Jim McGrath
2301 Russell Street
Berkeley, CA
July 13, 2026

Larry Goldzband
San Francisco Bay Conservation and Development Commission
375 Beale Street, Suite 510
San Francisco, CA 94105

Submitted via email

Subject: Application of the City of Berkeley to establish parking fees at three recreational lots in the marina, Application 2026-05-06

Dear Mr. Goldzband:

I understand that the City of Berkeley has applied for a BCDC permit to install the infrastructure for paid parking and begin charging for recreational parking in three lots in Berkeley marina. I write to urge you to schedule this matter for a public hearing or delay the permit and hear it as part of consideration of the City's proposal to develop a ferry terminal in the marina. I understand that ordinarily, establishment or modification of parking fees would only be subject to limited review by BCDC. Section 15273(a) of the CEQA regulations provides a pathway for exempting parking fees and thus limiting the scope of BCDC's inquiry. Those regulations go on to limit the scope of any potential exemption to cover only routine maintenance and requires the public agency to set forth "**with specificity the basis for the claim if exemption**." The material submitted by the city simply claims a potential revenue of $185,000 without providing any specifics about the costs of implementation or the maintenance that would be accomplished with any net funds.

In this case, parking fees at those lots are part of a single large project to redevelop the marina, substantially remodel the old restaurant once known as H's Lordships, and develop a ferry terminal. The latter two projects, and portions of the current project are all within BCDC jurisdiction, and in such circumstances, BCDC has broad discretion to review the whole of the project for consistency with the McAteer-Petris Act and the Bay Plan. There are multiple Bay Plan policies that thus apply and must be considered.

JURISDICTION

Staff from the City of Berkeley have submitted materials arguing that BCDC has only shoreline jurisdiction at the two South Cove lots and thus has only limited jurisdiction over the city's proposal. I have reviewed the material submitted by the city, which shows that the city had begun construction of bay fill to implement their April 15, 1964, Berkeley Marina Master Plan. An aerial photo submitted by the city shows that a partial dike had been construction as of May 15, 1965, but the dike had not been completed at that time, nor had fill been placed. Another aerial photo, undated, shows the dike completed but much of the area still not filled. None of the material submitted by the city includes a vested right acknowledged by BCDC at that time—the procedure included in the McAteer-Petris Act to recognize projects that had been sufficiently completed and were not subject to BCDC's authority. As you know, there was extensive litigation regarding vested rights, but there is no evidence that we have seen that Berkeley successfully claimed a vested right over the land where parking fees are now proposed. Indeed, the material submitted by the city shows that elements of the current shore line—the sheet pile breakwater now failing, imported fill at the south basin, and imported sand to form the beach now in Shorebird Park, were all constructed under BCDC permits.

The record makes it clear that Berkeley has long considered imposition of parking fees an implementation strategy for the pier ferry project and the Waterfront Specific Plan (WSP). As early as February 16, 2021, city staff advised the City Council that:

> Paid parking at various locations at the Waterfront could generate additional revenue for the City's Marina Fund, while simultaneously disincentivizing car-based traffic to the Waterfront.

While disincentivizing car-based traffic to a new ferry terminal to protect the park character of the marina, or to protect recreational use may be goals consistent with your mission, it poses conflicts with recreational access that requires car-based travel. To date, the city has not successfully rationalized these objectives. The assertion that parking fees will generate sufficient additional revenue to offset the disincentive to recreational access is not supported by the material submitted for this permit. The city merely claims, without providing any supporting details, that fees will generate $185,000 a year. In a parallel effort, the city has generated a parking management plan for the pier-ferry project that would require modification of the proposal in this application within three years. The marina has an identified need for $131 million in unfunded infrastructure. Most recently, the fill behind the seawall in front of the two sailing centers has begun to fail, developing a sinkhole which has required closure of the road. That seawall was developed under a BCDC permit which required the city to maintain those facilities. The possible failure of the seawall was identified as an urgent issue many years ago, but the city has not set aside funds for that maintenance, which was required by their BCDC permit. The current proposal, which would charge those who seek to use those facilities, would not generate the necessary revenue. To a substantial degree, the maintenance shortfall at the marina is the result of self-inflicted wounds as the city charged $1.5 million in city park maintenance and over $500,000 in recreation programs to the marina fund in FY2005. The city has charged the marina fund for those expenses, covered elsewhere in the city by the parks tax and general fund, since at least 2003.

Even if Berkeley had obtained a vested right, the imposition of parking fees is part of the city's plans for redevelopment of the marina and development of a ferry terminal. Berkeley staff have reviewed parts of the overall project with BCDC staff and the Design Review Board but have not discussed the other projects under consideration. The EIR did not consider the redevelopment of the marina, describing it as not foreseeable. Yet on July 7, 2026, the City Council approved a referral to city staff to begin preparing an EIR for the Waterfront Specific Plan (WSP), initiated earlier as the Berkeley Marina Specific Plan (BMASP). Under such circumstances, BCDC has jurisdiction to review the whole of the project, not merely the imposition of parking fees in the three South Basin lots. The city and its consultants have made it clear that parking fees are an implementation strategy for the large project—but has not discussed the whole of the project in a cumulative impact discussion in the pier-ferry project draft EIR. Specifically, the January 2022 report “PARKING AND MOBILITY FRAMEWORK Berkeley Marina Area Specific Plan (BMASP) | January 2022”, by Nelson\Nygaard stated:

> A parking framework for the waterfront should address parking needs of the build-out of the draft land use scenario developed for the BMASP.

The record is peppered with comments like:

> Paid parking is an effective tool for managing demand and turnover in the most convenient, high-demand parking spaces, (Nelson Nygaard)

Developing a comprehensive parking management plan that does not discourage recreational use is far more complicated than the proposal currently before you. As Kittelson, their consultant pointed out, “implementing paid parking presents a logistical and political challenge.” Distinguishing ferry commuters from recreational users and enforcement remains profoundly difficult. Berkeley is now modifying a draft parking management plan that would require modification of the plan before you for a permit. In their parking management plan the city proposes to include 65 spaces at the Skates parking lot, while they are also considering a WSP plan that proposes to develop a hotel on that site and makes no mention of ferry parking on the site. The draft parking plan for the ferry does not include a parking rate and instead proposes a “dynamic management” approach that would allow adjustments to the rate structure without approval from the city council or BCDC. The MOU between Berkeley and WETA establishes that ferry service is contingent upon ”... City providing parking facilities within a reasonable distance.” There is no commitment to the cost of those parking facilities, or whether they will generate the revenue necessary to maintain the facilities and enforce parking restrictions that would protect recreational users. At the same time, the City Council is now proposing to move the WSP into the EIR process. That plan proposes to allow a tripling of the commercial space in the marina—but does not include a parking plan that would protect existing recreational users. The WSP began as the Berkeley Marina Area Specific Plan, or BMASP over six years ago.

The city has options outside of BCDC jurisdiction that could provide parking needed for any proposed ferry. The city’s parking bureau, a non-trust use, is within an easy walk of the proposed ferry terminal. Yet the city has not considered that as an alternative location for ferry parking.

Under CEQA, these various projects cannot be considered piecemeal. Nor should BCDC issue a permit for paid parking facilities without understanding the cumulative impact of such an approach on protecting access for recreational users, as required in various Bay Plan policies. Establishing paid parking for the whole waterfront and controlling access to the marina with an entry kiosk was proposed at the early stages of that effort. While that would probably leave more spaces open on weekends for users with the means to pay or buy an annual pass, it would certainly lead to adverse equity impacts. BCDC should weigh the equity impacts and the city’s process to engage disadvantaged communities against your Bay Plan policies, not merely issue an administrative permit and ignore the impacts.

OUTCOME MONITORING

Berkeley's application states:

> City staff will continue to monitor parking demand and visitor use patterns and adjust this program to ensure that our parking management improves public access to the Waterfront.

This conclusion is inconsistent with the recreational user surveys taken during the planning effort which show many of the visitors to the south side of the marina come from outside Berkeley and make less than the median income. If BCDC staff is inclined to accept this argument, despite that evidence, we ask that you issue any permit for only a trial period and include monitoring. Cell phone data companies like Placer AI have records of visitors to Berkeley's Waterfront, and Berkeley funds Visit Berkeley with tax funds that come in part from the marina. Visit Berkeley in turn has access to Placer AI data for marketing the city's business. We ask that you include a monitoring condition that tracks visitation to the marina and the impact of fees. Comparing the three years of access patterns before fees were imposed to the three years that followed should demonstrate factually whether Berkeley's claim is true.

Thank you for your consideration.

Very truly yours,

Jim McGrath
Founder, Save the Berkeley Pier