2.22 EIR PROCESS

2.22.1 PUBLIC REVIEW

Comments

As a final note, we echo the concerns raised by many others that the time to review the EIR is too short, particularly given the season. The Planning Department appears to have adopted the tactic favored by developers who wish to avoid close scrutiny of their projects by limiting the review of their DEIRs and setting hearings for inconvenient times and dates. We note that this EIR may come up for final certification during the holiday season as the Board of Supervisors is in flux. If this is indeed a tactic to circumvent potential opposition to the project, it is a very unfortunate development for the City and an attack on the transparent public process that is necessary for adequate CEQA compliance. At a minimum, we ask that the time to provide comments to the DEIR be extended by 30 days. (Michael Lynes, Conservation Director, Golden Gate Audubon Society) [3.8]

- Given the significant transportation impacts that the Proposed Project will have on the regional transportation system, have comments from the US Department of Transportation and CalTrans been requested and received? (Vedica Puri, President, Telegraph Hill Dwellers) [39.65]

- What comments have been received from the Audubon California? (Vedica Puri, President, Telegraph Hill Dwellers) [39.72]

We have some serious concerns about the transportation plan, about the habitat preservation, air quality issues, and impact on climate change, as well as many other issues. Our request today, and I’ll be very brief, is that you please consider and we respectfully request a two-week extension on the public comment period for the Draft EIR. (Kate Kelley, Sierra Club) [TR13.1b]

…and we need the additional time in order to focus our attention on this project now. (Sal Bloom, Arc Ecology) [TR.16.2]

We have invested tens of thousands of dollars in review and assistance on this project, and we would love to see it succeed. We want to see jobs. We want to see the new vision for Treasure Island be implemented, but we want to see it properly sized for the carrying capacity of the island, so we can make this project as successful as possible.

And so we are asking for an additional two weeks so we can do the review of the EIR necessary to make that happen. And as you know, we do these things during Christmas and Thanksgiving and the summer vacation. I just cut mine short to be here today. I would very much appreciate more time to be able to go ahead and review this. All we’re asking for is two weeks. (Sal Bloom, Arc Ecology) [TR.16.4]

Response

As explained in the Notice of Availability of the Draft EIR, the original comment period ran for 45 days, from July 12 to August 26, 2010. Based on the requests made at the August 12 public
hearing on the Draft EIR as well as other requests, the Planning Commission and Treasure Island Development Authority Board extended the public review period by an additional two weeks, from August 26 to September 10, 2010.

Comments on the Draft EIR were received from the California Department of Transportation (Caltrans) District 4 and from the Golden Gate Audubon Society. A list of commentors is provided in Section 1.4, in Chapter 1, Introduction, of this Comments and Responses document. Copies of all written comments are provided in Appendix A to this Comments and Responses document, and a copy of the public hearing transcript is in Appendix B.

2.22.2 PROCEDURAL ISSUES

Comments

I am submitting my comments by e-mail pursuant to California Public Resources Code section 21090(d)(3). In the future, you should let people know that they have the option of submitting comments on CEQA documents via e-mail. (Christopher Pederson) [5.1]

This firm represents Kenneth and Roseanna Masters (“Clients”) with regard to analyzing the DEIR for the proposed development of Treasure Island and Yerba Buena Island. Our Clients reside at 301-D Macalla Court (Treasure Island) SF, 94130. I respectfully request that should you choose to respond to this letter that such be addressed to my law office. (Nick S. Rossi, Esq., representing Kenneth and Roseanna Masters) [19.1]

Additionally, neither the developer nor the City/County of San Francisco can ensure that the Regional Water Quality Control Board will permit a new facility. (See II. Project Description, pages II.56 to II.60). (Nick S. Rossi, Esq., representing Kenneth and Roseanna Masters) [19.31]

Another incurable defect is that, given the almost total lack of information as to the individual specific projects that would form a part of this massive Redevelopment Plan, a program or first tier EIR would be the appropriate approach under the California Environmental Quality Act (CEQA), followed by later project-level EIRs once site specific issues are identified for individual projects and phases of the Project. (Vedica Puri, President, Telegraph Hill Dwellers) [39.2]

Why was an Initial Study not prepared as a part of the scoping process for this DEIR? (Vedica Puri, President, Telegraph Hill Dwellers) [39.6]

As disclosed in the DEIR there are many unknowns, including, to name only a few, the specific locations and designs for the “prominent cluster of 19 high-rise towers at the center of the San Francisco Bay,” the specific plans for the “retrofit” of and additions to historic buildings, the transit-related facilities, and the phasing of development over the next 20 years in relation to the implementation of transportation mitigation measures.

- Given these many unknowns, please explain how this DEIR complies with the requirement of CEQA that an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.
• Because so many aspects of the Redevelopment Plan have yet to be defined and are unknown at this time, will there be individual environmental review of site specific impacts once the details of individual projects and phases of the redevelopment have been identified?
• Will the implementation of each individual project and phase of development be subject to a project-specific EIR as plans become clear and impacts are identified?
• Please explain the CEQA guidelines as to when a program or first tiered EIR are appropriate.
• Please explain on what basis the decision was made not to prepare a program or first tiered EIR for the Redevelopment Plan? (Vedica Puri, President, Telegraph Hill Dwellers) [39.8]

Response

An Initial Study is not a required document when an EIR is being prepared. An Initial Study can be a useful tool to focus environmental review, as it provides an opportunity to determine whether any topics would result in no significant environmental impacts such that they do not require detailed analysis in an EIR. When an agency determines early in the environmental review process that an EIR will be required, however, an Initial Study is not required. All topics in the Planning Department’s CEQA Checklist were fully addressed in the Treasure Island/Yerba Buena Island EIR and no Initial Study was necessary (State CEQA Guidelines Section 15063(a)).

Under CEQA, a Redevelopment Plan may be a project-level EIR (CEQA Section 21090; CEQA Guidelines Section 15180). The project proposed to be implemented under the Treasure Island / Yerba Buena Island Area Plan and Treasure Island / Yerba Buena Island Special Use District (“SUD”), as set forth in Chapter II, Project Description, is sufficiently well defined to prepare a project-level EIR. The EIR addresses the impacts of the Proposed Project at a project level, including planning, construction, and operation, not at a “program” level. In this respect, this EIR is unlike the Transfer EIR prepared and certified in 2005. Although specific designs for each potential building have not been prepared, there is sufficient information about building massing and form, about the locations of areas to be developed, and about proposed densities to provide a full and complete analysis of impacts. The proposed Design for Development presents detailed design controls and approval procedures that were taken into account in the analysis of impacts. The transportation features of the Proposed Project are summarized in EIR Chapter II, Project Description, on pp. II.35-II.52, and described in more detail in EIR Section IV.E, Transportation, on pp. IV.E.30-IV.E.47. Rehabilitation of historic structures is proposed to be carried out in compliance with the Secretary of the Interior’s Standards for Rehabilitation, as explained in EIR Section IV.D, Cultural and Paleontological Resources (see pp. IV.D.49-IV.D.50 and pp. IV.D.52-IV.D.53). This is supported by the requirements in the proposed Design for Development. This information is sufficient to provide an analysis of potential significant impacts at a project level for the Area Plan/SUD. For these reasons, a program-level EIR that analyzes a series of related actions at a more general level, followed by subsequent project-specific analyses of later activities, is not necessary.
No further environmental review is expected or required for the Proposed Project after certification of this EIR unless the circumstances triggering supplemental or subsequent review as explained in CEQA Guidelines Sections 15162-15164 occur. For example, subsequent or supplemental review under Sections 15162 and 15163 may be necessary where substantial changes are proposed that require new discretionary decisions by a public agency and those changes would result in new or substantially more severe significant environmental impacts. If/when future discretionary approvals are considered by the City or another agency, the agency will determine whether supplemental environmental review should be performed in order to address significant new information concerning the Proposed Project or the surrounding circumstances.

The Notice of Availability mailed to public agencies and interested groups and individuals (see the response in Section 2.22.5, Availability of Documents, below, for further discussion) provides an e-mail address for the MEA EIR Coordinator for the Proposed Project, but does not expressly state that public comments will be accepted via e-mail. Nevertheless, many of the comment letters were provided and accepted electronically during the public comment period.

Responses to all comments made on the Draft EIR that raise physical environmental issues are provided in this Comments and Responses Document. No separate responses are prepared for each individual comment letter, nor are responses to individual letters transmitted separately to each commentor. The entire Comments and Responses document has been transmitted to each commenter for whom an address was available.

**Comments**

What mitigation measures were identified in the Navy’s Record of Decision (ROC)? How have each of these mitigation measures been incorporated in the Redevelopment Plan that is the subject of this DEIR and how will each mitigation measure be implemented and enforced? *(Vedica Puri, President, Telegraph Hill Dwellers)* [39.4]

Because NEPA requires federal environmental review of the currently Proposed Project prior to transfer by the Navy, why is this DEIR not an EIS/EIR? Please explain why in detail. *(Vedica Puri, President, Telegraph Hill Dwellers)* [39.9]

- When will NEPA be complied with? What is the relationship of this DEIR to the federal review of this proposed Redevelopment Plan under NEPA?
- Will a new Section 106 review and consultation under the NHPA be required prior to transfer by the Navy as a part of the updated federal environmental review? Will a new MOA be required? Why or why not? *(Vedica Puri, President, Telegraph Hill Dwellers)* [39.11]

**Response**

The current document is a project-level EIR prepared pursuant to the California Environmental Quality Act (“CEQA”) as required under California statutes in the Public Resources Code,
Section 21000 et seq. It has been prepared to inform City, regional and State agencies that may need to consider and act on approvals for the Proposed Project. It has not been prepared for use by Federal agencies, although the information contained in the EIR may be useful for Federal agencies such as the U.S. Army Corps of Engineers that may need to consider aspects of the Proposed Project at some time in the future. The analysis in this document examines the 2005 EIR, which analyzed the conveyance of Naval Station Treasure Island to the City at a programmatic level, for relevant material, including possible application of mitigation measures adopted in that document (please refer to the response in Subsection 2.1.17, Project Description – 2005 EIR and 2006 Term Sheet, in Section 2.1, Project Description, of this Comments and Responses document, for further information on this issue).

As described in EIR Chapter I, Introduction, on pp. I.4-I-5, the Navy previously prepared a Final Environmental Impact Statement (“EIS”) for the Disposal and Reuse of Naval Station Treasure Island in accordance with the National Environmental Policy Act (“NEPA”) and complied with Section 106 to meet Federal base closure and disposal requirements. The basis for the preferred alternative in the Navy’s NEPA EIS was the 1996 Draft Reuse Plan. After completing a draft EIS in 2002 and a final EIS in 2003, the Navy issued a Record of Decision in 2005, indicating that the proposed disposal of the Islands could be accomplished without significant harm to the environment through implementation of certain mitigation measures to allow reuse of the property in a manner consistent with the City’s reuse plan. The mitigation measures are summarized in the Navy’s Record of Decision on pp. 9 – 12.1 The measures relate to transportation (upgrading the on-ramps from Yerba Buena Island to the Bay Bridge [the Record of Decision (“ROD”) acknowledges that the ramp on the west side of the island may be constrained by geologic conditions], installing signage encouraging residents and visitors to use the on-ramp on the east side of the island, implementing a transportation demand management program, monitoring bus and ferry transit demand to ensure that planned services are implemented to meet demand, restriping Treasure Island Road to accommodate additional traffic, installing ramp metering devices at the on-ramps on Yerba Buena Island, establishing direct transit service to the East Bay), air quality (incorporating transit-oriented design by integrating residential and commercial land uses near transportation routes and encouraging bicycle and pedestrian travel, providing shuttle service to major destinations, and similar measures to reduce vehicular emissions), biology (minimizing disturbance to sensitive habitats including eelgrass beds and to migratory birds during construction and from recreational use through signage and compliance with applicable laws and regulations), geology (creating a zone of “improved

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1 Department of Defense, Department of the Navy, Record of Decision for the Disposal and Reuse of Naval Station Treasure Island, California, signed on 10/26/05. A copy of this document is available for public review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, in Case File No. 2007.0903E, and at the TIDA website at www.sftreasureisland.org/index.aspx?page=28 under “Redevelopment” in the subtopic “United States Navy Base Closure Information.” Accessed February 12, 2011.
ground” around the perimeter of Treasure Island and improving interior areas to reduce differential settlement, providing specially designed foundations for buildings intended for public occupancy, and carrying out required geotechnical studies for individual development sites as required by City codes), and hydrology/flooding (filling low-lying portions prior to development and establishing a setback from the perimeter dike to reduced exposure to flooding hazards due to dike overtopping during storms, or raising the dike as necessary to account for rises in sea level).

Most of the mitigation measures summarized in the ROD have been included in the Proposed Project insofar as they are feasible and continue to be relevant to the substantially different development program now under consideration. The geology measures summarized in the ROD and included in the Navy’s Final EIS have been superseded by the geotechnical stabilization program included in the Proposed Project and described and analyzed in Section IV.N, Geology and Soils, in the current EIR (see especially EIR pp. IV.N.21 – IV.N.28). The approach to flooding hazards and sea level rise has been considerably refined since the 2003 Final EIS, as described on EIR pp. IV.O.32 – IV.O.35.

The Navy has conducted an assessment of whether new information or changed circumstances require the Navy to prepare a supplemental NEPA document and has determined that although there are variances between the Area Plan/SUD that is the subject of this EIR under CEQA and the 1996 Draft Reuse Plan that was the basis for the preferred alternative in the Navy’s final EIS for the Federal disposal action, the types and levels of environmental impacts associated with the current Area Plan/SUD are substantially similar to or less than those disclosed in the Navy’s FEIS. Accordingly, the Navy has determined that the final EIS for the disposal and reuse of the Islands is still valid and preparation of a supplemental NEPA document is not required.

The City determined that a joint EIR/EIS was neither required nor necessary because any additional environmental analysis performed by a Federal agency for subsequent Federal actions related to implementation of the Area Plan/SUD would be prepared pursuant to NEPA, Section 106 of the National Historic Preservation Act, and other Federal statutes, rather than be designed to meet CEQA requirements. The Navy will not act on this EIR.

2.22.3 AUTHORS

Comment

19. Please provide the name, address, telephone number, email of the “independent photographer who photographed the Redevelopment Plan Project Area from a range of publicly accessible vantage points.” (Anthony F. Gantner, Attorney-at-Law) [13.9]

Response

The EIR Consultants are listed in EIR Chapter VIII, Authors and Persons Consulted.
2.22.4 PUBLIC SCOPING

Comments

Vol 3, App. B, Scoping: Why are relevant Scoping Comments by J.Blumenfeld _SF Environment, Letter dated Feb 25, 2008, not listed in their entirety? (Kathrin Moore, San Francisco Planning Commission) [20.3]

Have other federal and state agencies had input into the preparation of this DEIR? Which state and federal agencies have been consulted? When did such consultation take place? (Vedica Puri, President, Telegraph Hill Dwellers) [39.10]

- Please include the Blumenfeld Letter in its entirety as an attachment to this comment letter to be published in the Comments & Responses document to this DEIR.
- Please compare and explain why significant parts of the Blumenfeld Letter were deleted from the letter of the same date, which is published in the DEIR in Volume 3, Appendix C. (Vedica Puri, President, Telegraph Hill Dwellers) [39.85]

Response

Public scoping for the EIR occurred from January 26 through February 26, 2008, beginning with publication of a Notice of Preparation on January 26, 2008 (see EIR Appendix B, Public Scoping Report). Two public scoping meetings were held, one on February 11, 2008, at the Port of San Francisco offices and the other on February 13, 2008, on Treasure Island. Notice of the public scoping was published in the San Francisco Chronicle, the newspaper used at the time by the City for public notices in San Francisco, as well as in the Oakland Tribune and the Alameda Times-Star. Notices of public scoping were mailed to over 190 public agencies and elected officials in the Bay Area region, as well as over 200 interested groups and individuals, and the Notice of Preparation was circulated through the State Clearinghouse. Comments were received from the Bay Area Air Quality Management District, the Bay Conservation and Development Commission ("BCDC"), the U.S. Coast Guard, and Caltrans District 4, among other public agencies.

The comment letter dated February 25, 2008 received during public scoping from the San Francisco Department of the Environment, signed by Jared Blumenfeld as the Director at the time public scoping occurred, is the one provided in the Public Scoping Report that is presented as EIR Appendix B. It is presented in its entirety as received. The letter from the Department of the Environment appended to the Telegraph Hill Dwellers letter of September 10, 2010, includes different text than the official letter received by the Planning Department during public scoping. Nevertheless, the Department of Environment comment letter in the Public Scoping Report and the letter appended to the Telegraph Hill Dwellers letter are substantially similar, and the EIR provided the analysis requested in the substantive comments in both letters. Refer also to the Response in Subsection 2.21.9, Environmentally Superior Alternative, for a detailed discussion of...
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the differences and contents of the February 25, 2008 Department of Environment public scoping letter and the September 10, 2010 Telegraph Hill Dwellers comment letter on the Draft EIR.

2.22.5 AVAILABILITY OF DOCUMENTS

Comments

Vol. 1, IV.B.2, Aesthetics: The impacts of the development of TIYBI are clearly regional in scope, has the Region been asked to comment on this DEIR, like communities in the East Bay, the North Bay, the South Bay? (Kathrin Moore, San Francisco Planning Commission) [20.9]

- Given the regional scope of the visual changes that the Proposed Project would have, to what extent has input been sought from the cities and counties surrounding the Bay?
- Have copies of the Development Plan and this DEIR been distributed to the cities and counties surrounding the Bay with a request for comments and input? To which cities and counties? Have any comments been received? (Vedica Puri, President, Telegraph Hill Dwellers) [39.20]

Secrecy. I went into the Planning Commission. Actually went down there yesterday, and they sent me to another department, and I was actually able to get two volumes. I just brought one here so everybody could see, this is one. It references two more, called the Planning Guide or the Design for Development. And those other two documents, that means four, they’re not available online.

Why call for sunshine? How come they’re not available online? (Paul Currier) [TR.6.2]

I actually don’t think that the Environmental Impact Report should be approved until it’s been open to the sunshine and people in the City and County of San Francisco and the people of the State of California can look at what you guys are doing. (Paul Currier) [TR.6.5]

Response

Public notice of the availability of the Draft EIR was provided by all of the means required in Chapter 31 of the San Francisco Administrative Code: by newspaper notice, by posting on the project site, and by mail to interested groups and individuals including tenants on the Islands.

Notices of availability of the Draft EIR were provided to Federal, State, and regional agencies by direct mail as well as through the State Clearinghouse. All adjacent cities and counties received a notice of availability. Public notice of the availability of the Draft EIR was published in the San Francisco Chronicle. Notices of the availability of the Draft EIR were posted at numerous locations on Treasure Island and Yerba Buena Island and at locations around the Ferry Building on the mainland, as well as at the Planning Department.

The Draft EIR is available electronically at the Planning Department’s website (at www.sf-planning.org/index.aspx?page=1828) under Case # 2007.0903E, and was posted on the website on July 12, 2010, the day that public notice of its availability was provided in a newspaper of
general circulation. Paper copies of the Draft EIR were made available at the Planning Department’s Planning Information Counter at 1660 Mission Street, and copies were mailed to groups and individuals who had requested it in advance of the publication date, and in response to additional requests following publication. A notice of the availability of the Draft EIR was also posted on the Treasure Island Development Authority website (at http://www.sftreasureisland.org/index.aspx?page=27), with a link to the Planning Department website location. Documents referenced in the EIR are available for public review in the Planning Department’s case file.

The proposed Design for Development was made available for public review on the Treasure Island website on March 5, 2010 (at www.sftreasureisland.org/index.aspx?=26). Public presentations of the proposed Design for Development were made at the Treasure Island Board of Directors meeting on March 10, 2010, at the Citizen’s Advisory Board (“CAB”) meeting on March 16, 2010, at the Board of Supervisors’ Land Use and Economic Development Committee meeting of March 15, 2010, and at the Planning Commission meeting on April 8, 2010. It was also discussed at the CAB meeting of May 4, 2010.

A Notice of Availability of the Draft EIR was provided to adjacent cities and counties, as well as responsible agencies. No comments were received on the Draft EIR from adjacent cities or counties. Comments were received from a variety of regional public agencies, including AC Transit, East Bay Municipal Utility District, BCDC, the Golden Gate Bridge District, Bay Area Air Quality Management District, and Caltrans District 4.