

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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TO: All Design Review Board Members

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SUBJECT: Piers 30-32 Mixed-Use Project (Professional Sports Arena and Event Center, Offices and Team Practice Facilities, Parking Garage, Retail and Restaurant Use, Maritime Operations, Municipal Firehouse, and Public Access) and Seawall Lot 330 Mixed-Use Project (Residential, Hotel, Retail, Restaurant, and Parking); (First Pre-Application Review)
(For Board consideration on April 7, 2014)

Project Summary

Project Proponents. Port of San Francisco (“Port”) and GSW Arena, LLC (“GSW”)

Project Representatives. Brad Benson (Port) and Craig Dykers (Snøhetta/GSW)

Pre-Application Review. Over the past year, the San Francisco Bay Conservation and Development Commission (“BCDC” or “Commission”) staff has met with the project proponents to conduct pre-application reviews of the project design and to evaluate the project for conformance with the Commission’s law and policies. In addition, on February 6, 2014, the project proponents presented the proposed design to BCDC’s 27-member Commission. A BCDC permit application for the project has not been submitted. The Commission’s Design Review Board (“Board”) and the Port’s Waterfront Design Advisory Committee (“WDAC”) will conduct a joint pre-application review of the project on April 7, 2014.

Commission’s Law and Policies, Public Trust, and Possible Special Area Plan Amendment. The Commission’s McAteer-Petris Act, the San Francisco Bay Plan (“Bay Plan”), and the San Francisco Waterfront Special Area Plan (“SAP”) apply to the proposed project. Among other things, the McAteer-Petris Act (§66605) sets forth, in part, criteria for authorization of fill in the Bay, including that the fill be for a water-oriented use, have no upland alternative, be the minimum necessary, minimize adverse effects on Bay resources, be constructed in accordance with sound safety standards to “afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters,” and establish a permanent shoreline “to the maximum extent feasible.” However, the SAP allows for piers not designated for removal, such as Piers 30-32, to be developed in a manner that is not water-oriented nor has an upland alternative location, as normally required by the McAteer-Petris Act, as long as the development is consistent with the Public Trust Doctrine.¹

¹ Since the SAP is intended, in part, to provide public access benefits, this waiver of certain fill criteria is warranted pursuant to §66632(f) of the McAteer-Petris Act finding that such fill is necessary to the health, safety and welfare of the entire Bay Area. (SAP, p. 19-20)



Making San Francisco Bay Better

The Public Trust Doctrine holds that navigable waters and tidal lands are the property of the State and must be protected for public use and enjoyment. The Bay Plan policy on public trust lands (p. 88) states, in part, when taking actions on such lands, the Commission “should assure that the action is consistent with the public trust needs for the area and, in case of lands subject to legislative grants, should also assure that the terms of the grant are satisfied and the project is in furtherance of statewide purposes.” Public trust uses cited in the Bay Plan include commerce, navigation, fisheries, wildlife habitat, recreation, and open space. The SAP policies provide that within the Northeastern Waterfront geographic area (Pier 35 to China Basin), “permitted uses” at piers not designated for removal, such as Piers 30-32, would be only those “consistent with the Public Trust Doctrine and the Port’s Legislative Trust Grant.”

In January 2014, Assembly Bill No. 1273 came into effect, which authorizes the State Lands Commission (and not BCDC) to evaluate the project for its consistency with the public trust. The law allows the State Lands Commission to find that the proposed project and uses are consistent with the public trust only if certain conditions are met.

Through its permitting process, BCDC would evaluate the project’s conformance with applicable law and policies. Pursuant to AB 1273, the project must provide additional off-site public benefits beyond those that might be required as part of the permit process. BCDC may consider whether the project and the additional off-site public benefits would, on balance, assure project consistency with its law and policies, including the balance of public and private benefits required in the SAP. Once these off-site public benefits are developed, the Commission would determine whether the benefits are appropriate for the proposed project. Additionally, the Commission would determine whether or not the project necessitates an amendment to the SAP.²

Existing Project Site Conditions and Views. Piers 30-32 is a single, approximately 12.7-acre, pile-supported pier located in the Bay east of The Embarcadero between Bryant and Brannan Streets, in the City and County of San Francisco. The Herb Caen Way promenade runs the length of the site, approximately 630 feet. At the northwest corner of the site is the single-story, 1,800-square-foot Red’s Java House restaurant. Due to poor structural conditions, substantial areas at Piers 30-32 cannot support heavy loads. Currently, the site is used for parking for up to 1,500 vehicles. The deep-water berth at the eastern end of the pier is occasionally used to moor cruise ships, naval and non-military government ships, and research vessels. In 2013, the site served as the 34th America’s Cup team base and was improved, in part, by installing docking facilities on the south side of the piers. Directly across from Piers 30-32, on the west side of The Embarcadero is the 2.3-acre Seawall Lot 330 (“SWL 330”) site, which is currently used as a parking lot. SWL 330 is located entirely outside of BCDC’s jurisdiction. (Exhibit 1)

In its current undeveloped condition, Piers 30-32 offers views of the Bay and the distant East Bay hills. The site also affords views of the San Francisco-Oakland Bay Bridge from The Embarcadero and Brannan Street intersection and from the Brannan Street Wharf park located south of Piers 30-32. Looking at the undeveloped site from SWL 330, views of the following features are possible: The Embarcadero, Herb Caen Way promenade, and the East Bay hills. Red’s Java House and the South Bay hills are seen looking southeast from The Embarcadero and Herb Caen Way. (Exhibit 2)

Proposed Land and Maritime Uses. The proposed project at Piers 30-32 would accommodate mixed uses, including professional sports and events, retail/commercial, maritime, community, and parks/open space (i.e., public access). At Seawall Lot 330, the project would accommodate residential, hotel, and commercial uses. (Exhibit 3)

² The Commission staff will keep the Board apprised and, if the SAP is amended, the staff will return to the Board seeking its review of the proposed project in light of policy changes. For its April 7, 2014 review, the Board should consider the proposed project in light of existing SAP policies.

Proposed Development. The Piers 30-32 project would include the construction of: (1) an approximately 128-foot-tall (13-story), 695,000 gross square feet (“GSF”) arena and event center (“arena/event center”) with seating for 18,064 patrons, office space, a community room, and a team practice facility (located under the proposed View Terrace); (2) an approximately 26,000 GSF event hall (located under the proposed Great Lawn); (3) a three-level, 100,000 GSF retail center and associated outdoor dining; (4) a two-level, approximately 18,000 GSF municipal firehouse with a boat docking/tie-up area; (5) a three-level, 234,411 GSF, 500-vehicle parking garage and loading docks (located under the retail and proposed Event Plaza) with an ingress/egress point at The Embarcadero and across Herb Caen Way; (6) a 3,280-square-foot water taxi dock; and (7) a temporary deep-berth ship docking and mooring area at the eastern pier edge. The project would also involve the relocation of Red’s Java House and associated outdoor dining to the southwest corner of Piers 30-32 near Herb Caen Way. (Exhibits 4, 5, and 6). The pile-supported piers would be reconstructed to a height of 3.33 feet above existing elevations for the majority of the structure. This new finished grade would transition down to meet existing grade along Herb Caen Way. An approximately 1,100-square-foot cantilevered deck would be added at the northwest corner of the site, and a 15,800-square-foot area would be removed from the southern piers edge. (Exhibit 7)

Located entirely outside of BCDC’s jurisdiction, Seawall Lot 330 would be developed with 176 residential units, a 227-room hotel, retail, and parking. A total of 534,890 GSF of building development is proposed at SWL 330, including seventeen- and eleven-story buildings.³

Proposed Public Access at Piers 30-32. The following public access improvements at Piers 30-32 are proposed:

1. The North Entry Court with a staircase at Herb Caen Way entering the retail center;
2. A Bay Promenade along the north, east, and south pier perimeters with a northern entry at Herb Caen Way and a southern connection to the South Plaza, measuring approximately 25 feet wide at the north Bay Promenade, 50 feet wide at the east Bay Promenade, and 41 feet wide at the south Bay Promenade;
3. The South Plaza, which serves as the site’s primary entry at the south from Herb Caen Way;
4. The Great Lawn comprised of stairs, ramps, and landscaped terraces, which at its uppermost elevation, connects to the Event Plaza;
5. The Event Plaza located between the retail center and the arena/event center, which includes an elevated section serving as the primary upper entry to the arena/event center; and
6. The northern View Terrace, the highest public access area at the site. (Exhibit 8)

Proposed Building and Public Access Heights at Piers 30-32. The proposed Piers 30-32 development would be constructed at varying heights. The tallest building would be the arena/event center at the southeast corner with an approximately 128-foot-high crown and 113-foot-high façade, with a section projecting over the south Bay Promenade. Immediately north of the arena/event center would be the public View Terrace, located at approximately 42 feet in height and projecting eastward of the arena/event center. The retail center would measure approximately 58 feet high at the roof peaks with associated plaza levels at approximately 19 and 34 feet in height. The upper level of the public Great Lawn and the majority of the public Entry Plaza would be located at about 31 feet in height. A 38-foot-high section of the Entry Plaza, referred to as the Upper Venue Entry, would be used as the main entrance to the arena/event center. The two-level firehouse and three-level parking garage would be located under the Event Plaza and retail center area, and the team practice courts would be located under the View Terrace. The public Bay Promenades would be built at pier-level. (Exhibits 9-18)

³ Although, the proposed SWL 330 project would not require a BCDC permit, it is considered part of the total project and, thus, would be considered in evaluating whether the project, as a whole, provides maximum feasible public access.

Public Views. At the southeast corner of the project site at the Bay Promenade, visitors looking northeast would see the Bay, Yerba Buena Island, three towers of the San Francisco-Oakland Bay Bridge western span, and the distant East Bay hills. Within the elevated Event Plaza, looking north, visitors would not see the Bay, but would see a portion of the San Francisco-Oakland Bay Bridge, the retail center, and the arena/event center. At the South Plaza, looking northeast, visitors would see a small area of open water but mostly the arena/event center, the southern part of the retail center, and Red's Java House and associated outdoor dining area. At the top of the Great Lawn looking southeast, visitors would see the Bay, the distant southern hills, and a portion of Pier 38. (Exhibit 19)

Proposed Circulation. Piers 30-32 would provide access to vehicles, bicycles, pedestrians and persons with disabilities. A parking garage for 500 vehicles is proposed and the project would also provide parking for 1,016 bicycles. Private and service vehicles traveling north on The Embarcadero would enter/exit the site's garage by traveling across Herb Caen Way, which is part of the San Francisco Bay Trail. Pedestrians would enter/exit the project site at the North Entry Court, northern Bay Promenade, and the South Plaza. Pedestrians would also arrive at the site via a proposed water taxi stop and, occasionally, by cruise ships. Ramps and walkways would be available to pedestrians throughout the development, including at the Great Lawn, the retail center, and the Event Plaza. The Upper Venue Entry would draw arena and event patrons arriving from the North Entry Court and the South Plaza and passing through the Entry Plaza and Great Lawn. On the south side of the project, an additional main venue entry (Theatre Entry) would be available for patrons. Three elevators are proposed at the site. The façade of the arena and event center would incorporate a pedestrian ramp. (Exhibit 20). All routes would be available for visitors with disabilities. (Exhibit 21). The Bay Promenade would be accessible to pedestrians, bicycles, and emergency vehicles. (Exhibit 22)

Sea Level Rise and Flooding. According to the project proponents, the existing Piers 30-32 would be inundated by a 55-inch rise in sea level.⁴ To address such conditions, the project proponent proposes to reconstruct the majority of Piers 30-32 at 3.33 feet above existing elevations. This new finished grade would slope down to meet existing grade along Herb Caen Way. The majority of the project would tolerate periodic flooding and wave overtopping through 2081 (the duration of the project proponent's ground lease). However, at the northern and southern entry points and at lower project elevations (i.e., the entry, first level, and loading docks of parking garage) flooding is expected to occur. (Exhibits 23 and 24)

To adapt to predicted flood conditions, the project proponents are considering the following possible measures: (1) installing a curb along the lower railing that extends around the pier deck perimeter; (2) placing low walls at the base of the landscaped areas to minimize damage from inundation; (3) constructing a wave attenuation wall at the pier perimeter; (4) setting buildings 25 feet back from the pier edge (except for Red's Java House at site's southwest corner placed to comply with historic preservation standards); (5) incorporating drainage facilities along the pier perimeter; (6) designing the pier substructure to resist wave and buoyant forces associated with sea level rise through 2081; (7) eliminating, where feasible, building wall penetrations at lower elevations to preclude water ingress; (8) providing space to accommodate emergency pumping systems for facilities at low elevations (e.g., the garage entry, the first level of parking garage); and (9) providing adequate first floor story height at retail buildings to allow the floor to be raised in the future.

⁴ The project proponents are currently analyzing future sea level rise and flooding conditions at the site and, among other things, are awaiting the Federal Emergency Management Agency's ("FEMA") 100-year flood estimate recalculation for San Francisco Bay to incorporate this information into the analysis. At a later date, more information will be available for a fuller analysis of the issue.

Design Review Board Issues. The Bay Plan Public Access Policy 12 states, in part, that “the Design Review Board should advise the Commission regarding the adequacy of the public access proposed.” Policy 1 and 12 of the Bay Plan Policy on Appearance, Design and Scenic Views state, respectively, that projects should be designed in accordance with the Commission’s *Public Access Design Guidelines*, and the Board should review projects that affect the Bay’s appearance.

In its initial review of the project, the Board should consider these policies and other Commission law and policies identified below. As additional project details become available, Commission staff will return to the Board for further project advice and consideration of any additional relevant Commission law and policy issues.

1. **Massing and Character.** The SAP’s Waterfront Design Policy 1 (p. 39) states, in part, that development should “reflect and recognize the unique identity of the waterfront districts established by...building scale, materials, land uses”; “take advantage of the Bay as a design asset by encouraging transparent buildings”; “minimize shading of on-pier public access and reflect the historic character of the waterfront” by requiring that “building height and bulk be generally low scale”, and not place utilities on roofs or use “reflective glass.” Policy 1 also prohibits general advertising in public spaces and on buildings.

The Board should consider whether the proposed Piers 30-32 project would be compatible with and reflect the waterfront district identity and historic character. (The Commission staff will seek the Board’s advice on project details, such as building materials, advertising and utility placement at a later time, when relevant design information is available).

2. **Heights and Views.** The SAP (p. 18) identifies the Northeastern Waterfront, including Piers 30-32, as “a regional recreation and scenic resource.” The SAP’s Waterfront Design Policy 1 (p. 39) states, in part, that waterfront development should “take advantage of its location on the Bay” and “generally be low scale in order to preserve views of the Bay.” The SAP’s Bay Views Policy 1 (p. 39-41) states that “diverse views of the Bay, the City and waterfront and maritime activities along the water’s edge should be provided at frequent intervals along The Embarcadero and Herb Caen Way, the Bayside History Walk and from public plazas and public access on piers, consistent with other policies in this plan.” The Bay Plan’s Appearance, Design and Scenic Views Policy 14 (p. 70-72) states that views of the Bay from roads “should be maintained by appropriate arrangements and heights of all development.”

The SAP’s Bay Views Policy 4 (p. 40-41) states, in part, that “new development on piers should preserve or improve views of the Bay, maritime activities and historic and new waterfront architecture”, including along view corridors, such as Brannan Street, with a direct view of Piers 30-32 and the San Francisco-Oakland Bay Bridge. The policy further provides that, along the Brannan Street view corridor, the Bay Bridge and “waterfront architecture” were envisioned as a part of a future public view. The Bay Plan’s Appearance, Design and Scenic Views Policy 10 (p. 70-72) states that structures over the Bay should be designed as “landmarks” and “be low enough to assure the continued visual dominance of the hills around the Bay.”

The Board should consider whether the varying heights and arrangement of the proposed development is appropriate for the location and would preserve Bay views to the maximum extent feasible. In addition, the Board should consider whether the proposed heights allow for maximum feasible public views of the San Francisco-Oakland Bay Bridge and the hills around the Bay.

3. **Public Access and Adjoining Uses.** Regarding public access along the San Francisco waterfront, the SAP (p. 32) refers to the McAteer-Petris Act (§66602), which states “maximum feasible public access, consistent with a proposed project, should be provided.” The SAP identifies (p. 32) visual access as “a critical part of public access”. The SAP *Piers Not Designated For Removal* (e.g., Piers 30-32) Policy 1 (p. 22-23) states that Commission permits should be issued when, among other things, “the volume (mass) of structures to be built on the pier would be consistent with achieving and enhancing maximum feasible public access, consistent with the project,” and “the proposed project would be designed so as to take advantage of its nearness to the Bay, and would provide opportunities for enjoyment of the Bay in such ways as viewing, boating and fishing.”

The SAP's Public Access Policy 1 (p. 32-34) states that public access should be "free of charge to the public," and connected physically and visually to the Bay. Policy 6 states that for work on major piers, 35% of the project area is considered maximum feasible public access but large piers, including Piers 30-32, should have a higher proportion of their area devoted to public access and open space than finger piers.

The SAP's Public Access Policy 10 (p. 36) states for proposals where public access would exceed the SAP's "maximum public access requirement", the Commission could allow private uses to extend to the pier edge if the use would "enhance the total design of the project, be oriented toward and take advantage of the location at the water's edge, serve to make the public access more interesting, and should not divert the public right-of-way along more than 20 percent of the total platform edge."

The SAP's Brannan Street Wharf Policy 5 requires that a cohesive design treatment should be applied to the entire Open Water Basin edge, including the south apron of Pier 32 and the north apron of Pier 38.

The Board should consider whether the proposed public access at Piers 30-32 would provide opportunities to enjoy the Bay, and be connected physically and visually to the Bay. The Board should also consider how outdoor dining, docking, and any on-land operational facilities for fireboats, water taxis, and cruise ships would operate and be managed to maximize use and enjoyment of the public areas.

4. **Views.** The SAP's Public Access Policy 1 (p. 32-38) states that access at large piers should consist of "perimeter access, significant park(s)/plaza(s) on the pier perimeter, additional areas, e.g., small parks or plazas integrated into the perimeter access, [and] significant view corridors to the Bay from points on the pier which by their location have more of a relationship to the water than to the project." The SAP's Required Public Access Policy 6 (p. 8) states "public access should be located at ground or platform level, but minor variations in elevation intended to enhance design of open space may be permitted. Public access should also be open to the sky, although some covering may be allowed if it serves the public areas and does not support structures." The SAP Public Access Policy 10 (p. 36)—specific to siting and design—states that "on-pier public access areas should be located to take advantage of the Open Water Basins [located south of and adjacent to Piers 30-32], views of the Bay and its shoreline, views back to the City...."

The Board should consider whether proposed public areas would have more of a relationship to the water than to the mixed-use project. Additionally, the Board should consider whether, as proposed, the public access is comprised of minor variations in elevation, whether covered public areas would serve the public, whether proposed access located at the southern part of the site takes advantage of the open water basin location, and whether public areas would provide views not only of the Bay but also back to the City of San Francisco.

5. **Circulation.** Regarding public access, the SAP (p. 32) states, "The Commission strives to provide continuous pedestrian access to and along the shoreline of San Francisco Bay." Further, the SAP's Transportation and Parking Policy 1 (p. 42) states, in part, that The Embarcadero should be preserved "as a continuous automobile, transit, and bicycle access corridor with pedestrian promenade improvements along Herb Caen Way." Further, Policy 4 states, in part, "[p]arking on piers will be planned to minimize adverse impacts on public access through such measures as avoiding queuing that extends over Herb Caen Way or other public access areas; limiting vehicle access on pier aprons to maintenance, service and emergency vehicles; and using special paving, signing and other design treatments at crosswalks and other pedestrian-vehicle interfaces to identify the joint use and ensure a pedestrian-friendly environment." The Bay Plan's Public Access Policy 12 (p. 66-69) states that roadway design should "provide for safe, separated, and improved physical access to and along the shoreline," and Policy 7 states that access should "permit barrier free access for persons with disabilities to the maximum extent feasible."

The Board should consider whether the proposed circulation and ingress/egress points for vehicles (including emergency vehicles), pedestrians, persons with disabilities, and bicycles would facilitate efficient, safe, and comfortable movement for all site visitors.

6. **Future Sea Level Rise and Flooding.** The Bay Plan's Climate Change Policy 1 (p. 31-39) states that "risk assessment[s] should be prepared...[and be] based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection...for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end of century based on the best scientific data available should be used in the risk assessment." Policy 3 states that where such assessments show vulnerability to public safety, projects "should be designed to be resilient to a mid-century sea level rise projection" and that an "adaptive management plan" should be prepared. Additionally, the Bay Plan's Public Access Policy 5 (p. 68) states that public access areas "should be sited, designed, managed, and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding."

The Board's should consider whether, based on information provided to date, the proposed public access areas would be resilient and adaptable to future sea level rise and flooding.