

File No. 111358

Committee Item No. \_\_\_\_\_

Board Item No. 36

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Board of Supervisors Meeting

Date January 10, 2011

Cmte Board

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Hearing (Appeal)                             |
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| <input type="checkbox"/> | <input type="checkbox"/>            | Correspondence                               |

**OTHER**

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Response - Planning Dept.</u>   |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appeal - Appellant (Keith G. Wagner on behalf of various community organizations)</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Notice</u>  |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>*Draft Environmental Impact Report, Vol. 1 - 8 - Planning Dept.</u>                   |

Completed by: Andrea Ausberry Date January 5, 2012

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

\*An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.





# SAN FRANCISCO PLANNING DEPARTMENT

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## APPEAL OF EIR CERTIFICATION The 34th America's Cup & James R. Herman Cruise Terminal and Northeast Wharf Plaza Projects

**DATE:** December 30, 2011

**TO:** President David Chiu and Members of the Board of Supervisors

**FROM:** Bill Wycko, Environmental Review Officer -- (415) 575-9048  
Joy Navarrete, Case Planner -- (415) 575-9040

**RE:** File No. 111358, Planning Department Case No. 2010.0493E  
Appeal of Certification of the Environmental Impact Report on the  
34th America's Cup and James R. Herman Cruise Terminal and  
Northeast Wharf Plaza

**PROJECT SPONSORS:** 34th America's Cup Project: America's Cup Event Authority and City  
and County of San Francisco  
James R. Herman Cruise Terminal and Northeast Wharf Plaza  
Project: Port of San Francisco

**APPELLANT:** Keith G. Wagner of Lippe Gaffney Wagner LLP on behalf of San  
Francisco Tomorrow, Golden Gate Audubon Society, Waterfront  
Watch, and Telegraph Hill Dwellers

**HEARING DATE:** January 10, 2012

**ATTACHMENTS:** A. Planning Commission EIR Certification Motion No. 18514  
B. Appeal Letter (letter dated December 16, 2011 from Keith G.  
Wagner, Lippe Gaffney and Wagner, LLP)

### INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors ("Board") regarding the Planning Commission's ("Commission") certification of a Final Environmental Impact Report ("FEIR") under the California Environmental Quality Act ("CEQA") for the proposed 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Projects ("Projects"), Case No. 2010.0493E. The FEIR was certified on December 15, 2011 under San Francisco Planning Commission Motion No. 18514, which is presented in Attachment A to this memorandum. The appeal to the Board was filed on December 19, 2011 by Keith G. Wagner of Lippe Gaffney Wagner LLP on behalf of San Francisco Tomorrow, Golden Gate Audubon Society, Waterfront Watch, and Telegraph Hill Dwellers (collectively, "Appellant" and individually, "Appellant organizations"). The Appeal Letter is included as Attachment B to this memorandum.

The FEIR consists of the Draft EIR ("DEIR") published on July 11, 2011 and the Comments and Responses document published on December 1, 2011. Copies of the FEIR are being provided to the Board under separate cover to the Clerk of the Board on December 30, 2011.

The decision before the Board is whether to uphold the Planning Commission's decision to certify the FEIR and deny the appeal, or to overturn the Commission's decision to certify the FEIR and return the Projects to the Planning Department for additional environmental review.

## PROJECT DESCRIPTION

The 34th America's Cup and James R. Herman Cruise Terminal/Northeast Wharf Plaza are two related but independent projects, with overlapping project locations and project construction activities and interrelated operational schedules.

### The 34th America's Cup Project

The proposed 34th America's Cup ("AC34" or "AC34 Project") is a series of international sailing races and related events to be hosted by the City and County of San Francisco ("CCSF") in summer-fall 2012 and summer-fall 2013. The CCSF and the America's Cup Event Authority ("Event Authority") are the project sponsors for the AC34 Project. The AC34 race events would be held in central San Francisco Bay ("Bay"). In 2012, the race area would be primarily along San Francisco's northern shoreline between Pier 27 on the east and the Golden Gate Bridge on the west and south of Alcatraz. In 2013, the race area would be slightly larger, extending between Pier 27 and a short distance west of the Golden Gate Bridge, and about ½-mile north of Alcatraz. Access to shipping lanes on the Bay would be maintained throughout the duration of the races.

A number of project sites, or venues, would be required to accommodate all aspects of AC34 facilities and services needed to support the events. The venues would include team bases and operations, support space, media operations, hospitality services, sponsored commercial space, and entertainment and spectator areas. At most locations, the AC34 Project would require construction of only temporary facilities and installations to be removed after the 2012 and/or 2013 events, although at some locations permanent improvements (such as seismic upgrades, fire, safety, and access improvements; roof, deck, and wall repairs; and dredging) would be needed.

Several of the venues proposed for AC34 events are areas and facilities managed by the Port of San Francisco ("Port"), including certain piers (from north to south: Pier 29½, Piers 27-29, Pier 23, Pier 19½, Pier 19, Pier 9, Pier 26, Pier 28, Piers 30-32, and Pier 80), water basins/water areas (from north to south: Piers 29-31 water area, Northeast Wharf Open Water Basin between Piers 19 and 27, Pier 9 water area, portion of Rincon Point Open Water Basin south of Pier 14 and water area north of Pier 14, Piers 26-28 water area, Piers 28-30 water area, and the Brannan Street Wharf Open Water Basin from Pier 32 to Pier 36), and Seawall Lot 330. Other venues proposed for spectator- or sponsor-related activities are under the jurisdiction of other city, state, or federal agencies; these venues include Crissy Field, Crissy Field East/Marina Green West, Marina Green, Fort Mason, Aquatic Park, Alcatraz Island, Fort Baker Pier at Cavallo Point (near Sausalito in Marin County), San Francisco Civic Center, Union Square, and Justin Herman Plaza. The America's Cup Village, the primary programmed spectator site and a center of

operations for the AC34 events, would be located at Marina Green in 2012 and at Piers 27-29 in 2013. A helipad located on the southeast corner of Treasure Island would be used to serve as a temporary staging location for broadcasting and media operations.

It is expected that most existing tenants currently leasing and occupying Port facilities that would be used for AC34 venues would be displaced prior to the AC34 2012 event consistent with the terms of their existing leases. Current uses of other proposed venue sites are open space and recreation.

As part of the AC34 Project, the project sponsors have developed a number of event-related implementation plans to support the AC34 2012 and 2013 events, including plans that address transportation management, waste management, parks event operations, sustainability, environmental and safety requirements, water and air traffic management, public safety, youth involvement and workforce development.

In addition, the AC34 Project would include temporary public access improvements for use during the AC34 events along The Embarcadero Promenade and at the Pier 43 Promenade as well as permanent public access improvements for use after the AC34 events at Pier 19, Pier 23, and in the open space at the intersection of Third Street and Cargo Way in the southern waterfront.

As part of the proposed AC34 Project, the Port or the Event Authority have initiated a request to amend the San Francisco Bay Conservation and Development Commission ("BCDC") *San Francisco Waterfront Special Area Plan* ("SAP") to permit temporary berthing at Brannan Street Wharf, Rincon Point, Broadway, and Northeast Wharf Open Water Basins during the AC34 events. The amendments would also include a determination of public benefits that could trigger fill removal at a number of sites along the Port's waterfront properties (including various dilapidated piers, wharfs, and remnant pilings) in the context of the proposed amendments to the SAP for the AC34 Project. The BCDC will hear the amendments after the resolution of this appeal if the certification of the EIR is upheld. The Event Authority recently indicated it may revise its application to limit berthing at the Rincon Point Open Water Basin.

The terms of the AC34 Project are based on the 34th America's Cup Host and Venue Agreement between the project sponsors. Under this agreement, the AC34 Project would also provide the Event Authority with certain conditional long-term development rights at selected Port facilities, including Piers 30-32, Pier 26, Pier 28, Pier 29, and Seawall Lot 330. In addition, long-term developments of permanent marinas may occur in the Brannan Street Wharf Open Water Basin between Pier 32 and the northern edge of the water area portion of the former Pier 38 lease premises, and at Pier 54. There are currently no specific development proposals for any of these sites, and any future development plans and uses allowed under the Host and Venue Agreement would be required to undergo separate environmental review for CEQA compliance.

#### **James R. Herman Cruise Terminal and Northeast Wharf Plaza Project**

The Port proposes to develop a new passenger cruise terminal at Piers 27-29 designed to meet modern ship and operational requirements of the cruise industry. Currently, the Port's primary cruise terminal is located at Pier 35, and the Pier 27 shed and berth serve as a secondary terminal when there are multiple cruise calls. Pier 35 has become increasingly constrained for accommodating modern cruise ship operations. Under the proposed Project, the Port would demolish the existing Pier 27 shed and construct a new facility which would become the primary cruise terminal; Pier 35 would be retained as a secondary terminal. The

proposed cruise terminal would be designed to better accommodate newer, larger ships holding larger numbers of passengers than are currently served at Pier 35. In concert with the cruise terminal facility, the Port also proposes to construct the Northeast Wharf Plaza, a public open space along the west end of Pier 27. Together, the proposed cruise terminal and Northeast Wharf Plaza are referred to as the Cruise Terminal Project.

The proposed cruise terminal structure would consist of two stories approximately 91,200 square feet in size and would occupy a footprint of approximately 46,100 square feet. A new cruise terminal building would be sited within the larger footprint of the Pier 27 shed, which would be demolished during construction. The cruise terminal building would contain a large baggage claim area; check-in and waiting/seating areas; Customs and Border Protection and other security offices, processing and screening facilities, storage, utilities, and other facilities.

Vehicular access to and from The Embarcadero would be provided at a new driveway located south of the Pier 29 shed. This access point would provide direct connection to the cruise facility's proposed ground transportation area located within the center of the triangular-shaped Piers 27-29. The approximately 3-acre ground transportation area would provide space for access, dropoff, and exiting by trucks, taxis, buses, and passenger vehicles. The proposed provisioning facilities, including an off-loading dock, and space for staging and security check, would be located east of the cruise terminal building. The proposed provisioning area and associated security fencing and vehicle circulation would be designed to allow public access to occur on the west side of Pier 29 on all days, regardless of whether a cruise ship is in port. When cruise ships are not in port, the cruise terminal facilities would be used to accommodate shared use such as conferences and public or private gatherings, and maritime-oriented events.

The Northeast Wharf Plaza would provide an approximately 2½-acre open space at the west end of Pier 27, fronting along The Embarcadero Promenade, and would be designed to serve as a major waterfront park resource to support passive recreational enjoyment and provide expansive public views of the Bay consistent with planning policies and objectives in Port and BCDC plans. The plaza design would integrate the historic Pier 29 Belt Line office building and proposed landscaping and restroom facilities. Hardscaping at the plaza would include pavers, concrete seating/steps, and planters. The multi-use recreational space would consist of a natural turf underlaid by a soil bed and base drain mat.

Construction of the Cruise Terminal Project would be carried out in two phases. Construction of Phase 1 would be timed to accommodate the AC34 Project, and would include demolition of the existing Pier 27 shed, a portion of the Pier 29 shed, and the Pier 27 annex building and construction of the cruise terminal core building and shell. The core building and shell would then be used for the AC34 events at Piers 27-29 during 2013. After the conclusion of the AC34 race events, the Port would implement Phase 2 of the construction, involving further construction and improvements to complete the Cruise Terminal Project, including completion of certain interior space and facilities within the cruise terminal building, installation of exterior maritime equipment, finishing of the ground transportation area, and construction of the Northeast Wharf Plaza.

The Port has applied for an amendment to the BCDC's SAP to build the proposed James R. Herman Cruise Terminal and the Northeast Wharf Plaza and to allow berthing of cruise vessels in the Northeast Wharf Open Water Basin. The amendment request was initiated by BCDC through adoption of a brief descriptive

notice in May 2011. To approve the proposed amendment to the SAP, BCDC must determine that the amendment would retain a balance between the public benefits and private development opportunities. In addition to the components of the Cruise Terminal Project described above, the proposed package of public benefits include phased public access improvements and new openings to view the Bay.

## **ENVIRONMENTAL REVIEW PROCESS FOR THE PROJECTS**

### **Environmental Review Application**

On December 31, 2010, the Event Authority, CCSF, and Port initiated the environmental review process with the Planning Department regarding CEQA requirements for the Projects.

### **Notice of Preparation of an Environmental Impact Report**

The Planning Department determined that an Environmental Impact Report ("EIR") on both of the Projects was required, and on February 9, 2011, published a Notice of Preparation of an EIR and Notice of Public Scoping Meetings. The Planning Department provided public notice thereof by publication in newspapers of general circulation to solicit comments regarding the content of the combined EIR to be prepared for the Projects. The Planning Department held one public scoping meeting on February 23, 2011 at San Francisco City Hall and a second public scoping meeting on February 24, 2011 at the Port, and accepted written comments through March 11, 2011 to receive public input regarding the proposed scope of the EIR analysis.

### **Draft Environmental Impact Report**

The Planning Department published the DEIR on July 11, 2011, and copies of the DEIR and the Notice of Availability of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to adjacent property owners, and to affected governmental agencies. The Planning Department accepted public comments on the DEIR for a 45-day period from July 11 through August 25, 2011. During this public review period, the Planning Department duly advertised the date and location of a public hearing on the DEIR, held on August 11, 2011 at San Francisco City Hall. Following the close of the public review and comment period, the Planning Department prepared written responses that addressed all of the substantive written and oral comments on the DEIR, and the EIR was revised accordingly.

### **Comments and Responses Document**

The Planning Department prepared responses to comments on environmental issues received at the public hearings and in writing during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available since publication of the DEIR, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on December 1, 2011 and mailed or otherwise delivered to all parties who commented on the DEIR and other interested parties. The Planning Department also provided the Comments and Responses document to others upon request. The Comments and Responses document did not substantially revise the DEIR, and therefore no recirculation was required under CEQA Guidelines Section 15073.3.

### Environmental Impact Report Certification

On December 15, 2011, the Planning Commission reviewed and considered the FEIR, found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, and certified the FEIR as adequate, accurate and objective and in compliance with CEQA and the CEQA Guidelines under Planning Commission Motion No. 18514 (see Attachment A). The Planning Commission certified the FEIR by a unanimous vote of 5 to 0.

### CEQA GUIDELINES

The FEIR has been prepared in accordance with CEQA, as established under the California Public Resources Code Sections 21000 et seq., the CEQA Guidelines (a part of the California Code of Regulations), and local CEQA procedures under Chapter 31 of the San Francisco Administrative Code. The purpose of the EIR is to disclose any potential impacts on the physical environment resulting from implementation of the proposed Projects and allow a time for public review and comment, before decision makers decide to approve or deny the Projects.

### APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The concerns raised in the Appeal Letter (see Attachment B) include a brief statement of the grounds for appeal and indicate that further documentation in support of this appeal will be submitted at a later date prior to the appeal hearing. The grounds for appeal cited in the Appeal Letter are summarized and followed by the Planning Department's responses. Responses to any additional issues submitted subsequent to the Appeal Letter, if any, will be addressed in a separate memorandum as necessary. A SFGate.com article was submitted along with the Appeal Letter, however, the Appeal Letter does not reference this article, nor does the article raise any new issues. For completeness, this article is also included in Attachment B, although no response to this article is required.

**Issue #1.** The Appeal Letter states the following: "The subject EIR is not procedurally or substantively adequate, accurate, or objective. The EIR fails to fully and adequately identify and mitigate the impacts of the projects. The Final EIR, in particular fails to adequately respond to the majority of the comments submitted by our clients. With particular regard to the FEIR, the document does not contain adequate detail in response to public comment as to how the DEIR's mitigation measures will be implemented, monitored, and enforced."

**Response #1.** The environmental process for the Projects was conducted in an adequate, accurate, and objective manner in full compliance with CEQA requirements. The FEIR contains comprehensive identification of impacts and mitigation measures and comprehensive responses to comments submitted by the Appellant, including description of how mitigation measures would be implemented.

**Adequacy, Accuracy, and Objectivity of the EIR.** The FEIR has been prepared in compliance with CEQA (California Public Resources Code, Sections 21000 et seq.), the CEQA Guidelines (Title 14, California Code of Regulations, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act), and Chapter 31 of the San Francisco Administrative Code. This includes compliance with all aspects of the environmental review process for the Projects as required under CEQA Guidelines Article 7, EIR



Process (Sections 15080 to 15097) and Article 8, Time Limits (Sections 15100 to 15112). Furthermore, the contents of the FEIR are in full compliance with CEQA Guidelines Article 9, Contents of Environmental Impact Reports (Sections 15120 to 15132) and Article 10, Considerations in Preparing EIRs and Negative Declarations (Sections 15140 to 15151). In particular, consistent with CEQA Guidelines Section 15151, the FEIR was prepared with sufficient degree of analysis to provide decision makers with information which enables them to make an informed decision in consideration of the environmental consequences. Environmental professionals with qualifications and experience in the appropriate technical fields have prepared the EIR in accordance with accepted professional practices and under the oversight of the Planning Department. Scientific literature, public plans, policies, and regulations, and other information that were used in the environmental analysis are referenced and cited in the EIR and are available for public review at the Planning Department.

**Identification of Impacts and Mitigation Measures.** Chapter 5 of the EIR, as augmented in Chapter 11, identifies the environmental setting, impacts and mitigation measures of the Projects. The EIR addresses the full range of environmental topics identified in CEQA Guidelines Appendix G as well as additional topics required by the San Francisco Planning Department as provided for under Chapter 31 of the San Francisco Administrative Code. In total, the EIR presents 277 separate impact statements and discussions for the two Projects under the following 18 resource areas: Land Use, Aesthetics, Population and Housing, Cultural and Paleontological Resources, Transportation and Circulation, Noise and Vibration, Air Quality, Greenhouse Gas Emissions, Wind and Shadow, Recreation, Utilities and Service Systems, Public Services, Biological Resources (Upland and Marine), Geology and Soils, Hydrology and Water Quality, Hazards and Hazardous Materials, Mineral and Energy Resources, and Agriculture and Forest Resources. For the impacts determined to be significant or potentially significant, the EIR identifies 61 distinct project-specific mitigation measures for the AC34 Project events and facilities, 14 broad mitigation measures for long-term development rights impacts, and 19 distinct mitigation measures for the Cruise Terminal Project.

**Consideration of Comments on the Notice of Preparation and Responses to Comments on DEIR.** To initiate the EIR process, the Planning Department issued a Notice of Preparation to governmental agencies and organizations and persons interested in the Projects and conducted a 30-day public scoping period from February 9 through March 11, 2011, which included two public scoping meetings during this period. The DEIR acknowledged and addressed comments received during the public scoping period, as described in EIR Chapter 2, Table 2-1 (pages 2-5 to 2-9). During the public scoping period, the Planning Department received formal comments from the Telegraph Hill Dwellers (letter dated March 11, 2011) and San Francisco Tomorrow (oral comments presented at the scoping meeting on February 24, 2011). The Planning Department did not receive comments from Golden Gate Audubon Society or Waterfront Watch during the scoping period.<sup>1</sup> All comments received during the public scoping period, including those from the Appellant organizations, were considered in determining the scope of the EIR.

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<sup>1</sup> During the scoping period, the Planning Department received a letter from the Environmental Council dated March 11, 2011, which included three of the four organizations that comprise the Appellant (i.e., Golden Gate Audubon Society, San Francisco Tomorrow, and Telegraph Hill Dwellers). This letter from the Environmental Council represented a total of 18 organizations, of which 3 are Appellant organizations. Comments from the Environmental Council letter of March 11, 2011 were considered in determining the scope of the EIR.

Further, as described in EIR, Chapter 12, Section 12.3, Response INT-4 (page 12.3-7), the Planning Department engaged in additional public outreach during preparation of the DEIR, subsequent to the scoping period and prior to DEIR publication. Two of the Appellant organizations that were identified as members of the Environmental Council – San Francisco Tomorrow and Telegraph Hill Dwellers – participated in review and comment of administrative draft sections of the EIR, and the Planning Department integrated the input from this review process into the DEIR as appropriate.

The publication of the DEIR on July 11, 2011 represented the start of a 45-day public review period ending on August 25, 2011, which included a public hearing to receive oral comments on the DEIR that was held before the Planning Commission on August 11, 2011. During this public review period, the Planning Department received written and oral comments on the DEIR, and the Comments and Responses document, published on December 1, 2011, provides detailed responses to comments submitted on the DEIR. Chapter 10 of the Comments and Responses document lists all persons submitting comments on the DEIR, and Chapter 12 presents the responses to all substantive comments. Comments on the DEIR were received from the Appellants (i.e., San Francisco Tomorrow, Golden Gate Audubon Society, Waterfront Watch, and Telegraph Hill Dwellers), as listed in Table 10-2 (pages 10-4 to 10-5), and these comments are reproduced in their entirety in EIR Volume 7, Appendices COM and PH. The comments received from these organizations were individually coded and bracketed, as shown in the margins of each of the letters/public hearing transcript in the following locations in the EIR: public hearing comments on August 11, 2011 from San Francisco Tomorrow (coded as O-SFT) in Appendix PH, page PH-35; public hearing comments on August 11, 2011 from Golden Gate Audubon Society (coded as O-GGAS1) in Appendix PH, pages PH-27 to PH-28; comment letter dated August 25, 2011 from Golden Gate Audubon Society (coded as O-GGAS2) in Appendix COM, pages COM-214 to COM-218; comment letter dated August 25, 2011 from Waterfront Watch (coded as O-WW) in Appendix COM, pages COM-267 to COM-291; and public hearing comments on August 11, 2011 from Telegraph Hill Dwellers (coded as O-THD) in Appendix PH, pages PH-21 to PH-22.<sup>2</sup>

For each distinct comment, the topic codes shown in the margin of each comment letter or public hearing transcript corresponds to a comprehensive response in Chapter 12 that addresses that specific topic. The FEIR contains a complete response to all substantive comments on the DEIR, including those submitted by the Appellant – San Francisco Tomorrow, Golden Gate Audubon Society, Waterfront Watch, and Telegraph Hill Dwellers.

**Implementation, Monitoring, and Enforcement of Mitigation Measures.** EIR Chapter 12, Section 12.6, Impact Overview, Response IO-4 (pages 12.6-12 to 12.6-18), specifically responds to comments concerning the implementation and enforcement of mitigation measures identified in the EIR. As stated in this response, the EIR identifies mitigation measures for each impact determined to be significant or potentially significant based on the significance criteria specific to each resource topic listed in each resource

<sup>2</sup> During the DEIR public review period, the Planning Department received a letter from the Environmental Council dated August 25, 2011 (coded as O-ACEC), which included two of the four organizations that comprise the Appellant (i.e., San Francisco Tomorrow and Telegraph Hill Dwellers), and shown in Appendix COM, pages COM-103 to COM-182. It should be noted that the August 25, 2011 letter from the Environmental Council represented different organizations than those listed in their March 11, 2011 letter; of the 17 organizations listed, only 13 organizations were the same. One Appellant organization, Golden Gate Audubon Society, that was listed as a member of the Environmental Council in their letter dated March 11, 2011 was not listed as a member in the August 25, 2011 letter. The FEIR also responded to the comments from the Environmental Council.

sub-section of Chapter 5. Consistent with CEQA Guidelines Section 15126.4, the EIR describes feasible measures that could minimize significant adverse impacts by avoiding or lessening the severity of the impact, as determined by the Planning Department. In accordance with CEQA Guidelines Section 15370, the mitigation measures either avoid an impact altogether or minimize the impact by limiting the degree or magnitude of an action or its implementation. During preparation of the EIR, the project sponsors for both the AC34 and Cruise Terminal Projects reviewed the mitigation measures identified in the EIR with respect to their ability and responsibility to implement the identified measures if the Projects were to be approved.

As described in the EIR (Chapter 2, Section 2.3.3, page 2-4), the CCSF and Port must consider the certified FEIR before making a decision to approve, disapprove, or modify the Projects. The formal process for considering the EIR includes the development of CEQA findings, which consist of facts and decisions regarding the project description and objectives, significant impacts, mitigation measures, and alternatives based on information presented in the EIR. An attachment to the CEQA findings, the Mitigation Monitoring and Reporting Program ("MMRP"), consists of all mitigation measures identified in the EIR and specifies responsible parties for implementing, monitoring, and reporting each measure in accordance CEQA Guidelines Section 15097. CEQA requires the adoption of findings (including the MMRP) prior to approval of a project for which a certified EIR identifies significant environmental effects. Therefore, adoption of the CEQA findings and project approval also represent a commitment by the project sponsors to include and implement all mitigation measures identified in the EIR as part of the Projects.

With regard to enforcement of mitigation measures, adoption of the MMRP as part of the CEQA findings in concert with project approval constitutes a commitment by the project sponsors to include and implement all mitigation measures identified in the EIR as part of the Projects. Mitigation measures are designed to be enforceable through permit conditions, agreements, or other legally binding instruments such as contracts with construction contractors. CEQA does not create new authority for agencies to carry out or enforce mitigation measures.

In parallel with the CEQA process, the project sponsors are currently working with regulatory agencies to secure the necessary permits and approvals, as identified in EIR Chapter 3, Section 3.7.1, pages 3-115 to 3-116, as updated in Chapter 11, Section 11.2.4, pages 11-12 to 11-15. Implementation of the AC34 Project may be subject to the permit conditions of the following federal, state, and regional agencies: United States Coast Guard, Federal Aviation Administration, United States Army Corps of Engineers, United States Fish and Wildlife Service, National Marine Fisheries Service, National Park Service, Presidio Trust, San Francisco Bay Conservation and Development Commission, California State Lands Commission, California Regional Water Quality Control Board, California Department of Fish and Game, State Historic Preservation Officer, and Bay Area Air Quality Management District. While permit conditions are not in and of themselves intended to serve as CEQA mitigation measures, in many cases the permit conditions are in fact the same as the EIR mitigation measures, though often with more specific details included in the permit conditions. Insofar as the CEQA mitigation measures are within the jurisdiction and enforcement authority of the permitting agencies, those measures would be fully enforceable through these federal, state, and regional agencies. In addition, the CCSF and Port maintain enforcement authority through contractual agreements (including lease and license agreements) over properties within their jurisdiction within their legal rights, including local zoning and related land use regulations.

Enforcement of all existing regulations and laws would be same as under existing conditions, regardless of the Projects; the effectiveness of the enforcement of existing regulations and laws is beyond the scope of the CEQA review process.

Issue #2. The Appeal Letter states the following: "The EIR certified by the Planning Commission has precluded meaningful public participation or ability of the Port Commission to render an informed decision about the 'whole' of the projects or their impacts. The EIR's inaccurate and incomplete description of the projects or their affected environment has, among other things, excluded a complete and informationally adequate study of impacts on adjacent neighborhoods. The EIR is also procedurally inadequate in refusing to disclose or analyze the cumulative impact of continuation of the America's Cup into future years or the long-term development triggered by the event, to the extent such impact might somehow be considered separate projects from the projects described or analyzed in the EIR."

Response #2. As part of the environmental review process for the Projects, the Planning Department conducted a robust public participation program for the Projects in compliance with CEQA. The EIR contains a complete and accurate project description, a description of the affected environment in sufficient detail to understand the impact analysis, and a thorough and complete analysis of impacts on adjacent neighborhoods. The EIR provides a comprehensive analysis of cumulative impacts that addresses impacts of reasonably foreseeable future projects (including potential long-term development rights provided for under the Host and Venue Agreement), consistent with CEQA requirements. Because continuation of the America's Cup into future years is considered speculative, this scenario is not included in the cumulative impact analysis.

**Public Participation.** As described above, the environmental review process for the Projects was completed as required under CEQA Guidelines Article 7, EIR Process (Sections 15080 to 15097), including preparation and distribution of a Notice of Preparation, early public consultation during the scoping period through formal scoping meetings, preparation and distribution of the DEIR for public review, and conduct of a public hearing on the DEIR. Further as described in EIR Chapter 12, Section 12.2, Response GEN-1 (pages 12.2-3 to 12.2-5), the project sponsors have conducted public outreach beyond that required under CEQA, including numerous meetings and workshops with public agencies, non-governmental organizations, and concerned citizens. Input and advice from public agencies, non-governmental organizations, and concerned citizens have guided and informed many aspects of the EIR as well as development and design of the Projects. As discussed above, two of the Appellant organizations reviewed and commented upon the administrative draft of the EIR as members of the Environment Council. The Port Commission has been a key agency involved in both the development of the Projects and their environmental review, and all pertinent information regarding the Projects and their potential environmental impacts has been readily accessible and available to members of the Port Commission.

**Project Description, Setting, and Impact on Adjacent Neighborhoods.** EIR Chapter 3, as augmented by Chapter 11, provides a thorough and complete description of both Projects. The EIR project description contains all technical information required by CEQA Guidelines Section 15124, including the location and boundaries of the proposed project (see EIR pages 3-5 to 3-24, 3-94, and 3-97); a statement of project objectives (see EIR pages 3-3 and 3-4); a general description of the project's characteristics (see EIR pages 3-25 to 3-113); and a statement describing the intended uses of the EIR (i.e., a list of agencies expected to

use the EIR in their decision-making, a list of permits and other approvals required to implement the project, and a list of related environmental review and consultation requirements required by applicable laws, regulations, and policies) (see EIR pages 3-114 to 3-117). The project description includes all reasonably foreseeable activities associated with the project, including construction, short-term and long-term operational components, and potential long-term development rights (associated with the AC34 venues). The project description also includes information on existing uses and conditions at the project sites, and provides extensive graphics showing existing and proposed uses. EIR Chapter 5 provides a detailed description of the affected environment — or setting — at and near the project sites with respect to each of the specific resource areas that could be potentially affected by construction or operation of the Projects. The setting description is presented at an appropriate level of detail to allow the reader to understand the impact analysis.

Impacts on adjacent neighborhoods are identified in the EIR where appropriate. Generally, the EIR focuses on identifying the reasonable worst-case scenario for potential impacts of the Projects. In most cases, this scenario focuses on impacts occurring at and immediately adjacent to the project sites. If impacts at these locations are determined to be less than significant, with or without implementation of mitigation measures, then the natural attenuation of the severity of impacts would typically result in reduced impacts at adjacent neighborhoods. For example, the analysis of noise impacts focuses on identifying and mitigating noise levels at the closest sensitive receptors (e.g., the closest residence); mitigating noise levels at these locations would necessarily also reduce noise impacts at adjacent neighborhoods. Similarly, air quality impacts identify potential air pollutant risk and hazards impacts to the maximally exposed individual and provide mitigation measures to reduce those impacts; mitigating air pollutant emissions at these locations would necessarily also reduce air quality impacts at adjacent neighborhoods.

The EIR also identifies potential impacts at secondary viewing areas. Chapter 5, Section 5.1, pages 5.1-4 to 5.1-9, defines secondary viewing areas—both land-based and water-based locations—as areas that are not specifically identified as proposed sites for AC34-sponsored activities but nonetheless are locations that may attract numerous visitors and spectators due to their potential viewing opportunities for the AC34 races. The EIR includes analysis of potential impacts at the secondary viewing areas in order to encompass the full range of indirect impacts of the AC34 events. Within San Francisco, these secondary viewing areas could include the waterfront and shoreline areas and north-facing slopes of the Presidio, Pacific Heights, Russian Hill, and various vista points, such as Coit Tower, within the Telegraph Hill neighborhood. These secondary viewing areas and associated neighborhoods are specifically addressed and analyzed for potential indirect impacts of AC34 as appropriate throughout each of the resource topics in Chapter 5. In particular, potential impacts at adjacent neighborhoods are identified in EIR Sections 5.5 (Cultural Resources), 5.6 (Transportation and Circulation), 5.11 (Recreation), and 5.16 (Hydrology and Water Quality) as follows:

- *Cultural Resources*: Impact CP-1 (EIR page 5.5-95) describes potential impacts on historic resources associated with AC34 spectators at publicly accessible areas along San Francisco's northern waterfront and hillside locations and along Marin's southern waterfront.
- *Transportation and Circulation*: For the AC34 Project, Impacts TR-1 through TR-16 and TR-38 through TR-59 (EIR pages 5.6-73 to 5.6-84 and 5.6-116 to 5.6-123) addresses traffic impacts at intersections at and adjacent to the AC34 project sites, including adjacent neighborhoods; Impacts

TR-17 through TR-28 and TR-60 through TR-71 (EIR pages 5.6-86 to 5.6-105 and 5.6-123 to 5.6-131) addresses transit impacts in the vicinity of the AC34 project sites, including adjacent neighborhoods; Impacts TR-29 to TR-30 and TR-72 to TR-73 (EIR pages 5.6-105 to 5.6-106 and 5.6-131 to 5.6-132) address bicycle impacts in the vicinity of the AC34 project sites, including adjacent neighborhoods; Impacts TR-31 to TR-32 and TR-74 to TR-75 (EIR pages 5.6-106 to 5.6-107 and 5.6-132 to 5.6-133) address pedestrian impacts in the vicinity of the AC34 project sites, including adjacent neighborhoods; Impacts TR-34 and TR-77 (EIR pages 5.6-108 to 5.6-109 and 5.6-134 to 5.6-135) address emergency access impacts in the vicinity of the AC34 project sites, including adjacent neighborhoods; Impacts TR-35 to TR-36 and TR-78 to TR-79 (EIR pages 5.6-109 to 5.6-112 and 5.6-135 to 5.6-138) address construction impacts on transportation and circulation in the vicinity of the AC34 project sites, including adjacent neighborhoods; and Impacts TR-37 and TR-80 (EIR pages 5.6-113 to 5.6-114 and 5.6-138 to 5.6-140) address impacts on transportation and circulation in the vicinity of the AC34 project sites, including adjacent neighborhoods, during other special events.

Similarly, for the Cruise Terminal Project, Impacts TR-81 through TR-83 (EIR pages 5.6-141 to 5.6-148) addresses traffic impacts at intersections at and adjacent to the Cruise Terminal project site, including adjacent neighborhoods; Impacts TR-84 to TR-85 (EIR pages 5.6-149 to 5.6-155) addresses transit impacts in the vicinity of the Cruise Terminal project site, including adjacent neighborhoods; Impact TR-86 (EIR pages 5.6-155 to 5.6-156) addresses bicycle impacts in the vicinity of the Cruise Terminal project site, including adjacent neighborhoods; Impact TR-87 (EIR pages 5.6-156 to 5.6-160) addresses pedestrian impacts in the vicinity of the Cruise Terminal project site, including adjacent neighborhoods; Impact TR-89 (EIR page 5.6-163) addresses emergency access impacts in the vicinity of the Cruise Terminal project site, including adjacent neighborhoods; and Impact TR-90 (EIR pages 5.6-163 to 5.6-165) addresses construction impacts on transportation and circulation in the vicinity of the Cruise Terminal project site, including adjacent neighborhoods.

- *Recreation:* Impact RE-1 (EIR pages 5.11-41 to 5.11-43) describes potential impacts on recreational resources associated with AC34 spectators at publicly accessible areas along San Francisco's northern waterfront and hillside locations and along Marin's southern waterfront.
- *Hydrology and Water Quality:* Impact HY-1 (EIR page 5.16-69) describes potential impacts on water quality (specifically littering) associated with AC34 spectators at publicly accessible areas along San Francisco's northern waterfront locations and along Marin's southern waterfront.

**Cumulative Impacts of Future America's Cup Events.** The EIR addresses the potential for the continuation of the America's Cup into future years in Chapter 3 (page 3-93) and in Chapter 12, Response PD-8 (pages 12.4-37 to 12.4-38). This scenario, referred to as the Successive Defense Option, is not considered a reasonably foreseeable use of the AC34 Project, or a reasonably foreseeable future cumulative project, but rather, a speculative future condition. One of the fundamental purposes of the AC34 sailing races is for teams to compete to determine a winner, and there is no basis to assume in the EIR that the Golden Gate Yacht Club ("GGYC"), the defending champion, would win AC34. While various defenders have won America's Cup events in the past, recent history with the America's Cup events has demonstrated that various challengers have also had success in winning the America's Cup. As explained on page 3-93 of the EIR, the Host and Venue Agreement provides that the Event Authority's leases of project venues may be extended for future America's Cup events, but only on condition that any such future events would be

subject to a new Host and Venue Agreement with the CCSF along with associated environmental review under CEQA and other applicable permits and approvals. Thus, it would be inappropriate to combine AC34 Project impacts with those effects of a potential Successive Defense Option, or to consider potential Successive Defense Option effects in a cumulative context in this EIR.

**Cumulative Impacts of Long-Term Development Rights.** As described in EIR Chapter 5 (pages 5.1-12 to 5.1-14), the EIR analyzes the potential cumulative impacts associated with impacts of the Projects in combination with past, present, and reasonably foreseeable future projects. The cumulative impacts are analyzed and discussed as a discrete sub-section under each of the resource topics in Chapter 5. With respect to the AC34 Project, the long-term development rights are considered part of the AC34 Project in the context of the cumulative impact analysis.

EIR Chapter 12, Section 12.6, Response IO-5 (pages 12.6-21 to 12.6-24) discusses the approach to analyzing the potential impacts of the long-term development rights. To the extent that such development might be considered separate projects from the AC34 or Cruise Terminal Projects, impacts of the long-term development rights are also analyzed and discussed as a discrete sub-section under each of the resource topics in Chapter 5. The EIR includes a conceptual level of analysis of the potential future long-term development at certain Port properties that could occur as a result of conditions of the Host and Venue Agreement because the Event Authority has not made any specific development proposals for any of the potential long-term development sites. This level of analysis provides decision-makers at this time with an understanding of the nature of future environmental effects that could occur and the range of mitigation measures that could be required, with the intent of providing the best information available to fully inform the discretionary action for the AC34 Project. The DEIR (page 5.1-11) states that when site-specific development or construction proposals are available, those development proposals will be subject to subsequent, project-specific CEQA review. The Planning Department will make the determination of the appropriate type and level of CEQA review at that time depending on details of the long-term development proposals.

## CONCLUSION

The Planning Department conducted an in-depth and thorough analysis of the potential physical environmental effects of the proposed 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Projects consistent with CEQA, CEQA Guidelines, and Chapter 31 the San Francisco Administrative Code. The Appellant has not provided any substantial evidence to refute the adequacy, accuracy, or objectivity of the FEIR, including the responses to comments previously submitted by the four organizations represented by Appellant. Moreover, the Appellant does not provide evidence that the project description or impact analysis presented in the FEIR are inaccurate or incomplete.

For the reasons provided in this appeal response, the Planning Department believes that the FEIR complies with the requirements of CEQA and the CEQA Guidelines and provides an adequate, accurate, and objective analysis of the potential impacts of the Projects. Therefore, the Planning Department respectfully recommends that the Board uphold the Planning Commission's certification of the FEIR.





Appeal of FEIR Certification  
Hearing Date: January 10, 2012

File No. 111358, Planning Case No. 2010.0493E  
34th America's Cup & Cruise Terminal Project

## ATTACHMENT A

### Planning Commission EIR Certification Motion No. 18514





**SAN FRANCISCO  
PLANNING DEPARTMENT**

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AA

**Planning Commission Motion 18514**

HEARING DATE: December 15, 2011

*Hearing Date:* December 15, 2011  
*Case No.:* 2010.0493E  
*Project Address:* various  
*Zoning:* various  
*Block/Lot:* various  
*Project Sponsors:* San Francisco Office of Economic and Workforce Development  
1 Dr. Carlton Goodlett Place  
San Francisco, CA 94102

Port of San Francisco  
Pier 1  
San Francisco, CA 94111

34th America's Cup Event Authority  
160 Pacific Avenue  
San Francisco, CA 94111

*Staff Contact:* Joy Navarrete - (415) 575-9040  
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Planning  
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**ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR (1) A PROPOSED PROJECT INVOLVING AMERICA'S CUP SAILING RACES IN THE SUMMER / FALL OF 2012 AND 2013, INCLUDING VARIOUS WATERFRONT VENUES, AND (2) A PROPOSED PROJECT INVOLVING CONSTRUCTION OF THE JAMES R. HERMAN CRUISE TERMINAL AND NORTHEAST WHARF PLAZA AT PIERS 27-29.**

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case No. 2010.0493E, (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
  - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on February 9, 2011.

- B. On July 11, 2011, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.
  - C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on July 11, 2011.
  - D. On July 11, 2011, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.
  - E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on July 11, 2011.
2. The Commission held a duly advertised public hearing on said DEIR on August 11, 2011, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on August 25, 2011.
  3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Draft Comments and Responses document, published on December 1, 2011, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
  4. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.
  5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.
  6. On December 15, 2011, the Commission reviewed and considered the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
  7. The Planning Commission hereby does find that the FEIR concerning File No. 2010.0493E, the 34th America's Cup & James R Herman Cruise Terminal & Northeast Wharf Plaza reflects the independent judgment and analysis of the City and County of San Francisco, is

adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.

8. The Commission, in certifying the completion of said FEIR, hereby does find that the 34th America's Cup project described in the EIR:

A. Will have a significant project-specific effect on the environment by:

- a. reducing levels of service at 18 signalized and unsignalized intersections;
- b. impacting other signalized and unsignalized intersections;
- c. resulting in a significant impact on traffic operations;
- d. exceeding available transit capacity of Muni lines, PresidiGo shuttle service, AC Transit lines, BART lines, WETA lines, Golden Gate Transit bus and ferry lines, Blue & Gold ferry lines, Caltrain service, and SamTrans lines;
- e. impacting transit operations related to additional congestion resulting from the project;
- f. disrupting regular scheduled ferry operations;
- g. resulting in potentially significant impacts to the transportation network in combination with other special events occurring simultaneously in San Francisco;
- h. resulting in exposure of persons to or generation of noise levels in excess of standards established in the *San Francisco General Plan* or San Francisco Noise Ordinance;
- i. resulting in a temporary and periodic increase in ambient noise levels in the project vicinity above levels existing without the project associated with increased traffic levels on weekends;
- j. resulting in construction emission of criteria pollutants and precursors that would violate an air quality standard or contribute substantially to an existing or projected air quality violation;
- k. resulting in exposure of sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM2.5) associated with construction;
- l. violating an air quality standard or contribute substantially to an existing or projected air quality violation associated with operations;

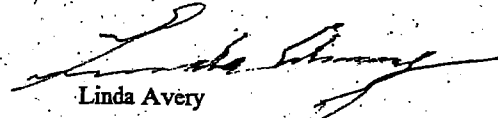
- m. exposing sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM2.5) associated with operations.
- B. Potential long-term development as a result of the AC34 project will have a significant conceptual effect on the environment, to be further analyzed at a project-specific level when proposed, by:
- a. conflicting with BCDC policies adopted for the purpose of mitigating environmental effects;
  - b. resulting in redevelopment of existing Port properties at Piers 30-32, which could result in a significant impact to cultural resources;
  - c. resulting in significant traffic and transit impacts;
  - d. resulting in construction and operational air pollutant emissions;
- C. Will have a significant cumulative effect on the environment in that it would result in significant adverse cumulative impacts on air quality.
9. The Commission, in certifying the completion of said FEIR, hereby does find that the James R. Herman Cruise Terminal and Northeast Wharf Plaza project described in the EIR.
- A. Will have a significant project-specific effect on the environment by:
- a. contributing to existing exceedance of capacity utilization standard on the F-Market & Wharves historic streetcar line;
  - b. resulting in emission of criteria pollutants and precursors associated with construction that would violate an air quality standard or contribute substantially to an existing or projected air quality violation
- B. Will have a significant cumulative effect on the environment in that it would:
- a. result in significant project and cumulative impacts at the intersections of The Embarcadero/ Broadway, The Embarcadero/ Washington, The Embarcadero/ Mission, The Embarcadero/ Howard;
  - b. result in significant project and cumulative impacts on the F-Market & Wharves historic streetcar;
  - c. result in significant and unavoidable adverse cumulative noise impacts;
  - d. result in significant adverse cumulative impacts on air quality

**Motion No. 18514.**  
**Hearing Date: December 15, 2011**

**CASE NO. 2010.0493E**

11. The Planning Commission reviewed and considered the information contained in the FEIR.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of December 15, 2011.



Linda Avery  
Commission Secretary

AYES: 5  
NOES: 0  
ABSENT: Fong & Sugaya were recused  
ADOPTED: December 15, 2011





**ATTACHMENT B**

**Appeal Letter (letter dated December 16, 2011 from  
Keith G. Wagner, Lippe Gaffney and Wagner, LLP)**



BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

December 19, 2011

Keith G. Wagner  
Lippe/Gaffney/Wagner LLP  
On behalf of San Francisco Tomorrow,  
Golden Gate Audubon Society, Waterfront Watch, and  
Telegraph Hill Dwellers  
9333 Sparks Way  
Sacramento, CA 95827

**Subject: Appeal of Final Environmental Impact Report - 34<sup>th</sup> America's Cup Sailing Races, James R. Herman Cruise Terminal, and Northeast Wharf Plaza**

Dear Mr. Wagner:

The Office of the Clerk of the Board is in receipt of your appeal filed on December 19, 2011, from the decision of the Planning Commission's December 15, 2011, Certification of a Final Environmental Impact Report identified as Planning Case No. 2010.0493E, through its Motion No. 18514, for the proposed project involving 34<sup>th</sup> America's Cup Sailing Races in the Summer/Fall of 2012 and 2013, including various waterfront venues, James R. Herman Cruise Terminal, and Northeast Wharf Plaza at Piers 27-29.

A hearing date has been scheduled on **Tuesday, January 10, 2011, at 4:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, Legislative Chamber, Room 250, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Please provide 18 copies to the Clerk's Office by:

**8 days prior to the hearing:** any documentation which you may want available to the Board members prior to the hearing;  
**11 days prior to the hearing:** names of interested parties to be notified of the hearing in label format.

If you have any questions, please feel free to contact Legislative Deputy Director, Rick Caldeira, at (415) 554-7711 or Assistant Committee Clerk, Andrea Ausberry, at (415) 554-4442.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo  
Clerk of the Board

c:  
Cheryl Adams, Deputy City Attorney  
Kate Stacy, Deputy City Attorney  
Marlena Byrne, Deputy City Attorney  
Scott Sanchez, Zoning Administrator, Planning Department  
Bill Wycko, Environmental Review Officer, Planning Department  
AnMarie Rodgers, Planning Department

Tina Tam, Planning Department  
Nannie Turrell, Planning Department  
Linda Avery, Planning Department  
Joy Navarrete, Planning Department  
Project Sponsors: Office of Economic and Workforce  
Development, Port of San Francisco, and 34<sup>th</sup>  
America's Cup Event Authority

# Lippe Gaffney Wagner LLP

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SACRAMENTO • 9333 Sparks Way, Sacramento, CA 95827 • T 916.361.3887 • F 916.361.3897

Thomas N. Lippe  
Brian Gaffney  
Keith G. Wagner  
Celeste C. Langille  
Kelly A. Franger

December 16, 2011

Via Hand Delivery

Board President David Chiu  
and Members of the Board of Supervisors  
c/o Ms. Angela Calvillo  
Clerk of the Board of Supervisors  
City & County of San Francisco  
1 Dr. Carlton B. Goodlett Place  
Room 244  
San Francisco, CA 94102-4689

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RE: Appeal of Planning Commission EIR Certification  
34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza  
Projects (Case No. 2010.0493E)

Dear President Chiu and Supervisors:

On behalf of San Francisco Tomorrow, Golden Gate Audubon Society, Waterfront Watch and Telegraph Hill Dwellers, I hereby appeal the Planning Commission's certification of the Environmental Impact Report (EIR) for the proposed 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Projects. A copy of the Planning Commission's motion adopted on December 15, 2011 is attached. Further documentation in support of this appeal will follow prior to the Board hearing.

The subject EIR is not procedurally or substantively adequate, accurate, or objective. The EIR fails to fully and adequately identify and mitigate the impacts of the projects. The Final EIR, in particular, fails to adequately respond to the majority of the comments submitted by our clients. With particular regard to the FEIR, the document does not contain adequate detail in response to public comment as to how the DEIR's environmental mitigation measures will be implemented, monitored and enforced.

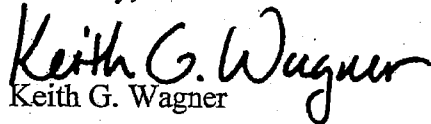
The EIR certified by the Planning Commission has precluded meaningful public participation or the ability of the Port Commission to render an informed decision about the "whole" of the projects or their impacts. The EIR's inaccurate and incomplete description of the projects or their affected environment has, among other things, excluded a complete and informationally adequate study of impacts on adjacent neighborhoods. The EIR is also procedurally inadequate in refusing to disclose or analyze the cumulative impacts of continuation of the America's Cup into future years or the long-term development triggered by the event, to the extent such impact might somehow be considered separate projects from the projects described or analyzed in the EIR.

San Francisco Board of Supervisors: Appeal of Certification of 34th America's Cup EIR  
December 16, 2011  
Page 2 of 2

Our clients' arguments on the forgoing points will be supplemented prior to the appeal hearing with further details and citations to regulations, statutes, and case law.

Thank you for your consideration of this appeal.

Sincerely,

  
Keith G. Wagner

cc: Bill Wycko, Environmental Review Officer

SFGate.com

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SFGate.com

## S.F. planners OK impact report on America's Cup

Stephanie Lee, Chronicle Staff Writer

Friday, December 16, 2011

The America's Cup is set to descend on San Francisco beginning next summer - but a crew of opponents is threatening to knock it off course.

In the year since the city was chosen to host the world-famous regatta in 2012 and 2013, organizers have raced to finalize plans. The culmination of those efforts, an analysis of the regatta's impacts on the city, was approved by the Planning Commission 5-0 Thursday night.

The decision clears the way for construction on the waterfront, provided the Board of Supervisors approves the project in January.

And there's virtually no room for delay. In just eight months, the first yachts are scheduled to hit the water under the gaze of hundreds of thousands of spectators.

The report "demonstrated what we can do when we work together as a city," Commissioner Michael Antonini said at the close of a two-hour meeting, which was attended by about 100 people. "I was very impressed."

Mayor Ed Lee agreed, saying in a statement: "This is an exciting moment in our efforts to bring the America's Cup to San Francisco, the only major international sporting event coming to the United States in the next decade," and noting that the project benefited from "valuable input from many individuals, groups and agencies across the Bay Area."

But even as commissioners sang the project's praises, a coalition of environmentalists and neighborhood activists was preparing to file an appeal that could cause lengthy delays.

The state-required environmental impact report, released earlier this month, does not fully outline ways to prevent traffic jams, damage to plant life and other problems, argue the dozen opponents, including the Sierra Club, the California Native Plant Society and the Telegraph Hill Dwellers.

### Concerns addressed

The groups, which spent months consulting with Cup and city officials, concede their concerns

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about water and air quality were addressed. Still, they wanted more time to review the report, and some said they would try to block it if the Planning Commission approved it.

"We're puzzled and dismayed that our expertise, efforts and goodwill and that of city staff have resulted in a document that, massive though it is, fails to provide the environmental certainty required by law," the activists wrote in a letter to the commission.

If an appeal is filed within 20 days, but the Board of Supervisors decides in January to let the project proceed, opponents could sue, which could stall construction scheduled to start early next year.

"A judge could halt it or not," said Jane Sullivan, the city's spokeswoman for the America's Cup. "It doesn't necessarily preclude things from beginning."

### Things get going

The Planning Commission's approval of the report triggers a flurry of activity.

This morning, the Port Commission is expected to decide whether to open the waterfront to the regatta. Commissioners are also scheduled to vote on a relocation plan for tenants displaced by construction.

An appeal, if it materializes, could stall construction of the America's Cup Village, the walkable area planned to spring up at Piers 27 to 29 by July 2013. Pier 27 would be the main location to watch races begin and end.

### Another delay?

Depending on when it is filed, an appeal could also delay a separate port project at Pier 27. Slated for construction are the James R. Herman Cruise Terminal - an 88,000-square-foot facility for cruise ships - and the Northeast Wharf Plaza, a 2.5-acre public space. Demolition could start as soon as the Port Commission approves funding today.

The final environmental analysis of the America's Cup, which spans a sprawling eight volumes, was released Dec. 1. It proposes solutions to issues ranging from curbing air pollution to recreational access for swimmers and kayakers. Race organizers say they are confident the document is thorough enough to withstand a lawsuit.

E-mail Stephanie Lee at [slee@sfchronicle.com](mailto:slee@sfchronicle.com).

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2011/12/16/MNEV1MCN37.DTL>

This article appeared on page **A - 1** of the San Francisco Chronicle

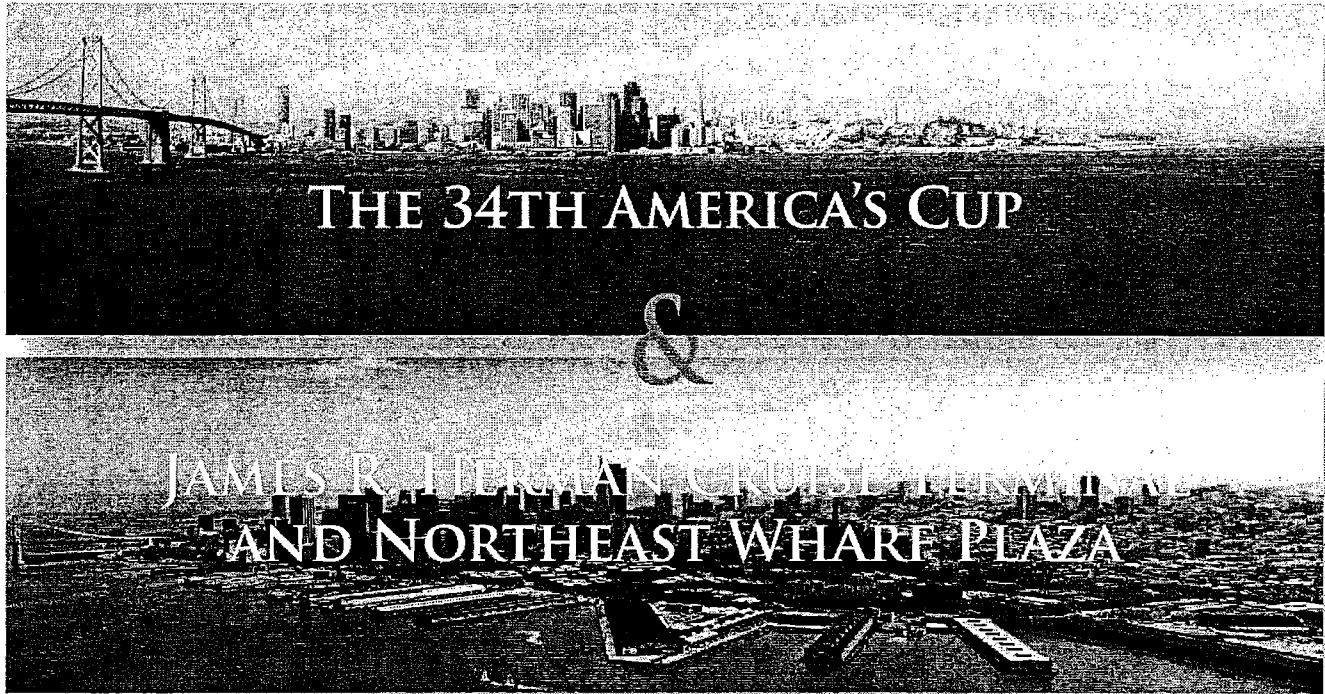
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# VOLUME 1

## DRAFT ENVIRONMENTAL IMPACT REPORT



SAN FRANCISCO PLANNING DEPARTMENT CASE NO. 2010.0493E  
STATE CLEARINGHOUSE NO. 2011022040

DRAFT EIR PUBLICATION DATE: JULY 11, 2011  
DRAFT EIR PUBLIC HEARING DATE: AUGUST 11, 2011  
DRAFT EIR PUBLIC COMMENT PERIOD: JULY 11, 2011 – AUGUST 25, 2011

WRITTEN COMMENTS SHOULD BE SENT TO THE  
ENVIRONMENTAL REVIEW OFFICER  
1650 MISSION STREET, SUITE 400  
SAN FRANCISCO, CA 94103



SAN FRANCISCO  
PLANNING  
DEPARTMENT

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## NOTICE OF PUBLIC HEARING

### BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

**Date:** Tuesday, January 10, 2012

**Time:** 4:00 p.m.

**Location:** Legislative Chamber, Room 250 located at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

**Subject:** File No. 111358. Hearing of persons interested in or objecting to the Planning Commission's decision, dated December 15, 2011, Certification of a Final Environmental Impact Report identified as Planning Case No. 2010.0493E, for a proposed project involving America's Cup Sailing Races in the Summer/Fall of 2012 and 2013, including various waterfront venues, and a proposed project involving construction of the James R. Herman Cruise Terminal and Northeast Wharf Plaza at Piers 27-29. (District 3) (Appellant: Keith G. Wagner on behalf of San Francisco Tomorrow, Golden Gate Audubon Society, Waterfront Watch, and Telegraph Hill Dwellers) (Filed December 19, 2011)

Pursuant to Government Code Section 65009, notice is hereby given, if you challenge, in court, the matter described above, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors at, or prior to, the public hearing.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on these matters may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public records in these matters, and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information will be available for public review on Thursday, January 5, 2012.

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo  
Clerk of the Board

MAILED/POSTED:

December 23, 2011

Lippe Gaffney Wagner LLP [www.lgwlawyers.com](http://www.lgwlawyers.com)

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SACRAMENTO • 9333 Sparks Way, Sacramento, CA 95827 • T 916.361.3887 • F 916.361.3897

Thomas N. Lippe  
Brian Gaffney  
Keith G. Wagner  
Celeste C. Langille  
Kelly A. Franger

December 16, 2011

Via Hand Delivery

Board President David Chiu  
and Members of the Board of Supervisors  
c/o Ms. Angela Calvillo  
Clerk of the Board of Supervisors  
City & County of San Francisco  
1 Dr. Carlton B. Goodlett Place  
Room 244  
San Francisco, CA 94102-4689

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BOARD OF SUPERVISORS  
SAN FRANCISCO  
2011 DEC 19 PM 3:10

RE: Appeal of Planning Commission EIR Certification  
34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza  
Projects (Case No. 2010.0493E)

Dear President Chiu and Supervisors:

On behalf of San Francisco Tomorrow, Golden Gate Audubon Society, Waterfront Watch and Telegraph Hill Dwellers, I hereby appeal the Planning Commission's certification of the Environmental Impact Report (EIR) for the proposed 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Projects. A copy of the Planning Commission's motion adopted on December 15, 2011 is attached. Further documentation in support of this appeal will follow prior to the Board hearing.

The subject EIR is not procedurally or substantively adequate, accurate, or objective. The EIR fails to fully and adequately identify and mitigate the impacts of the projects. The Final EIR, in particular, fails to adequately respond to the majority of the comments submitted by our clients. With particular regard to the FEIR, the document does not contain adequate detail in response to public comment as to how the DEIR's environmental mitigation measures will be implemented, monitored and enforced.

The EIR certified by the Planning Commission has precluded meaningful public participation or the ability of the Port Commission to render an informed decision about the "whole" of the projects or their impacts. The EIR's inaccurate and incomplete description of the projects or their affected environment has, among other things, excluded a complete and informationally adequate study of impacts on adjacent neighborhoods. The EIR is also procedurally inadequate in refusing to disclose or analyze the cumulative impacts of continuation of the America's Cup into future years or the long-term development triggered by the event, to the extent such impact might somehow be considered separate projects from the projects described or analyzed in the EIR.

**San Francisco Board of Supervisors: Appeal of Certification of 34th America's Cup EIR**

December 16, 2011

Page 2 of 2

Our clients' arguments on the forgoing points will be supplemented prior to the appeal hearing with further details and citations to regulations, statutes, and case law.

Thank you for your consideration of this appeal.

Sincerely,

  
Keith G. Wagner

cc: Bill Wycko, Environmental Review Officer



**SAN FRANCISCO  
PLANNING DEPARTMENT**

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AA

**Planning Commission Motion 18514**

HEARING DATE: December 15, 2011

*Hearing Date:* December 15, 2011  
*Case No.:* 2010.0493E  
*Project Address:* various  
*Zoning:* various  
*Block/Lot:* various  
*Project Sponsors:* San Francisco Office of Economic and Workforce Development  
1 Dr. Carlton Goodlett Place  
San Francisco, CA 94102

Port of San Francisco  
Pier 1  
San Francisco, CA 94111

34th America's Cup Event Authority  
160 Pacific Avenue  
San Francisco, CA 94111

*Staff Contact:* Joy Navarrete - (415) 575-9040  
Joy.Navarrete@sfgov.org

1650 Mission St.  
Suite 400  
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CA 94103-2479

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**ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR (1) A PROPOSED PROJECT INVOLVING AMERICA'S CUP SAILING RACES IN THE SUMMER / FALL OF 2012 AND 2013, INCLUDING VARIOUS WATERFRONT VENUES, AND (2) A PROPOSED PROJECT INVOLVING CONSTRUCTION OF THE JAMES R. HERMAN CRUISE TERMINAL AND NORTHEAST WHARF PLAZA AT PIERS 27-29.**

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case No. 2010.0493E, (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
  - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on February 9, 2011.

- B. On July 11, 2011, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.
  - C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on July 11, 2011.
  - D. On July 11, 2011, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.
  - E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on July 11, 2011.
2. The Commission held a duly advertised public hearing on said DEIR on August 11, 2011, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on August 25, 2011.
  3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Draft Comments and Responses document, published on December 1, 2011, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
  4. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.
  5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.
  6. On December 15, 2011, the Commission reviewed and considered the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
  7. The Planning Commission hereby does find that the FEIR concerning File No. 2010.0493E, the 34th America's Cup & James R Herman Cruise Terminal & Northeast Wharf Plaza reflects the independent judgment and analysis of the City and County of San Francisco, is

adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.

8. The Commission, in certifying the completion of said FEIR, hereby does find that the 34th America's Cup project described in the EIR:
  - A. Will have a significant project-specific effect on the environment by:
    - a. reducing levels of service at 18 signalized and unsignalized intersections;
    - b. impacting other signalized and unsignalized intersections;
    - c. resulting in a significant impact on traffic operations;
    - d. exceeding available transit capacity of Muni lines, PresidiGo shuttle service, AC Transit lines, BART lines, WETA lines, Golden Gate Transit bus and ferry lines, Blue & Gold ferry lines, Caltrain service, and SamTrans lines;
    - e. impacting transit operations related to additional congestion resulting from the project;
    - f. disrupting regular scheduled ferry operations;
    - g. resulting in potentially significant impacts to the transportation network in combination with other special events occurring simultaneously in San Francisco;
    - h. resulting in exposure of persons to or generation of noise levels in excess of standards established in the *San Francisco General Plan* or San Francisco Noise Ordinance;
    - i. resulting in a temporary and periodic increase in ambient noise levels in the project vicinity above levels existing without the project associated with increased traffic levels on weekends;
    - j. resulting in construction emission of criteria pollutants and precursors that would violate an air quality standard or contribute substantially to an existing or projected air quality violation;
    - k. resulting in exposure of sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM2.5) associated with construction;
    - l. violating an air quality standard or contribute substantially to an existing or projected air quality violation associated with operations;

- m. exposing sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM2.5) associated with operations.
- B. Potential long-term development as a result of the AC34 project will have a significant conceptual effect on the environment, to be further analyzed at a project-specific level when proposed, by:
- a. conflicting with BCDC policies adopted for the purpose of mitigating environmental effects;
  - b. resulting in redevelopment of existing Port properties at Piers 30-32, which could result in a significant impact to cultural resources;
  - c. resulting in significant traffic and transit impacts;
  - d. resulting in construction and operational air pollutant emissions;
- C. Will have a significant cumulative effect on the environment in that it would result in significant adverse cumulative impacts on air quality.
9. The Commission, in certifying the completion of said FEIR, hereby does find that the James R. Herman Cruise Terminal and Northeast Wharf Plaza project described in the EIR.
- A. Will have a significant project-specific effect on the environment by:
- a. contributing to existing exceedance of capacity utilization standard on the F-Market & Wharves historic streetcar line;
  - b. resulting in emission of criteria pollutants and precursors associated with construction that would violate an air quality standard or contribute substantially to an existing or projected air quality violation
- B. Will have a significant cumulative effect on the environment in that it would:
- a. result in significant project and cumulative impacts at the intersections of The Embarcadero/ Broadway, The Embarcadero/ Washington, The Embarcadero/ Mission, The Embarcadero/ Howard;
  - b. result in significant project and cumulative impacts on the F-Market & Wharves historic streetcar;
  - c. result in significant and unavoidable adverse cumulative noise impacts;
  - d. result in significant adverse cumulative impacts on air quality

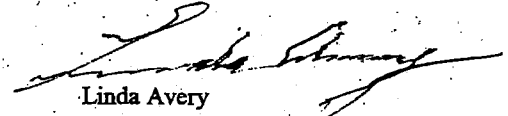


**Motion No. 18514.**  
**Hearing Date: December 15, 2011**

**CASE NO. 2010.0493E**

11. The Planning Commission reviewed and considered the information contained in the FEIR.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of December 15, 2011.



Linda Avery  
Commission Secretary

AYES: 5  
NOES: 0  
ABSENT: Fong & Sugaya were recused  
ADOPTED: December 15, 2011

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## S.F. planners OK impact report on America's Cup

Stephanie Lee, Chronicle Staff Writer

Friday, December 16, 2011

The America's Cup is set to descend on San Francisco beginning next summer - but a crew of opponents is threatening to knock it off course.

In the year since the city was chosen to host the world-famous regatta in 2012 and 2013, organizers have raced to finalize plans. The culmination of those efforts, an analysis of the regatta's impacts on the city, was approved by the Planning Commission 5-0 Thursday night.

The decision clears the way for construction on the waterfront, provided the Board of Supervisors approves the project in January.

And there's virtually no room for delay. In just eight months, the first yachts are scheduled to hit the water under the gaze of hundreds of thousands of spectators.

The report "demonstrated what we can do when we work together as a city," Commissioner Michael Antonini said at the close of a two-hour meeting, which was attended by about 100 people. "I was very impressed."

Mayor Ed Lee agreed, saying in a statement: "This is an exciting moment in our efforts to bring the America's Cup to San Francisco, the only major international sporting event coming to the United States in the next decade," and noting that the project benefited from "valuable input from many individuals, groups and agencies across the Bay Area."

But even as commissioners sang the project's praises, a coalition of environmentalists and neighborhood activists was preparing to file an appeal that could cause lengthy delays.

The state-required environmental impact report, released earlier this month, does not fully outline ways to prevent traffic jams, damage to plant life and other problems, argue the dozen opponents, including the Sierra Club, the California Native Plant Society and the Telegraph Hill Dwellers.

### Concerns addressed

The groups, which spent months consulting with Cup and city officials, concede their concerns

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about water and air quality were addressed. Still, they wanted more time to review the report, and some said they would try to block it if the Planning Commission approved it.

"We're puzzled and dismayed that our expertise, efforts and goodwill and that of city staff have resulted in a document that, massive though it is, fails to provide the environmental certainty required by law," the activists wrote in a letter to the commission.

If an appeal is filed within 20 days, but the Board of Supervisors decides in January to let the project proceed, opponents could sue, which could stall construction scheduled to start early next year.

"A judge could halt it or not," said Jane Sullivan, the city's spokeswoman for the America's Cup. "It doesn't necessarily preclude things from beginning."

### Things get going

The Planning Commission's approval of the report triggers a flurry of activity.

This morning, the Port Commission is expected to decide whether to open the waterfront to the regatta. Commissioners are also scheduled to vote on a relocation plan for tenants displaced by construction.

An appeal, if it materializes, could stall construction of the America's Cup Village, the walkable area planned to spring up at Piers 27 to 29 by July 2013. Pier 27 would be the main location to watch races begin and end.

### Another delay?

Depending on when it is filed, an appeal could also delay a separate port project at Pier 27. Slated for construction are the James R. Herman Cruise Terminal - an 88,000-square-foot facility for cruise ships - and the Northeast Wharf Plaza, a 2.5-acre public space. Demolition could start as soon as the Port Commission approves funding today.

The final environmental analysis of the America's Cup, which spans a sprawling eight volumes, was released Dec. 1. It proposes solutions to issues ranging from curbing air pollution to recreational access for swimmers and kayakers. Race organizers say they are confident the document is thorough enough to withstand a lawsuit.

E-mail Stephanie Lee at [slee@sfgate.com](mailto:slee@sfgate.com).

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2011/12/16/MNEV1MCN37.DTL>

This article appeared on page **A - 1** of the San Francisco Chronicle

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## ***San Francisco Tomorrow***

*Since 1970, Working to Protect the Urban Environment*

August 29, 2011

John Rahaim  
Director of City Planning  
1650 Mission St., Ste. 400  
San Francisco, CA 94103

**RE: Request for Fee Waiver as a neighborhood organization**

Dear Director Rahaim,

I am writing this letter to confirm that San Francisco Tomorrow (SFT) is a neighborhood organization according to the definition specified by your department. Our organization was established in 1971 to protect and preserve San Francisco's neighborhoods, and have frequently acted in that role. We have been listed on the Planning Department's list of neighborhood organizations for many years.

In the matter of the appeal of the Conditional Use of Verizon antennas at Kaiser Permanente SF at 498 6th Ave (No: 2010.0951C), I have authorized Jacquelyn and Sophia Coo, as well as Sandra Fenn, to represent our organization.

Sincerely,

Jennifer Clary  
President

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