




MEMORANDUM

December 6, 2024

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Gail Gilman, Vice President
Hon. Willie Adams
Hon. Stephen Engblom
Hon. Steven Lee

FROM: Elaine Forbes
Executive Director 

SUBJECT: Informational presentation and update on interagency work with the San Francisco Planning Department on amendments to the San Francisco General Plan and Planning Code, and the San Francisco Bay Conservation and Development Commission (BCDC) on amendments to the Waterfront Special Area Plan, to align these documents with the Port's Waterfront Plan.

DIRECTOR'S RECOMMENDATION: Information Only - No Action Required

EXECUTIVE SUMMARY

In April 2023, the Port Commission approved a comprehensive update to the Waterfront Plan. The Waterfront Plan describes the goals, policies, public values and expectations to guide improvement and uses along the Port's 7½ mile waterfront through leasing, development, public realm projects, environmental stewardship and community engagement. The updated policies were produced through a detailed public process led by a diverse 30-member Waterfront Plan Working Group.

This staff report provides a briefing on interagency coordination work with the San Francisco Planning Department (SF Planning) and the San Francisco Bay Conservation and Development Commission (BCDC) to develop conforming amendments to those agencies' planning documents so that policies administered by all three agencies along the San Francisco waterfront are aligned and reinforce key principles and objectives.

Amendments to SF Planning's General Plan, Planning Code and Zoning Map were presented and approved by the Planning Commission and the Board of Supervisors in April and July 2023, respectively. Port staff is continuing work with BCDC to seek amendments to BCDC's San Francisco Waterfront Special Area Plan (SAP) which would occur in a two-phased approach. The first phase is anticipated to be considered by BCDC's Commission for action in March 2025.

STRATEGIC PLAN ALIGNMENT

Updates to the SF Planning and BCDC planning documents to reflect the goals and policies found in the Commission-approved Waterfront Plan will achieve several of the Port's Strategic Plan objectives including:

Productivity:

The changes to the SF Planning and BCDC documents will allow the Port to attract and retain tenants to build an economically successful and vibrant waterfront, grow the Port's maritime portfolio, and restore and activate Embarcadero Historic District piers.

Evolution:

The updates will fulfill the objective of completing the Port's long-term vision for the use of Port lands and stewardship of the Bay and waterfront resources to support waterfront improvements that respond to changing public and Port needs. The work allows for greater coordination with City and regional agencies to improve access to the waterfront and to improve Port open spaces to provide publicly-desired amenities and activities.

Engagement:

The updates to the SF Planning documents were presented to the Port's Northern and Southern Advisory Committees and have been approved by both the SF Planning Commission and the Board of Supervisors. Proposed amendments to BCDC's Special Area Plan were presented to the Port's Northern Advisory Committee and Fisherman's Wharf Advisory Committee and will undergo a public hearing and vote at the BCDC Commission. Agency coordination is achieved by partnering with City departments and government agencies to align communication, engagement and activities.

BACKGROUND

The Port's ability to manage and implement improvements along the San Francisco waterfront depends on strong interagency collaboration and coordination within the policy framework of the Waterfront Plan. Port lease, development, park, and other improvements require environmental review, permits and/or public approvals by the SF Planning Commission, Board of Supervisors, and BCDC. It is important for the Port to maintain consistent and aligned policies with the City and BCDC to support the delivery of waterfront improvement projects. On January 24, 2023, Port staff provided a briefing to the Port Commission on planning amendments to align policies for the San Francisco

waterfront.¹ On April 11, 2023, the Port Commission approved the update to the Port's Waterfront Plan.²

This staff report describes work that has been completed to align Port and City policies and procedures, which were approved by the Board of Supervisors in July 2023. Port staff is continuing work with BCDC to seek amendments to BCDC's San Francisco Waterfront Special Area Plan (SAP).

SF PLANNING AMENDMENTS

The Port and SF Planning Department work closely to coordinate and support ongoing planning and initiatives to improve the waterfront and integration with broader city needs and objectives. When the first Waterfront Land Use Plan was approved in 1997, the Departments worked to align it with policies and procedures in the San Francisco General Plan, Planning Code and Zoning Map. With the 2023 Waterfront Plan update, Port and Planning staff maintained this same effort, which produced amendments to the San Francisco General Plan (the Northeastern Waterfront and Central Waterfront area plans, and Recreation and Open Space Element), the San Francisco Planning Code and Zoning Map.

The majority of the General Plan amendments updated information about existing conditions and improvements by the Port and City affecting the waterfront and adjacent neighborhoods and added information and support for resilience adaptation planning to lay the groundwork for further future updates. In addition, new language was added to recognize that the waterfront is part of the ancestral homeland of the Ramaytush Ohlone native people, and policy amendments to include equity and inclusion.

The Planning Code and Zoning Map amendments were made to expand the geographic area for a waterfront design review process along the Port's entire 7½ mile waterfront for major waterfront development projects on Port property. Prior to these amendments, the waterfront design review process, carried out by the Waterfront Design Advisory Committee, applied only to the northern waterfront, between Fisherman's Wharf and China Basin Channel. The Zoning Map was amended to create a Waterfront Special Use District #4 including Port-owned property south of China Basin Channel. Accompanying Planning Code text revisions created a uniform set of procedures and criteria so that major Port development projects along the southern waterfront would undergo the same type of design review as those to the north.

These Planning amendments were adopted by the Planning Commission and Board of Supervisors in April and July 2023, respectively.³

¹ January 24, 2023 Port Commission staff report: [012423_item_13a_waterfront_plan_revisions_port_comm_report_1-11-23_revised_0.pdf](#)

² April 11, 2023 Port Commission staff report: [041123_item_9a_waterfront_plan_cega_findings_and_approval_final_4-7-23.pdf](#)

³ July 10, 2023 Board of Supervisors action: [o0155-23.pdf](#)

BCDC SPECIAL AREA PLAN AMENDMENTS

Port and BCDC staff have been working together to develop the approach and content of proposed amendments to update BCDC policies for the SF waterfront. The San Francisco Bay Plan is BCDC's master plan, which sets goals and policies for bay fill, public access, uses and environmental resources. Within that policy framework, BCDC has a San Francisco Waterfront Special Area Plan (SAP) which contains more specific policies related to physical conditions and issues along the San Francisco waterfront, between Fisherman's Wharf and India Basin.

The scope of Port and BCDC collaboration efforts is broad, as both agencies are actively engaged in reviewing and permitting individual projects, as well as groundbreaking work to develop shoreline resilience plans and initiatives to address sea level rise and climate change. Port and BCDC staff have entered a Memorandum of Understanding which sets forth a two-phase approach to amending the SAP to align Port and BCDC planning objectives. The first phase discussed in detail in this staff report focuses on policy changes to address current and near-term policy alignments needed to support the Waterfront Plan.

BCDC and Port will continue to coordinate the detailed planning work now underway to implement BCDC's Bay Adapt Joint Platform and Port's Waterfront Resilience Program which will inform the content of a second phase of SAP amendments in the future. Those amendments will address climate change, sea level rise and resilience adaptation policies, and are anticipated to result in a comprehensive update of the SAP.

Phase 1 BCDC Amendments:

The Port is currently focused on these amendments in the SAP:

- Remove the Replacement Fill Policy, better known as the 50% Rule, from the Fisherman's Wharf area and add a new policy allowing uses on pile-supported piers that are consistent with the Public Trust Doctrine and the Port's legislative authority (i.e. the Burton Act);
- Amend a current SAP policy requirement applicable to the Exploratorium Museum project to implement a Resilience Sea Level Rise Education Plan and Program instead of a current SAP requirement to remove Bay fill;
- Postpone dates for outstanding SAP public benefits requirements (public access improvements associated with Piers 19, 19.5, 23, 29.5, the Bayside History Walk at Pier 29, and removal of the end of Pier 23) to a date to be determined by the Port and BCDC; and
- Small changes to terminology and findings to improve clarity and better align the SAP with the Port's 2023 Waterfront Plan.

Some history is helpful to understand the context for these amendments. In 1997, the Port adopted the Waterfront Land Use Plan, which created the policy framework for public use and improvement of the Port waterfront. This created a need for substantial amendments

to BCDC SAP policies, which were guided by a Framework Agreement between BCDC, the Port and Save the Bay in 1998, and a lengthy public process. The SAP amendments that emerged and were adopted by the BCDC Commission in 2000 have been regarded as a “grand bargain”. The amendments were formed around a comprehensive plan vision that identified priority locations, resources and regional public benefits, requiring the Port to fund and create major new waterfront parks and the Embarcadero Historic District, and remove specified piers to enlarge the Bay. In exchange, the SAP amendments deleted the 50% Rule along the northeastern waterfront, between Pier 35 and China Basin Channel. The 50% Rule, described in further detail below, was created in the 1970’s and was intended to support visitor-oriented waterfront development but did not achieve that objective. The SAP amendments in 2000 replaced the 50% Rule with a new use policy that broadened the range of allowable uses on piers in the northeastern waterfront area between Pier 35 and China Basin but required that they be consistent with the Public Trust Doctrine and the Port’s responsibilities under the Burton Act. This change not only addressed public demand to increase the diversity of activities and public access along the waterfront, as promoted in the Waterfront Land Use Plan, it also increased flexibility and improved the financial viability for waterfront projects to cover the costs of pier repair, seismic improvement and historic rehabilitation, and expanded public access.

Fisherman’s Wharf 50% Rule Amendment:

At the time the Port and BCDC were working towards the SAP amendments approved in 2000, there was mutual interest to remove the 50% Rule from the entire northern waterfront, including Fisherman’s Wharf. However, BCDC and the Port did not reach agreement on the associated fill removal and public access benefits within Fisherman’s Wharf, a necessary precursor to justify eliminating the 50% Rule in that area.

The 50% Rule policy originally was intended to facilitate waterfront revitalization by allowing development of bay-oriented commercial recreation uses, as well as address BCDC fill and public access objectives. It contains two basic requirements for projects that propose to reconstruct and reuse piers: 1) the reconstructed pier must be smaller in size; and 2) 50% of the reconstructed pier must be dedicated to open space or public access. Piers could be reconstructed and seismically reinforced for uses such as hotels and visitor-oriented retail and restaurants that are restricted to one-half of the pier area; the other half of the pier needed to be dedicated to public access or removed to enlarge the Bay, or a combination of the two. Repair, reconstruction, and seismic strengthening of piers was—and remains—costly, and the allowed uses on reconstructed piers proved to be too limited to cover those expenses. The only project that could satisfy the 50% Rule was the Pier 39 project in 1978. Furthermore, a 1986 informal opinion by the Attorney General advised that seismic or major structural pier repairs necessary to support existing pier businesses also should be treated as bay fill, and subject to the 50% Rule. This was problematic because existing pier businesses in Fisherman’s Wharf, such as the restaurants along Taylor and Jefferson Streets or Scoma’s at Pier 47 have business footprints that cover far more than 50% of their pier lease areas. Thus, the 50% Rule became a major impediment

for existing Port tenant businesses, inhibiting repair and maintenance of the piers on which they operated.

For those reasons, the Port has been motivated to remove this policy. While the 2000 SAP did not provide this change in Fisherman's Wharf, it did provide a pathway to reach that objective. The SAP requires that BCDC and the Port undertake a study and public process to identify and develop a major public plaza and an open water basin within the Fisherman's Wharf area. After these public benefits were completed, the SAP provided that the Port could initiate a request to remove the 50% Rule at Fisherman's Wharf.

Accordingly, BCDC and the Port undertook two studies in 2004 and 2014 to identify public plaza improvements. Based on this work, the Port constructed the Pier 43 Bayside promenade and a plaza at Pier 45, creating approximately 36,000 sq. ft. of public access space. The Port also created the open water basin by removing Pier 43 ½, approximately 77,000 sq. ft. of fill. With these requirements completed, the Port has submitted a request to remove the 50% Rule from Fisherman's Wharf and apply the same SAP use policy that currently governs in the Northeastern Waterfront to Fisherman's Wharf. This amendment would unify the use, repair and maintenance rules for all pile-supported properties owned by the Port in the entire northern half of the waterfront, from Hyde Street Historic Ship Museum to China Basin Channel. As in the northeastern waterfront, the Port seeks to allow a variety of uses on piers in Fisherman's Wharf that are consistent with the Public Trust Doctrine and the Port's responsibilities under the Burton Act. This use policy improves the Port's ability to carry out the Fisherman's Wharf objectives in the updated Waterfront Plan:

- Protect and maintain Fisherman's Wharf as a working fishing port.
- Maintain a colorful mix of maritime and water-dependent activities at Fisherman's Wharf, in addition to fishing.
- Enhance the public access experience and open space programming in Fisherman's Wharf.
- Maintain the Wharf's diverse mix of public, commercial, maritime and recreation uses, including activities that attract locals and dispel the Wharf's image as tourist-only attraction.
- Work closely with longstanding Fisherman's Wharf restaurants and businesses to coordinate investments in infrastructure improvements that maintain public safety and economic vitality and adapt to sea level rise.
- Manage transportation flow to and through Fisherman's Wharf to maintain viable industrial and loading access for the fishing industry and commercial businesses, reduce single-occupant vehicle use, increase public transit service levels, provide continuing enhancements of the pedestrian and bicycle experience, and support efficient parking operations for waterfront visitors to the Wharf.

Exploratorium SAP Amendment:

The 2000 SAP amendments enabled the Port to partner with the Exploratorium to propose its interactive science museum at Pier 15-17. However, that proposal conflicted with one SAP policy that required removal of the pier deck and substructure in the "valley" between

Piers 15 and 17. The Exploratorium sought to retain a portion of this deck area in its development, and worked with BCDC to secure an SAP amendment in 2006 that shifted the bay fill removal requirement to other locations along the Port waterfront, with options and provisions for timing and amount of removal depending on the location of where and when the fill would be removed.

The opening of the Exploratorium changed the complexion and public activity along the Embarcadero waterfront, attracting families and children and diverse patrons. Since then, the Exploratorium also has become an important strategic partner with the Port and BCDC as the work of all three organizations has evolved to focus on the needs and demands to address climate change and sea level rise, while protecting San Francisco Bay and public use and enjoyment of the waterfront. The Exploratorium is well-known and uniquely experienced in carrying out science-based education and community engagement programs and initiatives and has proposed a Resilience Sea Level Rise Education Plan and Program. This education program is proposed in-lieu of the current SAP bay fill removal requirement, and thus is included in the Phase 1 SAP amendments.

The Exploratorium has met with the Port and BCDC to discuss desired public education program needs and objectives, which have been incorporated into the Resilience Sea Level Rise Education Plan and Program submitted to BCDC for review. The Port has submitted an SAP amendment application to delete the bay fill removal requirement and is working with BCDC to develop new SAP policy language that requires the Resilience Education Plan and Program.

If this SAP amendment is approved, the sea level rise education program would focus on supporting public engagement with sea level rise content and adaptation efforts. The Exploratorium's draft proposal builds on recommendations made in regional, state, and national guidance for sea level rise and climate adaptation, with the following draft goals:

- Increase public understanding of sea level rise in the Bay Area from impacts to solutions;
- Elevate public awareness of regional cooperation initiatives and shared vulnerabilities; and
- Expand student engagement with sea level rise content through teacher professional development and field trip opportunities.

Content and concepts will be identified in partnership with BCDC, Port, and local partners. As a starting point, the Exploratorium has suggested concepts including:

- Sea level rise foundations - land ice melt, thermal expansion, tides, weather
- Climate resilience and adaptation pathways
- Groundwater rise and toxic sites
- Indigenous relationship to land and sea level
- Natural and nature-based solutions
- Historical ecology, land use, and bay fill
- Interconnectivity of the region through infrastructure vulnerability

The draft proposal will consist of several components, including public space activations, K-12 teacher professional development, public programming, and online resources. The draft proposal will be further refined in collaboration with the Port's Waterfront Resilience Program, BCDC's Bay Adapt Program, and other relevant partner organizations. BCDC staff review will include presenting proposal details to the BCDC Commission as part of a staff report and preliminary recommendation in advance of a public hearing, prior to acting on any SAP amendments.

Other SAP Amendments:

The Port's SAP amendments also will include other small changes to terminology, additions of findings that provide context and rationale for policy changes, and technical edits to improve clarity and alignment between the SAP and Port Waterfront Plan. These revisions will be developed collaboratively by BCDC and Port staff.

In addition, the SAP amendments will postpone implementation dates for outstanding public benefits currently described in the SAP (public access improvements associated with Piers 19, 19.5, 23, 29.5, the Bayside History Walk at Pier 29, and removal of the end of Pier 23), which will be further analyzed and determined by the Port and BCDC.

COMMUNITY OUTREACH

Port and BCDC staff provided briefings on this work to the Fisherman's Wharf Advisory Committee and the Northern Advisory Committee in September 2024.

NEXT STEPS

This informational presentation is provided to invite public comments and answer questions. BCDC initiated the SAP amendment process on November 7, 2024, and anticipates a public hearing in February 2025, and BCDC Commission action in March 2025.

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