

# **BROADWAY COMPLEX COALITION**



October 10, 2006

Board of Directors  
Centre City Development Corporation  
225 Broadway, Suite 100  
San Diego, CA 92101  
FAX: (619) 236-9148

Re: Navy Broadway Complex-Proposed Development-Consistency  
Determination

Dear Chairperson LeSar and members of the Board of Directors:

We submit this letter on behalf of the Broadway Complex Coalition, (BCC), a coalition of concerned citizens and organizations that has the mission of promoting open public discussion of the development of the Navy Broadway Complex specifically and the North Embarcadero generally.

BCC strongly supports the conclusions laid out in the October 3, 2006 letter submitted to the Board by Shute, Mihaly and Weinberger LLP on behalf of Save Our Forests and Ranchlands ("SOFAR") with regard to the proposed redevelopment of the Navy Broadway Complex. (see Appendix 1)

BCC has independently reached the same conclusions, namely, that:

- 1. The project will have significant traffic impacts not analyzed in the 1990 EIS/EIR because the volume of traffic in downtown San Diego has dramatically increased in the last fifteen years that could not, and was not, anticipated when**

**the 1990 EIS/EIR was approved by the San Diego City Council.**

- 2. The City must prepare a Subsequent or Supplemental Environmental Impact Report based on this new information that could not have been available at the time the original 1990 EIR was approved (CEQA section 21166).**

BCC, however, has additional concerns about the EIR for the Navy Broadway Complex, the procedures the Centre City Development Corp. (CCDC) Board of Directors are considering for the “Consistency Finding” as defined in the 1992 Navy Broadway Complex Development Agreement between the City and the US government that they must make and the unwarranted intervention of the Mayor into the process.

- 3. Additional reasons that the 1990 EIR cannot be used for the current 2006 redevelopment plans for the Navy Broadway Complex.**

Briefly:

- a. DOWNTOWN SAN DIEGO HAS AN EVER-GROWING DEFICIT OF PARKS AS ITS POPULATION EXPLODES. THIS ISSUE HAS NOT BEEN ADDRESSED NOR HAS PUBLIC COMMENT HAS BEEN RECEIVED ON THIS ISSUE SINCE THE 1990 EIR WHICH IS SIXTEEN YEARS OLD. MORE DETAILS CAN BE FOUND IN PUBLIC COMMENT AT VARIOUS 2006 MEETINGS ON THE NAVY BROADWAY COMPLEX.

- b. SIMILARLY, THE ISSUES OF AIR AND WATER POLLUTION HAVE NOT BEEN ADEQUATELY ADDRESSED. NEW STATE AND REGIONAL AIR AND WATER QUALITY STANDARDS HAVE BEEN ADOPTED SINCE 1990, WHICH WERE NOT ADDRESSED IN THE ORIGINAL EIR.
- c. SECURITY ISSUES RAISED BY THE FACT THAT THIS COUNTRY HAS BEEN AT WAR SINCE 2001 HAVE NOT BEEN ADDRESSED. MORE DETAILS CAN BE FOUND IN PUBLIC COMMENT AT VARIOUS 2006 MEETINGS ON THE NAVY BROADWAY COMPLEX. THE 1990 EIR DID NOT ADDRESS THE POSSIBILITY THAT THIS COUNTRY WOULD BE ATTACKED BY TERRORISTS 11 YEARS LATER AND THAT WE WOULD BE IN A STATE OF WAR NOW, REQUIRING RECONSIDERATION OF SECURITY ISSUES.
- d. IN 2003, 13 YEARS AFTER THE ORIGINAL EIR WAS COMPLETED, THE NAVY CONVEYED THE NAVY PIER TO THE PORT. THE 1990 EIR DID NOT FORSEE TRANSFER OF THE NAVY PIER TO THE PORT DISTRICT. THE CUMULATIVE ENVIRONMENTAL IMPACT OF THIS CONVEYANCE HAS NOT BEEN ADDRESSED.
- e. THE ISSUE OF HOW LONG AN EIR CAN REMAIN IN FORCE IN A RAPIDLY CHANGING ENVIRONMENT RAISES SIGNIFICANT QUESTIONS REGARDLESS OF ANY CONTRACTUAL AGREEMENT. ACCORDING TO THE CITY ATTORNEY'S OCTOBER 4 MOL, THE NAVY HAS RECOGNIZED THAT ITS ORIGINAL EIS WAS OUT OF DATE AND HAS BEGUN TO DEVELOP AN UPDATED SUPPLEMENTAL EIS, BUT THE CITY AND CCDC HAVE NEVER UNDERTAKEN A SIMILAR UPDATE OF THE CITY'S ORIGINAL EIR.
- f. THE CUMULATIVE IMPACT OF THE PROJECT HAS NOT BEEN ADDRESSED AS IT RELATES TO 2006 BECAUSE MANY UNPREDICTED CHANGES HAVE TAKEN PLACE SINCE THE 1990 EIR WAS ADOPTED SOME OF WHICH HAVE BEEN ALREADY DISCUSSED. HOWEVER, IN ADDITION, THE DOWNTOWN BALL PARK HAS BEEN BUILT, THE CONVENTION CENTRE HAS BEEN

EXPANDED AND THE B STREET CRUISE SHIP TERMINAL CREATES SIGNIFICANTLY MORE TRAFFIC THAT WILL INCREASE EVEN MORE IN THE FUTURE.

- g. CEQA GIVES GREAT WEIGHT TO THE OPPORTUNITY FOR PUBLIC COMMENT ON THE ENVIRONMENTAL IMPACT OF PROPOSED DEVELOPMENT PROJECTS. BY RELYING ON THE 1990 EIR, CCDC HAS EFFECTIVELY EXCLUDED PUBLIC COMMENT ON THE PROJECT AS PRESENTED IN 2006. AS A PRACTICAL MATTER, A COHORT OF ADULTS WHO MAY WISH TO COMMENT ON THE ENVIRONMENTAL IMPACT OF THE PROJECT TODAY WOULD STILL HAVE BEEN INFANTS WHEN THE 1990 EIR WAS APPROVED.

**4. Issues concerning the proposed procedures the CCDC Board will follow in voting on the consistency finding for the current proposed development of the Navy Broadway Complex.**

BCC strongly supports the analysis of the procedures for voting on a consistency finding the CCDC Board must legally follow detailed in the memorandum MS 59 "Applicability of Public Resources Code Sections 21166 and 21151 (c) to the Broadway Complex Project" dated October 4, 2006 (Appendix 2).

Briefly, BCC agrees that the City has to determine whether adequate/valid EIR exists for the Navy Broadway Complex development plan with a final appeal the city council. BCC also agrees that CCDC cannot make a consistency determination until an adequate/valid up to date EIR for the project is completed and made available for public review and comment.

BCC, however, has another important concern with the procedure the CCDC Board is considering when voting on a consistency finding. It has been suggested by the President of CCDC and a Board member

that the vote on the consistency finding can take place in a series of “phased” votes and that a vote on the “quantitative” aspects of the consistency finding can be voted on immediately, leaving the “qualitative” aspects to be voted on later in an undetermined number of votes.

**BCC believes that this voting procedure is not only bad public policy but that it violates the 1992 Development Agreement that envisages a single up-or-down vote on the consistency finding.**

How many votes can be substituted for the single vote, ten? A hundred? A thousand? This suggestion makes a mockery of the 1992 agreement. Either the current MFG proposal complies with all the quantitative and qualitative elements of the Development Agreement Design Guidelines or it does not. If it does not comply with all design guideline elements, the CCDC board must now reject it and direct the developer to come back in the future with a new proposal that fully complies with all design guideline elements.

**5. The Mayor has no authority to negotiate changes to the 1992 agreement.**

The original 1992 development agreement was between the city and the US government, and the city’s role was delegated to CCDC. The City Attorney has issued an opinion that the city cannot reverse that decision because no provision for such an action is contained in the agreement Memorandum of Law ML-2006-21 dated September 15, 2006 (Appendix 3); Addendum ML-2006-21 addendum dated September 18, 2006 (Appendix 4).

Even if it were possible for the city to intervene in this matter it would be the legislative branch (i.e. the city council), not the executive branch (i.e. the Mayor), which would have that authority.

## **Conclusion**

While it is clear that this project is under an artificial deadline not envisaged in 1992, this does not justify violations of State law and breaches of the 1992 development agreement.

Very truly yours,

Ian Trowbridge

Charles Kaminski

ON BEHALF OF THE BROADWAY COMPLEX COALITION

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