



PARKS, RECREATION, AND WATERFRONT COMMISSION

Regular Meeting

Wednesday, April 27, 2022, 7:00 P.M.

Parks and Waterfront Commission

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH ZOOM VIDEOCONFERENCE AND TELECONFERENCE

- To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device, join the meeting at the following public **URL**: <https://us06web.zoom.us/j/87616354584>
- If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.
- To join by phone: Dial 1-669-900-6833 and enter Meeting ID 87616354584#.
- If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair. **Note**: Your phone number will appear on the videoconference screen.

Agenda

The Commissions may discuss any items listed on the agenda, but may take action only on items identified as Action.

1. **Call to Order** (Chair).
 2. **Roll Call** (Secretary).
 3. **Action: Approval of Agenda** (Chair).
 4. **Action: Approval of Minutes** for March 9, 2022 (Chair).*
 5. **Public Comment.**
 6. **Chair's Report.**
 7. **Discussion: Greg Brown Park – multiple entrances issue** (Ferris). *
 8. **Director's Report** (Ferris). Divisions: Recreation; Parks; Waterfront; Capital; Budget.
 9. **Update: Commission Referrals to City Council: TOT, Refuse Policy, Adopt-a-Spot ***, **South Sailing Basin dredging, and State Funding Request for Marina** (Wozniak).
 10. **Discussion: Proposed locations - outdoor fitness court at Cesar Chavez Park** (Lam).*
 11. **Discussion: BMASP Community Mtg No. 2 Additional Feedback** (Ferris/Wozniak).
 12. **Discussion/Action: 787 Bancroft Development** (Kawczynska/Wozniak).*
 13. **Information: Recent Council Reports.***
 14. **Future Agenda Items:** Workplan FY2022-2023; Parks Development Fee; Parks Tax & Parking Space Exclusion.
 15. **Communications.** Antinori (3-31-2022); McGrath (03-30-2022); the Eastshore State Park Brickyard Phasing Plan (03-10-2015) Steere (04-12-2022).
 16. **Next PRW Commission meeting:** Wednesday, May 11, 2022.
- * document is attached to agenda packet and on the commission website.
** document will be provided at the meeting.

ADA Disclaimer: This meeting is being held in a wheelchair accessible location. To request disability-related accommodations to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB343 Disclaimer: Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at Parks Recreation & Waterfront Department Office at 2180 Milvia Street, Berkeley, CA.

Communications Disclaimer: Communications to Berkeley boards, commissions or committees are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** All communications to the Commission should be received at least 10 days before the meeting date. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the commission or committee for further information.

Commission Information: The agenda packets for the Parks and Recreation Commission and the Waterfront Commission are available for review at www.cityofberkeley.info/commissions; the Berkeley Main Library and the Parks Recreation & Waterfront Department Office at 2180 Milvia Street –3rd Floor, during their normal business hours. If you have questions, call Commission Secretary, Roger Miller at 981-6704 at 2180 Milvia Street, Berkeley, CA 94704 or by email at rmiller@cityofberkeley.info.

MISSION STATEMENT – PARKS AND WATERFRONT: Reviews and advises the City Council on issues related to all City/public parks, open space, greenery, pools, programs, recreation centers, the Waterfront, and resident camps: their physical conditions, policies, projects, programs, planning efforts, activities, and funding; early childhood education programs; and animal care issues in parks.

COMMISSION MEMBERS

Mayor - Gordon Wozniak	District 3 - Brandon Floyd	District 6 - Laurie Capitelli
District 1 - Kerry Birnbach	District 4 - Erin Diehm	District 7 - Davina Sriudom
District 2 - Claudia Kawczynska	District 5 - Brennan Cox	District 8 - Maria Landoni

Current Subcommittees: none

2022 Commission Meeting Dates

Name of Commission: Parks, Recreation, and Waterfront Commission

Commission Secretary: Roger Miller

Location: Frances Albrier Community Center, 2800 Park St

Month	Meeting Day and Date (2 nd Wednesday per month)	Time	Notes
2022			
January	No meeting		
February	Wednesday, February 16	7:00 p.m.	Regular Mtg (Zoom)
March	Wednesday, March 9	7:00 p.m.	Regular Mtg (Zoom)
April	Wednesday, April 13	7:00 p.m.	Regular Mtg - Cancelled
April	Wednesday, April 27	7:00 p.m.	Regular Mtg
May	Wednesday, May 11	7:00 p.m.	Regular Mtg
June	Wednesday, June 8	7:00 p.m.	Regular Mtg
July	Wednesday, July 13	7:00 p.m.	Regular Mtg
August	No meeting		
September	Wednesday, September 14	7:00 p.m.	Regular Mtg
October	Wednesday, October 12	7:00 p.m.	Regular Mtg
November	Wednesday, November 9	7:00 p.m.	Regular Mtg
December	Wednesday, December 14	7:00 p.m.	Regular Mtg
2023			
January	Wednesday, January 11	7:00 p.m.	Regular Mtg

PARKS AND WATERFRONT COMMISSION

Regular Meeting

Wednesday, March 9, 2022, 7:00 P.M., Zoom Meeting

Minutes – Draft

The Commissions may discuss any items listed on the agenda, but may take action only on items identified as Action.

1. **Call to Order** (Chair).
2. **Roll Call** (Secretary). Present: Birnbach; Capitelli; Cox; Diehm; Floyd; Kawczynska; Landoni; Srioudom; Wozniak; Absent: None.
3. **Action: Approval of Agenda** (Chair). * (M/S/C: Diehm/Kawczynaksa/U): Ayes: Birnbach; Capitelli; Cox; Diehm; Floyd; Kawczynska; Landoni; Srioudom; Wozniak; Noes: none; Absent: None.
4. **Action: Approval of Minutes** for February16, 2022 (Chair).* (M/S/C: Capitelli/Floyd/U): Ayes: Birnbach; Capitelli; Cox; Diehm; Floyd; Kawczynska; Landoni; Srioudom; Wozniak; Noes: none; Absent: None.
5. **Action: 2022 Commission Meeting Schedule** (Chair). * (M/S/C: Cox/Kawczynska/U): Ayes: Birnbach; Capitelli; Cox; Diehm; Floyd; Kawczynska; Landoni; Srioudom; Wozniak; Noes: none; Absent: None.
6. **Public Comment:** Kelly Hammergren, record the meeting?; Shawn, Skate XP; Cameron Woo, Cesar Chavez Park Off Leash Area, 9th St Bike Path.
7. **Chair's Report.** Update was provided.
8. **Director's Report** (Ferris). Divisions: Recreation; Parks; Waterfront; Capital; Budget. Update was provided.
9. **Update: Outside Funding, Grants, Donations for PRW projects** (Ferris). See report at https://www.cityofberkeley.info/uploadedFiles/Parks_Rec_Waterfront/Level_3_-_General/Outside%20Funding-%20Council%20Reports%20-%202001-2022%20-%20Upd%203-2-2022.pdf. Update was provided.
10. **Update: Trees Make Life Better Program** (Ferris).* See report at https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Trees%20Make%20Life%20Better%20Program%20022822.pdf. Update was provided. Public Comment: Kelly Hammergren, native trees.
11. **Spring and Summer 2022 special events calendar** (Ferris). * See report at https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/PRW%20Summer%20Special%20Events%20030222.pdf. Update was provided.
12. **Proposed FY2023-24 PRW capital projects budget** (Ferris).* Update was provided.
13. **Discussion/Action – upcoming FY2023/24 Marina Fund Budget** (Erickson).** Update was provided.
14. **Update/Discussion/Action: Commission Referrals to City Council: TOT, Refuse Policy, Adopt-a-Spot, South Sailing Basin dredging, and State Funding Request for Marina** (Wozniak). Update was provided.
15. **Information: Recent Council Reports.***
16. **Future Agenda Items:** Workplan FY2022-2023; BMASP Update, Parks Development Fee, Parks Tax & Parking Space Exclusion.
17. **Communications.** Walkable Neighborhoods – Daily Science, 02-22-2022.
18. **Next PRW Commission meeting:** Wednesday, April 13, 2022.
19. **Adjournment:** 10:00pm.

***Note:** For handouts distributed at the meeting, please see the Draft Minutes for March 9, 2022 on the Parks, Recreation, and Waterfront Commission webpage at the following link online:
<https://www.cityofberkeley.info/Clerk/Commissions/Parks, Recreation, and Waterfront Commission.aspx>

Agenda Item 7. Discussion: Greg Brown Park – multiple entrances issue

From: Andy Pinost <andypinost@gmail.com>
Sent: Wednesday, March 16, 2022 12:11 PM
To: Ferris, Scott <SFerris@cityofberkeley.info>
Cc: Jason Pinost <jasonpinost@gmail.com>; Sokhom, Molly <MSokhom@cityofberkeley.info>;
Bartlett, Ben <BBartlett@cityofberkeley.info>; Chang, James <jchang@cityofberkeley.info>;
Pratt, Bruce <bpratt@cityofberkeley.info>; Miller, Roger <RMiller@cityofberkeley.info>;
Erickson, Christina <CErickson@cityofberkeley.info>
Subject: Re: Fairview St entrance to Greg Brown Park

Thanks for your response, Scott.

Is there a way to officially register our complaint with the Parks, Recreation and Waterfront Commission ahead of the meeting? This is a very important safety issue, and I'm concerned and confused as to why the city needs public input to make a simple change that could save lives.

As it stands, all of the entrances to the park are locked except one (Harmon Street). If a dangerous situation develops by that one entrance – be it a fire, a mentally ill person with a knife, a shooter, or a violent altercation – the people in the park are sitting ducks with no way out.

The recent shooting happened between the playground and the Harmon Street entrance. Had the Fairview Street entrance been locked, the two groups of men involved in the incident AND the family at the playground would have had to exit through that one open gate. The outcome could have been very different. Thankfully, the terrorized family exited safely through the Fairview Street gate.

- 0:22 Gunshot
- 0:34 Terrified parent and child run out screaming through the Fairview Street entrance.

Keeping this gate locked and putting the issue up for public debate seems misguided at best. The residents of South Berkeley deserve better when public safety is at risk, and I encourage you to reconsider and make this simple change that will make the parks more accessible and safer for the community to enjoy.

If this does indeed go on the agenda, please let us know how we can be part of the community invited to provide input.

Andy Pinost

Agenda Item 7. Discussion: Greg Brown Park – multiple entrances issue

On Wed, Mar 16, 2022 at 9:56 AM Ferris, Scott <SFerris@cityofberkeley.info> wrote:

Jason

We made the adjustment to open the gate last Spring, but given the shooting we are going to re-evaluate this situation with are Police Department and discuss at our next Parks, Recreation and Waterfront Commission meeting on 4/15/2022 at 7 PM. This will give the larger community an opportunity to weigh in on the gate issue. The gate will remain locked until then. Thanks for your patience.

Scott

From: Jason Pinost <jasonpinost@gmail.com>
Sent: Monday, March 7, 2022 12:49 PM
To: Marizette-Green, Melissa <mmarizettegreen@cityofberkeley.info>
Cc: Andy Pinost <andypinost@gmail.com>; Ferris, Scott <SFerris@cityofberkeley.info>; Sokhom, Molly <MSokhom@cityofberkeley.info>; Bartlett, Ben <BBartlett@cityofberkeley.info>; Chang, James <jchang@cityofberkeley.info>
Subject: Fairview St entrance to Greg Brown Park

Hello Ms. Green,

Last spring my husband Andy (cc'ed) worked with our councilmember Ben Bartlett's office, as well as Director Scott Ferris of the Berkeley Parks Recreation & Waterfront department, to open the Fairview St entrance so that our child and other Berkeley neighborhood children would have better access to this park. Part of our argument was that a single entrance/exit to this park, on Harmon St, poses a safety issue if a person who intended harm entered the park and effectively trapped everyone inside. (As you probably know, the Harmon St entrance is not visible from most of Greg Brown Park.)

Joyce Barnes at Ephesians Children's Center, who unlocks the park each morning and locks it each night, tells me that you instructed her last week to stop unlocking the Fairview St entrance following a shooting incident in the park, because opening the Fairview St entrance last spring did not follow the correct procedures. We are of course extremely disappointed in this development, particularly since we know (from cameras outside our house) that **the Fairview St entrance was the only way a woman and her child were able to safely escape from Greg Brown Park during the shooting.**

At this point I am writing to learn from you what the correct procedures are for us to formally request that the Fairview St entrance to Greg Brown Park be unlocked and locked on the same schedule as the Harmon St entrance. Can you please advise on the correct protocol for us to make this request?

Thank you,
Jason Pinost

- **GREG BROWN PARK** (in red) at 1907 Harmon St (at Ephesians CDC)
- City gates (red arrows)
- City parcels (COB) (in blue)



April 13, 2022

**Regular Meeting of the Parks, Rec, and Waterfront Commission
Update on Adopt-a-Spot from Commissioner Erin Diehm**

SUMMARY

The Adopt-a-Spot Item will be coming to the Budget & Finance Council Committee soon for funding consideration. While exact dates of discussion are to-be-determined, it may be discussed at the April 14th &/or 28th meetings. Community members may express their support for adequate funding of Volunteer Coordinator(s) via written or spoken comment.

For Agendas and meeting details see the Budget & Finance Committee webpage:
https://www.cityofberkeley.info/Clerk/Home/Policy_Committee__Budget__Finance.aspx

BACKGROUND

The Adopt-a-Spot item was on the City Council Action Calendar of January 18, 2022 as Item #26a/b. It was moved from Action to Consent and unanimously approved.

- **Agenda** - https://www.cityofberkeley.info/Clerk/City_Council/2022/01_Jan/City_Council__01-18-2022_Regular_Meeting_Agenda.aspx
- **Annotated Agenda** - https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/01-18%20Annotated%20Agenda%20-%20Council.pdf

The final language of the Resolution was modified at that time. The report written by the Public Works and Parks & Waterfront Commissions recommended 2 FTEs and suggested potential funding source(s). The final approved language expresses support for an expanded program and removed language on proposed funding sources, referring the matter to the Budget & Finance Committee for consideration in the FY23-24 Budget.

RELEVANT LANGUAGE

COMMISSION RECOMMENDATION (1st paragraph only)

ORIGINAL

That Council adopt a Resolution to support and fund two new full-time dedicated Volunteer Coordinators to run an expanded Adopt-a-Spot program and coordinate new programs for youth volunteers, and funding for operational expenses should be included.

AMMENDED AND APPROVED

That Council adopt a Resolution to support an expanded Adopt-a-Spot program and coordinate new programs for youth volunteers, and funding for operational expenses should be included and refers the funding of the program to the Fiscal Year 2023- 2024 Budget process.

RESOLUTION No. 70,194–N.S.

ORIGINAL

NOW THEREFORE, BE IT RESOLVED, that the Council of the City of Berkeley hereby adopts an expanded Adopt-a-Spot program, including two full-time Volunteer Coordinators (2 FTEs) and associated operational costs.

BE IT FURTHER RESOLVED, that the expanded Adopt-a-Spot program shall be paid for by a 0.5% fee on four Special Revenue Funds (Zero Waste, Sewer, Parks, and Storm Water) or, as an alternative, by an approximate 0.25% fee from the General Fund.

AMMENDED AND APPROVED

NOW THEREFORE, BE IT RESOLVED, that the Council of the City of Berkeley hereby adopts an expanded Adopt-a-Spot program and refers the funding of the program to the Fiscal Year 2023-2024 Budget process.

**Attachment 1
Revised
FY 2023-2024 Biennial Budget Development Schedule**

Date	Lead Entity	Action Item/Deliverable/Topic
January 27	Budget & Finance Committee	Review of Budget Development Schedule
February 10	Budget & Finance Committee	Review of Council Budget and Fiscal Policies
<i>February 24</i>	<i>Budget & Finance Committee</i>	<i>Homelessness Funding Priorities Discussion</i>
February 24	Budget & Finance Committee	FY 22 Mid-Year and American Rescue Plan Act Update
February 24	Budget & Finance Committee	General Fund Expenditures: Discussion on FY 23 & 24 Budget Assumptions on Personnel Costs, Including “Salary Savings”
March 10	Budget & Finance Committee	Measure P Overview and Fund Forecast
March 10	Budget & Finance Committee	Legislative Update: Governor's FY 22-23 Proposed Budget, Federal Infrastructure Bill, Introduced Legislation
March 10	Budget & Finance Committee	Five-Year Capital Improvement Program and Proposed Projects
March 22	Council	FY 22 Mid-Year and American Rescue Plan Act Update
April 12	Council	Five-Year Capital Improvement Program and Proposed Projects
April 14	Budget & Finance Committee	FY 22 AAO #2 Update
April 14	Budget & Finance Committee	General Fund Revenue and Expenditures: Five-Year Forecast Special Revenue/Enterprise/Other Funds Forecast
April 14	Budget & Finance Committee	Overview of the FY 23 & 24 “Preliminary” Budget
April 14	Budget & Finance Committee	Capital Improvement Program Recommendations
April 14	Budget & Finance Committee	Discussion on Budget Engagement Strategies
April 22	Council	Initial Budget Referrals to City Manager
April 26	Council	Public Hearing on CDBG & ESG Annual Action Plan
<p>Schedule Continued on Next Page Dates are tentative and subject to change</p>		

**Attachment 1
Revised
FY 2023-2024 Biennial Budget Development Schedule**

Date	Lead Entity	Action Item/Deliverable/Topic
April 27	Budget & Finance Committee Afternoon Meeting (12 pm-5 pm)	Department Presentations: City Attorney; City Auditor; City Manager (Animal Care Services, Code Enforcement, Economic Development, Neighborhood Services); Health, Housing & Community Services
		Measure P Allocation and Proposed Initial Recommendations
April 28	Budget & Finance Committee (9 am- 5 pm)	<i>Discuss and develop alternative revenue streams for the Marina Fund including a dedicated reserve</i>
		Department Presentations: Planning & Development; Parks, Recreation & Waterfront; Public Works
April 29	Budget & Finance Committee (9 am- 5 pm)	Department Presentations: Fire; Police; Office of Police Accountability City Clerk; Finance; Information Technology, Human Resources
May 10	Council	Public Hearing to Receive FY 22 AAO#2 Report (1st reading)
May 10	Council	Public Hearing to Receive Proposed Biennial Budget and CIP
May 12	Budget & Finance Committee	Receive presentation on FY 23 proposed fees
May 12	Budget & Finance Committee	Discussion on Proposed Biennial Budget & CIP Recommendations
May 12	Budget & Finance Committee	Review of Council Fiscal Policies
May 17	Council	Budget Referrals to City Manager
May 24	Council	Receive AAO#2 Report (2nd reading), Public Hearing on FY 23 Fees, Public Hearing on Biennial Budget & CIP
May 26	Budget & Finance Committee	Legislative Update- Governor's FY 22-23 May Revision Budget, Federal and State Legislation Update
May 30	Council	Final Budget Referrals and Recommendations to City Manager
<p>Schedule Continued on Next Page Dates are tentative and subject to change</p>		

**Attachment 1
Revised
FY 2023-2024 Biennial Budget Development Schedule**

Date	Lead Entity	Action Item/Deliverable/Topic
May 30	Public	Budget Inquiry Forms Due to Budget Office (responses included as part of June 14 Council public hearing on the biennial budget)
June 9	Budget & Finance Committee	Discussion on Proposed Biennial Budget & CIP Recommendations
June 9	Budget & Finance Committee	Review of Council Fiscal Policies
June 9	Budget & Finance Committee	Discussion on AAO Criteria and Timing
June 14	Council	Discussion on Proposed Biennial Budget & CIP Recommendations
June 23	Budget & Finance Committee	Discussion on Proposed Biennial Budget Recommendations
June 28	Council	FY 23 & 24 Budget Adoption, including Capital Improvement Program; Approval of FY 23 AAO and Approval of Tax Rates
Dates are tentative and subject to change		

Prepared for the Parks, Recreation and Waterfront Commission
Meeting Date: 4/13/22
By: Claudia Kawczynska

BACKGROUND:

TheLab Project Location on 787 Bancroft:

The project is made up of approximately 5.5 acres and made up of two contiguous blocks (East Block and West Block combined). The project runs along Fourth Street with Allston Way to the north, Fifth St to the east, and Bancroft Way to the south, and borders the railroad to the west (it is directly in the back of the 600 Addison St project.)The West block used to be the Wine.com site.

Project Description:

TheLab project is redeveloping its East and West blocks to be a “life sciences” campus. The current phase of the project (and the one undergoing a CEQA review now) will demolish all existing buildings and will construct a 159,143 square-foot, three story Research and Development building with a surface parking lot on the West Block (787 Bancroft) and a 124,667 square-foot, five-story parking garage on the East Block for a total of 283,810 gross square feet of building area and a total of 491 parking spaces. The garage will be a 35 feet on Fifth St and 45 feet on Fourth, with a PV solar array on a canopy above the structure. It is noted that parking structures are exempt from Berkeley’s parcel tax. The development will also provide 88 bicycle parking spaces and 61 new trees will be planted as well as 11 street trees, 8 along Fourth and 3 along Bancroft.

Status of the Review Process:

This project first appeared in front of the Design Review Committee on 2/17/22, and based on suggestions from the DRC, it will be presenting design modifications in May to that committee. After the first DRC meeting, the City issued its proposed Mitigated Negative Declaration pursuant to CEQA on 3/9/22, public comments are due on 4/7 and 4/14 for those from the PRW.

Improvements proposed that can benefit Aquatic Park:

The developer will be extending pedestrian improvements along Bancroft that will connect up with the sidewalk improvements that will be built by the 600 Addison St. project. And they will provide bioretention systems that will slow and clean stormwater replacing the existing impervious lots which did not manage or clean stormwater before entering the Aquatic Park lagoon.

CEQA REVIEW AND MITIGATED NEGATIVE DECLARATION

Because TheLab project is in close proximity to Aquatic Park, it is felt that the Parks, Recreation and Waterfront Department and the Parks, Recreation and Waterfront commission should have been taken into consideration for input during the preparation of the CEQA study. While not situated within Aquatic Park, like the 600 Addison St. project, it is only 350 feet from it, so that both during its demolition and construction phases and in the future operations, there are possible

impacts to recreation, public services (parks), biological resources, hydrology, and transportation that were not fully taken into consideration, including these observations:

1. Increase in bicycle usage in Aquatic Park, both as possible commuter mode of travel and as recreation. The developer is providing 88 parking spaces for bicycles but is only estimating that the project will generate approximately 9 bicycle trips in both the AM and PM peak hours. To further support bicycle usage, the project will be providing bike lockers, personal lockers and a repair station on-site. So it seems that the estimate of 9 trips is an underestimate.
2. Based on the design input first received from the DRC, the project now will be using some bird safe glass, but not for its entire building that prominently uses glass on all sides. With the nearness to Aquatic Park, it would be highly advisable to use such glass throughout the project, especially along Bancroft Ave and west.
3. Increase in visitor usage of Aquatic Park: In the description of the project site, the applicant notes that it will “enjoy close access to waterfront recreation at Aquatic Park,” and that the pedestrian/bicycle bridge will also provide easy access to the Berkeley waterfront (and a possible WETA ferry service). The developer obviously understands the benefits that being so near the amenities of Aquatic Park and the marina and actively has been using this as a marketing tool to attract tenants. But without giving adequate attention to the mitigation measures that can affect the park nor do they seem to consider future park improvements that they could contribute impact fees to.
4. TheLab will definitely benefit from the improvements that the 600 Addison St project will bring to the area especially around the northeastern section of Aquatic Park, from improved streets and pathways, to native plantings that are open to the public—the park will be transformed from the amenities provided to it by another developer’s impact fees and their ongoing contributions to the maintenance of the park. Expanding those amenities further south, including the Dreamland playground and/or possibly the pathway that is badly in need of repair, would be greatly appreciated by the community and Berkeley families especially in West and South Berkeley.
5. While detailed descriptions of the nearby parks are given in the Public Services Section 3.15, the MND determined that increased usage would have less than significant impact. Because, as was noted, “this increase is expected to be incremental due to the absence of residential uses in the proposed Project and is not expected to adversely affect the physical conditions of local and regional open space areas or recreational facilities.” But it is unclear why usage from Project employees would not also have similar affects as residents would.
Activities like running, walking, biking, bird watching, picnicking, rowing/kayaking, frisbee golf, dog walking and others would be freely available to TheLab employees who are the perfect demographic to appreciate and take advantage of it. Just think of the wonderful biker’s or runner’s circuit through Aquatic Park, over the bridge, to Brickyard Cove and then further around Cesar Chavez Park and back to work again!

6. While it is noted in the review of Biological Resources 3.4 that this site is near Aquatic Park and that “Biological resources on the site mainly consist of those species of plants and animals that are tolerant of human disturbance and can survive in the urban environment.” But in the light of such a large scale development, that covers almost two streets for one full block, so near to one of the largest and environmental sensitive parks in Berkeley, the tolerance of “human disturbances” will surely be felt by a number of species.

The effects also might be further compounded by a combination of this proposed development and the permitted one of 600 Addison St. being constructed during the same narrow time frame. During the demolition, construction and then operational stages there could be multiple species whose habitat will be severely disrupted. It is not clear from the MND how this will be measured, recorded and handled.

7. The analyses for the Biological Resources also rely on data collected for another client, 600 Addison St. on July 29, 2016 and on April 30, 2020 and with research conducted “around” the site for one single day (without time of day noted, or length of visit). Again because of the proximity to Aquatic Park, I believe that this study falls short in its possible effect on wildlife in that park and should have been expanded beyond the site itself, and further studies should have been conducted. I also question if organizations such as the Golden Gate Audubon Society were consulted in this research. Same too for the analysis of the Monarch butterfly species, and while Aquatic Park is part of a national annual count, only a count from 2015/2016 is referenced on Table 3.E.

And according to Erin Diehm, a Monarch activist and PRW commissioner, “it’s true that it’s not really an over-wintering site, in the strictest sense, meaning there are clusters that hang together for weeks, maybe months. There was the one year, 2014, when about 1,400 were counted. Since then it’s been in the low single and double digits. So, it’s not really a true overwintering site. However, if the conditions were improved, it might be. And it definitely is on the migratory path and small numbers have been seen passing through and maybe over-nighting. Maybe most important is that the location is deemed important enough that it is included in the annual statewide Thanksgiving Monarch Count.”

8. The MND noted that in 3.10 Hydrology and Water Quality that there is less than significant impact within each category. As is well known, the lagoon at Aquatic Park has long been plagued by effluent from runoff and the various creeks that drain into it. In the past couple of years, the water quality has been closely monitored by the city’s Division of Environmental Health and Parks and while it seems that adequate attention will be given to this by the developer during the demolition stage, it is important that before, during and after construction that the water quality in the lagoon be rigorously monitored and expanded, especially in the light of so many possible hazardous materials in the soils at that site. The city should be compensated for these reviews.

Also as it pertains to groundwater, it is advised that if the city determines that TheLab is responsible for any contamination of groundwater seepage into Aquatic Park and its lagoon, TheLab should be responsible for funding remediation of such contamination.

A recent piece in the *New York Times* "[The Next Level in Sustainability: Nature Restoration](#)" noted that the new trend in developments have "made these [restoration] projects more valuable, said Matt Norris, director of the Building Healthy Places Initiative at the Urban Land Institute....For developers, offices and homes next to parks can accrue up to 20 percent more value, and added green space can help projects earn community support and even unlock zoning incentives." While it is challenging to determine future impacts that any development might have on a city park such as Aquatic Park, an acknowledgement that such impacts are inevitable, and that its green space is a valuable resource for the developer as well as for the city, a financial contribution for mitigation measures and other park improvements would be most welcomed. It is also recommended that since West Berkeley will be experiencing additional developments in the near future that are either contiguous with Aquatic Park or border the RR, that the PRW Department be invited to review plans to address any issues that fall within their special field of concern before an MND is issued.

We do hope these comments are taken under advisement, and we look forward to such projects such as TheLab that will bring new vitality to this West Berkeley neighborhood. But it would be greatly appreciated if Steelwave would be willing to learn more about the opportunities to help bring a new shared vision to Aquatic Park and partner with the city to develop amenities such as its Dreamland that would wholeheartedly embrace the park's context and its historical lineage.

ATTACHMENT 3
DRC 02-17-2022
Page 17 of 19

BIRD MITIGATION STRATEGIES

The new project is 350 feet from the Aquatic Park and 1,000 ft from the San Francisco Bay. Both are major open spaces along the Pacific Flyway: a major migratory route for birds. Between our project and these open spaces will be Berkeley Commons another project of similar height.

While we are not directly adjacent to these open spaces we are taking the following measures to reduce the likelihood bird collisions:

Bird Safety Measures (per BMC amendment):

1. Recessed Glazed Surfaces
2. Glazing that minimizes reflectivity through metal panels and decorative fins
3. Parking Lot Tree Canopy between open space and building
4. Light-colored blinds or curtains



Project site distance from Aquatic Park



1 and 4: Recessed windows at West facade with light colored curtains



3: Parking lot tree canopy in front of inner west facade



2: Inner West facade solid metal panels and decorative fins



Steelwave | SOM

787 Bancroft | Berkeley, California | 17



VIEW FROM RAILROAD CROSSING: EXISTING



VIEW FROM RAILROAD CROSSING: PROPOSED



VIEW FROM RAILROAD CROSSING: EXISTING



VIEW FROM WEST: PROPOSED



787 BANCROFT

100 BANCROFT ST., BERKELEY, CALIFORNIA

OWNER
 STEELWAVE
 100 CALIFORNIA STREET, SUITE 300
 SAN FRANCISCO, CA 94111

PROJECT TEAM

ARCHITECT / STRUCTURAL ENGINEER / LANDSCAPE
 SOM
 200 MARKET STREET, SUITE 100
 SAN FRANCISCO, CA 94111

MECHANICAL ENGINEER
 LUCIANO CONSTRUCTION COMPANY
 1000 14TH AVE
 OAKLAND, CA 94612

ELECTRICAL ENGINEER
 BROWN HOLDINGS
 1000 CALIFORNIA STREET, SUITE 100
 SAN FRANCISCO, CA 94111

MECHANICAL ENGINEER
 BROWN HOLDINGS
 1000 CALIFORNIA STREET, SUITE 100
 SAN FRANCISCO, CA 94111

GEOTECHNICAL ENGINEER
 BROWN HOLDINGS
 1000 CALIFORNIA STREET, SUITE 100
 SAN FRANCISCO, CA 94111

DATE
 04/25/22

SCALE
 1/8" = 1'-0"

NO.	DESCRIPTION	DATE
1	USE FOR PERMIT APPLICATION	2022.04.25
2	USE FOR PERMIT APPLICATION	2022.04.25
3	USE FOR PERMIT APPLICATION	2022.04.25
4	USE FOR PERMIT APPLICATION	2022.04.25

NOT FOR CONSTRUCTION

PHOTO SIMULATIONS AND VISUALIZATION

Project No.: 2022-0011 Sheet No.: GP0.01.02
 Drawn By: Adam Checked By: Adam
 Date: 04/25/22 Date: 04/25/22

7 April 2022

RE: Initial study - Mitigated Negative Declaration of 787 Bancroft Way and 2213 Fourth Street

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2022-03-09_TheLAB%20PubRevMND_compressed.pdf

To Whom It May Concern,

I am writing to submit public comment on the Initial MND for TheLAB Project. Unfortunately, several sections related to biological resources are outdated and the proposed Mitigation BIO-1, to require bird-safe glass on only the West-facing facade, is insufficient. The proposed mitigation measures, especially those related to bird safety, would not adequately mitigate the threat posed to birds, leaving birds and other wildlife in harm's way in a globally recognized biologically rich and abundant location along the Pacific Flyway. I request that the MND be rejected at this time so that updates and corrections can be added, including but not limited to the following 4 points, and especially the inadequate mitigation proposed in BIO-1 which limits bird-safe glass to the West facade and, instead should require bird-safe glass on all sides of the building:

- 1. BIOLOGICAL RICHNESS: The MND vastly understates the biological richness and abundance of the nearby Aquatic Park and Albany bulb areas and, as a result, offers inadequate mitigations for bird safety. The MND understates the species richness by a factor of 20 and must be corrected to reflect the almost 200 species of birds documented nearby.**

(see Appendix A)

⇒ The proposed project is just one block east of Aquatic Park, a recognized biodiversity hotspot located on the Pacific Flyway. Almost 200 species of birds have been documented nearby: 196 species at Aquatic Park, 189 at the Albany Bulb. The Cornell Lab of Ornithology's eBird maps clearly documents the species richness and abundance. Yet, somehow on page 3-19 the MND overlooks this well documented and publicly available data on species richness and, instead, mentions only species seen on a single site visit, namely, 8 common birds (crow, gull, pigeon, sparrow, dove, phoebe, hummingbird, and towhee) and a dead black rat. How is it LSA didn't document any of the other 188 species of birds?

- 2. MIGRATORY CORRIDOR: The MND erroneously states that the location is not on a migratory corridor and, as a result, suggests inadequate mitigations for bird safety. The project site lies within a migratory corridor, the Pacific Flyway. The MND should be corrected to reflect the site's location on the globally recognized Flyway and associated biological value.**

(see Appendix B)

⇒ Aquatic Park is on the Pacific Flyway. Hundreds of thousands of birds fly over Aquatic Park during migration, many landing to feed, rest or over-winter. Point Blue Conservation Science even conducts regular Surveys there to documenting the migration. Yet the MND inaccurately states that the site isn't located within a "migratory wildlife movement corridor" (p. 3-34)

- 3. BIRD SAFETY: Perhaps as a result of the underreported biological richness of the area, or perhaps by ignoring the latest recommendations on bird-safety, the MND recommends bird-safe glass on ONLY the West side of the building, an disappointing and insufficient mitigation. It references**

San Francisco's Ordinance (2011), which, while groundbreaking at the time, is no longer recommended and is recognized as insufficient¹. If the proposed mitigation is allowed to stand, this project will pose a very real threat to birds - residential and migratory - for decades to come. Berkeley is in the process of codifying the Bird Safe Berkeley Ordinance, and the Planning Commission and public commenters have expressed unanimous support for strong protections. The MND should be updated to require adequate mitigations for bird safety and state that glass visible to birds is required on ALL sides of the building, for ALL floors of the building

(see Appendix C)

- ⇒ Why do birds fly into glass? Birds see the reflection of trees or sky in a window, think the image is real, and, trying to reach the image, fly into the glass causing harm and death.
- ⇒ Window strikes is the #2 killer of birds - up to 1 billion birds die every year
- ⇒ Reflections happen on all sides of a building - North, South, East, and West. Corners are especially dangerous. If a bird can see through the corner to the other side, it may try to fly through only to collide with the glass, causing injury or death.
- ⇒ Lower stories are just as dangerous as higher ones, on all sides of a building, due to the reflective properties of window glass.
- ⇒ Existing bird-safety measures in other cities require bird-safety on all sides of a building
- ⇒ The MND uses the San Francisco Ordinance as a guide, however, that ordinance was the first in the nation, 2011, and is now recognized as inadequate. LSA should reference newer ordinances and use the ABC website of recommended ordinances as their guide.²
- ⇒ Berkeley is currently in the process of codifying the Berkeley Bird Safe Ordinance. It came before the Planning Commission on March 2, 2022 (Item #11), where strong support was expressed by the commission and two-dozen public commenters, for a robust ordinance based on newer ordinances like New York City or the American Bird Conservancy's Model Bird-Friendly Ordinance³, which outlines a 100/100/100 approach: 100% of all glass, for the first 100 feet on 100% of the building in all locations.

4. RECONNAISSANCE SURVEY. It appears the project teams for TheLAB re-used the in-depth Reconnaissance Survey of the 600 Addison Project to fulfill the CEQA requirements for TheLAB. TheLAB project should be required to perform a new in-depth analysis, especially in light of improvements made at Aquatic Park in the past few years. (see Appendix D)

- ⇒ Re-using the Survey from 600 Addison for TheLAB leaves a 6-year gap since an in-depth survey was done
- ⇒ During the past 2 years the Tide Tubes at Aquatic Park have been cleaned out and restored, greatly enhancing water exchange and oxygen levels, and increasing the amount of wildlife visiting the area. A new Survey is needed.

Appendices follow. Thank you for your consideration.

Sincerely, Erin Diehm, Berkeley resident

¹ San Francisco's Ordinance is "Not Recommended". <https://abcbirds.org/glass-collisions/existing-ordinances/>

² ABC's summary of current Legislation. <https://abcbirds.org/glass-collisions/legislation/>

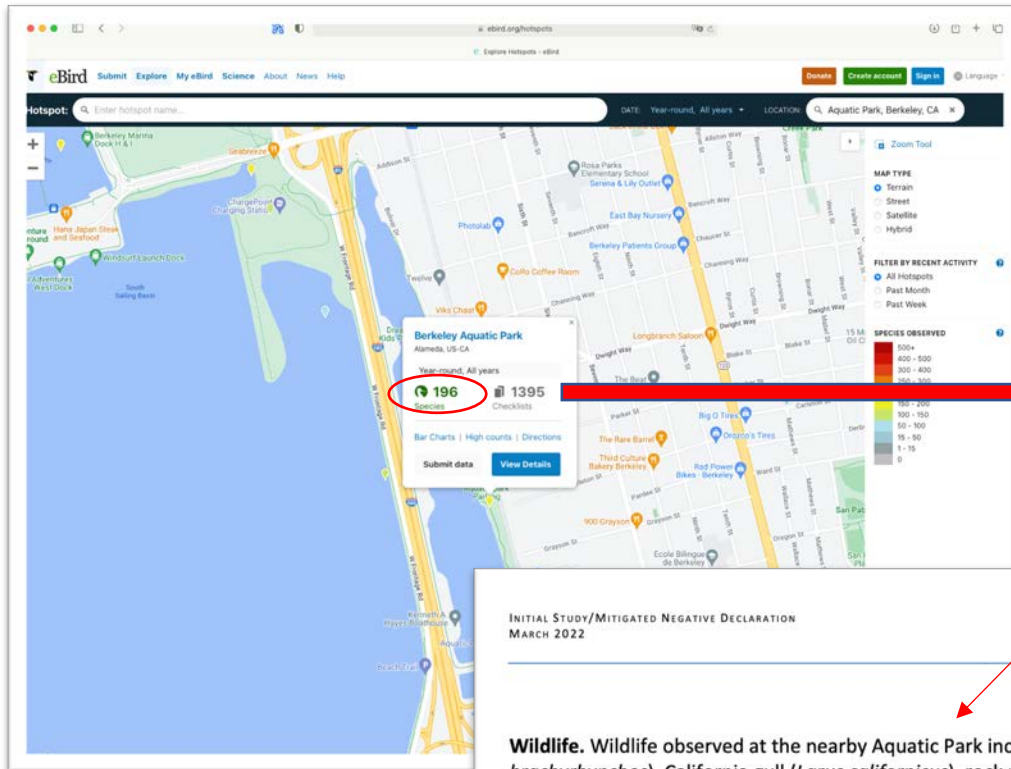
³ ABC's Model Bird-Friendly Ordinance (clicking the link will auto-download the document). <https://abcbirds.org/glass-collisions/bird-friendly->

[legislation/#:~:text=American%20Bird%20Conservancy%20%28ABC%29%20has%20created%20a%20model,materials%20in%20the%20first%20100%20feet%20above%20grade.](https://abcbirds.org/glass-collisions/bird-friendly-)

VERY dangerous, reflective glass facades threaten birds on all sides of the building.



Appendix A - BIOLOGICAL RICHNESS. The surrounding area is rich in bird species, almost 200 in nearby sites. Yet the MND names 8, or fewer.



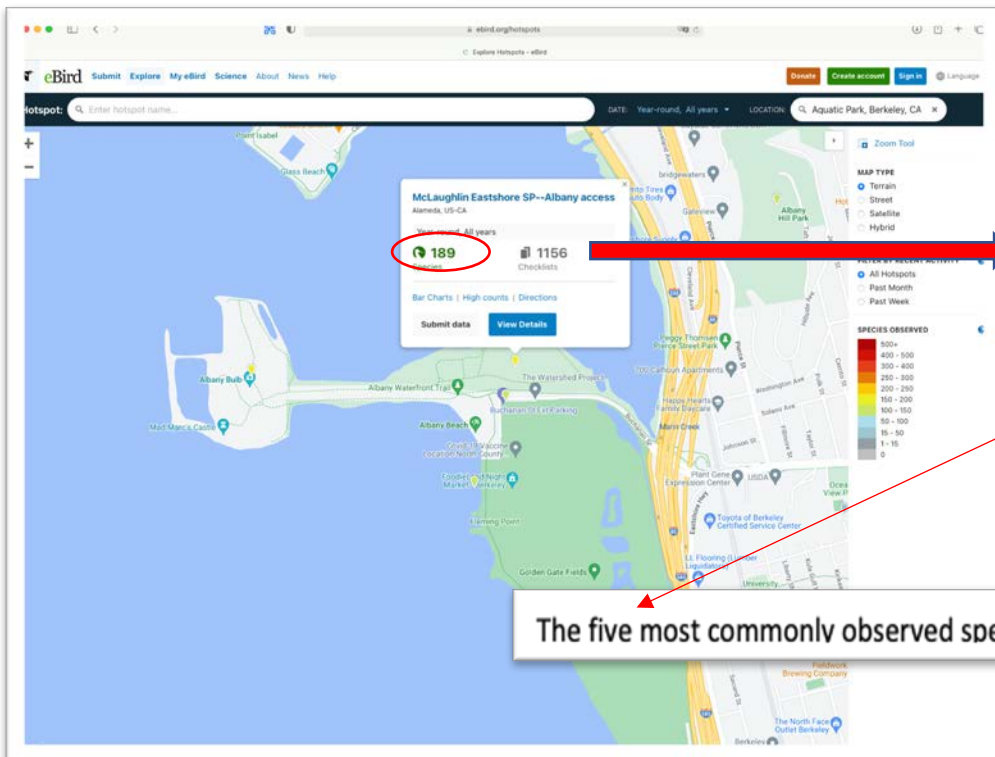
Aquatic Park has **196** species of birds, but MND documents only 8.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION
MARCH 2022

THE LAB PROJECT
BERKELEY, CALIFORNIA **LSA**

Wildlife. Wildlife observed at the nearby Aquatic Park includes American crow (*Corvus brachyrhynchos*), California gull (*Larus californicus*), rock pigeon (*Columba livia*), house sparrow (*Passer domesticus*), mourning dove (*Zenaida macroura*), black phoebe (*Sayornis nigricans*), Anna's hummingbird (*Calypte anna*), and California towhee (*Melospiza crissalis*). One dead black rat (*Rattus rattus*) was observed in Bolivar Road.

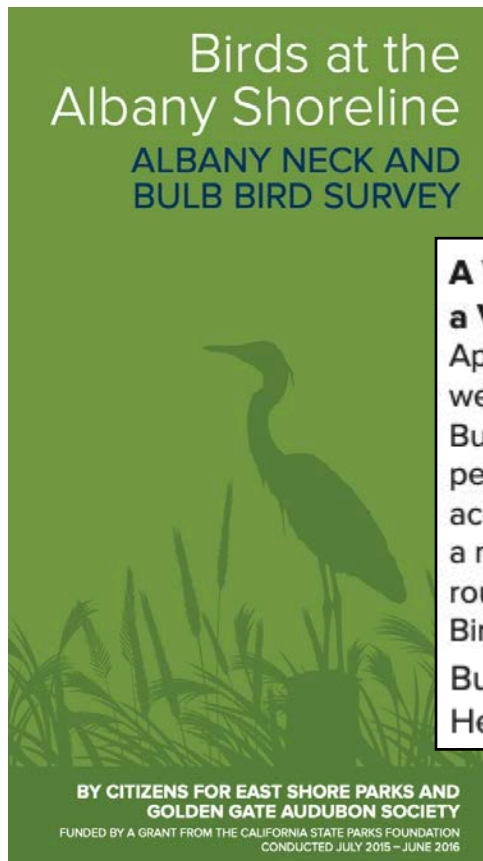
<https://ebird.org/hotspots>



Albany Bulb has **189** species of birds, but MND documents only 5.

The five most commonly observed species at the Albany neck and bulb

Appendix A (cont.) - LSA MND underrepresents bird species at the Albany Bulb: 90 vs. 5



A Variety of Uses Means a Variety of Birds
 Approximately ninety bird species were observed at the Neck and Bulb over the 12-month survey period. Birds heavily use this area across the seasons for breeding, as a migration rest stop, for year-round residence, and for wintering. Birds depend on the Neck and Bulb for rest, food, and shelter. Here are some examples:

CESP documented 90 bird species at the Albany Bulb, but MND documents only 5, and doesn't reference migratory birds

https://eastshorepark.org/wp-content/uploads/2016/12/Bird_Survey_Brochure_WEB.pdf

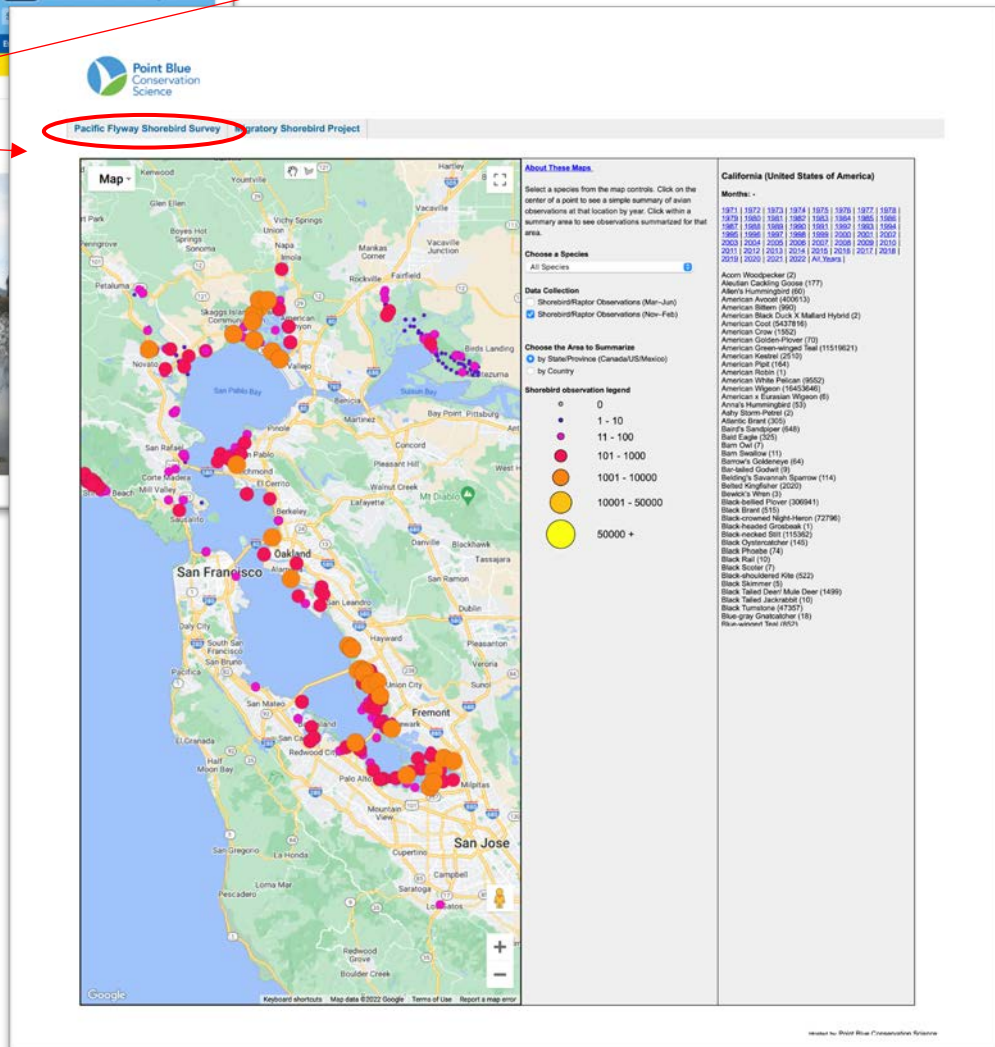
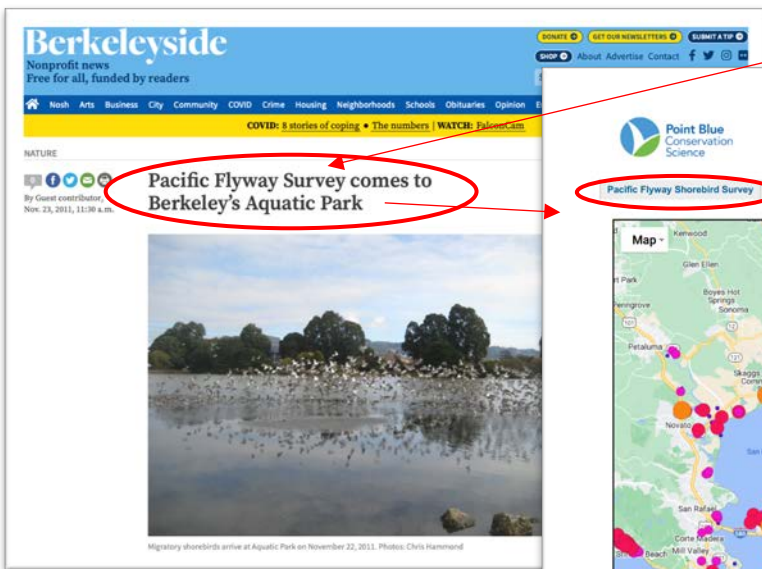
The five most commonly observed species at the Albany neck and bulb approximately 2 miles northwest of the site were house finch (*Haemorhous mexicanus*), California towhee, white-crowned sparrow (*Zonotrichia leucophrys*), Anna's hummingbird, and golden-crowned sparrow (*Zonotrichia atricapilla*). Other species that are common in the region and may occur on the site include American robin (*Turdus migratorius*), chestnut-backed chickadee (*Poecile rufescens*), ruby-crowned kinglet (*Regulus calendula*), Botta's pocket gopher (*Thomomys bottae*), fox squirrel (*Sciurus niger*),

Appendix B - MIGRATORY CORRIDOR. The nearby Aquatic Park area - just one block away - is clearly on a migratory route, the Pacific Flyway, with songbirds flying from as far north as Alaska to as far south as South America, yet the MND inaccurately states that the site is isolated and not within a migratory movement corridor, putting birds - migrating and residential - at risk.

d. Would the Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? (Less-Than-Significant with Mitigation Incorporated)

The Project site is not located within a migratory wildlife movement corridor. Furthermore, most of

The MND erroneously states that the site isn't within a migratory corridor. However, Aquatic Park is globally recognized as located on the Pacific Flyway.



Birds at the Albany Shoreline
ALBANY NECK AND BULB BIRD SURVEY

A Variety of Uses Means a Variety of Birds
 Approximately ninety bird species were observed at the Neck and Bulb over the 12-month survey period. Birds heavily use this area across the seasons for breeding, as a migration rest stop, for year-round residence, and for wintering. Birds depend on the Neck and Bulb for rest, food, and shelter. Here are some examples:

- <https://www.berkeleyside.org/2011/11/23/pacific-flyway-survey-comes-to-berkeleys-aquatic-park>
- <https://data.pointblue.org/apps/pfss/index.php?page=maps>
- https://eastshorepark.org/wp-content/uploads/2016/12/Bird_Survey_Brochure_WEB.pdf

Appendix C - BIRD SAFETY. The MND offers inadequate bird-safety mitigations by basing their recommendation on the first-in-the-nation bird-safety ordinance of San Francisco (2011) that is NO LONGER RECOMMENDED.

BIO-1 references San Francisco and suggests only the WEST side include treatment.

The City of Berkeley considers the size and location of proposed new building construction within the City and applies applicable project-specific conditions related to bird safe building standards where necessary. The USFWS provides guidance and best practices for the use of building glass, lighting, and landscaping infrastructure and design. In addition, a local agency with shoreline along San Francisco Bay, the City and County of San Francisco, has adopted Standards for Bird Safe Buildings,²⁷ which specifically identify expanses of uninterrupted glazed building segments of 24 square feet or larger as a hazard to birds. Due to the Project site's proximity to Aquatic Park, the following mitigation measure, which incorporate relevant measures from the City's bird safe conditions applied to other development projects within sensitive areas, is required to ensure that the potential for bird strikes is reduced to the extent feasible. Implementation of Mitigation Measure BIO-1 would reduce potential window strikes of birds to a less-than-significant level.

Mitigation Measure BIO-1: The Project sponsor shall implement applicable measures identified in the City's project-specific bird safe building standards and the U.S. Fish and Wildlife Service's best practices for reducing bird strikes with buildings.²¹ Specifically, and at a minimum, windows of the proposed buildings shall include external film and/or glass coverings designed to reduce bird strikes. Such measures shall incorporate one or more of the following glazing options for 90 percent of the windows on the west facing building façade, or a lesser amount if appropriate and agreed to by a qualified biologist; 100 percent of all glass balcony elements shall include the same treatments:

However, the San Francisco Ordinance is "NOT RECOMMENDED"⁴

The screenshot shows a webpage from the American Bird Conservancy titled "GLASS COLLISIONS" and "EXISTING BIRD-FRIENDLY LEGISLATION & ORDINANCES". Under the heading "Not Recommended", it lists "San Francisco (City & County), CA, U.S.A. (2011)". A bullet point describes the ordinance as mandatory, applying to new buildings, additions, and significant renovations within an urban bird refuge. It notes that the ordinance is "Not Recommended" because it is outdated and does not meet current standards.

⁴ Rating Existing Bird-Safe ordinance as "Recommended" or "Not Recommended" San Francisco's is Not Recommended. <https://abcbirds.org/glass-collisions/existing-ordinances/>

APPENDIX C (cont.) LSA recommends that bird-safe glass be limited to the Western facade only. However, all currently recommended bird-safety measures require treatment on ALL SIDES OF THE BUILDING. For example, NYC, ABC's Model Ordinance, and Mtn View's Precise Plan.

#1 NYC

https://www1.nyc.gov/assets/buildings/local_laws/l15of2020.pdf

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2020**

No. 15

1403.8.1 Exterior wall envelope. The exterior wall envelope, and any associated openings, shall be constructed with bird friendly materials up to 75 feet (22 860 mm) above grade. Materials other than bird friendly materials shall not exceed an aggregate of 10 square feet (0.93 m²) within any 10 feet (3048 mm) by 10 feet (3048 mm) square area of exterior wall below 75 feet (22 860 mm) above grade.

#2 ABC Model Ordinance

<https://abcbirds.org/glass-collisions/model-ordinance/>

American Bird Conservancy Model Bird-Friendly Building Guidelines

December 2020

These model, or ideal, guidelines are intended to be a starting point for cities, towns, villages, counties, states, and any other entity interested in regulating or guiding building construction to reduce bird collisions with glass. They describe a truly bird-friendly building.

Summarized simply, these guidelines are based on a 100/100/100 framework: 100% of all glass and other building materials should be bird friendly in the first 100 feet of 100% of buildings. The guidelines also specifically include all hazardous features that can trap birds or push them in the direction of dangerous features.

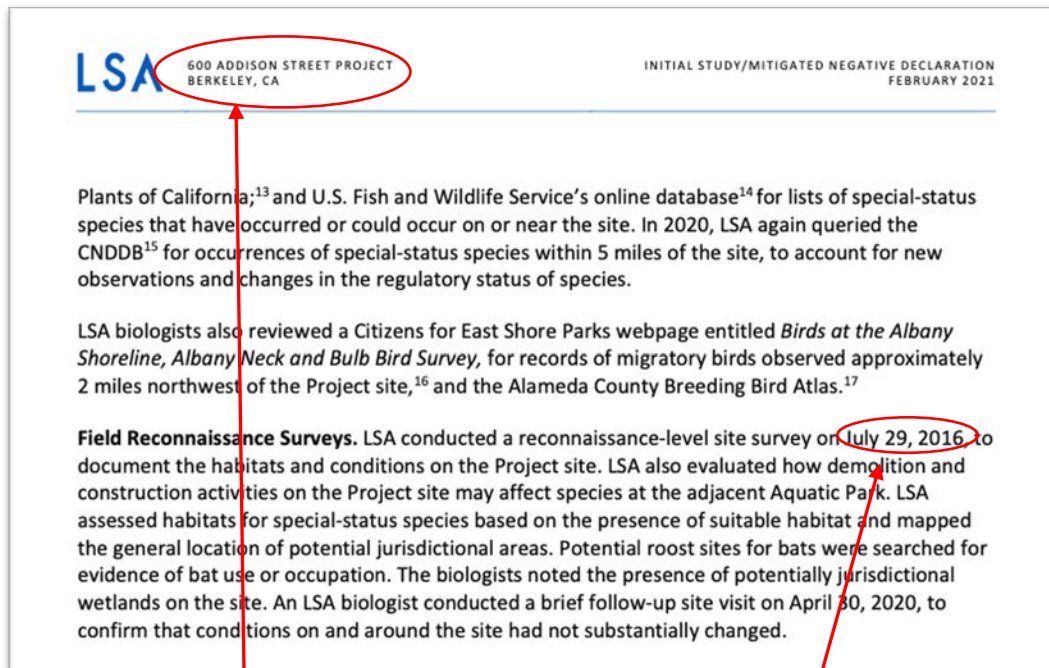
#3 Mountain View North Bayshore Precise Plan

https://www.mountainview.gov/depts/comdev/planning/activeprojects/northbayshore_.asp

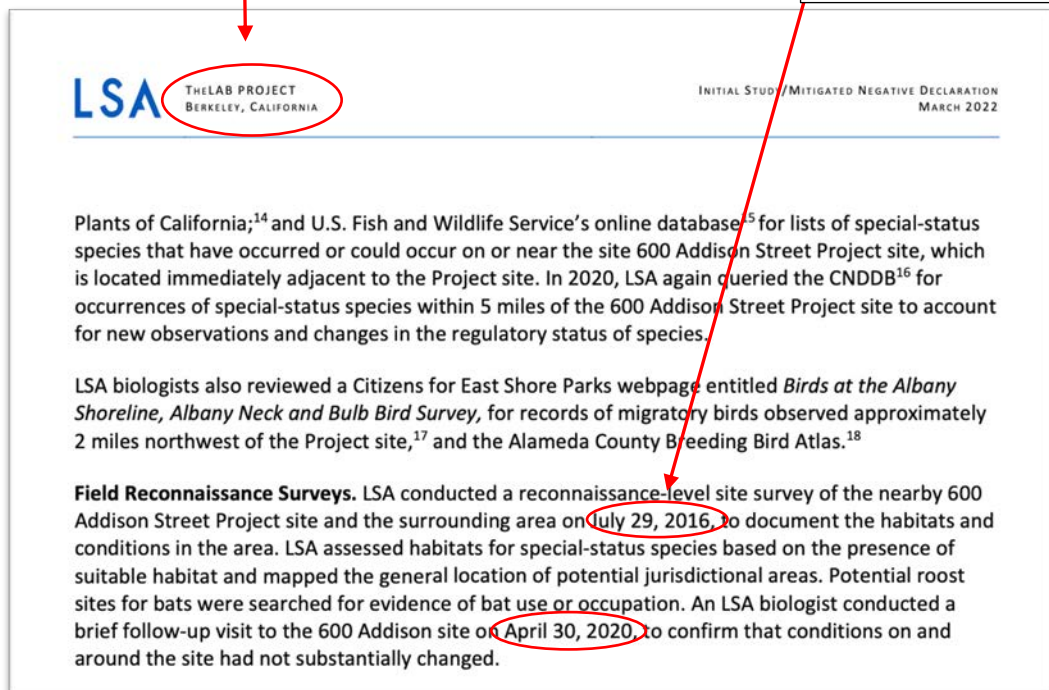
5.2 Bird Safe Design

- 2. Façade treatments.** No more than 10% of the surface area of a building's total exterior façade shall have untreated glazing between the ground and 60 feet above ground.³⁵ Examples of bird-friendly glazing treatments include the use of opaque glass, the covering of clear glass surface with patterns, the use of paned glass with fenestration patterns, and the use of external screens over non-reflective glass.³⁶

APPENDIX D - RECONNAISSANCE SURVEY. It appears the project teams of 600 Addison and TheLAB may have coordinated to use the same Reconnaissance Survey for two separate projects, to meet CEQA requirements, leaving a 6 year gap since an in-depth survey was done for TheLAB. Since during that time the Tide Tubes have been restored, improving the water quality and enhancing biological abundance, a new Survey, specifically for TheLAB, and after the clean-out of the Tide Tubes, should be conducted to accurately document the biological resources of Aquatic Park.



Two projects, only one in-depth survey



PARKS AND WATERFRONT COMMISSION

RECENT COUNCIL REPORTS

The following council reports are available for review at the Parks Recreation & Waterfront Department administrative desk, 2180 Milvia Street, 3rd floor, or can be accessed from the City Council Website by using the following URL's:

April 12, 2022

13. Contract: Sysco San Francisco for Food Services for Tuolumne and Echo Lake Resident Camps

URL: https://www.cityofberkeley.info/Clerk/City_Council/2022/04_Apr/Documents/2022-04-12_Item_13_Contract_Sysco_San_Francisco.aspx

14. Donation: Bench and picnic equipment at Codornices Park in memory of Lucinda Sikes

URL: https://www.cityofberkeley.info/Clerk/City_Council/2022/04_Apr/Documents/2022-04-12_Item_14_Donation_Bench_and_picnic.aspx

March 22, 2022

1. Lease Agreement with NFS Unlimited, LLC for Skates-on-the-Bay

URL: https://www.cityofberkeley.info/Clerk/City_Council/2022/03_Mar/Documents/2022-03-22_Item_01_Lease_Agreement.aspx

14. Amendments to On-Call Architectural Services Contract No. 31900137 (ELS Architecture and Urban Design), Contract No. 31900155 (Siegel & Strain Architects), and Contract No. 31900131 (Noll & Tam Architects)

URL: https://www.cityofberkeley.info/Clerk/City_Council/2022/03_Mar/Documents/2022-03-22_Item_14_Amendments_to_Architectural_Services.aspx

25. Letter of Support for Budget Referral: South Sailing Basin Dredging

URL: https://www.cityofberkeley.info/Clerk/City_Council/2022/03_Mar/Documents/2022-03-22_Item_25_South_Sailing_Basin_Dredging.aspx

26. Letter of Support for Infrastructure Improvement Projects in the Berkeley Waterfront from the Parks, Recreation, and Waterfront Commission to State Senate Budget Chair Skinner and Assembly Budget Chair Ting

URL: https://www.cityofberkeley.info/Clerk/City_Council/2022/03_Mar/Documents/2022-03-22_Item_26_Support_for_Infrastructure_Improvement.aspx

Miller, Roger

From: Camille Antinori <camilleantinori@gmail.com>
Sent: Thursday, March 31, 2022 8:53 AM
To: Bartlett, Ben; Taplin, Terry; Aguilar-Canabal, Diego
Cc: BMASP; Ferris, Scott; Claudia Kawczynska; Rigel Robinson; Kesarwani, Rashi; Nicholas Waton; David Fraser; Ben Lee; Miller, Roger
Subject: Community engagement process at 3/16 BMASP workshop

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Councilmembers Bartlett and Taplin,

I would like to log major concerns over the quality of the “community engagement” for the pier/ferry and BMASP projects, especially in light of the March 16 BMASP “community workshop #2”. I am a Berkeley resident (District 3) and also Chair of Marina Planning at Cal Sailing Club (CSC). To be clear, the unfortunate Zoom bombing at this meeting is the least of my concerns with this meeting.

Consider how public comment was solicited for the workshop:

- Posting for the meeting was only days before meeting, and only on city BMASP website, BMASP email list and a few posters around marina.
- No prior availability of detailed planning documents the public was asked to review at the meeting.
- Consultant and city presentations took up the bulk of the workshop, even disregarding time lost with the zoom bombing.
- The city/consultants’ chosen set of three options – dubbed “hubs”, “corridors” and “dispersed” – was tossed out late in the presentations, after which we were immediately put into breakout rooms to choose. Each option involves rather complex consideration of tradeoffs in land-use.
- The maps shown totally greyed out the pier, which for many is the centerpiece of the Marina, and no one was allowed to comment on it.

Finally, breakout sessions were handled in vastly different manners depending on which session you were put in. In rather an insult, the facilitator in my breakout room muted me mid-sentence within seconds of speaking during my turn although we had each been given a minute to talk. My comments were on point (perhaps I did not say “hospitality,” the facilitator’s chosen theme for that round of comments, quick enough?). The facilitator repeatedly cited a “tight agenda” but took up large amounts of valuable speaker time to explain how to limit our responses. Only tightly scripted, thumbs up/down types of response to food, events and hospitality ideas were allowed. Other sessions had open conversations on the various alternatives presented in the slide show. No one was cut off and even critiques of the process itself were allowed.

As with the pier/ferry process, the process of community engagement is as much at issue as the choices of plans. We are given very narrow choices that have themselves been chosen, refined and culled so that the community is asked in a simplistic way to choose A, B or C. There are a lot of individual ideas within the plans that could be good for the marina area. At the same time, it is important to step back and see from a bigger picture how the consultants and city made assumptions and constructed choices so we know we are on right track long term. The city’s current approach towards public input is disrespectful and cuts off the city from considering valuable information from an engaged community.

There’s plenty of scope to improve this process. Some ideas are to begin in-person meetings as soon as is safe, enable chat and record Zoom meetings, given the usual precautions around Zoom bombing, train facilitators in soliciting and

collating public input in a consistent and respectful manner, make public comments more available post-meeting, and make documents available for review *prior* to meetings. The recent Hopkins Corridor Study (<https://www.cityofberkeley.info/Hopkins/>) meetings run by the Public Works staff could offer lessons in running a public input meeting. Comments from those who attended both the Hopkins and 3/16 BMASP meeting include:

- Last three Hopkins Street meetings were recorded. Also, remote city council meetings with public comment are recorded (<https://www.cityofberkeley.info/covid19-council/>). In contrast, Park Staff for BMASP commented that it is “illegal to do so.”
- Chat function was enabled throughout. In comparison, the BMASP meeting had Chat deliberately disabled, after 8 minutes of enablement.
- The Berkeley Marina Area Specific Plan wasn’t posted to the City Community Calendar until sometime Monday for the Wednesday, March 16 evening meeting.
- Hopkins Staff went to great lengths to review and answer each question posed in the Chat area - during the final portion of meeting.
- Hopkins project used a valuable software tool that allowed public to make site-specific comments about their concerns, over several month period (“Social Pinpoint”). Those comments exceeded 900 and were compiled and visually presented at the public meeting by staff. It would be VERY useful for Marina planning. <https://outreach.mysocialpinpoint.com/hopkinscorridor#/sidebar/tab/about>. In contrast, the March 16th BMASP meeting consisted of: these are our three alternatives for development, which one do you like best? <https://www.cityofberkeley.info/BMASP/>

Many of the frequent users of the marinas (e.g. walkers, water sports enthusiasts, bird watchers and families) are grateful to Councilmembers Rashi Kesarwani, Tarry Taplin and Rigel Robinson for their time and willingness to meet at Cal Sailing Club in February to hear ideas from all sides. Building on that, I urge you to share this information with your liaisons on the Parks, Recreation and Waterfront Commission, Brandon Floyd and Claudia Kawczynska, and fellow councilmembers to move towards honest, open and respectful community engagement.

Camille Antinori

Jim McGrath
2301 Russell Street
Berkeley, CA 94705
March 2022

BMASP
City of Berkeley

Subject: BMASP Workshop #2 and surveys

I attended the second workshop of the BMASP—the first in over a year—and reviewed the survey that has been sent to interested parties. As I noted in my letter of November 1, 2021—which the city has, to date ignored—this process falls well short of an adequate and transparent planning process. Since much of the existing specific plan, adopted in 2003, was never implemented, and since the marina fund has essentially run out of money, developing another plan that ignores public concerns, the realities of maintaining a marina, and feasibility looks foolish indeed.

The public process to date has been deceptive and misleading. The clearest example of that is shown by question 4 in the previous survey, which asked: "Indicate your support for the following revenue generating facilities: Restore pier with ferry service." There has been no indication that WETA proposes a fair market lease for the areas that they seek. Those area are suitable for restaurant use which would generate revenue. Further, the wording of this question implies that the pier can only be restored as part of a ferry service. This wording is fundamentally dishonest. The new survey is nearly as bad; clearly the city is more interested in controlling the narrative than soliciting informed public input.

The lack of transparency, and the withholding of information, for whatever purposes, has the effect of turning supporters into skeptics, and skeptics into opponents. Since virtually any change in the marina requires a public vote, this approach is counterproductive.

CONTENTS OF HARGREAVES CONTRACT

According to the adopted contract with Hargreaves, the public workshops are intended to solicit input on the priorities for the draft specific plan. But the limited information made available before and during the workshops, and the limited and misleading surveys, denies the public the information that they need to provide meaningful input. The specific provisions of the contract that are relevant to my concerns include:

- the consultants are required to "provide a range of **feasible** revenue generating opportunities" task A.2.4
- the consultants are required to conduct market research to identify "trends and demands for amenities"
- the consultants are required to "identify regulatory agency permit requirements"
- the consultants are required to have meetings with both the Parks and Planning Commissions to present a summary of public process comments. Subtask B.2.2

For each of these requirements, the public process to date falls well short of the requirements in the contract, or of good planning practice. In particular, the refusal to allow questions about the presentation ensured that the public in attendance didn't understand the presentation or the physical setting before retiring into break out sessions. The lack of recording, and the presence of city staff or consultants as "facilitators" served to minimize or paper over concerns expressed in the session that I attended. There was no effort to assure neutrality or completeness in such recording of concerns.

FEASIBILITY

Under the contract, the consultants are required to conduct market research to evaluate the potential for revenue generating uses, and then use that information to provide a range of **feasible** measures that would generate revenue. If this information has been gathered, it was not shared with the public before soliciting their opinions. Many of the concepts presented at the second workshop fall outside of the realm of feasibility, and it is a waste of everyone's time to present them for public reaction. Neither a museum or an aquaculture facility appear to be feasible, which should have been obvious to the city and the consultant team. There is a relatively new museum on the San Francisco waterfront—in the middle of a vibrant tourist area. It has an annual budget of \$54 million. Somehow, we are supposed to believe that the City of Berkeley—which couldn't amass \$6 million over the last 30 years to maintain the entrance channel of the marina—has the capacity to develop a museum! The concept of an aquaculture facility is similarly impossible. Such a facility is not a recreational or marina use, requires substantial volumes of water, includes a discharge back to the bay, requires significant infrastructure, and substantial capital investment. No information was provided at the meeting which established that these uses were, in fact, feasible. While unconstrained solicitation of the public and stakeholders might be appropriate in a planning charette, it is not acceptable three years into a million-dollar planning study.

I believe that similar concerns apply to the idea of outdoor dining on the western side of the marina, and a food court. Frequent users of the marina know that it is not Walnut Creek—the fog comes in and the wind comes up nearly every day between mid-February and October at about 2:00, dropping the temperature into the mid or low 50's. It is certainly disingenuous to depict the idea of a food court with a picture of Market Hall in the Rockridge. There are thousands of residents within walking distance of Market Hall, many restaurants along College Avenue, and a BART station that disembarks far more passengers than those contemplated if ferry service comes to pass. Food courts have been built at Jack London Square and Emeryville, without dramatic success. The Port of Oakland built the infrastructure for a food court in Jack London Square—only to have it torn out when they finally found a tenant, Barnes and Noble. Despite the multiple investment cycles and a ferry service, many of the ground floor business spaces in Jack London Square remain vacant. What the planning process needs is insightful economic analysis, not boosters.

None of the concepts suggested in the second workshop, or illustrated in the recent survey, include a footprint or a location that is sufficient to meet the standards of California Planning law, or inform the public. As I noted in November, a credible planning process needs to identify the kinds, locations, and intensities of uses. What footprint would a new hotel occupy, including parking? What footprint would a food court occupy, including parking? What footprint would a new restaurant occupy? What existing uses would be displaced by such new uses, and what would the impact on recreational demand be? No such questions could be asked in the workshop—diminishing the value of the discussion.

Information that is available suggests first, that hotels are not in high demand at the current time because 20,000 rooms are under construction in Alameda County and the hospitality economy is not expected to recover for several more years. Second, the market for restaurants appears to be limited, given the location of the marina as a destination rather than part of a neighborhood, the large number of competing restaurants, and the contraction of the restaurant business during the pandemic. Third, the slides clearly show that 92% of people arrive at the marina by car. The existing Bay Plan, which governs major parts of the marina, protects the marina for existing and future recreational use. It specifically forbids the usurpation of needed recreational parking, yet none of the suggested uses include any discussion of parking requirements, or that regulatory standard. All of these things are intrinsic to the question of feasibility. As I noted above, asking the public for their opinion on a series of land uses that may not be feasible is a waste of time. Withholding information about the feasibility of a series of land uses is not merely a waste of time, it appears to be an effort to manipulate public opinion.

In a startling omission, the public workshop included no discussion of the existing marina, despite the fact that it generates over 60% of the revenue in the marina area. Sailors who rent slips have been complaining about the need for maintenance dredging and other maintenance for over 30 years; it is no surprise that people have taken their boats to other, better maintained facilities. Yet the development of Westpoint Harbor in Redwood City indicates that there is market potential for increased revenue from within the marina. A quick examination of their rate structure shows the potential for slip rental roughly equivalent to that of Berkeley—on less than half the number of slips.

<https://westpointharbor.com/berthing-information/> While I favor the ambience of Berkeley's sailboat marina over that of power boats and larger sailboats, the lack of any analysis of the marina is a serious, if not fatal, shortcoming in the efforts to solicit meaningful public input. Moreover, with the marina facing infrastructure needs—not including a new ferry terminal—of over \$100 million, many of these concepts are very risky. Berkeley can certainly adopt an aspirational land use plan, as the Port of Oakland did for Jack London Square. But as can be seen at Jack London Square, if the land use plan does not reflect market demand, facilities will sit vacant.

BERKELEY MARINA'S ENTERPRISE FUND PAYS THE CITY FOR SERVICES THAT ARE NOT JUSTIFIED

While none of these practices are expressly prohibited, they have crippled the ability of the city to maintain the marina as an economic asset. Taxes generated from businesses in the marina like the Doubletree Hotel are not seen as lease revenue, and can therefore be used for other City purposes. Berkeley has such a transient occupancy tax (TOT), which in FY 2019 provided \$4 million in revenue to the City's general fund—far more than the lease revenue of \$1.45 million. Slides presented on March 16 forecast that a new 265 room hotel would generate lease revenues of \$840,000 and a TOT of \$2.25 million. But the marina must remain an attractive venue for the hospitality industry to generate this \$5 million plus in annual taxes. City records don't reveal how much it actually costs to provide the Doubletree with city services, so it is not clear how much of the annual TOT is pure gravy—or how much of the actual costs of services to the Doubletree are provided from the marina fund. But it is clear that Berkeley has extracted tens of millions in tax revenue from the marina without attending to the basic infrastructure needed to sustain that revenue.

That is only the most lucrative way that the city unfairly charges municipal services to the marina fund. The marina fund, until the rebuilding of University Avenue, was responsible for maintenance of marina roads. But maintenance, and a road to Cesar Chavez is a public works responsibility because it is a closed solid waste facility. No other park in the City has to pay for maintenance of access roads. Except in the marina, capital improvements and maintenance of parks are paid by the parks tax. The city has

designated three parks within the marina, and Cesar Chavez park is the largest in the City. Yet funds for maintenance come out of the marina fund, not the parks fund. One of the nice things about the marina, which broadens its appeal, are the recreational programs for children. Hundreds of children attend the summer programs, and play in adventure playground. Only in the marina do such recreational programs come out of an enterprise fund instead of the general fund. Garbage collection? The marina and all the parks pay, a total of \$812,000 estimated for FY 2021. Not the downtown businesses. Most people don't know that the Zero Waste Fund generates \$46 million a year—but nickel and dimes the parks and marina. The list goes on. Police overtime for marina events like the fireworks? Far more than the parking revenues from those events, and it comes out of the marina fund. The city moved their parking division—not a public trust use—to the marina, saving the cost of renting space near the public safety building, and closing off parking spaces used by other tenants. Most people don't remember that Measure WW, a funding measure for the East Bay Regional Park District, provided \$500 million in direct grants to local cities. As of 2019, Berkeley had received \$4.88 million—but none of that went to the marina. Reducing the fees that the city extracts from the marina to the actual costs of providing services might provide sufficient funds to maintain the marina in much better condition.

PARKING MUST BE DISCUSSED IN SUFFICIENT DETAIL TO ALLOW MEANINGFUL FEEDBACK

None of the discussion in the last public meeting included any information about the parking needs of the various uses, or the existing parking patterns. Yet work to date demonstrates that 92% of the people who arrive at the marina arrive by car. That is part of a general pattern; it is far easier to divert regular commute trips, or short trips to alternative transportation modes. Even with a toll system and heavily subsidized ferry service, the City of San Francisco estimates that 91% of the weekend trips to and from Treasure Island will remain by car. The City Council has referred the idea of establishing parking fees at the marina to the staff; this matter must be included in the current BMASP plan or the City will have piecemealed consideration of policy matters for the marina, which is impermissible under CEQA.

I understand that many of the uses at the marina do not generate revenue, while they require maintenance, even if much of the initial construction is covered by grants. I certainly think that it is fair to ask frequent users to pay their fair share. However, establishing paid parking in a recreational facility is far more complicated than it may seem at first blush. For example, if a ferry terminal is built with a 250 space parking lot, and that lot is 90% full on weekdays, with a \$5 parking charge, it would generate a little more than \$300,000 a year. However, it is not clear that the market would bear a \$5 a day parking fee, or that the impact on recreational access would be acceptable. It is also not clear how much it would cost to administer such a program. For years there has been discussion of installing an entry kiosk, which would allow monitoring of use, purchase of annual passes, and charges for day use. Such a system has long been in place at Coyote Point Recreation Area in San Mateo County. Again, the cost to administer such a program and the potential for revenue and adverse impacts to recreation are all issues that need to be addressed. To hold two public meetings, as well as a year-long discussion of a ferry terminal in a park, without discussing parking in any detail, is simply not acceptable.

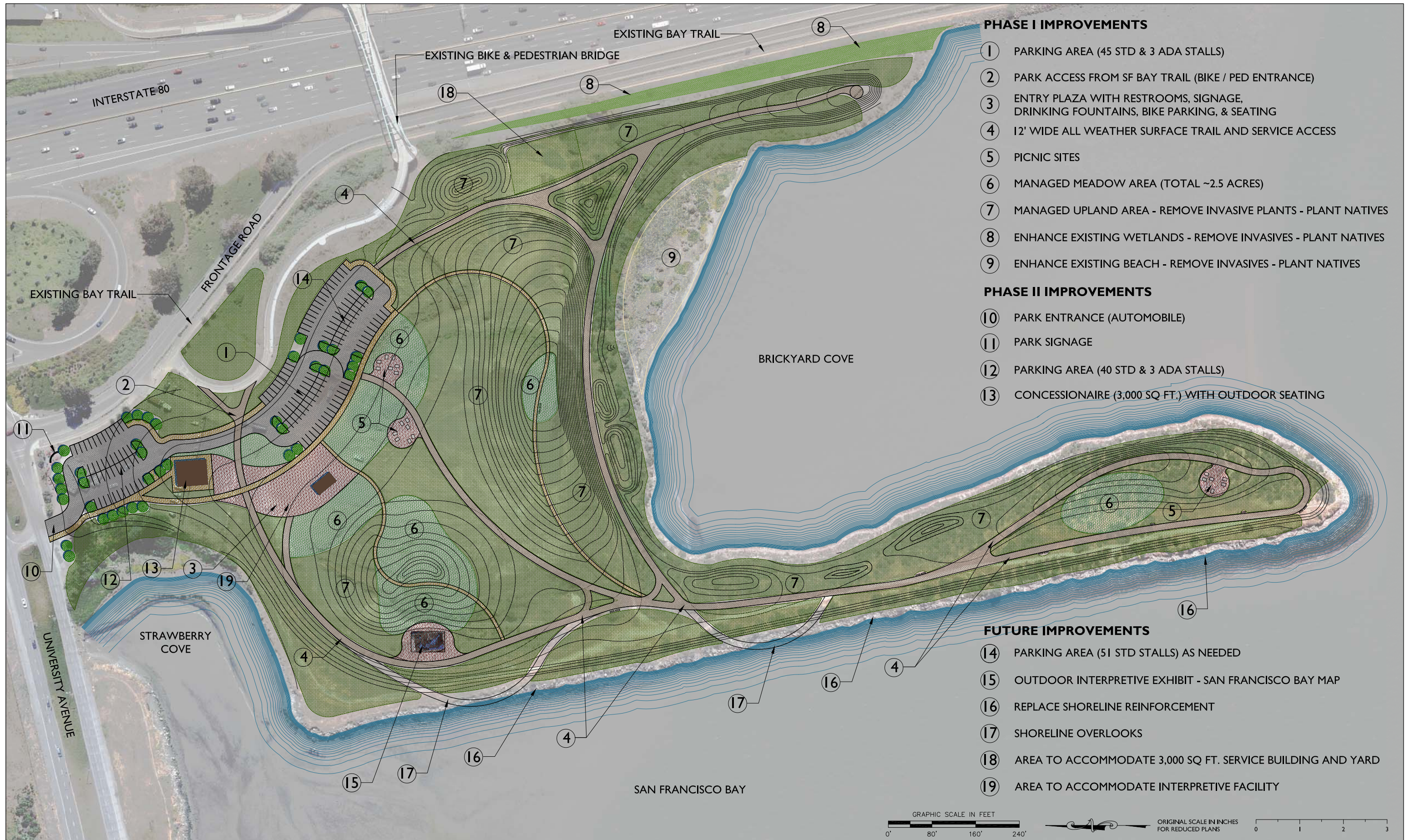
NEEDED INFORMATION HAS NOT BEEN PROVIDED

We are still waiting for the feasibility study for a new ferry terminal, a parking inventory of the marina, analysis of parking usage by area, and the feasibility of the various uses that is required under the contract with Hargreaves. The City cannot withhold this information from the public, and then expect a meaningful reaction to the uses described in the latest survey. Berkeley approved two leases for small ferry operations, without a public process, but with conditions that require reporting. No information

about ridership, costs to serve, or parking demand has been provided. Berkeley has established a Parks, Recreation and Waterfront Commission to advise the City Council about matters involving the marina and recreation, and the Hargreaves contract requires presentation of a summary of public input and concerns to that Commission. Yet most of the efforts of the BMASP to date have avoided that Commission. As noted above, these efforts to manage the information available to the public, and limit the choices for feedback in a so-called public opinion survey, are contrary to the promises of a robust public process, and stimulate suspicion if not absolute opposition.

Very truly yours,

Jim McGrath



PHASE I IMPROVEMENTS

- ① PARKING AREA (45 STD & 3 ADA STALLS)
- ② PARK ACCESS FROM SF BAY TRAIL (BIKE / PED ENTRANCE)
- ③ ENTRY PLAZA WITH RESTROOMS, SIGNAGE, DRINKING FOUNTAINS, BIKE PARKING, & SEATING
- ④ 12' WIDE ALL WEATHER SURFACE TRAIL AND SERVICE ACCESS
- ⑤ PICNIC SITES
- ⑥ MANAGED MEADOW AREA (TOTAL ~2.5 ACRES)
- ⑦ MANAGED UPLAND AREA - REMOVE INVASIVE PLANTS - PLANT NATIVES
- ⑧ ENHANCE EXISTING WETLANDS - REMOVE INVASIVES - PLANT NATIVES
- ⑨ ENHANCE EXISTING BEACH - REMOVE INVASIVES - PLANT NATIVES

PHASE II IMPROVEMENTS

- ⑩ PARK ENTRANCE (AUTOMOBILE)
- ⑪ PARK SIGNAGE
- ⑫ PARKING AREA (40 STD & 3 ADA STALLS)
- ⑬ CONCESSIONAIRE (3,000 SQ FT.) WITH OUTDOOR SEATING

FUTURE IMPROVEMENTS

- ⑭ PARKING AREA (51 STD STALLS) AS NEEDED
- ⑮ OUTDOOR INTERPRETIVE EXHIBIT - SAN FRANCISCO BAY MAP
- ⑯ REPLACE SHORELINE REINFORCEMENT
- ⑰ SHORELINE OVERLOOKS
- ⑱ AREA TO ACCOMMODATE 3,000 SQ FT. SERVICE BUILDING AND YARD
- ⑲ AREA TO ACCOMMODATE INTERPRETIVE FACILITY



REVISIONS
DATE
Parks, Recreation, and Waterfront Commission

EAST BAY REGIONAL PARK DISTRICT
2950 PERALTA OAKS COURT, OAKLAND, CA 94605 WWW.EBPARKS.ORG 888-327-2757

APPROVED
design: [signature]
checked: [signature]
date: 3-10-15
operations: [signature]

Brickyard Construction Phasing Plan
McLaughlin Eastshore State Park
BCDC Design Review Board Revised Exhibits
Berkeley, CA
PROJECT NO.

SHEET NO. 1
OF: 4
CONTRACT NO.

Wednesday, April 27, 2016 Regular Meeting

S:\park\design\parks\eastshore\2015 Brickyard Cove\DWG\revised site plan_3-4-15.dwg 3-12-15 04:07:49 PM rbases



PO Box 13673, Berkeley CA 94712

Subject: Recommendation to use neglected financing tool for implementation of Vision 2050

April 12, 2022

Dear Parks, Recreation and Waterfront Commissioners,

Berkeley Partners for Parks (BFPF.org) is submitting the following comments regarding the Berkeley Vision 2050 (BerkeleyVision2050.org), which ends and we were reviewing at a upcoming Commission meeting.

BFPF applauds the City of Berkeley's remarkable strides under Measure M and T1 to make many much-needed park and infrastructure improvements. We also concur that additional investments are necessary, including bond measures, as described in the Vision 2050. However, we believe that the City has been too reliant on taxpayer-supported bond measures and have not been requiring developers to contribute their share of open space funding for the new residence that they're bringing in... After all, in Berkeley's many transit-oriented development (TOD) corridors, where developers have been adding many thousands of new residents in apartment complexes these past two decades, but with little or no new park or open space being required of them as one of the conditions/standards of approval for substantial new residential development. That is, the CA Subdivision Map Act (SMA), calls on Cities to require the dedication of open space at the ratio of *2 acres per thousand population or equivalent in-lieu fees* ... Unfortunately, we are not aware that the City of Berkeley has applied this standard for over the past 20 plus years, by requiring "in-lieu" park/open space fees of developers, or by making them provide some open space as both amenity and as mitigation for their proposed multi-family housing projects. This is not equitable and is also denying new residents of Berkeley the proximate park space they deserve.

For example, developers along the Adeline-Shattuck TOD corridor should be required under in-lieu fee expectations to help pay for, or to implement specified bulb-outs and/or a Class IV bikeway along the Adeline-Shattuck corridor, or parklets at the end of selected Streets that are near this TOD corridor. This could also be partially paid for by new development along this and other TODs, as far as they should be, not only as mitigation for the impact of new development but also to induce compliance with the subdivision Map Act, chapter 23.28.020 (see elements

of the SMA at the end of this letter). In other words, the City of Berkeley should be proactive in having substantial bike and ped improvements and/or parklets to be dedicated near the new development, which would be done in a manner consistent with the SMA, could be done with multiple objectives in mind, including green streets/bikeways, parklets, and green infrastructure.

One successful example of the implementation of the SMA requirements for open space was when the UC Office of Development was seeking approvals for Presentation Faculty housing project from the City in 1991, as they needed to have a subdivision of a parcel for residential development; in my role, the City asked the University to provide a small park reflective of the number of new residents they were adding (about 55) to the neighborhood. UC Berkeley built "Presentation Mini Park" adjacent the project in response to the City's request.

BFPF urges the Parks and Waterfront Commission to recommend that the City and its Planning Department invoke and abide by the Subdivision Map Act standards for park provision, as an important tool to aid in the implementation of the Vision 2050

Cordially yours,



John Steere
President/Chair

cc. Councilmember Lori Droste
Berkeley Partners for Parks Board

Citation: Subdivision Map Act, Chapter 23.28.020.2

PARK LAND AND OPEN SPACE DEDICATION – DEDICATION AND FEE SCHEDULE.

The subdivider shall dedicate usable open space, pay a fee in lieu thereof, or both, as specified by the city in conformance with the General Plan:

- (a) Land dedication shall be based on two acres/1000 population for neighborhoods and 2.5 acres/1000 population for community parks.
- (b) The in-lieu fee shall be \$3.00/sq. ft. for each residential dwelling unit to be constructed in the subdivision. The in-lieu fee may be paid prior to recordation of the parcel map....

<https://www.codepublishing.com/CA/SantaCruz/html/SantaCruz23/SantaCruz2328.html#23.28.020>