

Attachment 4 – Existing City Land Use Policies Related to the Waterfront

Summary of Existing General Plan

The waterfront is discussed in two of the General Plan's five elements. In the land use element, the Land Use Plan Map includes a Park and Recreation designation along the shoreline and Commercial Recreation designation for the remainder of the Golden Gate Fields property. The Land Use Plan Map also indicates a Creek Conservation Zone for Codornices Creek running north-south next to the freeway. The land use element contains the following statements that related to the Commercial Recreation designation:

“The Golden Gate Fields Racetrack is under a lease agreement with Catellus [the owner of the property at that time] through at least December 31, 2001. This commercial recreation use is consistent with the current Waterfront zoning. A 0.5 FAR standard has been assigned to this area.

“The Plan also anticipates development of public parks and public access at the Waterfront. These opportunities are further described in the Conservation, Recreation, and Open Space Element.”

Currently, there are no specific waterfront-related goal or policy statements contained in the land use element. The land use element, however, describes the status of ownership at the time of preparation of the General Plan and contains the following statement that relate specifically to development of the racetrack property.

“The Waterfront land will continue to be operated as a racetrack at least until 2002. If the owners of the land wish to develop their property in uses other than those allowed by the Waterfront Commercial Recreation use, a series of general plan amendments must be submitted, considered, and approved by the City and the Albany voters prior to final adoption.”

The Conservation, Recreation and Open Space (CROS) element briefly describes the natural environment of the waterfront. It also describes the community amenities and public facilities. The element includes the following policies that relate directly to the Golden Gate Fields property:

CROS 5.1 – Consider the scenic and visual importance of the waterfront area in any future private and public development.

CROS 5.2 – Further preserve the scenic value of the Albany shoreline by prohibiting construction of any building or structure within a 100-foot minimum of the shoreline.

CROS 7.1 – Implement the Bay Trail Plan along the Albany shoreline. Work with the landowner, the track operator, appropriate citizen and environmental groups,

the State Department of Parks and Recreation, Caltrans, the East Bay Regional Park District, the Coastal Conservancy and ABAG to achieve this goal.

CROS 7.2 – Consider the important, surrounding wildlife and vegetation resources that must be adequately protected when developing the alignment of the Bay Trail.

CROS 7.3 – Require that public access to the shoreline and to Albany Point be a part of any future waterfront development plans, and that future automobile, pedestrian and bicycle access be consistent with and coordinated with future State and regional park and open space plans at the Waterfront.

The Conservation, Recreation and Open Space element also contains a Conservation/Open Space Plan Map. For the Golden Gate Fields property, there is “Proposed Parks and Open Space” designation along the shoreline and a Creek Conservation Zone for Codornices Creek running north-south next to the freeway. The remainder of the Golden Gate Fields property is not designated in the Conservation/Open Space Plan Map.

Summary of Existing Zoning

In contrast to the General Plan, the Zoning ordinance presents specific requirements on individual parcels. The Golden Gate Fields property is zoned Waterfront District, which permits the following uses, subject to a conditional use permit. The definitions of the uses are taken verbatim from the text of the City zoning ordinance.

Park and Recreation Facilities - Noncommercial parks, playgrounds, recreation facilities, and open spaces. This classification includes community centers, boat launching ramps and marinas.

Utilities, Major - Generating plants, electrical substations, electrical transmission lines, switching buildings, refuse collection and transfer stations, processing, recycling or disposal facilities, major flood control or drainage facilities, water or wastewater treatment plants, or transportation, and all similar facilities.

Utilities, Minor - New utility facilities that are necessary to support established uses and involve only minor structures such as electrical distribution lines and aboveground cabinets.

Utilities, Underground - Public or regulated underground utility that provides water, sewage collection, electricity, natural gas, telephone, cable television or other public service or goods to the public.

Bars - An establishment the primary function of which is to prepare and serve alcoholic beverages for onsite consumption. Such establishment is distinguished from an “eating place” for purposes of licensing by the California Department of

Alcoholic Beverage Control. Such establishment may or may not provide live entertainment.

Commercial Recreation/Entertainment in the Waterfront District. Includes live horse racing which exceeds one hundred twenty (120) days in any calendar year (irrespective of whether conducted by one or more operators at the facility), golf, tennis, swimming and other commercial or spectator or participatory activities and uses which, in the opinion of the Planning and Zoning Commission, are of a similar nature.

Marinas and boat launching ramps - A facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews and guests.

Parking facility, nonresidential - Any area or structure, other than within a public street, which is used for the parking of two (2) or more vehicles, but not including the storage of vehicles for sale or repair.

Restaurant - Businesses serving prepared food or beverages for consumption on or off the premises.

Waterfront and Waterfront-Sports-related Commercial Sales and Service

In addition to the Waterfront District requirements, the portion of the property adjacent to Codornices Creek is subject to the requirements of the Watercourse Overlay District. This overlay district is intended to promote the preservation and restoration of Albany's creekside areas and protect property from damage due to floodwaters.

In addition to overlay district requirements, the areas adjacent to Codornices Creek are located into the FEMA flood zone, and thus are subject to the City's Flood Damage Prevention section of the zoning ordinance.

Measure C

CITY OF ALBANY VOTER INITIATIVE MEASURE	
C MEASURE C: Do you vote to adopt an Initiative proposing an ordinance requiring voter approval of Waterfront planning decisions as it is set forth in the Voter Pamphlet?	YES
	NO

FULL TEXT OF MEASURE C

CITIZENS WATERFRONT APPROVAL INITIATIVE

SECTION 1. TITLE

This ordinance shall be known as and may be cited as the Citizens Waterfront Approval Initiative.

SECTION 2. FINDINGS AND PURPOSE.

The people of the City of Albany find that:

- a. Major changes are proposed for the Albany Waterfront;
- b. Any potential change in the use of the Albany Waterfront is of great significance to the future revenues and financial obligations of the City, as well as to the enjoyment of the City by its citizens;
- c. The Waterfront lands comprise the largest and most significant remaining tract of land in the City suitable for development—approximately 15% of the total area of the City. Due to its large size, unique setting and environmental significance, any change in its use may irreversibly alter the character and composition of the City;
- d. The Waterfront is so important to the welfare of the City as a whole, that an additional step of voter approval should be added to the City's regular processes of Waterfront planning and approval.

SECTION 3. BOUNDARY.

As used in this ordinance, the "Waterfront", "Waterfront Lands", "Waterfront District" or "Waterfront Area" is defined as all the land within the city limits of Albany, that is on the west side of Interstate Highway 580.

SECTION 4. CITIZEN'S RIGHT TO VOTE.

A new Subsection 20-2.16(c) is hereby added to the Albany Municipal Code, Zoning Ordinance, and shall read as follows:

The following actions, if they authorize any use not authorized by the zoning ordinance for the Waterfront District as of the effective date of this ordinance, shall only be taken by passage of a ballot measure approved by a majority of voters voting.

1. Any amendment to the land use designations for the Waterfront Area in the City's General Plan;
2. The establishment of, or any material amendment to, the Waterfront Master Plan or other specific plan for the Waterfront area. The meaning of the phrase "material amendment" shall be defined in the Waterfront Master Plan itself or other specific plan for the Waterfront area itself;
3. Any amendment to the zoning ordinance for the Waterfront area including changes to the text and changes to the map of the Waterfront Area;

4. The entry into any development agreement and/or any material amendment to a development agreement for the Waterfront Area. The meaning of the phrase "material amendment to a development agreement" shall be defined in the development agreement itself. A development agreement or an amendment to a development agreement shall be deemed "entered into" on the date that the election results approving the agreement or amendment are certified in the manner provided by the Elections Code.

SECTION 5. SEVERABILITY.

If any section, subsection, part, subpart, paragraph, subparagraph, clause or phrase of this ordinance, or any amendment or revision of this ordinance is for any reason held to be invalid, the remaining portions shall not be affected, but remain in full force and effect.

SECTION 6. AMENDMENT.

No part of this ordinance shall be amended or repealed except by passage of a ballot measure approved by a majority of voters voting.

SECTION 7. COSTS/COST SAVINGS.

When a development proposal or a developer requested amendment requires a ballot measure pursuant to this ordinance, then all costs related to that ballot measure shall be paid by the applicant developer.

When an action requires a ballot measure pursuant to this ordinance and the text of the related documents is longer than 2,000 words, then the City Attorney may draft a summary, and the city may mail that summary to the voters, in lieu of a full text.

SECTION 8. EFFECTIVE DATE.

If adopted, this ordinance shall be effective January 1, 1990.

CITY ATTORNEY ANALYSIS OF MEASURE C

This Measure, if approved by the voters, and if it receives more votes than Measure D, becomes an Ordinance and would add new sections to the City Code. The new sections would create an additional step of voter approval of City Council decisions made in the Waterfront Planning process.

Existing State and City laws require that land use decisions pertaining to the Waterfront only be made after a series of required public hearings before the Planning Commission and City Council. This planning process will take at least 15 months from the time development applications are submitted. If citizens were dissatisfied with these decisions, then present State Laws provide citizens with a right to require a vote through the referendum process. The passage of this Measure would automatically require voter approval of City Council decisions related to the Waterfront, without the requirement to submit a referendum petition.

A 'yes' vote on this Measure would mean that any decision to amend the General Plan or Zoning Ordinance, or any decision to enter into a development agreement or to create a specific plan or Waterfront Master Plan would require voter approval if such decisions authorized a change in use different than what was allowed in the Zoning Ordinance on December 31, 1989.

Revotes would be required for any subsequent amendments to the General Plan or Zoning Ordinance which authorized a change in use other than those permitted on December 31, 1989. Revotes would be required for 'material amendments' to a development agreement, specific plan, or Master Plans. The term 'material amendment' shall be defined in the particular document. The revote requirements are different than the revote requirements in Measure D.

This Measure also provides that any developer will pay for the costs of an election if the proposal requires a vote.