

## **APPENDIX A**

### **NOTICE OF PREPARATION AND SCOPING LETTERS**



# ALBANY CALIFORNIA

CITY OF ALBANY



COMMUNITY DEVELOPMENT

1000 SAN PABLO AVENUE  
ALBANY, CA 94706  
510 528-5760

[www.AlbanyCA.org/cd](http://www.AlbanyCA.org/cd)

**NOTICE OF PREPARATION (NOP) OF A  
DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)  
FOR THE CITY OF ALBANY 2035 GENERAL PLAN  
\*\*EXTENSION OF PUBLIC COMMENT PERIOD\*\***

**To:** State Clearinghouse  
Governor's Office of Planning and Research  
Alameda County Clerk  
Responsible Agencies  
Interested Individuals and Organizations

**From:** Anne Hersch  
City Planner  
City of Albany  
1000 San Pablo Avenue  
Albany, California 94706

The City of Albany will be the Lead Agency and will prepare an Environmental Impact Report (EIR) for the City of Albany 2035 General Plan (proposed project). The City is requesting comments from responsible agencies regarding the scope and content of the environmental document. The public is also invited to submit comments regarding the scope of the EIR and issues that should be addressed as the document is prepared. **Please note that the City has extended the public comment period to end on Friday May 23, 2014.**

**Project Location:** The City of Albany is located within northern Alameda County and encompasses approximately 1.7 square miles. To the north, the City is bounded by the cities of El Cerrito and Richmond, as well as unincorporated Contra Costa County. To the south and east, the City is bounded by the City of Berkeley. The San Francisco Bay borders the City to the west. Figure 1 shows the location of the City.

**Project Description:** The existing City of Albany General Plan was adopted in 1992, and does not address several issues of importance to City residents, such as climate change and sustainability. It is based on data that is more than 20 years old and does not reflect many recently adopted plans and programs. The City of Albany 2035 General Plan will include an updated vision, with goals, policies and actions that anticipate the 2035 build-out, and which also reflect the needs and preferences of the community while ensuring compliance with State law. Information related to the General Plan can be found at [www.albany2035.org](http://www.albany2035.org)

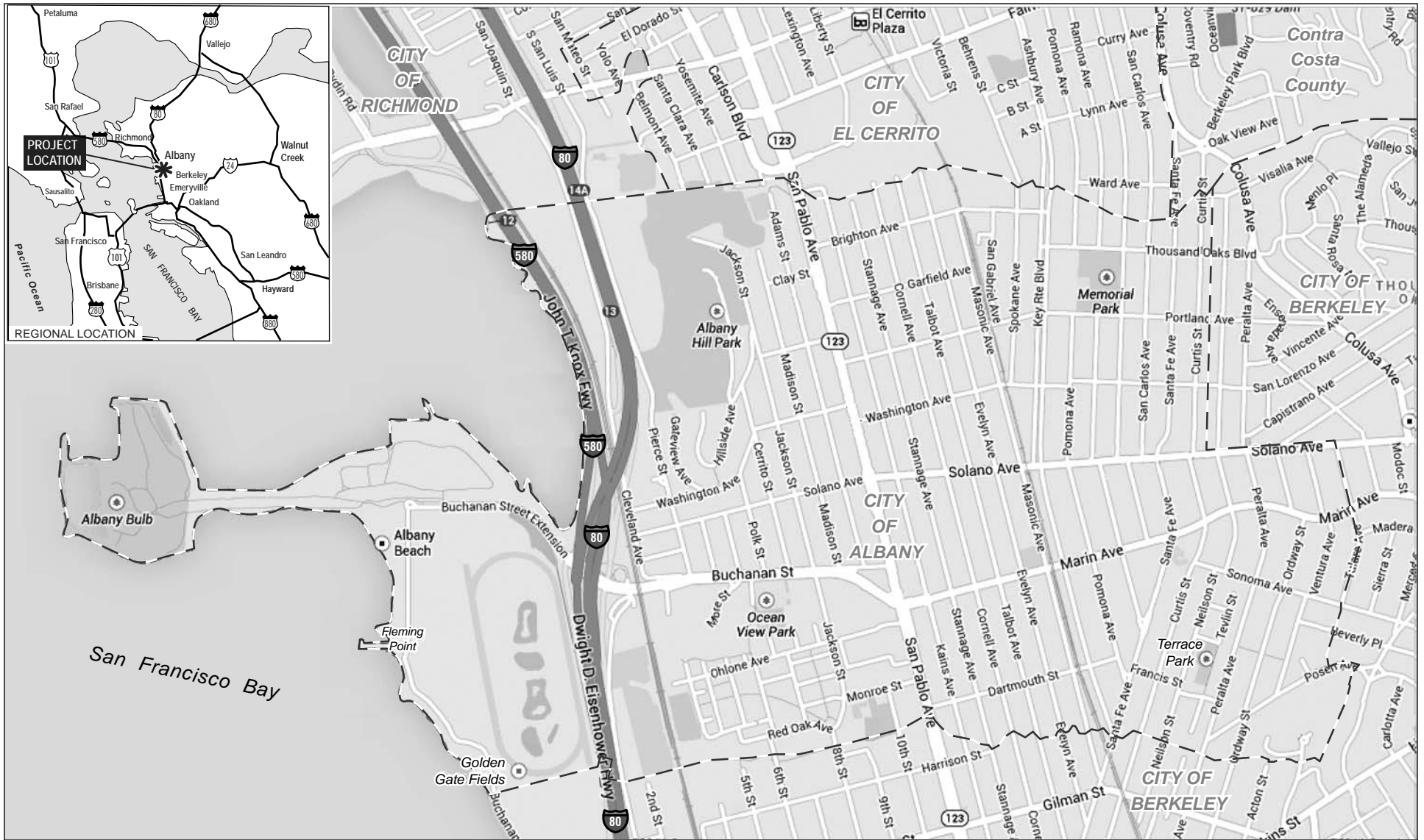
**Potential Environmental Effects:** It has been determined that an EIR will be necessary to analyze potential environmental impacts associated with the project. Specific areas of analysis will include, but will not be limited to, the following topics: land use and agricultural resources; population and housing; transportation and circulation; air quality; global climate change; noise; geology, soils and mineral resources; hydrology and water quality; hazards and hazardous materials; biological resources; cultural resources; public services and recreation; utilities and service systems; and visual resources.

Responses must be received within the comment period and no later than **Friday May 23, 2014**. Public agencies should indicate a contact person in their response to this Notice of Preparation. Responses should be directed to: Anne Hersch, City Planner, City of Albany, 1000 San Pablo Avenue, Albany, California 94706; [ahersch@albanyca.org](mailto:ahersch@albanyca.org)

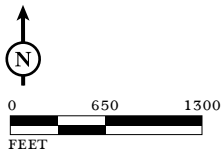
Signature:

Anne Hersch, City Planner

Date: 4/21/2014



LSA FIGURE 1



--- City Limits

SOURCES: GOOGLE MAPS; LSA ASSOCIATES, INC., 2014.

City of Albany General Plan  
Location Map



JERRI HOLAN & ASSOCIATES, AIA  
Architects ♦ Engineers ♦ Planners

April 7, 2014

Anne L. Hersch, Planner, AICP  
City of Albany  
1000 San Pablo Avenue  
Albany, CA 94706

CITY OF ALBANY

APR 07 2014

COMMUNITY DEVELOPMENT  
DEPARTMENT

**RE: Scope for 2035 General Plan**

Dear Ms. Hersch:

In response to your Notice of Preparation of a Draft EIR for Albany's 2035 General Plan, I am writing to request that the scope of the Plan address the historic preservation of older buildings in Albany.

Albany has many buildings which are over 50 years old and are potential historic resources according to the California Environmental Quality Act (CEQA). These buildings are important cultural resources and need to be addressed in the General Plan.

There is no Historic Element in the current Plan, nor does the City have any local ordinance that addresses how to define significant older buildings or how to prevent negative impacts to them.

The State Historical Resources Commission has designed the California Register program for use by state and local agencies, private groups and citizens to identify, evaluate, register, and protect California's historical resources. It is the authoritative guide to the state's historical resources and should be used as a resource in preparing Albany's 2035 General Plan.

Thank you for your attention to this scoping request and please call if you have any questions or need more information.

Truly,

Jerri Holan, FAIA

**DEPARTMENT OF TRANSPORTATION**

111 GRAND AVENUE  
P. O. BOX 23660  
OAKLAND, CA 94623-0660  
PHONE (510) 286-6053  
FAX (510) 286-5559  
TTY 711



*Flex your power!  
Be energy efficient!*

April 8, 2014

ALAGEN259  
SCH#2014032040

Ms. Anne Hersch  
City of Albany  
1000 San Pablo Avenue  
Albany, CA 94706

Dear Ms. Hersch:

**City of Albany 2035 General Plan – Notice of Preparation**

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the City of Albany 2035 General Plan. The following comments are based on the Notice of Preparation.

***Traffic Impact Study***

The Draft Environmental Impact Report (DEIR) should include an analysis of the impacts of the proposed plan on State highway facilities within the City of Albany (City), specifically, State Route 123, Interstates 80 and 580. Please ensure that a Traffic Impact Study (TIS) is prepared providing the information detailed below:

1. Information on the plan's traffic impacts in terms of trip generation, distribution, and assignment. The assumptions and methodologies used in compiling this information should be addressed. The plan can potentially add significant number of vehicles onto already saturated Interstates 80 and 580.
2. Current Average Daily Traffic (ADT) and AM, PM, Saturday, Sunday and Game Day peak hour volumes on all significantly affected streets, highway segments and intersections.
3. Schematic illustration and level of service (LOS) analysis for the following scenarios: 1) existing, 2) near-term, and 3) cumulative for the roadways and intersections in the project area.
4. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect the State highway facilities being evaluated. Under this analysis, please include, AM, and PM peak hour for our review.
5. The procedures contained in the 2010 update of the Highway Capacity Manual should be used as a guide for the analysis. We also recommend using Caltrans' *Guide for the Preparation of Traffic Impact Studies*; it is available on the following web site:

[http://www.dot.ca.gov/hq/tpp/offices/ocp/igr\\_ceqa\\_files/tisguide.pdf](http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf)

6. Include transportation demand management strategies for future developments to reduce singular vehicular use. The DEIR should include citywide policies to encourage alternative modes of transportation. We recommend coordinating with AC Transit to provide greater service to the targeted areas, providing subsidized transit passes to workers and residents, restructuring parking structures by reducing the parking requirement such as unbundling parking, share parking, provide bicycle parking and necessary infrastructures, and other transportation demand management strategies. The City may refer to, "Reforming Parking Policies to Support Smart Growth," an MTC study funded by Caltrans for sample parking ratios and strategies that support compact growth and Transit Oriented Development. Doing so will encourage alternate forms of transportation, reduce regional vehicle miles traveled and lessen future traffic impacts on the state highways.
7. Mitigation measures should be identified where plan implementation is expected to have a significant impact. Mitigation measures proposed should be fully discussed, including financing, scheduling, implementation responsibilities, and lead agency monitoring.
8. We encourage the City to coordinate preparation of the study with our office, and when available, please provide Caltrans with the administrative draft of the transportation study for our review to ensure our comments are adequately addressed.

***Improvements to State Facilities***

An increase in the number of commercial, office square footage, and residential units will significantly impact adjacent state facilities that are already operating at poor levels of service. To ensure the safety of the traveling public, improvements to local and state facilities to accommodate the increase in vehicular traffic should be addressed in the DEIR. Please include how the City will finance improvements on State facilities from impacts generated by the proposed plan. Although facility expansion is limited within the city's boundaries, Caltrans currently has a number of unfunded projects that would improve highway and safety operations. We look forward to coordinating with the City to develop and fund these improvement projects.

We look forward to continuing to coordinate with the City. Should you have any questions regarding this letter, please call Yatman Kwan, AICP of my staff at (510) 622-1670.

Sincerely,



ERIK ALM, AICP  
District Branch Chief  
Local Development - Intergovernmental Review

c: State Clearinghouse

## PUBLIC UTILITIES COMMISSION

320 WEST 4TH STREET, SUITE 500  
LOS ANGELES, CA 90013  
(213) 576-7083



April 9, 2014

Anne Hersch  
City of Albany  
1000 San Pablo Avenue  
Albany, California 94706

Dear Anne:

SUBJECT: SCH 2014032040 Albany 2035 General Plan - NOP

The California Public Utilities Commission (Commission) has jurisdiction over the safety of highway-rail crossings (crossings) in California. The California Public Utilities Code requires Commission approval for the construction or alteration of crossings and grants the Commission exclusive power on the design, alteration, and closure of crossings in California. The Commission Rail Crossings Engineering Section (RCES) is in receipt of the *Notice of Preparation (NOP)* for the proposed City of Albany (City) 2035 General Plan project.

The project area includes active railroad tracks. RCES recommends that the City add language to the General Plan so that any future development adjacent to or near the railroad right-of-way (ROW) is planned with the safety of the rail corridor in mind. New developments may increase traffic volumes not only on streets and at intersections, but also at at-grade crossings. This includes considering pedestrian circulation patterns or destinations with respect to railroad ROW and compliance with the Americans with Disabilities Act. Mitigation measures to consider include, but are not limited to, the planning for grade separations for major thoroughfares, improvements to existing at-grade crossings due to increase in traffic volumes, and continuous vandal resistant fencing or other appropriate barriers to limit the access of trespassers onto the railroad ROW.

If you have any questions in this matter, please contact me at (213) 576-7076, [ykc@cpuc.ca.gov](mailto:ykc@cpuc.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Ken Chiang", written over a horizontal line.

Ken Chiang, P.E.  
Utilities Engineer  
Rail Crossings Engineering Section  
Safety and Enforcement Division

C: State Clearinghouse



# To Planning & Zoning

CITY OF ALBANY

APR 14 2014

COMMUNITY DEVELOPMENT  
DEPARTMENT

I am hoping to start a movement called "Treehouse of Reflection and Song", with Albany hosting the signature "Treehouse" on the corner of Marin and San Pablo Avenue. In one sense, this will be a continuation of Ladybird Johnson's "Beautification of America" campaign. In essence the movement will be a combination of the secular and the non-denominational religious. The buildings housing this movement will have stained glass windows of trees. The interiors will have a small stage, a pulpit, and wooden pews. It will have a chapel-like part and an adjoining large community room which could be adapted to a small children's area or for community potlucks.

Each community's Treehouse will be a collaboration of their planning commissions, the public, and their art commissions. Albany would also collaborate with U.C. Berkeley's architecture students. There could be a competition to see which community's Treehouse is most beautiful.

In function, it will have a weekly Sunday morning meeting with philosophers, poets, rabbis, preachers, priests,emus, etc. giving a talk, and with songs. Lots of songs.

## WHY ALBANY NEEDS THIS

Albany really does not have a beautiful building for weddings and memorial services. It needs such a place.

Many people in Albany, I think, are not associated with a church or religion, and yet have a fairly deep spirituality. To hear various religious leaders in a neutral setting would be welcome.

Additionally, the lack of people joining together in song has been a sad by-product of U.S. society in the last few decades--unlike in our parents and grandparents time. The performance aspect of singing has quite overshadowed the joy of everybody--tone deaf and talented--joining together in song. People like Pete Seeger have attempted to address this issue, but lacked a sense of accompanying "place." The Treehouse would have a songbook and visiting choirs and choral groups to lead the songs.

WHY THE UNIVERSITY WOULD WANT TO DONATE THE  
LAND FOR THIS PROJECT

Located on the corner of Marin and San Pablo would be a symbolic bridge between the University Village and the city of Albany. Village residents could join together with Albany residents to hear various community religious and philosophic leaders in a non-proselytizing atmosphere. If they are secular, it would be a beautiful place to have their children's weddings and to hold memorial services for loved ones. Song-wise, they would be able to get a non-media sense of American society.

As a longtime Albany resident, the removal of those large trees on the corner of Marin and San Pablo was quite a jolt. It was as if something precious and identifying had been rather callously removed. Putting a beautiful Treehouse building in that spot would be significant.

As a PR move for the university, which has not fared too well lately in the "Town vs Gown" debate, this could bring considerable accolades.

As Albany is preparing its 30 year plan, I hope you will consider the "Treehouse of Reflection and Song" to be a viable and necessary part of the Albany community. I have not approached the university with this plan, but I'm hopeful they will see the wisdom in such an idea.

Sincerely,

Lynn McBride  
1026 Ventura Avenue  
Albany  
(510) 527-4169

May 19, 2014

Anne Hersch, City Planner  
City of Albany  
1000 San Pablo Avenue  
Albany, CA 94706

Re: Notice of Preparation of a Draft Environmental Impact Report for the City of Albany 2035  
General Plan

Dear Ms. Hersch:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report (EIR) for the City of Albany 2035 General Plan. EBMUD has the following comments.

## **WATER SERVICE**

EBMUD's Central Pressure Zone with a service elevation between 0 and 100 feet, Aqueduct Pressure Zone with a service elevation between 100 feet and 200 feet, and Berryman Pressure Zone with a service elevation between 200 and 400 feet will serve the General Plan area. Any development project associated with the City's General Plan will be subject to the following general requirements.

Main extensions that may be required to serve any specific development projects to provide adequate domestic water supply, fire flows, and system redundancy will be at the project sponsor's expense. Pipeline and fire hydrant relocations and replacements due to modifications of existing streets, and off-site pipeline improvements, also at the project sponsor's expense, may be required depending on EBMUD metering requirements and fire flow requirements set by the local fire department. When the development plans are finalized, all project sponsors should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions of providing water service to the development. Engineering and installation of new and relocated pipeline and services requires substantial lead-time, which should be provided for in the project sponsor's development schedule.

Project sponsors should be aware that EBMUD will not inspect, install or maintain pipeline in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may pose a health and safety risk to construction or maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping in areas where groundwater contaminant concentrations exceed specified limits for discharge to sanitary sewer systems or sewage treatment plants. Project sponsors for EBMUD services requiring excavation in contaminated areas must

submit copies of existing information regarding soil and groundwater quality within or adjacent to the project boundary.

In addition, the project sponsors must provide a legally sufficient, complete and specific written remedial plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of all identified contaminated soil and/or groundwater. EBMUD will not design the installation of pipelines until such time as soil and groundwater quality data and remediation plans are received and reviewed and will not install pipelines until remediation has been carried out and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists or the information supplied by the project sponsor is insufficient, EBMUD may require the project sponsor to perform sampling and analysis to characterize the soil being excavated and groundwater that may be encountered during excavation or perform such sampling and analysis itself at the project sponsor's expense.

## **WASTEWATER**

EBMUD's Main Wastewater Treatment Plant (MWWTP) and interceptor system are anticipated to have adequate dry weather capacity to treat the proposed wastewater flows from this project, provided that the project and the wastewater generated by the project meet the requirements of the current EBMUD Wastewater Control Ordinance. However, wet weather flows are a concern. EBMUD has historically operated three Wet Weather Facilities to provide treatment for high wet weather flows that exceed the treatment capacity of the MWWTP. On January 14, 2009, due to Environmental Protection Agency's (EPA) and the State Water Resources Control Board's (SWRCB) reinterpretation of applicable law, the Regional Water Quality Control Board (RWQCB) issued an order prohibiting further discharges from EBMUD's Wet Weather Facilities. In addition, on July 22, 2009, a Stipulated Order for Preliminary Relief issued by EPA, SWRCB, and RWQCB became effective. This order requires EBMUD to perform work that will identify problem infiltration/inflow areas, begin to reduce infiltration/inflow through private sewer lateral improvements, and lay the groundwork for future efforts to eliminate discharges from the Wet Weather Facilities.

Currently, there is insufficient information to forecast how these changes will impact allowable wet weather flows in the individual collection system subbasins contributing to the EBMUD wastewater system, including the subbasin in which the proposed project is located. It is reasonable to assume that a new regional wet weather flow reduction program may be implemented in the East Bay, but the schedule for implementation of such a program has not yet been determined. In the meantime, it would be prudent for the lead agency to require the project applicant to incorporate the following measures into the proposed project: (1) replace or rehabilitate any existing sanitary sewer collection systems, including sewer lateral lines, to reduce infiltration/inflow and (2) ensure any new wastewater collection systems, including sewer lateral lines, for the project are constructed to prevent infiltration/inflow to the maximum extent feasible. Please include such provisions in the environmental documentation and other appropriate approvals for this project.

## **RECYCLED WATER**

EBMUD's Policy 9.05 requires that customers use non-potable water, including recycled water, for non-domestic purposes when it is of adequate quality and quantity, available at reasonable cost, not detrimental to public health and not injurious to plant, fish and wildlife to offset demand on EBMUD's limited potable water supply.

Some portions of the City's boundaries fall within and around the service area of East Bayshore Recycled Water Project transmission and distribution pipeline infrastructure. Any projects within the boundary of EBMUD's East Bayshore Recycled Water Project present opportunities for recycled water uses ranging from landscape irrigation, toilet flushing and other non-potable commercial and industrial application that can be served by existing or expanded recycled water pipelines in the future. EBMUD recommends that the City and their developers maintain continued coordination and consultation with EBMUD as they plan and implement the various projects within the 2035 General Plan regarding the feasibility of providing recycled water for appropriate non-potable uses.

## **WATER CONSERVATION**

Individual projects within the General Plan area may present opportunities to incorporate water conservation measures. EBMUD requests that the City include in its conditions of approval a requirement that the project sponsors comply with the Landscape Water Conservation Guidelines adopted by the Alameda County Board of Supervisors. Project sponsors should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor's expense.

If you have any questions regarding this response, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning at (510) 287-1365.

Sincerely,



William R. Kirkpatrick  
Manager of Water Distribution Planning

WRK:TRM:sb  
sb14\_110.docx



CITY OF ALBANY

MAY 27 2014

COMMUNITY DEVELOPMENT  
DEPARTMENT

May 21, 2014

Anne Hersch  
City of Albany  
1000 San Pablo Avenue  
Albany, CA 94706

**SUBJECT:** BCDC Inquiry File No. AL.AY.7905.1, Notice of Preparation (NOP) for the City of Albany 2035 General Plan draft Environmental Impact Report (EIR) SCH# 2014032040.

Dear Ms. Hersch:

Thank you for the opportunity to comment on the Notice of Preparation (NOP) for the 2035 General Plan draft Environmental Impact Report (EIR). The NOP is dated March 14, 2014 and was received in our office on March 18, 2014. The Commission has not reviewed the NOP, so the following staff comments are based on the San Francisco Bay Plan (Bay Plan) and the McAtter-Petris Act and staff review of the NOP.

**Jurisdiction and Land Use.** As a permitting authority along the San Francisco Bay shoreline, BCDC is responsible for granting or denying permits for any proposed fill (earth or any other substance or material, including pilings or structures placed on pilings, and floating structures moored for extended periods); extraction of materials; or change in use of any water, land or structure within the Commission's jurisdiction. Generally, BCDC's jurisdiction over San Francisco Bay extends over Bay tidal areas up to the mean high tide level, including all sloughs, and in marshlands up to five feet above mean sea level; a shoreline band consisting of territory located between the shoreline of the Bay and 100 feet landward and parallel to the shoreline; salt ponds; managed wetlands; and certain waterways tributary to the Bay. If a project is proposed within the Commission's jurisdiction, it must be authorized by the Commission pursuant to a BCDC permit, and the Commission will use the policies of the McAtter-Petris Act and the *San Francisco Bay Plan* (Bay Plan) to evaluate the project.

The map provided with the NOP shows the city limits of Albany as located at the Bay shoreline. The city limits extend into the Bay in areas such as the Albany Mudflats and the State Marine Ecological Reserve and include areas such as the Albany Bulb and Bay waters south of the Bulb. If the General Plan will include land use changes in Bay shoreline areas or within the Bay, these should be discussed in the environmental document, including any environmental effects that may occur as a result, including any in sensitive habitat areas. The entire shoreline of the City of Albany is within the Commission's shoreline band jurisdiction. The Albany shoreline is designated for waterfront park priority use in the Bay Plan on Map No. 4. In addition, the Albany Mudflat Ecological Reserve lands are designated for wildlife priority use. These priority use designations should be discussed in the environmental document (EIR) and whether any City proposed land uses would be consistent with these designations. The Commission uses its Bay Plan Tidal Marshes and Tidal Flats, and Fish, Wildlife and Other

Aquatic Organisms policies to determine consistency of proposals for wildlife priority use areas, and its Bay Plan recreation policies for assessing consistency of proposals with its waterfront park priority use designations.

Also, Plan Map 4, Map Policy 42 states Regional Restoration Goal for Central Bay states, - Protect and restore tidal marsh, seasonal wetlands, beaches, dunes and islands. Natural salt ponds should be restored on the East Bay shoreline. Shallow subtidal areas (including eelgrass beds) should be conserved and enhanced. Wherever possible tidal marsh habitats should be restored, particularly at the mouths of streams where they enter the Bay and at the upper reach of dead-end sloughs. Encourage tidal marsh restoration in urban areas. See the Baylands Ecosystem Habitat Goals report for more information." The EIR should discuss the consistency of any general plan land use proposals with this policy.

**Bay Fill.** Section 66605 of the McAteer-Petris Act states that fill in San Francisco Bay should only be authorized when: (1) the public benefits from the fill clearly exceed the public detriment from the loss of water area and should be limited to water-oriented uses (such as ports, water-related industry, airports, bridges, wildlife refuges, water-oriented recreation and public assembly)... or minor fill for improving shoreline appearance or public access to the Bay; (2) no upland alternative location is available for the project purpose; (3) the fill is the minimum amount necessary to achieve the purpose of the fill; (4) the nature, location and extent of any fill will minimize harmful effects to the Bay; and (5) that the fill should be constructed in accordance with sound safety standards. If the proposed project would involve fill in the Bay, the project proponent will need to show that fill associated with the project meets all of the above listed criteria. While the NOP does not specify plans to place fill in the Bay, we ask that the draft EIR evaluate any proposed fill in light of the Commission's law.

**Climate Change.** Any development in the portions of the project area that are within BCDC's jurisdiction would be subject to the Climate Change policies of the Bay Plan. These policies state, in part, that: *"When planning shoreline areas or designing larger shoreline project, a risk assessment should be prepared by a qualified engineer and should be based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area... To protect public safety and ecosystem services, within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects – other than repairs of existing facilities, small projects that do not increase risks to public safety, interim projects and infill projects within existing urbanized areas – should be designed to be resilient to a mid-century sea level rise projection... undeveloped areas that are both vulnerable to future flooding and currently sustain significant habitats or species... should be given special consideration for preservation and habitat enhancement and should be encouraged to be used for those purposes."*

It appears that some areas within the plan area and along the adjacent shoreline may be vulnerable to projected sea level rise. The general plan process is an opportunity for the City of Albany to evaluate the communities' future in light of more recent scientific data on sea level rise and to update plans to address community resilience, given projected sea level rise. As a planning tool, the preparers of the EIR may wish to refer to the Sea Level Rise and Coastal

Flooding Impacts Viewer developed by NOAA Coastal Services Center in collaboration with a number of other agencies and organizations. The viewer is available at: <http://www.csc.noaa.gov/digitalcoast/tools/slrviewer/>. The draft EIR should discuss the potential for inundation and its impacts on land use, transportation, hydrology, water quality, hazards, infrastructure, utilities, and public services, and whether any improvements would be consistent with the Bay Plan Climate Change policies.



The draft EIR should include an analysis of how an increase in sea level under multiple sea level rise scenarios could impact low-lying shoreline areas. This should include information on (1) current shoreline elevations and vertical land motion (e.g., subsidence or uplift); (2) current rates of sedimentation, if known; (3) projected changes in wetland communities given sea level rise (this should also include information on surrounding areas); (4) projected hydraulic changes that would result in a change in tidal heights, duration of ponding, drainage, erosion, or sedimentation; and (5) the condition of existing shoreline protection.

**Public Access.** Section 66602 of the McAteer-Petris Act states, in part, that *"existing public access to the shoreline and waters of the San Francisco Bay is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided."* Furthermore, the McAteer-Petris Act authorizes the placement of fill in the Bay only for water-oriented uses or minor fill for improving shoreline appearance or public access.

If any projects identified in the NOP are within BCDC's jurisdiction, then the draft EIR should consider BCDC's public access requirements which state, *"in addition to the public access to the Bay provided by waterfront parks, beaches, marinas, and fishing piers, maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline... Whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed... Public access improvements provided as a condition of any approval should be consistent with the project and the physical environment, including protection of natural resources, and provide for the public's safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier-free access for the physically handicapped to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs... Access to the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available..."*

All efforts to increase or include public access must be compatible with the wildlife and habitats of the area. As such, the policies further state that, *"public access to some natural areas should be provided to permit study and enjoyment of these areas. However, some wildlife are sensitive to human intrusion ... public access should be sited, designed and managed to prevent significant adverse effects on wildlife..."* The draft EIR should include an analysis of the impacts on public access and evaluate maximum feasible public access that could be provided as part of the project to be consistent with the Commission's policies on public access. Additionally, the draft EIR should evaluate the potential impacts of any proposed public access on sensitive wildlife species and habitats.

**Recreation.** The Bay Plan policies on recreation state, in part, that *"Diverse and accessible water-oriented recreational facilities, such as marinas, launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying population, and should be well distributed around the Bay and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels... and Waterfront land needed for parks and beaches to meet future needs should be reserved now."*

The Bay Plan includes priority land use designations for Bay shoreline in Albany to ensure that sufficient lands are reserved for important water-oriented uses, such as wildlife refuges, waterfront parks or beaches. The general plan and EIR should discuss whether the proposed uses or projects within the Commission's jurisdiction are consistent with the applicable Bay Plan and MPA policies.



**Bay Trail and Transportation.** The Bay Plan policies on transportation state, in part, that *"Transportation projects... should include pedestrian and bicycle paths that will either be a part of the Bay Trail or connect the Bay Trail with other regional and community trails."* The City of Albany contains sections of existing Bay Trail and sections of proposed Bay Trail. The draft EIR should discuss how this network of existing trails could be connected and integrated with the further development of trails, parks and open space within the proposed project area.

**Water Quality.** The Bay Plan policies on water quality state that, *"new projects should be sited, designed, constructed and maintained to prevent, or if prevention is infeasible, to minimize the discharge of pollutants to the Bay ...."* Additionally, in order to protect the Bay from the water quality impacts of nonpoint source pollution, *"new development should be sited and designed consistent with standards in municipal storm water permits and state and regional storm water management guidelines .... To offset the impacts from increased impervious areas and land disturbances, vegetated swales, permeable pavement materials, preservation of existing trees and vegetation, planting native vegetation and other appropriate measures should be evaluated and implemented where appropriate...."* The draft EIR should evaluate the potential impacts of the proposed projects to be included in the General Plan update on the water quality of the Bay and should propose best management practices and mitigation measures to minimize adverse impacts to water quality.

**Appearance, Design, and Scenic Views.** The Bay Plan policies on appearance, design, and scenic views state, in part, that *"all bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance or preserve views of the Bay and shoreline, especially from public areas... Shoreline developments should be built in clusters, leaving open area around them to permit more frequent views of the Bay... Views of the Bay from... roads should be maintained by appropriate arrangements and heights of all developments and landscaping between the view areas and the water."* The EIR should discuss the effect, if any, that the project would have on public views of the Bay.

We appreciate the opportunity to comment on the NOP for the EIR for the City Of Albany 2035 General Plan update. If you have any questions or concerns regarding this matter, please do not hesitate to contact me at (415) 352-3641 or by email at [codya@bcd.ca.gov](mailto:codya@bcd.ca.gov).

Sincerely,



CODY AICHELE  
Coastal Planner

CA/go

cc: State Clearinghouse

May 22, 2014

City Planner Anne Hersch *and* the  
Albany Planning and Zoning Commission  
City of Albany  
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**RE: Scope and Content of EIR Pertaining to Revised General Plan.**

Dear Anne Hersch et al.:

Thank you for the notification and opportunity to address the scope and content of the environmental impact report (EIR) pertaining to revision of Albany's General Plan (General Plan). I regret missing the land-use study session on April 23, 2014. I relied on a promise of notification which was not forthcoming.

My concerns have not changed since my letters to your offices dated September 1 and September 20, 2013. My concerns are linked to the impacts your General Plan will have on the future physical development of the waterfront districts within Albany *and* Berkeley (collectively the Waterfront). Those impacts are as potentially highly positive as they are potentially truly negative in terms of long-term effects on gained and/or lost public benefits.

Rumor has it you are planning to punt rather than wrestle over what the General Plan should specify regarding waterfront-district land use pending

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<sup>1</sup>Voluntarily inactive as of March 1, 2010

2035. That seems to me a strategy implying an abdication of local governance. Land-use regulation is a governmental function entrusted to municipal officials on behalf of the public. Why you would allow an international real-estate developer headquartered in Canada and doing business locally through a *private* Delaware limited liability company, to determine how its 133 contiguous acres of Waterfront real estate will be developed and used is beyond me.<sup>2</sup>

If you wait until the landowner comes forward again with another proposal for a private park containing 4.5-million-square-feet of new housing and an industrial-research complex, you may get your park but you will never have the time to get beyond *reactionary* responses formed as half-baked numerical ‘tradeoffs’ between high rises, open space, tax revenue and congestion. Why not try a more contextual and incisive approach to planning the use and development of this heritage site? Much of it is going to be a park with a public shoreline *in any event*. The relevant questions are what development themes should be fostered and uses prohibited to protect and enhance while further developing this critically significant historic site on behalf of long-term interests in public health, morality and general welfare?

***Current Status of Cultural Landscape Survey and Report.*** Since January 1<sup>st</sup> I have been working full time on drafting a report of my survey querying whether the Waterfront is eligible as a cultural landscape for listing on the National Register of Historic Places as an historic ‘site’ or inchoate ‘historic district.’ In my September 1, 2013, letter to you (see pp. 6-7), I promised my report by late July 2014. Unfortunately I am unable to meet that deadline for two reasons: a studio I am building is more consuming of my time and energy than I anticipated and the results of my survey are more

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<sup>2</sup> For decades subsidiary corporations in the Santa Fe Southern Pacific Corporation’s Real Estate Group headquartered in San Francisco owned legal title to all the private Waterfront real estate within Albany and eventually all of it in Berkeley too (approximating 275 upland acres). The corporate owners were Santa Fe Pacific Realty and Santa Fe Land Improvement Company. Since the state’s acquisition of large parts of the Waterfront for a state park in about 1999, the legal title to Waterfront real estate remaining in private ownership (all of which is leased to Pacific Racing Association dba Golden Gate Fields) has changed hands several times. Since 2010 legal title rests in a Delaware limited liability company, Golden Gate Land Holdings LLC, which in turn is *reputedly* owned and controlled by The Stronach Group out of Ontario, Canada. Who owns and controls Golden Gate Land Holdings and its business purpose is not public information under Delaware law.

difficult to briefly explain than I had hoped for. I need to back off awhile to regain a less personal perspective on the Waterfront. I will however in July share an *incomplete draft* with your planning director and General Plan consultant. It should give a pretty good idea about the history of the Waterfront and what my survey finds relevant with regard to significances pertinent to the National and California Registers. How it all might translate into a land-use plan for an 'historic district' not yet clearly foreseen.

There is little if any doubt the Waterfront qualifies for listing on historical registers under federal *and* state historical preservation law (HPL). The Waterfront meets either or both of two specified criteria among others,<sup>3</sup> namely, that it is "associated with events that have made significant contributions to the broad patterns of our history" and/or it "possesses high artistic values." The *integrity* required for eligibility is intact because the significances of both Waterfront historicity *and* its artistic values are substantially *unimpaired* by the presence of the racetrack, the deteriorated Berkeley pier and/or the absence of a former powder works or whatever else since 1850 bay frontage real estate is no longer used for. *Location, location, location is at the heart of the Waterfront's historic and artistic significances given our various cultural heritages and the Waterfront's architectural (axial) ties to the Pacific and the University of California via a Golden Gate!*

By my reckoning the symbolic significances of the Waterfront's location in space and time, coupled with the spectrum of configured public works and private enterprise brought to a focus and displayed there, have the capacity to bring to mind astonishment and (turning on personal predilection) a deeply unified wonder about how one specific phase or another of the actuality displayed has in fact come to be as it so evidently is. The answers can fascinate and bottom out on faith, knowledge and foresight rather than happenstance, coincidence and inadvertency. Grasped by mindfulness of this sort, a new depth in one's bearings is realized and becomes available consciously. This resonance strikes me as worth celebrating given our perpetual needs for ever-fresh reorientation vis-à-vis knowledge and learning's vertical axis. The depths and heights in this regard entrusted to our local state university are well symbolized by the navigational aids docked

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<sup>3</sup> Federal evaluation criteria are set forth in 36 Code of Federal Regulation, Part 60 – National Register of Historic Places, Section 60.4. Virtually identical state criteria of significance are in title 14 of the California Code of Regulations, Section 4852.

and displaced at this particular Golden Gate harbor.

***Recommended Course of Action.*** Assuming my forthcoming Waterfront survey and report is substantially correct, that is, the Waterfront within Albany and Berkeley is in fact eligible for the National Register, the public is *entitled by federal and state laws* to see the protections provided by HPL extended to the Waterfront when assessing the positive as well as negative potentialities and impacts of various land uses when planning for the future physical development of the Waterfront. I have several specific suggestions:

1. I suggest again Albany officials temporarily scope the waterfront district *out* of their revision of the General Plan and the EIR pending an orderly evaluation of *the whole* Waterfront as an historic site and inchoate 'historic district.' Assuming city officials and the stakeholders will concur in finding Waterfront eligibility after specific questions and objections have been aired and answered, a very different approach to long-term Waterfront land-use planning will become apparent in ways not yet widely understood locally.

2. If instead you go ahead with revising General Plan provisions pertaining to Albany's waterfront district, certain questions arise: (a) what criteria of significance are going to be used to evaluate the environmental impacts; (b) what baseline for the Waterfront environment will be used; (c) how will the CEQA "project" be described regarding General Plan revisions pertaining to the waterfront district; and (d) what level of CEQA review is appropriate (e.g., a program-level EIR or something less definitive)? *These complex questions arise even if revisions relevant to the Waterfront are limited to the Conservation, Recreation and Open Space element of the General Plan.* Much of this is addressed in my letter dated September 20, 2013.

Thank you for the opportunity to contribute and your attention.

Very truly yours,  
/S/

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EDWARD C. MOORE

Cc: Berkeley Mayor & Planning Director; EBRPD; Citizens for East Shore Parks; Golden Gate Land Holdings, LLC.

From: **Norman La Force** <[n.laforce@comcast.net](mailto:n.laforce@comcast.net)>

Date: Sun, Apr 6, 2014 at 4:08 PM

Subject: Sierra Club Comments on the General Plan Update Process

To: Penelope Leach <[pleach@albanyca.org](mailto:pleach@albanyca.org)>, Joane Wile <[jwile46@gmail.com](mailto:jwile46@gmail.com)>, Marge Atkinson <[margeaktinson1045@gmail.com](mailto:margeaktinson1045@gmail.com)>, Michael Barnes <[Michael7Barnes@gmail.com](mailto:Michael7Barnes@gmail.com)>, Peggy Thomsen <[peggy.thomsen@gmail.com](mailto:peggy.thomsen@gmail.com)>, Peter Maas <[pcmaass@pacbell.net](mailto:pcmaass@pacbell.net)>

Dear Mayor and Council Members and City Administrator:

The Sierra Club makes the following comments on one aspect of the general plan update process that the city will begin. These comments only concern the Waterfront lands in the general plan. The Sierra Club's East Bay Public Lands Committee has jurisdiction over the waterfront lands. The Northern Alameda Group may have comments on other elements of the general plan. As Chair of the East Bay Public Lands Committee I am only commenting here in regard to the Waterfront.

The Sierra Club has a long standing policy going back since the passage of Measure C that the general plan designations and zoning for the Albany Waterfront should not be changed in any way without a plan that guarantees the Sierra Club's vision for the waterfront, i.e., the owner/developer agreeing to the plan that the Sierra Club, Citizens for East Shore Parks, Citizens for the Albany Shoreline, and Golden Gate Audubon Society developed. Therefore, the Sierra Club opposes the city making any changes to the general plan or zoning of the waterfront as part of the general plan update.

The key legal fact is that under the current general plan and zoning the owner of the race track is **STUCK** running a race track which is a money losing business. The track will have to close at some point. Albany remains one of the last race tracks in the state; *it cannot survive for much longer*. Under Measure C any change to the general plan or zoning of the waterfront must be go to the voters for approval. Hence, as I have stated in the past very graphically, the people of Albany have an IRON GRIP on the neck of the race horse, i.e., owner of the race track. *The people of Albany* control what will happen with that property. But only if the general plan and zoning remain as it is. Any change that gives the owner more rights loosens that grip. *Few residents of a California city* enjoy such control over their own city's future. It should not be discarded lightly.

Despite what the owner may say, we know from the past 40 years that each owner of the track is desperate to do something else with that property because the track is losing money. Hence, so long as the general plan and zoning remain unchanged, the people of Albany control the fate of that land. Any change, however, means less control and leverage that the people have over the race track lands. Therefore, it is imperative that the city do **NOTHING** to change the general plan or zoning of the waterfront to ensure that the people of Albany retain their full control over the future of that land and can thereby control the fate of their community.

Moreover, any change to the general plan and zoning will require CEQA compliance, **which the city will have to pay for**, not the developer or owner. An EIR for a change in the zoning of the waterfront will cost around \$500,000.00 to \$1 Million depending on what is proposed. These are taxpayer dollars. I am sure that the track owner is just waiting for the City to do this because it will reduce his cost for any future change to the zoning if the city has already paid for the bulk of an EIR. Hence, it makes no fiscal sense for the city to spend taxpayer dollars for a review that the developer would have to pay for.

The Voices to Vision document can remain as it is: The guiding concept for the waterfront. But if the city tries to incorporate that document into the general plan and zoning for the waterfront, it will trigger a Measure C vote without guaranteeing the completion of the McLaughlin East Shore State Park and will require the city to pay for the EIR for those changes. As I recall, when Voices to Vision took place, then cost of an EIR for it was minimally \$500,000 to \$750,000. The Sierra Club does not believe that the taxpayers should pay those costs unless we get the completion of the McLaughlin East Shore Park as called for in the Sierra Club/CESP/CAS/GGAS plan.

Yours,

Norman La Force,

Chair, Sierra Club East Bay Public Lands Committee