

CREATION OF PARKS, OPEN SPACE, AND TRAILS

Existing waterfront park area, open space, and trails

The Eastshore State Park consists of 2,262 acres of land and water along 8.5 miles of shoreline extending from Richmond to Oakland. The Park Master Plan includes 617 acres (88 upland, 591 tideland) in Albany, including the Albany Bulb., The 31-acre spit of land known as the Bulb is currently owned by the City of Albany, but is designated for incorporation into Eastshore State Park as a preservation area once certain conditions are met. The upland areas in the Albany portion of Eastshore State Park include 57 acres as conservation, 20 acres as recreation, and 11 acres as preservation. Approximately 10 acres of the land designated as recreation on the plateau may be changed to conservation as a home for nesting owls.

An Albany Waterfront Trail extends down Buchanan Street from the freeway to the Eastshore State Park.

As a condition of its acquisition of Berkeley waterfront property from Magna in 2003, the East Bay Regional Parks District obtained a license agreement for a temporary Bay Trail connection across the Golden Gate Fields property, that is scheduled to be implemented in late 2006. The District has indicated its intention to seek grant funds to prepare a feasibility study for a permanent Bay Trail over the GGF property.

The Berkeley waterfront property purchased by the East Bay Regional Parks District, which is adjacent to the GGF stables, is not included in the Eastshore State Park. The 16-acre parcel is being developed for sports fields use by teams in Albany, Berkeley, Emeryville, El Cerrito, and Richmond.

City plans, goals and policies

General Plan

The General Plan goals and policies, in the Conservation, Recreation & Open Space Element (CROS) most applicable to the issue of waterfront parks, open space, and trails are as follows:

Goal CROS5: Continue to value the importance of the Albany Waterfront area and shoreline as a place of scenic beauty.

Policies:

CROS 5.1. Consider the scenic and visual importance of the waterfront area in any future private or 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 distance of the shoreline.

Goal CROS 6: Develop the maximum feasible park and open space areas in Albany.

Goal CROS 7: Achieve a complimentary mix of private and public uses at the Albany Waterfront which provide for the maximum feasible open space, recreation and public access to the waterfront area.,

Policies:

CROS 7.1. Implement the Bay Trail Plan along the Albany shoreline. Work with the landowner, the track owner, appropriate citizen and environmental groups, the State Department of Parks and Recreation, Caltrans, East Bay Regional Park District, the Coastal Conservancy and ABAG to achieve this goal.

CROS 7.3 Require 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.

Waterfront Plan

In 1995, the Albany Waterfront Committee prepared a plan called "A Proposal for the Albany Portion of Eastshore State Park". The proposal, which was adopted by the City Council, was based on a concept plan adopted by the committee in 1992. It was submitted to the East Bay Regional Park District to provide guidance into the planning of Albany's portion of the Eastshore State Park.

The plan proposes the following objectives for the development of Albany's portion of Eastshore State Park:

- Protect and enhance land and water habitats
- Promote the appreciation of natural features and beauty of San Francisco Bay
- Provide a safe and secure environment for children and adults

- Complete Albany's segment of the Bay Trail
- Provide adequate access to the waterfront for people of all ages and physical abilities
- Provide a variety of recreational opportunities, including organized and informal amateur sports, observation of nature, hiking, bicycling, and water-related activities

The waterfront plan's recommendation for Fleming Point was as follows:

Fleming Point should be preserved as a vista point along the Bay Trail. Along the crest of the point, an area at least 50 feet in width should be converted from parking lot to park in order to accommodate the Bay Trail and a viewing area with benches.

The striking view of the bay from the point should be accessible not only to walkers and bicyclists but also to those who can only reach such vantage points by automobile. Some agreement should be made with the racetrack to allow free automobile access, at least during the racetrack's off-season.

Wheelchair access to Fleming Point poses a challenge, given the steep incline, but every effort should be made to provide this access, perhaps by constructing a series of switchbacks.

Public use and/or acquisition of the horsemen's lot at the base of Fleming Point is desirable and should be pursued. The area is level, adjacent to the water, and somewhat secluded and sheltered, and could serve as a vista point or picnic area, off-limits to automobiles.

The Waterfront Plan also contains recommendations on the Bay Trail (copy attached).

Besides recommendations on the areas included in the Eastshore State Park, Fleming Point, and the Bay Trail, the Waterfront Plan includes overall planning recommendations that could be applicable to creation of additional park, open space, and trails on the Golden Gate Fields property. These recommendations cover areas such as wildlife and habitat protection, water activities, inappropriate uses, aesthetic potential, dogs, and access. The plan also contains priorities for creating the park, and plants and wildlife observed at the waterfront.

Parks, Recreation & Open Space Master Plan

Goals and Policies

The Master Plan goals and policies applicable to the creation of parks, open space or trails on the waterfront are:

Goal 1: Preserve, enhance, and, where possible, expand park and open space areas in Albany. Make Albany a green environment that integrates nature into neighborhoods, protects and supports native habitat, and educates residents about local vegetation and wildlife.

Policies:

1.6 Open space: Preserve and expand open space areas, and conserve their natural qualities.

Goal 2: Make Albany a center for cultural and arts activities, with open space for art displays and musical performances. Beautify open space through public art programs, landscaped boulevards and community gardens. Promote arts related activities.

Policies:

2.3.1 Outdoor cultural space: Provide flexible outdoor space that can be programmed for performances and other cultural activities. Utilize design review and permitting process to encourage creation of open spaces as part of private development.

2.3.2 Beautification and amenities: In planning public improvements and in reviewing private development projects (particularly along San Pablo and Solano Avenues and at the Golden Gate Fields site) be alert to opportunities to create new spaces for public activities, public art, and for landscaping and other beautification efforts.

Goal 4: Promote public uses of the waterfront, providing for maximum natural open space and recreation.

Policies:

4.1 State Park: Participate actively in the planning and development of the Eastshore State Park, including the ultimate incorporation of the Albany Bulb into the park area, and possible additional land acquisition in the future.

4.2 City land: Enhance and maintain waterfront land owned by the City, exclusive of the bulb area.

Goal 5: Establish an integrated, comprehensive system of pedestrian and bike routes linking all neighborhoods and schools to recreational facilities throughout the city, including the waterfront.

Policies:

5.2 Waterfront access: Cooperate with other agencies in completing a system of pedestrian and bikeway connections from BART and the Ohlone Greenway to the Bay Trail.

5.3 Bay Trail: Cooperate with appropriate agencies in completing local segments of the regional trail around the Bay, including connection through the Golden Gate Fields site to the Berkeley city limits.

Needs

According to the Master Plan, establishing a community’s parks area and open space needs is a difficult and subjective analysis, because it depends on localized values, the availability of land, financial resources, and the desired service levels. That being said, the Master Plan goes on to project the City’s current and future park, open space, and trail needs.

The findings applicable to waterfront park area, open space, and trails are as follows:

	<u>Current</u>	<u>Additional Needs</u>	<u>Needs at City Built-out</u>
Regional Parks		(.06) acres	2.03 acres
Open Space		41.08 acres	42.08 acres
Special use parks		7.19 acres	7.56 acres
Pathways and trails		6.7 miles	6.9 miles

Not included above are community parks, which are designed to serve residents in a one to two mile radius. Because of the adjacency of Golden Gate Fields to Eastshore State Park and the State freeway, park use on that property would have a regional draw beyond Albany residents. In any event, the Master Plan shows the deficit of community park space to be less than one acre at build-out.

Regional Parks is defined as *recreational areas serving the city and beyond. They are usually large in size and often include one specific use or feature that makes them unique. Typically, use focuses on passive types of recreational activities. Those located within urban areas sometimes offer a wider range of facilities and activities.*

Regional Parks recommendations - Eastshore State Park:

- *Complete the transfer of the Albany "Bulb" to the State of California*
- *Coordinate with the East Bay Regional Park District to implement the master plan for the site.*
- *Explore alternatives for securing additional waterfront property*

Open space is defined as *undeveloped land primarily left in its natural environment with recreation uses as a secondary objective. It is usually owned or managed by a governmental agency and may or may not have public access. This type of land often includes wetlands, steep hillsides or other similar spaces. In some cases, environmentally sensitive areas are considered as open space and can include wildlife habitats, stream and creek corridors, or unique and/or endangered plant species.*

Property on Albany Hill has been designated as a potential open space acquisition site; there are approximately 20 acres of undeveloped, privately-owned space on Albany Hill. If all of this were to be acquired, a projected open space deficit of approximately 20 acres would remain. Other potential sources for open space that meet the above definition are areas adjacent to creeks.

Special Use Areas are defined as *miscellaneous public recreation areas or land occupied by a special facility. Some of the uses falling into this classification include special purpose areas, waterfront parks, community gardens, single purpose sites used for field sports or sites occupied by buildings.*

Special Use Area recommendations on Waterfront Trail Park:

Upgrade the area lying within a portion of the right-of-way of Buchanan Street extension to include enhancing the "cove" structure as a site for small-scale, participatory educational programs, picnic tables, a restroom (porta-potty) facility, drinking fountain and additional landscaping. Considering the region-serving nature of the site, make use of non-City financial resources to the maximum extent possible.

Trails are defined as *designed to provide walking, bicycling, equestrian, and other non-motorized recreational opportunities. By providing linkages to other areas and facilities, they can provide non-vehicular options for travel throughout the community. Trails can be designed for a single or multiple types of users.*

Trail recommendations - Bay Trail:

Cooperate with appropriate agencies in completing local segments of the regional trail around the Bay, including connection through the Golden Gate Fields site to the Berkeley city limits.

Mechanisms to acquire property for parks, open space and/or trails

Should a public agency wish to acquire property, and if the purpose were to be parks, open space, and trails, the following are potential mechanisms that are available to the agency:

- (1) Purchase or lease negotiations with property owner for acquisition or easement

Magna Entertainment Corporation has indicated its disinterest in selling property at this time. The last time it sold Golden Gate Fields property was to the East Bay Regional Parks District in 2003, involving 16 acres of waterfront property in Berkeley adjacent to the stables.

Neither the City nor any other public agency, to the City's knowledge, has made a recent formal overture to commence negotiations for property acquisition, other than the work being done by East Bay Regional Parks for a temporary Bay Trail over the Golden Gate Fields property as a condition of its 2003 property acquisition.

- (2) Condemnation of property through the City's or the Regional or State Parks' eminent domain authority.

If an owner is unwilling to sell property, the City, the East Bay Regional Park District, or the State of California could exercise its powers of eminent domain to condemn property and purchase it at fair market value. If this were to be contested, there would be additional legal and courts fees.

- (3) Dedication as condition of development agreement

The City could require the dedication of park land, open space, and trails as a condition in a development agreement related to approval of development on a property.¹ In the case of the Golden Gate Fields property, such a development agreement (or any development agreement pertaining to this property) would require the approval of Albany voters.

¹ The term "development agreement" is defined in the section on a waterfront master plan

The development agreement that was approved by Albany voters as part of the card room proposal, which did not include any additional development on the property, contained a provision for dedication of an easement for the Bay Trail and funds for its construction, a leasehold easement for a buffer area separating the Bay Trail and the beach area from the GGF facility and funds for landscaping, a leasehold conservation easement for two acres adjacent to the marsh, and access to the horsemen's lot. The card room proposal did not include any additional development on the property.

(4) Private park, open space and trail, with or without public easement

It may be possible within the context of a development agreement to designate a portion of land to be used for park, open space, or trail purposes but retain the land in private ownership. The advantage is the lack of acquisition, operations, or maintenance costs; the disadvantage is lack of full public control over the land except to the extent agreed upon under a development agreement.

Funding acquisition, plan development and implementation, operations, maintenance, and improvements

Funds needed

Funds are required for a public agency to purchase or lease property through either negotiation or condemnation, and for the planning, design and development of improvements.

In the case of Golden Gate Fields, based on its last purchase price, the approximate value of the entire Golden Gate Fields property, including the racetrack, is roughly given a round estimate of \$100 million.

The cost to plan and design for parks, open space, and trails on waterfront property would depend on the size of the property and whether the space would be developed for recreation use or preserved for wildlife habitat, or a combination.

The cost of improvements depend on the use, but parks and open space improvements typically include items such as parking areas, paths (wheelchair accessible), restrooms, trash receptacles, benches, lighting, water fountains, signage, educational information, shade structures, picnic benches, landscaping, irrigation, and fencing. Other amenities might include playgrounds and equipment, barbecues, and recreational equipment.

Estimated costs to develop new parks and open space range from a low of about \$350,000 per acre for mostly open space, pathway, trails, benches, and landscaping to around \$650,000 per acre for parks with amenities such as restrooms, parking, concrete walkways, athletic fields, special/unusual features, group picnic areas, shade structures, play equipment, lighting, automatic irrigation, and landscaping. A larger park would have lower unit costs than a smaller park.

An annual funding source would be needed to maintain public park land and improvements. The costs would depend on the types of improvements and intensity of use, but a rough estimate of \$10,000 per acre/year can be applied as an initial conceptual cost; costs will vary with the complexity, fragility, and types of improvements and the intensity of uses, as well as inflation.

Funds would also be needed to pay for operational costs such as water, electricity, trash disposal, and sanitary services.

Potential funding sources

If the City wished to acquire private lands and then develop, operate, and maintain a park, the following might be considered as funding sources:

Albany tax measure. By 2/3 approval, Albany voters could authorize a bond measure to purchase and develop parks, open space and trails. Albany's current tax base is \$1.4 billion. Each \$1 million in property acquisition and development would cost the Albany property owner approximately \$6.00 per \$100,000 of the assessed valuation of their property for a period of 20 years. Thus, an Albany homeowner whose property is valued at \$500,000 would pay about \$30 a year for 20 years for each \$1 million of debt. The exact amount of the tax levy would depend upon the type, size and term of the bonds, and upon the bond interest rate and assessed valuation of the city at the time.

By 2/3 approval, Albany voters could authorize a parcel tax to fund maintenance and operations costs. There are approximately 7,000 parcel tax units in Albany. A tax of \$50 per parcel unit generates approximately \$350,000 in annual revenue.

Regional tax measure. The City could ask neighboring cities and/or the East Bay Regional Parks District to place a tax measure before the voters to fund the purchase, development, operations, and maintenance of parkland.

At the direction of the City Council, City staff inquired of the Parks District about its interest in the acquisition of additional waterfront property for park purposes. The District staff indicated that its only barrier to interest in property acquisition was the lack of any funds to purchase, develop, operate and maintain. (The

District also noted that there are not currently funds to operate or maintain the Albany Bulb if/when incorporated into Eastshore State Park.) Voters in the eastern area of the park district approved a tax measure in November 2004 to fund parks maintenance and operations, but those funds are already committed.

State Parks Bond. At the direction of the City Council, City staff made an inquiry to the Coastal Conservancy about potential State Parks Bond funds to purchase waterfront property. There are currently no eligible funds available for such a purchase. Periodically there are State Parks bond measures to fund park, open space, and waterfront acquisition. There is discussion underway about a future State Parks bond measure, perhaps as early as November 2006. Preliminary advice on the State Parks Bond funds are that Albany should not expect to receive more than \$5 million to \$10 million from a bond measure.

Other grants or donations. There may be other minor trusts, foundations, and similar funding sources, but staff is not aware of any specific significant grant or donation programs to acquire, operate, and maintain parks and open space property.

Land exchange. Staff does not have any particular available land in mind, but notes that this is a possibility in negotiating acquisition of property.

Benefit assessment district. The dedication of park space, along with maintenance and operations costs, could be funded by the creation of a benefit assessment district connected with residential development on private property.

Conclusion

The City of Albany has plans, goals, and policies applicable to the creation of parks, open space, and trails on the waterfront. Some of these plans, goals, and policies pertain to the acquisition of additional parks and open space in general, some to the waterfront area, and some to the Golden Gate Fields property.

The plan provisions, goals, and policies that are most relevant to creating parks, open space, and trails on the Golden Gate Fields property are:

- The General Plan goals to value the importance of the Albany Waterfront area and shoreline as a place of scenic beauty, and achieve a complimentary mix of private and public uses at the Albany Waterfront that provide for the maximum feasible open space, recreation and public access to the waterfront area.

- The Waterfront Plan objective to complete Albany’s segment of the Bay Trail, to preserve Fleming Point as a vista point along the Bay Trail, and to pursue acquisition of the horesemens’ lot at the base of Fleming Point.
- The Parks, Recreation, and Open Space Master Plan goals and policies that in planning public improvements and in reviewing private development projects (particularly...at the Golden Gate Fields site), be alert to opportunities to create new spaces for public activities, public art, and for landscaping and other beautification efforts; to promote public uses of the waterfront, providing for maximum natural open space and recreation; to participate actively in...possible additional land acquisition in the future; and to complete the Bay Trail, including through the Golden Gate Fields property.
- The quantification of additional parks, open space, and trail needs in Albany.

Means of acquiring parks, open space and trails on what is currently private property include property or easement negotiations for lease or purchase; purchase through eminent domain; dedication of public land as condition of approval in a development agreement; and establishment of park space that is privately owned and maintained by the property owner and/or developer.

The primary sources of funding for public acquisition, development, maintenance and operations costs include city property owners/taxpayers, regional taxpayers, and State taxpayers through a grant from a potential future bond measure. A potential next step for Council is to ask staff and the Waterfront Committee to pursue with State Parks and relevant Parks Bond interest organizations the potential for acquisition of Albany waterfront property as being an eligible project in a State Parks bond measure. ²

² Parks bond measures typically have a competitive application process for eligible projects, but the project must first meet the application criteria as developed from the parameters of the bond measure. In Albany’s case, another waterfront project that is awaiting grant funds is to prepare the Albany Bulb for its transition to State Parks for incorporation into Eastshore State Park.

PLANNING FOR THE DEPARTURE OF THE RACETRACK

The property owner and racetrack operator, Magna Entertainment Corporation (MEC), has stated it is not going to cease racing operations at Golden Gate Fields. MEC has stated that Golden Gate Fields is a profitable venture, that there are racing days allocated to Northern California that need a location – especially with the departure of Bay Meadows, that even if Dixon Downs is approved Golden Gate Fields would be allocated racing days, and that there is sufficient interest and money among horse racing enthusiasts to purchase Golden Gate Fields even if Magna loses interest in retaining the property.

There is some interest in the community in having the racetrack leave. The elements of interest range from seeing horse racing and its associated gambling as being an undesirable and/or incompatible activity in Albany, to wanting the opportunity to reconfigure the use of the property particularly in order to create possibilities for park and open space, or other uses.

Finally, there is talk in the community that horse racing is a dying industry, that racetrack owners will continue to seek authority to add casino-style gambling to tracks, that the highest and best use of the Golden Gate Fields property is something other than the racetrack, and that it is only a matter of time before this track is gone.

The challenges to planning for the departure of the racetrack include:

- (1) The property owner states that the racetrack is not leaving.
- (2) Interest and financial resources among horse racing enthusiasts for purchasing the property and continuing track operations.
- (3) The annual revenue that the wager tax at the racetrack brings to the City, which in conjunction with sales tax comprises about five percent of the City's General Fund budget.
- (4) Racing is an allowed use on the property under the provisions of citizens' initiative Measure C, which can be changed only by voter approval.
- (5) The limited other allowed uses for the property and restrictive zoning process under the provisions of Measure C could affect the attractiveness of the property to a potential purchaser who would develop it for another use.
- (6) The lack of a ready source of funding to purchase, improve, operate, and maintain the property.

Given the above challenges, planning options that provide for the departure of the racetrack that are available to the City may include:

- (1) Prepare a waterfront plan that incorporates the departure of the racetrack. A waterfront plan could take either an incremental or a wholesale approach to the racetrack departure. For example, an incremental approach might allow for some development to take place with the presence of the racetrack but contemplate how such development would factor into the departure of the track; a wholesale approach might contemplate development other than those permitted uses allowed under Measure C to occur only in the racetrack area.
- (2) Voter amendment of Measure C to broaden the allowed uses of the property. The purpose of this approach is to make the property more attractive to a potential buyer for uses other than a racetrack. A companion approach could be to seek a buyer for the property who is interested in developing uses other than racing, but this approach relies on successful property purchase negotiations.
- (3) Voter amendment of Measure C to eliminate racing as an allowed use. Since this could be viewed as “downzoning” by the property owner, and is legally complex, at best it would be a number of years before the track could be forced to close, if at all. This approach would likely need to allow uses of similar value to replace racing. As this is legally sensitive and complex in the realm of property rights and due process vs. a City’s zoning authority, discussions on this approach would need to be handled with delicacy and legal advice.
- (4) Begin a local, regional, and state effort to considering generating funds to purchase, develop, operate, and maintain the property for a use other than racing. Since a park at this location would attract at least regional use, any funding effort for a park warrants contributions by regional or state taxpayers and/or grants.
- (5) Present a development proposal to the Albany voters that allows development to take place in a in a configuration that would be desirable if the racetrack were to cease operations. Under this approach, the planning and review for a development proposal would contemplate the departure of the racetrack, and would analyze how the new development would stand without the presence of the racetrack.
- (6) Present a development agreement to the Albany voters that provides for the development rights and dedications should the racetrack cease to operate. If a development proposal is presented to the Albany voters, the City could negotiate and present a development agreement that provides for the land use consequences of the departure of the racetrack, such as development rights and land dedications. This approach is a likely companion piece to (5) above.

**MAINTAINING REVENUES FOR THE CITY OF ALBANY AND
THE ALBANY UNIFIED SCHOOL DISTRICT**

City of Albany

The City of Albany estimated revenues from Golden Gate Fields are as follows:

SOURCES	FY04/05	FY03/04	FY02/03
Property taxes (special fees/assessments)	\$264,059	\$263,192	\$240,043
Property taxes (special purpose)	\$57,569	\$57,775	\$40,907
Total Property Taxes--Special Funds	\$321,628	\$320,967	\$280,950
Property Taxes, County (GF)	\$83,124	\$81,600	\$80,000
Sales Tax*	\$61,664	\$91,558	\$72,462
Racetrack Wagering Revenue	\$431,437	\$479,597	\$488,115
All Taxes, General Fund (GF)	\$576,225	\$652,755	\$640,577
TOTAL REVENUES, Special + GF	\$897,853	\$973,722	\$921,527

CITY GENERAL FUND REVENUES	\$11,209,516	\$10,298,079	\$9,709,901
GGF general fund revenues as % of total City General Fund revenues	5%	6%	7%

**Confidential information released with the permission of Magna. (The change in some 2005 racing days to May and June may have affected the 2004-05 sales tax data due to reporting timeframes)*

The General Fund revenues from the property are decreasing in terms of actual dollar amounts, as well as the percentage of the City's General Fund budget and in real dollar values adjusted for inflation. The sources of the decline are in both sales tax and racetrack wagering taxes. The decline in these revenues relate to the decline in attendance at Golden Gate Fields. Between 1999 and 2004, annual racing attendance declined from 328,561 to 248,215. In addition, unless or until municipalities can apply a wager tax to Internet wagering on horse racing, city tax revenue will decline if Internet wagering increases to the detriment of on-track wagering.

Revenue options

If the City Council has a goal to maintain City revenues from Golden Gate Fields, options available include:

- Work with Golden Gate Fields to increase attendance. Increased attendance would likely lead to an increase in wagering and in purchases subject to sales tax, both of which would increase revenues to the City. The

property has the traffic and parking capacity for additional attendance, as evidenced by higher attendance records in the past.

- Allow development on the property to replace the decline in revenue. The property owner, through Caruso Affiliated, has stated its intention to submit a development proposal. The City could look to this proposal as a means of replacing the declining revenue from the property.
- Seek alternative future uses of the property. This approach could include developing a plan and/or zoning amendments to Measure C that allows for uses on the property that would generate revenue for the City. Such proposed uses would require economic analysis for market viability and the level of funding they would provide to the City.
- Identify other locations for economic development to replace Golden Gate Fields revenue. This would not meet the goal of maintaining revenues from the Golden Gate Fields property, but would be an alternative approach in order to provide sufficient funding for the City. Given the attractive location of Golden Gate Fields adjacent to the waterfront, its freeway visibility and access, and the size of the property to provide parking and other amenities, development on this property is likely to be more lucrative to the City on a square foot basis than in most other parts of the city.

Development Revenue

The City last conducted a market review of potential land uses for Golden Gate Fields property in January 2004, as part of the community workshops that took place in 2003-04. A copy is available on the City's website.

Retail sales are generally considered to provide the strongest economic development return to a city in the form of sales tax revenue. Generic benchmarks show a range of sales figures per square foot. According to samplings taken from web site data, an upscale retail shopping area could produce more than \$300 per square foot per year in sales; with a 1% sales tax going to the city, it generates about \$3/square foot per year for the city. Restaurants are quite variable, showing a range of about \$270/square foot for a Denny's to about \$600-\$700 a square foot for a Peets Coffee or a California Pizza Kitchen. A neighborhood shopping center with a mix of uses might produce about \$200/square foot. (For more information, see www.bizstats.com or www.uwex.edu/ces/cced/data/retail.html)

Hotel development, although it is volatile in the ups and downs of the economy, also provides revenue beyond property tax in the form of a transient

occupancy/hotel-motel tax. Albany has a hotel tax of 10%, although there are currently no hotels or motels. As a rough measurement for city revenue generation, a hotel development with an average daily occupancy of 100 rooms, at a charge of \$150/room, would generate about \$500,000 per year.

The City's January 2004 market analysis, prepared by the firm EPS, used the example that a 200-room, limited service hotel with typical room and occupancy rates is expected to generate more than \$500,000 in hotel tax annually, in addition to additional sales tax revenue generated by hotel guests and employees and increased property taxes, which EPS projected would likely exceed costs to cover increased services to the property.

Since Proposition 13, residential development has generally been considered to cost cities more in providing services and facilities than cities receive in property tax and other revenues related to that development. The exceptions are properties with significantly high assessed valuation and/or special assessments to augment payments to the city, and/or the City receives a high proportion of the property tax. In the case of the City of Albany, the City receives approximately 19% of the basic 1% property tax paid by Albany taxpayers, which is not considered in the "high" range relative to other cities. The EPS study notes that residential use on the Golden Gate Fields property, because of its waterfront location, could be developed in such a way as to more than pay for itself in revenues vs. City expenses.

If the Council is interested in exploring development to replace its declining revenues from Golden Gate Fields, options include:

- Obtain an updated and expanded fiscal analysis on the types and scale of development options to provide revenue to the City. Such options would likely include residential, retail, hotel, and commercial recreation, and could include additional properties. If the City were to undertake an analysis, it should examine impacts on city services and facilities that offset the added revenue to the City.
- Upon receipt of a development application, require the applicant to fund a City coordinated fiscal analysis on the projected revenue to the City and the anticipated fiscal impacts on the City from the proposed development.

Albany Unified School District

The majority of the School District's revenues are set by State formula, based on school attendance. While the source is generally local property tax revenue, the amount of property tax generated locally has no bearing on the amount the District receives.

SOURCES	FY04/05	FY03/04	FY02/03
Property taxes, assessments	\$ 280,396.00	\$ 278,693.00	\$ 271,751.00
Property taxes, ad valorem	\$ 68,956.00	\$ 55,129.00	\$ 61,009.00
TOTAL	\$ 349,352.00	\$ 333,822.00	\$ 332,760.00

With voter approval, the District levies special taxes to fund capital and operations costs. The District currently has two parcel tax assessments, which are levied on commercial properties such as Golden Gate Fields on the basis of the size of the parcel. The District has an additional parcel tax on the ballot in November, which is not reflected in the table.

The District also has an ad valorem bond measure in place to fund school improvements. The annual debt service to pay off the bonds sold to fund the school improvements is paid by Albany property owners. Property owners pay based on the assessed valuation of their property (i.e. ad valorem tax). The greater the assessed valuation of a property, the greater the tax payment. The debt service is a fixed amount. Therefore, if the assessed value of the Golden Gate Fields property were to increase either by additional development or re-assessment upon property sale, the owner of Golden Gate Fields would pay a greater share of the debt service, thereby decreasing the amount that other taxpayers would pay. Likewise, if its valuation decreases, other property owners pay a higher share.

Conclusion

Revenues to the City from Golden Gate Fields are in steady, but not dramatic, decline. If the City is to maintain revenues, options include restoring or increasing attendance and wagering; additional development and/or uses on the property; replacement of the racetrack use with higher revenue-generating use(s); and/or additional development, above what is currently planned, elsewhere in the city.

Revenue to the School District is related only to its parcel taxes and bond measures. District parcel tax revenue from commercial properties is based solely on the size of the parcel, not developed space on the parcel. However, a change in

the assessed value of the property lowers or raises the school bond payment tax levy on other Albany property owners.

If property that is currently privately owned is removed from the tax rolls, such as in order to create a publicly-owned park, the assessed value of the removed property will be eliminated from the city's tax base. The effect on the city would be a drop in property tax revenue, and in revenue from special taxes, fees, and assessments. If the property was publicly owned and therefore removed from the tax rolls, the effect on the School District would be a loss in parcel tax revenue. These effects could be offset for the City if there was an increase in the assessed valuation on other property , and if there was an increase in developed space, which affects revenue from parcel taxes, fees, and assessments for the City.

THE COST AND FEASIBILITY OF PREPARING A WATERFRONT MASTER PLAN

Planning document definitions

To evaluate the cost and feasibility of preparing a waterfront master plan, it is first important to establish what a master plan is and is not, and how it is differentiated from other plans. We start with the definition of other plans, and then move to defining a master plan, and also adding a definition of a development agreement - a planning term referenced in this document.

General Plan

A general plan is defined in state law as a *“comprehensive, long-term general plan for physical development of the county or city, and of any land outside its boundaries which in the planning agency’s judgment bears relation to its planning.”*

All cities and counties in California are required by state law to prepare and adopt a general plan which consists of development policies and includes diagrams and text that set forth *“objectives, principles, standards, and plan proposals.”* The state requires that each general plan contain seven elements including: land use, circulation, housing, conservation, open space, noise, and safety. Under each element, the state lists various topics that must be addressed. However, a general plan is just that...“general.” For example, a land use element must designate *“the proposed general distribution and general location and extent of use of land for housing, business, industry, open space...”*

The state recognizes that there is diversity among cities (e.g., physical size and characteristics, population size and characteristics, density, fiscal capabilities, land use issues). Therefore, the general plan may be adopted in any format the legislative body deems appropriate, provided it is sufficiently detailed and its contents are appropriate. Albany’s General Plan was adopted on December 7, 1992.

General Plans are adopted by resolution, are subject to environmental review and action under the California Environmental Quality Act (CEQA) and no element can be amended more than four times a year. The zoning ordinance is adopted by ordinance and establishes the detailed standards used to implement the general plan. For example, a general plan goal is to “Preserve and enhance the residential character of Albany.” The zoning ordinance establishes maximum height, lot coverage, and floor area ratio regulations to help carry out that goal.

Specific Plan

State law (Government Code Section 65460-65457) defines a specific plan as the “systematic implementation of the general plan for all or part of the area covered by the general” which must include text and diagram(s) that specify all of the following in detail:

- 1) *The distribution, location and extent of the uses of land, including open space, within the area covered by the plan;*
- 2) *The proposed distribution, location and extent and intensity of major public and private transportation, sewage, water, drainage...needed to support the land uses;*
- 3) *Standards and criteria by which development will proceed, and standards for conservation, development, and utilization of natural resources, where applicable.*
- 4) *A program of implementation measures including regulations, programs, public works project, and financing measures...*

Note: Other subjects may be included as the city deems necessary.

Despite being legally defined, a specific plan can still take a wide variety of form, varying particularly in the level of detail. No specific plan can be adopted unless it is consistent with the general plan. Thus, an amendment to a general plan must occur first, if a proposed specific plan is inconsistent with GP goals and objectives. The law states that specific plans shall be prepared, adopted and amended in the same manner as a general plan (including public noticing and hearings), except that a specific plan may be adopted by resolution or by ordinance and may be amended as often as the legislative body deems necessary. Approval of a specific plan is subject to environmental review and action under the CEQA.

An application for development on the Golden Gate Fields property could come in the form of a specific plan or development plan. Such application would require environmental review under CEQA. The City would hire and oversee the environmental review consultants, with funds paid for by the applicant. If the application submitted were to be inconsistent with the General Plan, the applicant would be required to pay for the costs of preparing a General Plan amendment and the associated environmental review conducted by the City.

The CEQA environmental review for a specific plan would most likely result in the preparation of an Environmental Impact Report (EIR). It is important to note that the scope of the EIR would include analysis and evaluation of project alternatives.

Master Plan

It appears that only “general plan” and “specific plan” (and possibly redevelopment plan) are defined in State law. Thus, any other type of plan is not defined in law, and as such, can basically be whatever the author or city want it to be.

The term “master plan” is often applied to plans not prescribed in state law. Other terms might include “development plan,” and “concept plan.”

A “master plan” may be defined as a comprehensive plan to guide the long-term physical development of a particular area.

For example, a master plan can be at a conceptual level and show the general location of land uses (e.g., open space, residential, commercial, active recreation), circulation patterns (e.g., vehicular, pedestrian, bicycle), and prescribe a range of the allowable heights, densities, etc. thereby giving some flexibility for future change. Or a master plan can be more detailed and show building footprints, elevations, landscaping concepts, design of roads, pedestrian and bicycle paths, types of open space and recreation (e.g., conservation areas, trails, picnic areas, play fields).

A key difference between a master plan and a specific plan is that a specific plan must include certain components per State law, while the contents of a master plan are whatever the author or jurisdiction wants.

Attached are several examples of waterfront plans in other jurisdictions.

Development Agreements

State law (Section 65864) includes a provision for “development agreements.” In essence, a development agreement is a binding document that may be entered into between any city or county with *“any person having a legal or equitable interest in real property for the development of the property as provided in this article.”*

A development agreement must include the: 1) duration of agreement; and 2) permitted uses, density or intensity of use, maximum height and size of proposed buildings, and provision for reservation or dedication of land for public purposes.

The law contains policies stating that the Legislature found:

1. The lack of certainty in the approval of development projects could waste resources, escalate housing and other development costs, and discourage investment in comprehensive planning;

2. There is a need to give “assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing...regulations, and subject to conditions of approval.” The law is also intended to “strengthen the public planning process, encourage private participation in comprehensive planning, and reduce economic costs of development;” and
3. That the lack of public facilities (e.g., schools, streets, sewers, transportation) can be a serious impediment to development of new housing. Thus, whenever possible, applicants and local governments may include provisions in the agreement where applicants are reimbursed over time for financing public facilities.

A city must establish procedures for considering a development agreement if an applicant requests it. This can be done through a resolution or ordinance. At present, Albany does not have adopted development agreement procedures. Any fees a city receives, or direct costs it recovers from applicants associated with the adoption of such procedures, must comply with the State law relative to development fee collection. (Section 66006)

A development agreement may include:

1. Conditions, terms, etc. for subsequent discretionary actions provided that these do not prevent development for the uses and to the density set forth in the agreement.
2. A specified time when construction can commence, and a specified time when the project, or any phase, is to be completed.
3. Terms and conditions relating to the applicant financing necessary public facilities and subsequent reimbursement over time.

Required findings of consistency state that a development agreement:

1. Shall be approved by ordinance and is subject to referendum;
2. Must be consistent with the general plan and any applicable specific plan; and
3. Must comply with the Subdivision law where any tentative map is prepared.

If state or federal laws or regulations are enacted after a development agreement has been entered into, which prevent compliance with one or more provisions of the development agreement, those provisions must be modified to comply with the state or federal law.

Planning process, cost, and feasibility

A likely process for preparing a Waterfront Plan would involve the community, applicable Commissions and Committees, and the City Council in drafting a plan for the future use of the property on the waterfront. It would entail collecting and analyzing information on the property, soliciting public opinion, obtaining direction from the City Council or a designated commission or committee, and drafting of a plan for environmental review, evaluation of impacts, and presentation and approval. Under the provisions of Measure C, a Waterfront Master Plan must be approved by the voters.

The role of the property owner is a key factor in the cost and feasibility of preparing a plan for private property. If a waterfront plan is prepared as part of a development application, the applicant would be expected to assume costs of identifying, analyzing, and evaluating the features and impacts of the project. If the developer and the public, or in the case of the Golden Gate Fields property – the voters, reach agreement on a plan, the plan is determined to be feasible and is implemented.

Alternatively, the plan could be prepared by the City without the particular involvement of the property owner, and reflect solely the desires of the community. It may on the surface appear to be advantageous to the community to not have to consider the needs and wishes of the owner, but it would place the entire cost of plan preparation on the City, and the resulting plan would not necessarily be feasible or implemented in the foreseeable future. The exception would be if a public agency were to acquire the property on which it is performing the planning, and therefore be in a position to implement the plan because it owned the property.

Another alternative is for the City to prepare a plan at its own cost, and involve the property owner in the planning process. The advantage to the City is that the plan has greater feasibility and likelihood of being implemented if the needs and wishes of the property owner are contained in the plan; the disadvantage is the cost to the City without guarantee that the plan will be implemented, unless a public agency acquires the property.

The last master plan prepared by the City was the 2004 Parks, Recreation and Open Space Master Plan. The focus of the plan was City-owned land. From the date of Council direction to proceed with the plan to its adoption by the City Council was approximately 16 months, and the plan cost about \$90,000, not including staff time, to prepare.

A waterfront master plan on the Golden Gate Fields property differs from the City's Parks, Recreation & Open Space Master Plan in a variety of ways. Most notably, it is private property not owned by the City, it is a topic that has attracted a significant amount of community interest, it requires voter approval, and it would likely require the preparation of an Environmental Impact Report (EIR) if it is presented to the voters for adoption.

The estimated cost to prepare a waterfront master plan to place before the voters will be unknown unless or until the City receives proposals from consulting firms. Based on information from plan processes in other communities and advice from consultants who prepare master plans, the cost is estimated to range from approximately \$500,000 to \$1 million.

An alternative is to undertake a planning process that does not undergo the rigors and cost of an EIR, and produce a conceptual community plan regarding the property at City cost. The advantage is that it would engage the community in a process about which it feels ownership, and reveal community ideas about the future of the property. The disadvantage is that until an environmental review is performed, the impacts and feasibility of the plan would remain unknown and it would not be in a solid position to be adopted as a provision of Measure C.

In 2003-2004, the City undertook a community visioning process to solicit ideas from the community about the future of the Golden Gate Fields property, in reaction to an application received by MEC for development. A series of three community workshops were conducted by facilitators and planners hired by the City with funds paid by MEC. (Information from those workshops is posted on the City's web site.)

When the City started that process, one of the potential outcomes was a product akin to a master plan or a specific plan. The process was somewhat awkward in that the community was planning a property that was not publicly owned, attempting to produce as specific an outcome as possible on land it did not own, with development that was not necessarily desirable or financially feasible in the owner's eyes - all with funds from the property owner for a process and cost it did not control. As much as there appeared to be concern by the property owner that further and more specific community planning on the property would not provide desirable or feasible results, there was also concern expressed by some members of the community that if the property owner was funding the effort, even though the consultants were hired and managed by the City, that the process and/or product was compromised.

The prior planning process is mentioned here because (1) There was a significant amount of community comment obtained and recorded on desires for the

property; (2) It was a fairly recent effort, occurring in just the last three years; (3) It demonstrates the difficulty, sensitivity, and awkwardness involved in preparing a master plan for private property, and the risk that such a plan will not be implemented. This is not to say that master plans cannot achieve results, but that there are many fiscal and policy challenges that need to be considered before undertaking what can be a significant effort.

Conclusion

The community interest in the Golden Gate Fields property is significant and broad-ranged, which will likely magnify the scope of time, effort, and cost to complete any waterfront plan. Staff estimates that a waterfront master plan along the lines of other waterfront master plans would take a approximately a minimum of two years from the time of Council authorization to a Council decision on whether to submit the plan to the voters. The City would need to hire consultants to facilitate the process, prepare the plan, and conduct the environmental review; the environmental review will likely result in the preparation of an Environmental Impact Report (EIR).

The City does not currently have funds in its budget for preparation of a master plan. The City Council could amend the budget to reduce services to fund the plan, review City reserves for availability of funds, seek donations or grants, or it could ask the voters to approve a special tax to fund the plan.

The advantages of a waterfront master plan include giving residents in the community an opportunity to express their desires for the future of the property, giving the community the opportunity to frame these desires in the context of professional planning principles and feasibility, and giving the property owners guidance for what is acceptable to the community should they pursue a development application.

The disadvantages of a City sponsored master plan include giving a community false hopes, by creating expectations for the property that are not perceived as feasible or desirable by the property owner in the foreseeable future, and therefore the plan is not implemented; and the burden of the cost on the City in funds and time if it is not undertaken in the context of a development application and funded by the applicant. The disadvantage of the City's cost of plan preparation would be amplified if the plan is prepared but not approved by the voters, the plan is approved but not implemented for whatever reason, or the plan is implemented but does not result in reimbursement of City funds for plan preparation through allowable new development.

ASK THE PARKS & RECREATION COMMISSION AND WATERFRONT COMMITTEE TO PLAN A WATERFRONT PARK.

Roles of the Committee/Commission

The Waterfront Committee and the Parks & Recreation Commission are advisory bodies to the City Council, and have the responsibility of developing and reviewing policies and plans, and making recommendations to the City Council.

The charge of the Parks & Recreation Commission is to:

- Advise the City Council on all matters of public recreation, public park facilities and public landscaping (including street trees and parkways) in the City.
- Formulate (review) the Master Plan for recreation.
- Make recommendations to the City Council regarding acquisition and maintenance of parks, playgrounds and recreation centers; and
- Promote recreation and encourage public agencies and private parties to develop recreational facilities and programs that benefit the citizens of Albany.

The charge of the Waterfront Committee is to advise the City Council on issues related to the preservation and enhancement of the Albany waterfront.

The two bodies appear to have overlapping roles and responsibilities on the issue of a waterfront park. Typically when there are overlapping functions, the City involves both bodies in some format, rather than choosing only one body to advise.

In the case of the waterfront, both bodies have approved planning documents with some goals and policies that apply to the waterfront (see section on parks, open space, and trails).

Process options

The process options for asking the two bodies for advice on a waterfront park include:

1. Asking the two bodies to separately develop goals for a potential waterfront park.
2. Asking staff to convene the two bodies in joint session to formulate a joint recommendation on goals for a potential waterfront park.

3. Asking the two bodies to each appoint a subcommittee that would meet in joint session to work on a recommendation to take back to their separate bodies either independently or in joint session.

Timing options

The timing options for the Commission and Committee advisory roles include:

1. Asking for a recommendation on general principles and goals for a waterfront park area, open space and trails independent of the submission of a development application.
2. Upon receipt of a development application, ask the bodies to review and present recommendations to the City Council regarding the dedication, location, improvements and other features and issues regarding parks, open space, and trails on the property.
3. Upon determination to pursue purchase of the property, ask the bodies to present a recommendation for priorities for a waterfront park and open space, and recommendations for funding alternatives.
4. As part of preparing a waterfront master plan, ask the bodies to develop recommendations for parks, open space, and trails on the property.

The more comprehensive and lengthier the request to the two bodies, the greater the possibility for the need for outside facilitation or planning consultation services; this is a cost that is not currently budgeted.

Conclusion

Both bodies have stated some general goals and policies regarding the waterfront, parks, open space, and trails, as shown in the section on parks, open space, and trails in this report.

Unless or until the City has a potentially viable funding source for the acquisition of property, or a development application is submitted, any planning efforts by either or both of the bodies will be somewhat abstract. If that form of planning will be of value to the Council, staff could return with a recommendation for obtaining that advice from either or both of the bodies.

If Council directs staff to pursue plans for property acquisition for park purposes, and those efforts are fruitful in identifying an achievable funding source for acquisition, development, operations, and maintenance, staff would recommend that the Committee and Commission be involved in planning for the development and implementation of that strategy.

If a development application is received, staff would recommend that Council ask the Waterfront Committee and the Parks & Recreation Commission to review and make recommendations on parks, open space, and trail components to a potential development.

Attachments:

1. Excerpt re: Bay Trail, Proposal for the Albany portion of the Eastshore State Park, June 1995
2. Examples of waterfront plans in other jurisdictions