

RESOLUTION No. 2901

A RESOLUTION of the Port Commission of the Port of Seattle, King County, Washington, pertaining to the redevelopment of Terminal 91 (Piers 90/91) making certain findings, adopting an overall development plan as called for in Section 1, No. 4 of Resolution No. 2814, and Amending the Comprehensive Scheme of Harbor Improvements.

WHEREAS, the Port of Seattle (the "Port") has completed eight (8) years of planning for the redevelopment of Terminal 91, which has included the preparation of several environmental impact statements and numerous studies involving extensive public participation, as outlined below, and is ready to make a decision on proceeding with Terminal 91 Redevelopment; and

WHEREAS, at its August 11, 1975 meeting the Port Commission deferred major redevelopment of Terminal 91 until the 1980's and adopted a Policy Statement--Piers 90/91 Acquisition and Utilization including Policy No. 5 which provides that the Port will: "Prior to carrying out any major development or acquiring any additional land contiguous to the Piers 90/91 property or to Area A, prepare an overall development plan, including alternatives, environmental support studies, environmental impact statement and citizen participation, as well as economic and engineering data. The meaning of the term "major development" will be decided in conjunction with the Committee and in light of policy two and applicable law and regulations."; and

WHEREAS, the Port has conscientiously fulfilled those policies by establishing open communication and participatory planning procedures, providing an appropriate buffer strip wherever such buffer would prove effective, transferring title to the open water park to the City of Seattle, making public access and park improvements on said property, complying with applicable environmental laws, preparing an overall development plan, observing specified hours for maintenance and construction activities, and maintaining the existing character of the property by undertaking limited essential physical improvements; and

WHEREAS, the Port completed the Report on Alternative Uses for Terminal 91 in August 1980, issued the Draft EIS on Alternative Uses for Terminal 91 in September 1980, and, following a public hearing on November 6, 1980, issued the Final EIS on Alternative Uses for Terminal 91 in January 1981, and held a special meeting of the Port Commission on April 7, 1981 to accept public testimony; and

WHEREAS, at its April 28, 1981 meeting the Port Commission adopted Resolution No. 2814 containing general harbor development policies and specific guidelines and policies for the redevelopment of Terminal 91; and

WHEREAS, Policy No. 4 of Section 1 of Resolution No. 2814 adopts in a revised form Policy No. 5 of the August 11, 1975 Policy Statement referred to above calling for the preparation of an overall development plan; and

WHEREAS, on November 24, 1981 Port staff recommended to the Port Commission a range of alternatives for the redevelopment of Terminal 91; and

WHEREAS, on June 2, 1982 the Port issued the draft Environmental Impact Statement: Terminal 91 Redevelopment incorporating environmental support studies and engineering data, and on July 12, 1982 held a public hearing to accept public testimony on the draft Environmental Impact Statement, and on March 11, 1983 issued the Final Environmental Impact Statement: Terminal 91 Redevelopment containing a full summary and responses to comments received and containing changes made in response to public participation; and

WHEREAS, on April 26, 1983 the Terminal 91 Business Analysis containing operational and economic data was issued; and

WHEREAS, the Neighbors' Advisory Committee has served as a forum for continuing public input and has been provided with information including the scopes of work on environmental studies prior to preparation of environmental impact statements and other products including consultant reports; and

WHEREAS, the Port has provided numerous opportunities for the citizens of Queen Anne and Magnolia to participate in and monitor the study process through public meetings, and has held both formal and informal meetings with community leaders and organizations; and

WHEREAS, on May 18, 1983 the Port Commission held a special meeting to conduct a Public Hearing on Terminal 91 Redevelopment; and

WHEREAS, the Port Commission has taken additional public comment prior to the adoption of this Resolution and overall development plan; and

WHEREAS, Terminal 91 is included in Unit 1 of the Port's Comprehensive Scheme of Harbor Improvements adopted pursuant to RCW 53.20.010 and .020; and

WHEREAS, the Final Environmental Impact Statement: Terminal 91 Redevelopment describes a range of physical redevelopment and access options; and

WHEREAS, following notice duly published in accordance with the law on July 1, 1983 an official public hearing was held on July 12, 1983 at which the Port Commission heard from all persons desiring to speak with regard to all questions, including environmental considerations, as to the adoption or rejection of the amendments and supplements, substantially described as options A, B, C, D, and E and the West Galer Street access in the Final Environmental Impact Statement: Terminal 91 Redevelopment, to the Port's existing Unit 1 of its Comprehensive Scheme with regard to Terminal 91; and

WHEREAS, members of the Port Commission at the public hearing viewed photos, drawings and other data indicating the proposed amendment to said Unit 1 of the Comprehensive Scheme, which data were and are now on file in the office of the Port Commission; and

WHEREAS, the members of the Port Commission have discussed and considered the proposed amendments in the light of the comments made by members of the public at the public hearing;

NOW THEREFORE BE IT RESOLVED, by the Port Commission of the Port of Seattle, Washington as follows:

Section 1: FINDINGS AND OBJECTIVES.

Based on the studies and environmental assessments previously cited and the public testimony received thereon, the Port Commission hereby finds as follows:

- A. The ultimate objective for Terminal 91 is development as a first-class, modern cargo handling facility, utilizing the land provided by full fill of the waterway between Piers 90 and 91.
- B. The overall development plan must be sufficiently broad and flexible for the Port to remain economically viable by being able to respond to market conditions and competition. The ability to respond to market conditions is crucial to the Port's successful fulfillment of its overall needs.
- C. Physical redevelopment of Terminal 91 will occur in phases, the staging of which will reflect business and market opportunities, tenant requirements, availability of fill material, competing demands for available capital, and other relevant factors in the judgment of the Port Commission.
- D. Because of community concerns, forecasts of low volumes of steel imports, and available capacity elsewhere in the harbor, Terminal 91 will not be redeveloped at this time under this plan for a regularly scheduled steel import operation. The Port may, however, handle occasional steel shipments (project moves) and steel incidental to other cargo movements.
- E. The Final EIS on Terminal Redevelopment issued March 11, 1983 is thorough and adequate in its assessment of all redevelopment and access alternatives, including the "no-action" alternative. The Port Commission has considered the Final EIS and the alternatives contained therein. However, the Final EIS does not address and would not be adequate for redevelopment of Terminal 91 as a container terminal.
- F. As described in the Final EIS, Alternatives A through E and the access alternatives can be implemented without causing unacceptable adverse impacts.

- G. The Port Commission has carefully considered and incorporated concerns of Queen Anne and Magnolia communities, as well as the broader community served by the Port, and will continue to do so. Recognizing that the neighboring communities of Queen Anne and Magnolia have a special interest in, and concerns about, how the redevelopment of Terminal 91 affects them, especially in the areas of noise, light and traffic impacts, the redevelopment of Terminal 91 should minimize impacts on the communities.
- H. The Port should maintain open communication channels and try to work cooperatively with the neighboring communities.
- I. The Port Commission finds that its Policy Statement--Piers 90/91 Acquisition and Utilization adopted on August 11, 1975 and revised by and adopted as Section 1 of Resolution No. 2814 have served to guide subsequent activities including the development of this overall development plan. Except to the extent it is inconsistent with the plan herein adopted, the Policy Statement--Piers 90/91 Acquisition and Utilization shall remain in force.
- J. The Design Principles for the Redevelopment of Terminal 91 attached as Appendix A to Resolution 2814 have been followed in developing the redevelopment alternatives and in preparing the final EIS. They shall continue to guide redevelopment under the plan.
- K. This resolution accurately describes the history of planning and public participation for Terminal 91 in the recitals which precede Section 1 on Findings and Objectives.
- L. This plan may be amended from time to time, with opportunity for public comment to the Port Commission, prior to such amendment.

Section 2: TERMINAL 91 OVERALL DEVELOPMENT PLAN.

As directed by Policy No. 4 of Section 1 of Resolution No. 2814 and based on the planning, engineering, environmental, and economic data previously cited, and relevant considerations, and recognizing the phased redevelopment of the terminal, the Port Commission hereby adopts as an overall development plan for Terminal 91 an options plan. The range of options allowed by this plan consists of alternatives A, B, C, D, and E and the West Galer Street access as described in the Final Environmental Impact Statement: Terminal 91 Redevelopment. Any option or combination of options can be implemented as conditions warrant.

The plan consists of three elements: Uses, Physical Redevelopment, and Mitigation. It is the policy of the Port Commission that redevelopment of Terminal 91 shall be consistent with this plan.

A. USES

Uses permitted at Terminal 91 under the plan include:

- o Auto transshipping, storage, and processing
- o Warehousing and light industrial activities
- o Tank farm operations
- o Transshipment and storage of refrigerated and frozen breakbulk cargoes
- o Miscellaneous berthage

- o Breakbulk and neobulk operations including occasional steel project moves and steel as an incidental part of other cargo movements, but excluding regularly scheduled steel imports
- o Containers as an incidental part of other cargo movements

B. PHYSICAL REDEVELOPMENT

Physical Redevelopment permitted under the plan includes:

- o Filling any portion of Smith's Cove Waterway up to and including full fill,
- o Filling in the slip between Piers 89 and 90 as needed for access and for mitigation,
- o Dredging as necessary for the uses allowed,
- o Demolition of structures as necessary,
- o Construction or rehabilitation of aprons in timber or concrete as necessary for the uses allowed,
- o Construction of warehouses, sheds, gatehouses, offices, and other buildings, improvements and structures as needed for the uses allowed,
- o Construction of a new gate and access utilizing West Galer Street,
- o Installation of cranes, conveyors, and other accessory facilities and equipment for the uses allowed,
- o Property acquisition as necessary to carry out redevelopment under the plan,
- o Site preparation, leveling, grading, paving, installation of lighting, drainage, and utilities, and construction of a relieving platform and other accessory construction and demolition, and
- o Construction of physical mitigation features as detailed below.

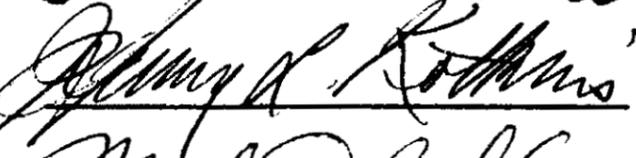
C. MITIGATION

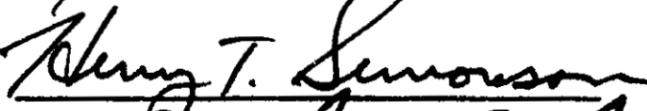
Mitigation is an integral element of this redevelopment plan. A detailed mitigation program for Terminal 91 is contained in Appendix A which is attached hereto and adopted as part of the plan. This mitigation program is comprised of two sections. The first section ensures compliance with all aspects of applicable Federal, State, and Local requirements. The second section consists of additional mitigating measures identified in the final EIS.

Section 3: Unit 1 of the Port's Comprehensive Scheme with regard to Terminal 91 is amended and supplemented to include the overall development plan as adopted under this Resolution.

Section 4: The Port staff is hereby authorized and directed to do all things necessary to implement the policies and plan set forth in this Resolution.

ADOPTED by the Port Commission of the Port of Seattle at a regular meeting held July 12, 1983, and duly authenticated in open session by the signatures of the Commissioners voting and the seal of the Commission.



Port Commissioners

Attachment

APPENDIX A

TERMINAL 91 MITIGATION PROGRAM

I. Compliance with Applicable Laws and Regulations

Development and operation of Terminal 91 shall comply with all existing applicable Federal, state, and local statutes and regulatory criteria. The following list indicates specific requirements identified in the Final EIS and is not intended to limit the Port's policy of full compliance.

- o Any sediments dredged at Terminal 91 will be tested and disposed of as required by EPA and the Washington Department of Ecology.
- o Demolition and construction contractors shall be required to control dust by following PSAPCA recommended practices.
- o All in-water construction will comply with migration timing restrictions to protect juvenile salmonids.
- o All structures will comply with the applicable building code including energy conservation requirements.

II. Additional Mitigating Measures Identified in the Final EIS

Development and operation of Terminal 91 shall incorporate the following additional mitigating measures:

- o Any dredged material proposed as fill will be tested and will be placed using methods developed with the permitting agencies to prevent harmful effects. Fill will be placed behind berms.
- o All dredging and fill will use methods developed with permitting agencies to minimize water quality impacts, including berms. The use of turbidity curtains will be evaluated prior to construction.
- o If dredged material is proposed as fill, additional measures to control water quality will be considered including extra berms, turbidity curtains, location of dredged material in the fill, etc.
- o If dredged material unsuitable for open water disposal is used as fill at Terminal 91, leaching will be monitored to ensure no harmful concentrations of contaminants occur in the groundwater.
- o Existing intertidal habitat in the 89/90 slip will be replaced if affected by dredging.
- o An artificial reef will be constructed at a site to be developed with permitting agencies to mitigate any subtidal habitat lost through fill.
- o Construction contracts will include provisions establishing maximum noise levels and limiting daily hours of construction activity.
- o All new lighting systems will use the new fixture types to minimize offsite lighting impacts.
- o Pole heights will be selected to minimize glare. This will involve a mixture of 60 ft. and 100 ft. poles.
- o Lighting systems will be zoned by working area.
- o Each lighting zone will have a security mode.
- o A landscaped bikepath for commuting and weekend use will be built in the first phase of development.

- o Energy conservation measures will be considered and designed into the development. Lighting, insulation, and reefer/heating linkages will be considered.
- o Any new gatehouse or permanent parking areas will be landscaped.
- o Install low-reflectance surfaces on new buildings and paved areas where feasible.
- o Seek improvements in designation of appropriate truck routes to and from the terminal.
- o Mail maps of truck routes to tenants and customers and have them available at gates.

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TERMINAL 91 MITIGATION PROGRAM

III. Process for Resolving Community Environmental Concerns

Background

The Queen Anne Community Council and Magnolia Community Club (referred to collectively as "the communities" have expressed their support for Port use of Terminal 91 so long as such use does not create adverse environmental impact to their neighborhoods. Those organizations have sought assurances that Terminal 91 redevelopment will not interfere unreasonably with neighborhood life.

The Port Commission has considered a broad range of environmental impacts as part of its planning process for Terminal 91, including community impacts, and has designed the Mitigation Program set forth above in paragraphs I and II. The Port Commission also recognizes, however, that adoption of further mitigation measures now and the consideration of further mitigation measures later to respond to specifically identified concerns will aid in fostering a good neighbor policy between the Port and the communities.

Further Mitigation Measures

Some of the further mitigation measures cannot be known at this time because they have not been sufficiently identified. Others are more appropriately designed after experience is gained in redevelopment activity. However, the areas in which further mitigation measures could be adopted are as follows:

1. Noise
2. Light
3. Traffic
4. Aesthetics

Process

This section describes a process by which the Port and the communities could work to achieve agreed upon further mitigation measures. If such agreement proves impossible, it is the intention of the parties that they should be left to pursue whatever other remedies they have.

The process of arriving at further mitigation areas is as follows:

1. This section sets forth the objectives recognized by both the Port Commission and the communities.
2. Some problems are unresolved and are so identified.
3. The Port and the communities (referred to as "the parties") believe that, acting in good faith, agreement could be reached on further mitigation measures in 90 days from the adoption of this resolution (referred to as "the settlement date"). In this process, the parties would pledge their best efforts to develop further mitigation measures to implement the objectives set forth in this section.
4. Prior to the settlement date, the parties should refine the objectives set forth below, where necessary, to obtain a more definite set of operating practices and procedures to accomplish the objectives. In some cases, the parties may informally resolve some of these concerns. In others, the parties may need to review the results of monitoring programs before commitments are made. It is the intention of the parties that all matters of community concern, including the "unresolved problems," be addressed on a continuing basis by the Port and the communities. In addressing such problems, the parties may use NAC, informal meetings or any other appropriate forum.

5. If the communities concur in this resolution, then prior to the settlement date, the Port Commission would not issue a notice of action under the State Environmental Policy Act. The purpose in deferring such notice would be to allow any legal challenge to the plan for Terminal 91 redevelopment, including a challenge to the adequacy of the Port's EIS on Terminal 91 redevelopment, to be brought after the notice is issued.
6. The Magnolia Community Club and Queen Anne Community Council would covenant not to sue the Port Commission over Terminal 91 redevelopment prior to the settlement date. The Magnolia Community Club would be under no obligation to withdraw its existing lawsuit against the Port Commission, but would agree not to broaden such suit to include any other matter until the settlement date.
7. If agreement is reached on further mitigation measures by the settlement date, then such further measures shall be incorporated in an amendment to this resolution. Upon adoption of such resolution amendment, the Magnolia Community Club shall dismiss its existing lawsuit with prejudice. If such a resolution, containing agreed upon mitigation measures, is adopted, the Magnolia Community Club and Queen Anne Community Council covenant not to sue the Port Commission over short fill redevelopment of Terminal 91 as considered in the Final Environmental Impact Statement: Terminal 91 Redevelopment (alternatives A-C). This covenant includes the promise not to challenge the issuance of any permit required by the Port for such redevelopment.
8. In the event of the failure of the parties to reach agreement on further mitigation measures by the settlement date, the Port Commission could issue its notice of action under SEPA and the Magnolia Community Club and Queen Anne Community Council could take whatever action they deem appropriate, including litigation.
9. The parties understand that the Port Commission can adopt Resolution 2901 and take other steps to proceed with Terminal 91 redevelopment prior to the settlement date. This resolution does not constitute a promise to defer implementation of the redevelopment plan pending agreement between the Port and the communities.

Noise

1. Objectives
 - a. Overall objective: Terminal 91 should be redeveloped in a fashion to minimize unnecessary noise impacts on neighboring residents.
 - b. The communities should play a role in designing noise monitoring systems and prevention objectives.
 - c. The Port should develop a noise monitoring system by the settlement date and implement the system within 6 months. The staff is authorized immediately to engage noise consultants to gather preliminary data.
 - d. The Port should attempt to design on-site noise standards for Terminal 91 operations consistent with all applicable noise ordinances.
 - e. The Port should have procedures identified to the community so that residents can readily determine who to call if there are complaints about noise.
 - f. The Port should respond to all noise complaints in a timely manner.
 - g. Noise complaints should be logged in, with some indication of the resolution of the complaint.

- h. NAC should periodically review the Port's log of noise complaints to determine whether there are any patterns to noise problems which could be solved, including noise sources exempt from local ordinance.
- 2. Construction activities
 - a. Construction contracts should have appropriate noise prevention measures.
 - b. NAC should be provided with the noise control provisions of all proposed construction contracts.
- 3. Resolution procedures
 - a. Prior to the settlement date, the parties should refine the objectives to produce a set of operating practices and procedures to achieve the overall objective of minimizing noise complaints.
 - b. The parties should analyze the results of the monitoring program (including a comparison with the noise logs) to find out where the noise problems exist.
 - c. There should be a continuing process for assessing and curing noise problems.
- 4. Unresolved issues
 - a. Should there be noise criteria, separate from applicable noise ordinances, which govern Port construction and operation activities?
 - b. Should there be noise criteria for "impulse" noises?
 - c. What happens if the communities believe that the Port should take particular steps to stop noise problems and the Port does not believe that such action is warranted or possible?

Light

- 1. Overall objective: Lighting for Terminal 91 should be designed to minimize lighting impact on the communities while providing sufficient illumination to provide efficient operations, safe working conditions and to comply with applicable safety standards.
- 2. The parties recognize that lighting impact can best be addressed at the time of design. The communities should be consulted at the time light fixtures are chosen to review state of the art design and advise on which seems best to meet these objectives.
- 3. For the short fill construction, the Port shall limit lighting poles on the piers to 60 feet in height, and will consider during the design the feasibility of mixing 60' and 35' poles in the rear yard.

Traffic

- 1. The Port should establish a monitoring program for traffic to and from Terminal 91 in consultation with the communities. This would include specific counts of vehicles visiting the terminal as well as periodic monitoring of intersections around the terminal.
- 2. The parties should establish traffic levels based on the monitoring program which, if exceeded, should cause the parties to devise appropriate remedies.

Aesthetics

NAC will be consulted and its aesthetic advice sought on major changes at Terminal 91, such as new building design and landscaping.