

SAN DIEGO UNIFIED PORT DISTRICT

DATE: January 6, 2009

SUBJECT: BROADWAY CRUISE SHIP TERMINAL: CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION APPROVING A DE MINIMIS PORT MASTER PLAN AMENDMENT FOR CENTRE CITY EMBARCADERO PLANNING DISTRICT 3 AND DIRECT FILING WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION.

EXECUTIVE SUMMARY:

In response to communications and meetings with staff from the California Coastal Commission (Commission), Port staff proposes a de minimis Port Master Plan Amendment (PMPA) for the Broadway Pier Cruise Ship Terminal. The de minimis PMPA involves adding minor text to Table 11 of the Port Master Plan (PMP) to clarify that the general parameters of a cruise ship terminal building and public viewing and public access components are a "project" included in the PMP. The current certified PMP already identifies infrastructure improvements to Broadway Pier on Table 11 (page 69) and PMP text (pages 63-64) establish continued cruise ship use and outlines general development standards for a structure in the form of a floor area ratio (FAR), but do not specifically describe a cruise ship terminal.

A de minimis PMPA, once approved by the Board, can be certified by the Commission Executive Director if no Coastal Commissioners object. The de minimis PMPA has been prepared in accordance with Section §30716 (c) of the Coastal Act, and a submittal package for the Commission has been prepared. A notice of the de minimis PMPA and public hearing has been mailed out to adjacent properties and published in the San Diego Daily Transcript and San Diego Union Tribune on Monday, December 15, 2008 providing the necessary 21 calendar days notice.

RECOMMENDATION:

Conduct a public hearing and adopt a resolution approving a de minimis Port Master Plan Amendment for Centre City Embarcadero Planning District 3 and direct filing with the California Coastal Commission for certification.

FISCAL IMPACT:

This Board action has no fiscal impact.

COMPASS STRATEGIC GOALS:

This item clarifies the PMP demonstrating cooperation between the Port and the Commission and maintaining a relationship of trust and transparency between our two agencies, additionally Commission staff has indicated that with this PMPA, they would not oppose further development of the cruise ship terminal.

This agenda item supports the following Strategic Goal(s).

- Promote the Port's maritime industries to stimulate regional economic vitality.
- Enhance and sustain a dynamic and diverse waterfront.
- Protect and improve the environmental conditions of San Diego Bay and the Tidelands.
- Ensure a safe and secure environment for people, property and cargo.
- Develop and maintain a high level of public understanding that builds confidence and trust in the Port.
- Develop a high-performing organization through alignment of people, process and systems.
- Strengthen the Port's financial performance.
- Not applicable.

DISCUSSION:

Background

In June 2007, the Board authorized approval of a non-appealable Coastal Development Permit (CDP) for a cruise ship terminal building and infrastructure improvements on the Broadway Pier (Resolution #2007-127). Environmental review was completed in accordance with CEQA through the use of an Initial Study/Addendum to the North Embarcadero Alliance Visionary Plan Master Environmental Impact Report (Addendum). This item was fully noticed and the Board conducted a public hearing prior to its decision. No written or verbal comments were received.

A few months after the CDP was issued, various individuals and groups approached the Commission staff expressing concern that a cruise ship terminal was not included in the existing PMP and therefore the Board's approval was not valid. Shortly afterwards, informal communications were initiated by the Commission staff, during which they expressed a similar concern. Since that initial communication Port and Commission staff engaged in cooperative efforts to resolve misunderstandings, specifically at meetings that took place on October 4, 2007 and February 21, 2008. In a letter dated March 4, 2008, the Commission staff formally stated their position that the PMP never envisioned a cruise ship terminal and that any further work on the terminal would be a violation of the Coastal Act.

Commission and Port staffs met a further time on this issue on June 27, 2008, after which Port staff sent a letter to the Commission staff stating disagreement with their position. The letter included possible de minimis PMPA language as a way to memorialize the Cruise Ship Terminal in the PMP projects list. Through follow-up conversations and letters, Port staff has proposed to accept an approach provided by the Commission staff. Port and Commission Staff have had very recent conversations resulting in additional minor revisions as described in the de minimis PMPA section of this agenda sheet.

Broadway Pier

The Broadway Pier has been used continually since its construction in 1913 as a terminal for cruise ships, military ships, excursion boats and visiting vessels. The entire pier was covered with a terminal building until the early 1970s. Since the Broadway Pier has a long history of being used for cruise ship and other vessel berthing, a new cruise ship terminal does not change that use. The Board's decision to approve the CDP was based in part on the following staff analysis.

The BPC legally adopted the PMPA, and the Commission later legally certified the PMPA addressing the North Embarcadero area in 2001; the Port has been operating from the certified PMP since then in good faith. The certified PMP land use designations on the Broadway Pier allow for Marine Terminal, Park/Plaza, Vista Point, and Promenade uses; the Project provides for and enhances all of these uses. The certified PMP contains various references that support development of the Project (i.e. "Cruise ships may tie up at both the B Street and Broadway Piers... A floor area ration (FAR) of 2.0 applies to the B Street and Broadway piers... Broadway Pier will continue to provide recreational space on its plaza and viewing platform, as well as accommodating commercial shipping and miscellaneous vessel berthing, including day cruisers" (PMP, pgs. 63-64)). Additionally, the water use designation on both sides of the pier is Industrial – Terminal Berthing. The proposed cruise ship terminal implements the stated intent of the PMP and will provide a level of public amenities not currently available. The FAR certified by the Commission allows for approximately 260,000 square feet of building while the approved cruise ship terminal is approximately 51,000 square feet.

Therefore, staff's position has been and continues to be that the cruise ship terminal project was envisioned by and is consistent with the land and water use designations and Precise Plan text in the certified PMP. Staff contends that a PMPA for this Project is technically unnecessary since it is classified as non-appealable; the PMP only requires a listing of appealable projects.

De Minimis PMPA

The Coastal Act was amended January 1, 1995 to provide for a more streamlined method to review amendments to the PMP. Section 30716(c) allows the Executive Director to make a determination that a proposed PMPA is de minimis in nature. The Executive Director must determine that the proposed PMPA: 1) has no impact, either individually or cumulatively, on coastal resources; 2) is consistent with the policies of Chapter 3; and 3) does not propose any change in land use or water use or any change in the allowable use of property.

The de minimis PMPA involves adding minor text to Table 11 of the Port Master Plan (PMP) to clarify that the general parameters of a cruise ship terminal building and public viewing and public access components are a "project" included in the PMP. The current certified PMP already identifies infrastructure improvements to Broadway Pier on Table 11 (page 69) and PMP text (pages 63-64) establish continued cruise ship use and outlines general development standards for a structure in the form of a floor area ratio (FAR), but does not specifically describe a cruise ship terminal.

The proposed PMPA would add text to the existing project listing on Table 11 (page 69) number 4. (g) as follows:

"4 NORTH EMBARCADERO REDEVELOPMENT: ...(g) Broadway Pier cruise ship terminal (approximately 60,000 sq. ft., maximum 50-foot building height) to cover no more than 50 percent of the pier, public events space, 15,000 sq. ft. public recreation and viewing area, a 25-foot wide public access corridor along the southern side of the pier, and infrastructure improvements..."

This language further clarifies the PMPA language provided in the public notice by specifying that the terminal building is approximately 60,000 square feet, that the public recreation and viewing area is 15,000 square feet and that the public access corridor is 25 feet wide. The de minimis PMPA has been prepared in accordance with Section §30716 (c) of the Coastal Act. As described in the coastal consistency analysis, the de minimis PMPA would not result in an impact, either individually or cumulatively, on coastal resources; is consistent with the policies of Chapter 3; and does not propose any change in land use or water use or any change in the allowable use of property. The coastal consistency analysis is available for review by contacting the Land Use Planning Department.

Staff recommends that the Board conduct a public hearing and adopt a resolution approving a de minimis PMPA for Centre City Embarcadero Planning District 3 and direct filing with the Commission for certification.

Port Attorney's Comments:

The Port Attorney has reviewed and approved the amendment to the Port Master Plan for form and legality.

Environmental Review:

The de minimis PMPA itself is exempt from CEQA pursuant to Section 15061(b) (3) of the CEQA Guidelines because it is an activity that causes no physical change and as such there is no possibility that significant effects on the environment could occur. The de minimis PMPA involves no physical change in the environment, but does clarify in the PMP Table 11 project list the basic components of development already identified elsewhere in the PMP and for which an Addendum and Initial Study was previously prepared and approved by the BPC in June 2007 (Resolution 2007-126) pursuant to CEQA. A Notice of Exemption will be filed with the County Clerk after approval of this item. The Notice of Exemption is available for review by contacting the Land Use Planning Department.

Equal Opportunity Program:

Not applicable

PREPARED BY:

Matthew Valerio
Senior Redevelopment Planner, Land Use Planning