistent with the McAteer-Petris Act. One of the public benefits includes the requirement to remove the "valley" between Piers 15 and 17 to create new open water.



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Pier 15 and Pier 17 were constructed in the early 20th Century as separate finger piers. In the 1950s, the water area between the two piers was covered with a pile-supported platform, "the valley," and the pier sheds on both piers were widened onto the valley. The removal of these structures was required in the 2000 SAP amendments, in part, because they were not historic structures and therefore, could be removed to create open water without compromising historic resources. Creating open water and protecting historic resources were two key goals of the SAP amendment effort.

The Exploratorium, a non-profit experiential, educational museum seeks to relocate to Piers 15-17 from the Palace of Fine Arts in San Francisco. In order to accommodate the future program expansions of the museum, other project components and provide public access, the Exploratorium has determined that full removal of the valley and the non-historic shed additions would prevent full implementation of its program goals. In order to facilitate realization of the expansion of the museum and related programs, the Exploratorium has applied for a SAP amendment to revise the open water area policies and implementation requirements and make related necessary map changes. The proposed policy changes would allow removal of pile-supported fill elsewhere on the waterfront to offset the amount of the valley and non-historic shed additions retained that the SAP requires be removed.

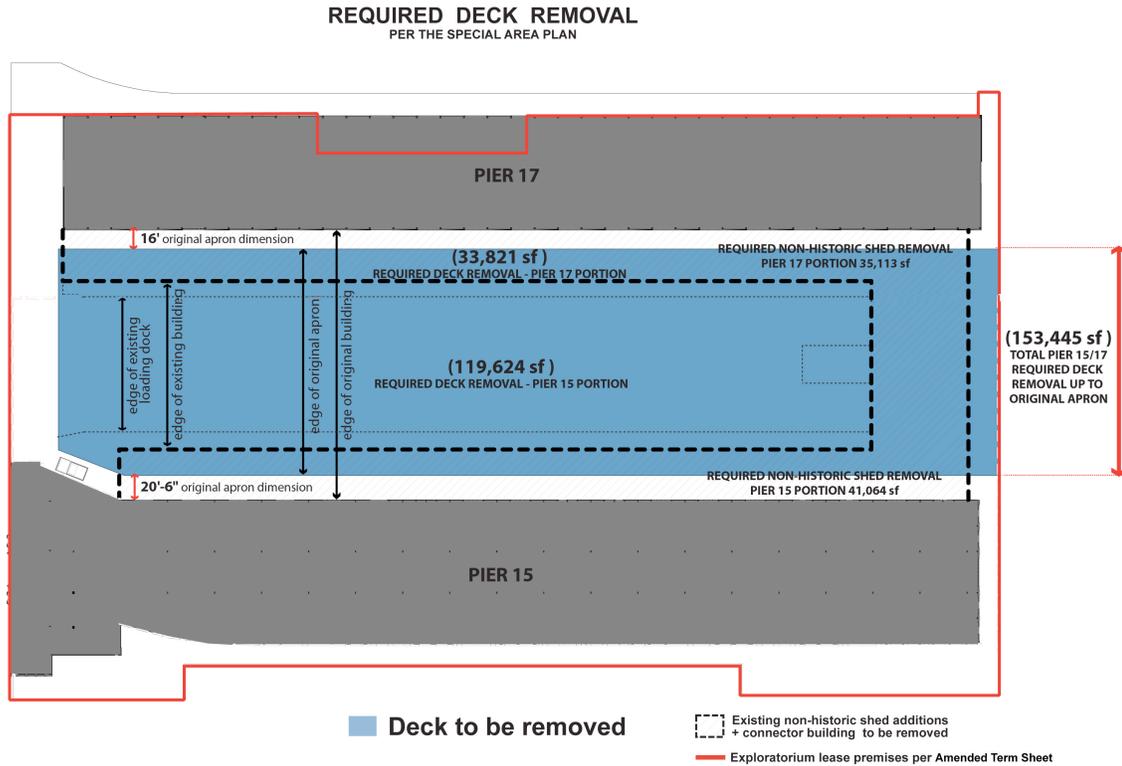
Current Policies. The attached exhibit shows the non-historic shed and valley areas that are designated for removal pursuant to the current SAP policies. The SAP Open Water Area policy 1-d requires that the Port should "create new open water areas as follows: ...remove the deck and pilings that form the valley between Pier 17 and Pier 15, and non-historic additions to the Pier 15 and Pier 17 sheds." The Implementation Requirement 4-f-iv in the SAP requires that the valley and non-historic shed additions be removed within 20 years "upon issuance of a certificate of occupancy for the major reuse of Pier 27-31, or a comparable major development..." This pier removal requirement is shown on the attached exhibit prepared by the Exploratorium to describe the SAP fill removal requirements pertaining to the valley. The Implementation Requirements also provide that "future amendments of the SAP...may only be approved, if the Commission finds that the revised public benefits and revised development entitlement would be in balance and the public benefits would be sufficient to warrant the Commission finding that the revised balance of public and private benefits would be necessary to health, safety and welfare of the entire Bay Area.

Proposed Policy Changes. In general, the Exploratorium has proposed that the SAP be amended to: (1) modify the Open Water Area policy 1-d to add a criterion that would allow the portion of the valley and non-historic shed additions required for removal that are proposed to be retained be offset by fill removal elsewhere on the San Francisco waterfront; (2) that the Implementation Requirement 4-f-iv be modified to add a criterion that would allow retention of some portion of the valley and non-historic shed additions and that any portion of the valley and non-historic shed additions that are retained be offset by fill removal elsewhere on the waterfront; and (3) modify the timing of the fill removal to occur within 20 years of issuance of the certificate of occupancy for the Exploratorium museum.

Contract. Pursuant to the Commission's regulations, The Exploratorium has agreed to enter into a contract with the Commission whereby The Exploratorium will provide up to \$34,118 for the staff and consultant work required to process and act on the proposed amendment. The staff is requesting authorization from the Commission for the Executive Director to enter into this contract.

Commission Procedure

Circulating a descriptive notice is the first step in the process of amending the SAP. A notice of the proposed amendment is required by the McAteer-Petris Act (Government Code Section 66652) and Section 11000 of the Commission’s regulations (California Administrative Code, Title 14, Division 5). If the attached, proposed descriptive notice is approved by the Commission on July 16, 2009, a public hearing will be held on October 1, 2009. The staff will distribute a report on the proposed amendment with the staff’s preliminary recommendation for the specific changes to the SAP to all Commissioners, Alternates, and interested parties at least 30 days prior to the initial public hearing, as required by the Commission’s regulations (California Administrative Code, Title 14, Division 5, Section 11001). Upon conclusion of the public hearings, and after submission of the Executive Director’s final recommendation, the Commission can vote upon the proposed SAP changes. The descriptive notice must be mailed at least 30 days prior to the public hearings and the vote cannot take place earlier than 90 days from the mailing of the descriptive notice.



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Descriptive Notice

July 24, 2009

Proposed *San Francisco Waterfront Special Area Plan* Amendment No. 1-09 Concerning Changes to Open Water Area Policies and the Implementation Requirements affecting Removal of the Valley between Pier 15 and Pier 17, on The Embarcadero, San Francisco

Notice is hereby given that the San Francisco Bay Conservation and Development Commission will consider an amendment to the *San Francisco Waterfront Special Area Plan*. The proposed amendment would address the open water area policies and implementation requirements of the Special Area Plan that apply to the “valley” between Pier 15 and Pier 17, and would allow some of the valley and non-historic shed additions to be retained, provided the retained amount is offset by fill removal elsewhere on the San Francisco Waterfront. The amendment would also modify the timing of the required removal.

A **Public Hearing** on the possible amendment will be held on **October 1, 2009** at the Ferry Building, in San Francisco, California, starting at 1:00 p.m. At least thirty days prior to the initial meeting, the staff will prepare and mail a staff report and preliminary recommendation on the proposed amendment. Interested persons may request the staff report and present written comments on or before October 1, 2009. Oral comments may be presented at the October 1, 2009 Commission meeting or thereafter as directed by the Commission.

This **Notice** is prepared in conformance with Section 66652 of the California Government Code, Section 11001 of Title 14, Division 5 of the California Code of Regulations, and Section 312 of the federal Coastal Zone Management Act of 1980. If, after the hearing, the Commission adopts an amendment to the *San Francisco Bay Plan* described in this notice and subsequent staff report, such amendment will be processed as a routine program change of the Commission’s federally-approved coastal management program for San Francisco Bay. Any federal agency interested should, therefore, comment to the Commission on or before October 1, 2009.

Whether the Bay Plan should be amended as described above, and in what manner, will be the subject of the public hearing and Commission deliberations.

Further information concerning the proposed amendment can be obtained by contacting Joseph LaClair, Chief Planner, at the Commission’s office, 50 California Street, Suite 2600, San Francisco, California 94111, telephone: (415) 352-3656, e-mail: joel@bcdc.ca.gov.



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