2.2 PLANS AND POLICIES

2.2.1 TIDELANDS TRUST

Comment

The draft also indicates a legislatively approved trade of possible Tide Lands Trust sites for island perimeter sites that for the most part are very much below water and likely to remain so. The sea level is expected to rise 2.5 feet during the time expected for island’s initial development and far more during the development’s overall economic life. These deepening submerged lands traded to the Trust cannot be expected to be equivalent value for state purposes. This is a farcical replay of the fabled Florida scams related to sale of swamplands in the 1920’s. (Bernard Choden) [2.2]

Response

The comment expresses concerns that potential future sea level rise will cause lands on which the public trust (also referred to in the EIR as the "Tidelands Trust") is to be imposed to become submerged, and that submerged lands would not have sufficient value to support the proposed trust land exchange. EIR Section IV.O, Hydrology and Water Quality, pp. IV.30-IV.O.35, discusses future potential climate-induced sea level rise. As stated on EIR p. IV.O.31, the rate of potential future sea level rise cannot be projected with certainty, and estimates vary substantially among the thousands of scientific research documents available on climate change and sea level rise.

As discussed under Impact HY-12, on EIR pp. IV.O.48-IV.O.50, a substantial portion of the Project Area at current elevations and without future improvements could potentially be at risk of inundation due to future potential sea level rise, in particular low-lying areas of Treasure Island and some low-lying areas along the western flank of Yerba Buena Island near the existing U.S. Coast Guard Station.

Based on the most widely accepted and credible literature, several elements have been incorporated into the Proposed Project to accommodate potential sea level rise under a reasonable range of low, medium, and high estimates (refer to EIR p. IV.O.31) of future potential sea level rise that could likely occur, ranging from 3 inches by 2050 and 12 inches by 2100, to 16 inches by 2050 and 55 inches by 2100. These elements include:

- Improvements that would be made as part of the initial infrastructure construction and site preparation in Phase 1;
- Implementation of a long-term adaptive management strategy, which would include future improvements as needed to accommodate actual sea level rise as it develops; and
- Periodic reporting on the status of the Proposed Project's adaptive management strategy.

With implementation of these elements, the Proposed Project would account for the effects of future potential sea level rise and would not result in substantial inundation of existing land areas.
As discussed above, the Proposed Project incorporates elements to address sea level rise. As discussed in EIR Chapter III, Plans and Policies, p. III.14, the proposed Public Trust Exchange Agreement authorized by the Treasure Island Public Trust Exchange Act would confirm or impose the public trust on approximately 217 acres of uplands on Treasure Island and about 80 acres of uplands on Yerba Buena Island, as well as approximately 540 acres of tidal and submerged land surrounding the Islands. The Treasure Island Development Authority ("TIDA") has determined that, even without considering the existing tidal and submerged lands, the value of the lands exchanged into the trust far exceeds the value of the lands to be removed from the trust. The approximately 540 acres of tidal and submerged land surrounding the Islands lands would retain the public trust designation after the Trust Exchange Agreement is executed. As such, the submerged lands would continue to remain available for public purposes such as marinas, docks, wharves, commercial and sport fishing, and boating, with or without the Trust Exchange Agreement, and would continue to provide value for Public Trust purposes. Upland areas subject to the Trust Exchange Agreement are not expected to be inundated, and therefore would not be expected to provide value for trust purposes.

Comments

As the DEIR states, residential development is not a use consistent with the public trust doctrine, as residential development causes the privatization of public property resulting in a loss of its special character as public lands. General commercial, recreational, mixed-use office, and retail uses are also uses inconsistent with the Public Trust Doctrine, as such uses generally serve the local citizenry and are not water-related or visitor serving. Alternatively, commercial recreational, office, and retail uses, which are visitor-serving, cater to the regional or statewide general public, and are water-related, may be considered incidental and necessary in promoting the public’s use of public trust lands and hence would be considered consistent with the Public Trust Doctrine. Also, general civic/cultural uses that are not water-related and are not visitor-serving in nature are not appropriate public trust uses as such uses cater to the local community and do not serve the regional or statewide general public. (Grace Kato, Public Land Management Specialist, California State Lands Commission) [24.1]

1. Energy Variant A1 Renewable Electricity Generation – Increased Solar Photovoltaic: According to the DEIR this variant would provide up to 20 acres of ground-mounted photovoltaic panels in open space areas on the eastern or northern shorelines of Treasure Island and/or in the center of the Island near the urban Agricultural Park. A total of 28 acres has been tentatively identified as potentially available for this use. Generally, energy generation that is not water-dependent and does not further or benefit the public trust is not consistent with TIDA’s statutory trust grant or the Public Trust Doctrine. (Grace Kato, Public Land Management Specialist, California State Lands Commission) [24.2]

2. Open Space and Recreation: Permanent athletic fields or sports fields, off-leash dog areas, and the 20-acre demonstration organic urban farm, are not uses consistent with TIDA’s statutory trust grant or the Public Trust Doctrine, as such uses purely provide a municipal benefit for the local community and are not water-related or visitor serving. (Grace Kato, Public Land Management Specialist, California State Lands Commission) [24.3]
3. Commercial: According to the DEIR, the proposed project includes a grocery store or market to serve local residents on the Island (about 30,000 square feet), along with approximately 22,000 square feet of food production uses. Building 2 is proposed for the location of the grocery store/market. Pursuant to Chapter 543, as amended, Building 2 and Building 3 are proposed to be within the area impressed with the public trust. Both Building 2 and Building 3 are considered to be structures of historic significance. Generally, a grocery store is not consistent with TIDA’s statutory trust grant or the Public Trust Doctrine, as it benefits the local residents without any nexus or connection to the water. Additionally, according to the DEIR, Building 3 is proposed to be used for approximately 150,000 square feet of entertainment/recreation uses, such as a movie theater and/or indoor sports/recreational facilities that would also be regional-serving retail uses. Generally, a movie theater and indoor sports/recreational facilities are not consistent with the Public Trust Doctrine. It is important to keep in mind that the overarching principle of the Public Trust Doctrine is that trust lands and trust assets belong to the statewide public and are to be used for water-related purposes and must benefit the statewide public rather than primarily serve local community or municipal purposes. (Grace Kato, Public Land Management Specialist, California State Lands Commission) [24.4]

4. Institutional and Public Services: Space for a 75,000 square foot museum or other cultural institution is planned in the Cultural Park north of Building 1. Generally, a museum or cultural institution without any connection to the water is not consistent with the Public Trust Doctrine. (Grace Kato, Public Land Management Specialist, California State Lands Commission) [24.5]

The EIR should note that similar to how access promoted affection for and preservation of our wilderness and natural areas, the Bay will benefit by this increased access. (Howard Strassner, Emeritus Chair, Transportation Committee, Sierra Club, San Francisco Group) [35.9]

Response

As stated in the comments, certain proposed uses on the Islands may not be generally consistent with the Public Trust. These uses are identified in Comment Letter 24 as the use of photovoltaic panels in open space areas; certain open space and recreation uses such as permanent athletic and sports fields, dog parks and urban farms; local retail uses such as a grocery store uses; entertainment/recreation uses such as a movie theater or indoor sports/recreational facilities; and museums or cultural institutions without any connection to the water.

As discussed in EIR Chapter III, Plans and Policies, on pp. III.12-III.15, the Public Trust (referred to in the EIR as the “Tidelands Trust”) is a legal doctrine that limits the use of certain existing or former tidal and submerged lands in California. Whether a particular use is consistent with the Public Trust is generally determined on a case-by-case basis in court decisions and legal opinions by the State Lands Commission and Attorney General. The use of those portions of the Islands that are subject to the Public Trust is also subject to the statutory trust created by the Conversion Act, which sets forth the terms and conditions pursuant to which the TIDA is responsible for administering Public Trust property on the former Naval Station Treasure Island owned by the Navy.
Under the Treasure Island Conversion Act of 1997, TIDA, as the grantee of the State’s trust lands, has a statutory duty to ensure that uses on Public Trust property are consistent with the Public Trust. To ensure consistency with the Public Trust, the proposed Design for Development establishes a Trust Overlay zone which governs all property on the Islands that will be subject to the Public Trust. TIDA must review all uses proposed within the Trust Overlay zone for consistency with the Public Trust. Under Section 8 of the Conversion Act, TIDA has the authority to ground lease its property to others either on a long-term basis (not to exceed 66 years) solely for uses that are consistent with or ancillary to the Public Trust, or on a short-term basis (not to exceed 5 years) for uses that would not interfere with the Public Trust. This trust consistency review for third-party users would occur prior to the approval of ground leases or other agreements with those parties. TIDA would also review all of its uses of trust property for consistency with the Public Trust prior to TIDA’s implementation of such uses. In both cases, such determination will occur when the specifics regarding the proposed use and surrounding circumstances are known. In making a consistency determination, TIDA will consider a number of factors specific to the proposed use, including whether the use is water-related or ancillary to the Public Trust, the overall mix of uses within a particular building, the project design, the amount of public access provided, whether the use is proposed within a National Register historic resource, and whether the use is allowed as an interim non-Trust use or otherwise permitted under the Conversion Act.

While certain uses, such as residential, are almost never consistent with the Public Trust, other uses such as commercial, open space, recreational or energy uses may be found to be consistent depending on the extent to which such uses further Public Trust purposes. For example, renewable energy facilities that support Public Trust uses and allow those uses to be sustainable and energy self-sufficient would have a direct benefit to the Public Trust and might be found to be consistent with the Public Trust. A cultural institution that draws regional and statewide visitors, takes advantage of its waterfront location, and promotes Public Trust values could also be found consistent. A commercial use that draws regional visitors and allows public access and viewing of a rehabilitated historic building within Public Trust lands might also be considered consistent with the Public Trust, depending on the overall circumstances.

Because each use on Public Trust property must be evaluated in light of all of the surrounding circumstances, it is premature to conclude whether a particular energy, commercial, open space and recreation, or cultural/institutional use on Treasure Island or Yerba Buena Island would be consistent with the Public Trust. However, it is important to note that the proposed Design for Development would allow uses within the Trust Overlay zone only upon a finding of trust

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1 Assembly Bill 699, Treasure Island Conversion Act of 1997, October 12, 1997. A copy of this document is available for public review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, in Case File 2007.0903E.
consistency by TIDA. All proposed uses on Public Trust property would be evaluated by TIDA at the time that more details are known about any particular proposal. Certain uses specified in the comment, including permanent athletic fields or sports fields, are being located on the land outside of the Trust.

TIDA has a statutory duty under the Conversion Act to ensure that it acts in compliance with the Public Trust. As such, it may not approve any use that it finds to be inconsistent with the trust or otherwise not allowed under the Conversion Act. The State Lands Commission exercises oversight over all granted lands. Generally, this means the Commission carries out this responsibility by working cooperatively with grantees to assure that requirements of the legislative grants and the Public Trust Doctrine are carried out and to achieve trust uses. The Commission monitors and audits the activities of the grantees to insure that they are complying with the terms of their statutory grants and with the public trust. Most grantees, including TIDA, are not required to secure approval from the Commission before undertaking development projects on their trust lands nor before expending revenues generated from activities on these lands. However, where an abuse of the Public Trust Doctrine or violation of a legislative grant occurs, the Commission can advise the grantee (in this case, TIDA) of the abuse or violation and, if necessary, report to the Legislature, which may revoke or modify the grant. Alternatively, the Commission can file a lawsuit against the grantee to halt the project or expenditure\(^2\). Therefore, as a matter of practice, TIDA and the State Lands Commission will continue to cooperate throughout planning, design, and buildout of the Proposed Project.

One comment states the EIR should note that increased access created by the Proposed Project would promote affection for, and preservation of, the Bay. The Proposed Project would increase access to the Bay in a number of ways that would benefit the public. Consistent with the Trust Exchange Agreement, the project includes use of Public Trust lands to provide increased shoreline access, water-oriented recreational uses, and visitor parking to support trust uses. The Proposed Project would address access policies of the Bay Conservation and Development Commission’s ("BCDC") *San Francisco Bay Plan* as discussed on EIR pp. III.9-III.12, including recreation access and public access features such as visitor parking. As discussed on EIR p. III.16, the Proposed Project also would extend the Bay Trail around the perimeter of Treasure Island and would provide new pedestrian and bicycle paths on Yerba Buena Island, thereby supporting goals of the *San Francisco Bay Trail Plan* to complete 500 acres of continuous shoreline access around the Bay (refer also to the response in Section 2.2.2, Bay Trail, below).

This comment does not address the accuracy or adequacy of the EIR; therefore, no further response is required.

**Comments**

In view of the enormous voluntary, human and financial, investment, we have made on behalf of our kids and the young adults in the Bay Area, and because of the regional nature of our fields, we request that our usage of the existing athletic fields be interpreted as being compliant with the requirements of the Tidelands Trust. *(Patrick Huniacke, GAA Athletic Association)* [TR.14.3]

…I thought it was particularly instructive of the Tidelands Trust information in there. Because it’s an issue regarding previously submerged lands that we don’t have occasion to deal with as often. And I thought it was very important that it talked about the discretion that the Tidelands Trust has overuses, particularly recreational ones, which are very important. And that there was an emphasis on recreational uses that had a regional aspect to them. *(Michael Antonini, San Francisco Planning Commission)* [TR.19.1]

And then the comment that we heard today, which are new to me, about the athletic fields and the Tidelands Trust interpretation. I do want that to be looked at by staff, and hopefully when we revisit this in September we can look at that further. *(Jean-Paul Samaha, TIDA Board Member)* [TR.27.2]

**Response**

As discussed in EIR Section IV.J, Recreation, pp. IV.J.26-IV.J.27, the Proposed Project would provide approximately 300 acres of parks, recreational facilities, and open space, including 40 acres of athletic and sports fields, near a waterfront setting that would serve residents of the Proposed Project and mainland San Francisco, as well as residents of the greater Bay Area. Not all of the proposed recreational facilities would be located on land subject to the Trust. Certain uses, including the athletic fields and the neighborhood-serving parks, would be located on land outside the Trust. Each use on Public Trust lands would be evaluated by TIDA based on a number of factors for consistency with the Public Trust. Refer also to information provided in the response above to the preceding comments concerning land uses consistent with the Public Trust on Treasure Island and Yerba Buena Island.

**2.2.2 BAY TRAIL**

**Comments**

We appreciate reference to the Bay Trail Plan. Please note that the Bay Trail is a planned 500-mile path encircling the Bay, and to date 300 miles have been completed. This section states that the Proposed Project includes extensions to the Bay Trail “and was evaluated against Bay Trail Plan policies for...expanding proposed trail links, and no conflicts were identified.” The Bay Trail Plan, polices, and our project comments have continually stated that a Class I multi-use pathway is needed to connect the East Span of the Bay Bridge to Treasure Island. A contra-flow bike lane on a steep narrow winding road (Macalla) is in conflict with Bay Trail Plans and polic[i]es.
2. Analyzed alternatives conflict with Bay Trail Plan and policies: The DEIR’s Plans and Policies section references the Bay Trail Plan, stating that the proposed project includes extensions to the Bay Trail “and was evaluated against Bay Trail Plan policies for...expanding proposed trail links, and no conflicts were identified.” The Bay Trail Plan, policies, and staff commentary over the past 8 years have continually stated that a Class I multi-use pathway is needed to connect the East Span of the Bay Bridge to Treasure Island. A contra-flow bike lane on a steep narrow winding road (Macalla) is in conflict with Bay Trail Plans and policies.

Bay Trail Plan Policy #12: Provide access wherever feasible to the greatest range of trail users on each segment: It is the goal of the Bay Trail Plan that the full range of trail users be able to enjoy the trail, regardless of physical limitations due to age or disability.

Bay Trail Plan Policy #13: Wherever possible, new trails should be physically separated from streets and roadways to ensure the safety of trail users: The possibility of conflict between automobiles and trail users is a serious safety concern. (Tom Radulovich, Livable City) [36.5]
Response

The following revisions are made to the second sentence in the paragraph under the heading “Bay Trail Plan” on p. III.12, in EIR Chapter III, Plans and Policies (deletions are shown in strike through and new text is underlined):

The Bay Trail is a planned multi-purpose recreational trail that, when complete, would encircle San Francisco Bay and San Pablo Bay with a continuous 500-mile network of bicycling and hiking trails; to date, 300 miles of the alignment have been completed.11

The new footnote for this text change is shown below, and subsequent footnotes in the section are renumbered accordingly:


As stated on EIR p. III.12, the Proposed Project was reviewed against the policies of the San Francisco Bay Trail Plan (Bay Trail Plan), and no conflicts were identified. Specifically, the Proposed Project was reviewed in the context of the general directive policies of the Bay Trail Plan, which fall into five categories: 1) trail alignment; 2) trail design; 3) environmental protection; 4) transportation access; and 5) implementation. In response to issues raised concerning bicycle access to the East Span of the Bay Bridge, the Proposed Project was reviewed against transportation access policies, particularly policies #30 and #31, which “reflect the need for bicycle and pedestrian access on Bay Area toll bridges, in order to create a continuous trail and to permit cross-bay connections as alternative trail routes.” As discussed in EIR Section IV.E, Transportation, on pp. IV.E.108-IV.E.110, the EIR analyses concluded that proposed bicycle lanes on Macalla Road, including design treatments at intersections and the roadway’s grade, met standard design guidelines and provided adequate bicycle facilities, such that the Proposed Project’s impacts on bicycle circulation would be less than significant. However, in light of this and several other comments regarding bicycle and pedestrian circulation on Yerba Buena Island, and in particular, connections between the Bay Bridge and Treasure Island, the project sponsors reviewed the available right-of-way and revised the planned improvements to Macalla Road. As discussed in the response in Subsection 2.7.7.1, Transportation, Bicycle Access – Macalla Road, in Section 2.7, Transportation, of this Comments and Responses document, the revised proposal includes (from south to north) a 16-foot two-way Class I bicycle path, an 11-foot travel lane, a 2- to 3-foot buffer, and a 6- to 7-foot Class II bicycle lane in the downhill direction. Cyclists traveling downhill could use either the Class I facility or the Class II facility. Cyclists traveling in the uphill direction could use the Class I facility, which would continue to follow the existing (relatively steep) contours of Macalla Road, but would provide a greater separation from vehicular traffic than the Class II facility previously proposed.
The project sponsors have also identified an opportunity to provide a 10-foot, two-way Class I path on Treasure Island Road between about 500 feet south of Macalla Road to Treasure Island, connecting to the Class I path proposed to encircle Treasure Island. The revised configuration for Macalla Road and for the northern portion of Treasure Island Road would allow a two-way Class I path between Treasure Island and the Bay Bridge, connecting to the Class I path on the new eastern span and potentially to the connection to a new path on the west span. With these proposed design revisions, the Proposed Project would include a Class I multi-use pathway\(^3\) to connect to the East Span of the Bay Bridge. As such, comments raised concerning the need for a Class I multi-use pathway, and consistency of the Proposed Project with the *Bay Trail Plan* would be addressed.

The Proposed Project no longer includes a contra-flow bike lane on Macalla Road. Refer also to the response in Subsection 2.7.7.1, Transportation, Bicycle Access – Macalla Road. *Bay Trail Plan* Policy #12 and Policy #13 pertain to *Bay Trail Plan* trail design policies which “underscore the importance of creating a trail which is accessible to the widest possible range of trail uses, and which is designed to respect the natural or built environments through which it passes.”

As required by Federal, State, and City regulations, the Proposed Project’s transportation infrastructure improvements would be constructed to meet the requirements of the California Building Code in Title 24 of the California Code of Regulations (California Physical Access Laws), as applicable, which is designed to comply with the requirements of the Americans with Disabilities Act (“ADA”) and State statutes for physical accessibility. The sidewalk and bicycle lane improvements included in the Proposed Project on the east and west sides of Yerba Buena Island would comply with Title 24 standards, and the project design would be coordinated with Title 24-compliant east span pedestrian/bicycle path currently under construction by Caltrans. The proposed West Span bicycle and pedestrian mixed-use path would not be under the control of project sponsors, and if constructed, would be required to connect to the roadway and sidewalk network at both the Yerba Buena Island and San Francisco touchdown locations. Therefore, consistent with *Bay Trail Plan* Policy #12, the Proposed Project would provide access to greatest range of users, regardless of physical limitations or disabilities. Refer also to the response in Subsection 2.7.2.1, Americans with Disabilities Act, in Section 2.7, Transportation, of this Comments and Responses document.

As described above, the revised design configuration of Macalla Road includes a 16-foot two-way Class I bicycle path, an 11-foot travel lane, a 2- to 3-foot buffer, and a 6- to 7-foot Class II bicycle lane in the downhill direction. Cyclists traveling downhill could use either the Class I facility or the Class II facility, and cyclists traveling uphill could use the Class I facility, which

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\(^3\) Under the *Bay Trail* design guidelines, multi-use paths would meet Caltrans Class 1 bikeway standards. *San Francisco Bay Trail Plan*, Bay Trail Design Guidelines.
would widen the previously proposed 6-foot travel lane, and provide a greater separation from vehicular traffic than the Class II facility previously proposed. These travel options for cyclists and the 2- to 3-foot buffer would substantially reduce safety hazards of trail users, and potential conflicts with automobiles. As such, the Proposed Project would not conflict with *Bay Trail Plan* Policy #13.

### 2.2.3 SAN FRANCISCO GENERAL PLAN

**Comments**

It should also be noted that beginning January 1, 2011, when a circulation element may be subject to a substantive revision, there must be a plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads and highways for safe and convenient travel that is suitable to rural, suburban and/or urban contexts of San Francisco’s General Plan. [See Government Code Section 65302, et seq]. The compliance with that requirement may create significant new impacts and otherwise identify additional alternatives that require analysis. However, the DEIR and the DTP fail to analyze and otherwise project the consequences of complying with this requirement. *(Nick S. Rossi, Esq., representing Kenneth and Roseanna Masters)* [19.26]

**Response**

The comment opines that the Proposed Project would not comply with requirements for a balanced, multimodal transportation network under Government Code Section 65302.

The comment is referring to Assembly Bill 1358, the California Complete Streets Act, which was signed into law in September 2008 with the goal of fulfilling the State’s commitment to reduce greenhouse gas emissions, make efficient use of urban land and transportation infrastructure, decrease vehicle miles traveled, and shift from short trips in private automobiles to biking, walking, and public transit. The Act affects local general plans by adding language to Government Code Section 65032(b)(2)(A) and (b)(2)(B) and requires that effective January 1, 2011, upon any substantial revision of the circulation element, the legislative body is required to modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of the streets, roads, and highways for safe and convenient travel in a manner that is suitable to the development context of the general plan. Users of “streets, roads, and highways” refers to bicyclists, children, persons with disabilities, motorists, goods movements, public transit riders, and seniors.

The Proposed Project would not result in a substantial revision to the Transportation Element of the *San Francisco General Plan (General Plan)*. As stated in EIR Chapter III, Plans and Policies, on p. III.3, implementation of the Proposed Project would require an amendment to the *General Plan* that would add a new Area Plan for the proposed Project Area. The Proposed Project would not require nor trigger substantial revision to the Transportation Element of the *General Plan*. As such, neither the EIR nor the Draft
Transportation Plan is required to address any revisions to the Transportation Element related to Assembly Bill 1358 and the California Complete Streets Act. Note, however, that the San Francisco Board of Supervisors adopted Ordinance No. 309-10, effective January 6, 2011. That ordinance, related to the City's Better Streets Plan, did amend the Transportation Element of the City's General Plan and made the following finding: "The Board of Supervisors also finds that the General Plan Amendments in this legislation and the San Francisco Bicycle Transportation Plan and General Plan Amendments related thereto are intended, in part, to satisfy the requirements of Government Code Section 65302(b)(2)(A), a provision of the California Complete Streets Act of 2008."

Even if the Proposed Project were to require amendments to the Transportation Element sufficient to trigger the requirements of Assembly Bill 1358, the project includes elements that would be consistent with the Act. Land Use objectives of the Proposed Project include implementation of a high-density, compact land use program located within walking distance of an intermodal Transit Hub to maximize walking, bicycling, and use of public transportation and to minimize the use and impacts of private automobiles. Transportation objectives of the Proposed Project focus on discouraging automobile use, supporting public transit use, and providing a range of public transit choices (refer to EIR Chapter II, Project Description, pp. II.4-II.5). EIR pp. II.35-II.52 discuss the Transportation Plan for the Proposed Project, which includes an intermodal Transit Hub with ferry service and bus service; on-Island shuttle service; a proposed street system that addresses the needs of pedestrians, including seniors and the disabled; provisions for accessible and safe walking and bicycling, and Bay Bridge access for automobiles. These elements of the Transportation Plan would all be consistent with the objectives of Assembly Bill 1358, the California Complete Streets Act.

Comments

- On DEIR page IV.D.50 reference is made to SF Planning Code Section 101.1: Master Plan Priority Policies as being applicable to this project. The DEIR then states that the City must find that the Proposed Project is consistent "on balance" with the eight Priority Policies. This is an incorrect statement. The Priority Policies are not to be "balanced," rather they are for the purpose of resolving inconsistencies of a project with the other General Plan policies. They were adopted by initiative of the voters to be "the basis upon which inconsistencies in the City's General Plan are resolved." Please add this clarification to the DEIR. We agree that Priority Policy No. 7 would apply to the Proposed Project and would take precedent over any conflicting policy of the General Plan. (Vedica Puri, President, Telegraph Hill Dwellers) [39.48]

Response

The comment states that Priority Policies are the basis for resolving inconsistencies of the Project with other General Plan policies, and that the EIR is incorrect in stating that the Proposed Project is consistent on balance with the Priority Policies.
The comment is referring to the third full paragraph in EIR Section IV.D, Cultural and Paleontological Resource, p. IV.D.50, which states that the “proposed project is consistent, on balance, with eight Master Plan Priority Policies,” and does not refer to General Plan policies as a whole.

The comment is accurate in stating that the Priority Policies are the basis upon which inconsistencies in the City’s General Plan are resolved, as cited in Section 101.1(a) of the Planning Code. For the purposes of general plan consistency, it is often the case that there is some balancing by decision-makers with respect to many of general plan policies, some of which may, in fact, be in conflict with each other. The Priority Policies are used by San Francisco decision-makers to take an overarching view of General Plan goals and objectives, rather than focusing exclusively on one particular policy to find a project inconsistent with the General Plan. As such, a project, on balance, may be consistent with the eight Priority Policies, although it may be inconsistent with a specific goal or objective of the General Plan. For these reasons, the text presented on EIR p. IV.D.50 is appropriate, and no further clarifications to the EIR concerning the General Plan Priority Policies are necessary.

Decision-makers would determine the consistency of the Proposed Project with Priority Policy 7, which pertains to preservation of landmarks and historic buildings, and how it should be evaluated with respect to any conflicting policies of the General Plan.

Comment

The Project Description and numerous other areas of the document present overall goals and policies regarding bicycle and pedestrian facilities that are in direct conflict with what is actually proposed for the Islands. (Maureen Gaffney, Bay Trail Planner, San Francisco Bay Trail) [25.2]

The Project Description and numerous other areas of the document present overall goals and policies regarding bicycle and pedestrian facilities that are in direct conflict with what is actually proposed for the Islands. (Tom Radulovich, Livable City) [36.2]

Response

The comments do not identify the goals and policies regarding bicycle and pedestrian facilities that are in direct conflict with the Proposed Project. Transportation-related objectives of the Proposed Project are discussed in EIR Chapter II, Project Description, on pp. II.4-II.5, and relevant transportation policies and goals of the General Plan, San Francisco Bicycle Plan, and Transit First Policy are presented in EIR Section IV.E, Transportation, on pp. IV.E.25-IV.E.28. Refer also to the response in Section 2.2.2, Bay Trail. The transportation impact analysis determined that potential impacts on bicycles and pedestrians would be less than significant (please refer to Impacts TR-33, TR-34, TR-35, and TR-36, on EIR pp. IVE.108-IV.E.112). Therefore, potential conflicts with transportation goals and policies would be avoided or minimized as part of the Proposed Project.
The Proposed Project includes substantial new bicycle and pedestrian facilities intended to encourage their use and discourage the use of automobiles. These are described in Chapter II, Project Description, on EIR pp. II.45-II.49, and Section IV.E, Transportation, on pp. IV.E.36-IV.E.45. After publication of the Draft EIR, the project sponsors made revisions in the Proposed Project to provide additional bicycle and pedestrian facilities along Macalla Road and Treasure Island Road. These revisions include a 10-foot two-way Class I bicycle path on Treasure Island Road, an 11-foot travel lane, a 2- to 3-foot buffer, and a 6- to 7-foot Class II bicycle lane in the downhill direction. Refer also to the response in Subsection 2.2.2. Bay Trail, above.

Comments regarding the adequacy of proposed transportation facilities can be directed to decision-makers and are noted.

2.2.4 BCDC REGULATIONS

Comment

The following regulations (and others) applicable to the Project were adopted for the specific purpose of avoiding environmental effects on biological resources. In addition to the materials contained in Chapter IV of the DEIR, please answer the following as to the regulations listed below: (1) On what factual basis does the DEIR conclude that the project does not conflict with each of these regulations? (2) What are the results of the required consultations with the applicable regulatory agency(ies), including the dates of these consultations?...

- Regulations of the SF Bay Conservation and Development Commission (BCDC) (Vedica Puri, President, Telegraph Hill Dwellers) [39.17]

Response

The comment requests information to support conclusions in the EIR that the Proposed Project does not conflict with regulations of the BCDC, and also asks about the results of required consultations with BCDC.

The comment does not provide specific guidance on BCDC regulations that should be addressed for the Proposed Project. A discussion of the Proposed Project’s consistency with BCDC’s San Francisco Bay Plan policies is presented in EIR Chapter III, Plans and Policies, on pp. III.9-III.12. That discussion provides information on project design, construction, and features and concluded that no inconsistencies were found with the BCDC policies discussed in the EIR. The policies addressed in the EIR are based on the specific policies identified by BCDC in response to the Notice of Preparation of the EIR as being applicable to the Proposed Project. A copy of this letter is available in EIR Appendix B, Public Scoping Report.

The project sponsors, TIDA and TICD, have met with BCDC staff since the inception of the project, and have continued to coordinate with BCDC throughout the EIR process. As part of this ongoing process, BCDC submitted a letter commenting on the Draft EIR which will be included
in the certified Final EIR (refer to Appendix A of this Comments and Responses document, Letter 1). One such example of coordination is provided in Section 2.17, Hydrology and Water Quality of this Comments and Responses document, under Subsection 2.17.1, Sea Level Rise. The first comment presented in that subsection, Comment 1.1, is from the Executive Director of the BCDC Commission and states that BCDC staff have worked closely with TIDA and TICD for the past three years on potential sea level rise issues and adaptation strategies to address this challenge.

In addition to formal consultations through the CEQA process, the project sponsors have met several times with BCDC staff to solicit feedback on the Proposed Project, and have made public presentations to BCDC’s Design Review Board on November 9, 2009, and February 8, 2010. A third presentation will be made in 2011, likely after certification of the Final EIR.

As stated on EIR p. III.12, BCDC will make the final determination of consistency with Bay Plan policies for the portions of the Proposed Project that are within BCDC jurisdiction. As noted above, the EIR does address, but does not reach a conclusion, regarding whether the Proposed Project is consistent with BCDC regulations or policies on EIR pp. III.9 - III.12. The EIR did not identify any inconsistencies, however. This is within the purview of the BCDC and would be determined as part of the BCDC permit process, which would occur following certification of the Final EIR.