

San Francisco Bay Conservation and Development Commission

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State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

November 9, 2023

Governor's Office of Planning & Research

City of Burlingame Planning Division

501 Primrose Road

Burlingame, CA 94010

ATTN: Catherine Keylon, Senior Planner

Via E-mail: <ckeylon@burlingame.org>

Nov 13 2023

STATE CLEARINGHOUSE

SUBJECT: Comments on the Draft Environmental Impact Report for the 1200-1340 Bayshore Highway Project (Peninsula Crossing); BCDC Inquiry File No. MC.MC.7415.026

Dear Catherine:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 1200-1340 Bayshore Highway (Peninsula Crossing) Project (Project).

The San Francisco Bay Conservation and Development Commission (BCDC) is providing the following comments as a responsible agency with discretionary approval power over aspects of the Project, as described below. BCDC will rely on the Final EIR when considering its approvals for the project, and we appreciate this opportunity to comment on the information and analyses presented in the DEIR. The Commission itself has not reviewed the DEIR; the following comments are based on BCDC staff review of the DEIR, the McAteer-Petris Act (Title 7.2 of the California Government Code), and the *San Francisco Bay Plan* (Bay Plan).

San Francisco Bay Conservation and Development Commission

BCDC is a State planning and regulatory agency with permitting authority over San Francisco Bay, the Bay shoreline, and Suisun Marsh, as established in the McAteer-Petris Act and the Suisun Marsh Preservation Act. Per the McAteer-Petris Act, BCDC is responsible for granting or denying permits for any proposed fill; extraction of materials; or substantial changes in use of any water, land, or structure within the Commission's jurisdiction (Government Code Section 66632). Additionally, BCDC establishes land use policies for the Bay as a resource and for development of the Bay and shoreline in the Bay Plan, which provides the basis for the Commission's review and actions on proposed projects.

The Project site is partially located within two areas of BCDC's permitting jurisdiction:

- In the San Francisco Bay, being all areas subject to tidal action, including the marshlands lying between mean high tide and five feet above mean sea level; tidelands (land lying between mean high tide and mean low tide); and submerged lands (Government Code Section 66610[a]); and



- In the shoreline band, consisting of all territory located between the shoreline of the Bay and 100 feet landward of and parallel with the shoreline (Government Code Section 66610[b]).

Areas in the Bay jurisdiction include Easton Creek and the tidally influenced wetland at the southern end of the Project site. Areas in the shoreline band jurisdiction include most of the open space and public access amenities, and portions of some of the buildings and parking structures.

BCDC Jurisdiction

In our comments on the NOP, BCDC had requested that the DEIR include mapping to show the best understanding of the extents of BCDC jurisdiction at the project site. In reviewing the figures included in the DEIR, we did not find a depiction of the jurisdiction lines as they are currently understood by BCDC staff and the project proponent. Figures 3-4 through 3-7 include lines along the shoreline that appear to be from the older understanding of jurisdictional limits we mentioned in our NOP comments, but it is difficult to be certain without clear labeling. In particular, the notes in Figure 3-4 are not legible in the DEIR PDF and should be made larger and more clear in the Final EIR. Please provide at least one depiction of BCDC's jurisdiction in the Final EIR based on current information and ensure that it is clearly labeled. Additionally, please review the lines presented in the DEIR's figures to ensure that they are up to date and accurate and remove any outdated or inaccurate symbology from the figures. Lastly, please ensure that all symbols and lines presented on figures in the Final EIR are clearly labeled.

The following is from our NOP comments, for your reference:

Please note that the Exhibit 3, "Conceptual Site and Landscape Plan," included with the NOP depicts an older understanding of the jurisdictional limits that has been superseded, as BCDC staff has determined that the extent of tidal influence on Easton Creek is farther upstream than Old Bayshore Highway. Thus, BCDC's Bay jurisdiction follows the creek as it enters the culvert to the edge of the Project site. BCDC staff is available to review any mapping to ensure that our agency's jurisdiction is accurately depicted.

The most current depiction of BCDC jurisdiction at the project site is included in the project exhibits for the November 14, 2022, Design Review Board meeting, available online here: <https://www.bcdc.ca.gov/drb/2022/11-14-Agenda.html>.

Project Description

Based on the DEIR, we understand that the Project will include the following components:

1. Three 11-story life science/office buildings totaling approximately 1.42 million gross square feet (gsf), including two ground-floor café/restaurant spaces each located in either the Center or South building.



2. Two parking structures, each with 10 to 10.5 stories of above-grade parking and two levels of below-grade parking, providing approximately 1.18 million gsf of parking, or 3,400 parking spaces. Forty of the parking stalls would be dedicated for use by the public for shoreline access or access to the cafes.
3. Landscaping and public access amenities over 237,600 square feet of the project site, including a Bay Trail segment with a minimum width of 20 feet connecting to existing segments at the north and south ends of the project site, including a bicycle/pedestrian bridge across Easton Creek, and bicycle and pedestrian pathways along both sides of Easton Creek, between the North Parking Structure and the North Building, and between the South Parking Structure and the South Building.
4. Sea level rise and flood control improvements including elevating the project site to approximately +17 feet NAVD 88, sea walls, flood walls, riprap slopes, settlement mitigation, and seismic stabilization, as well as approximately 260 linear feet of soft or living shoreline.
5. Off-site circulation improvements to the Project frontage and crosswalks along Old Bayshore Highway.

In the Project Description, on page 3-19, the DEIR mentions “tenant amenity plazas.” This term is not familiar to BCDC staff in relation to this project. Please clarify what these plazas are and where they are located. BCDC staff’s understanding is that all plaza and lawn spaces provided as part of the project will be publicly accessible rather than limited to tenant use and would like to ensure that the project is being communicated correctly.

Environmental Analyses

Below are BCDC staff’s remaining questions and comments on the DEIR, organized by environmental topic.

AESTHETICS

The following text is included on page 4.1-11 of the DEIR: “In Burlingame, standards for providing shoreline access have been adopted by both BCDC and the Burlingame City Council. These standards define how public access is provided on shoreline properties and establish measurable standards for implementation. Development within BCDC’s jurisdiction is required to conform to these standards (City of Burlingame, 2019b).” Please provide additional detail and context as to what these standards are and where they can be found as it’s not clear to BCDC staff whether this is referencing the Commission’s Public Access Design Guidelines (https://www.bcdc.ca.gov/planning/reports/ShorelineSpacesPublicAccessDesignGuidelinesForSFBay_Apr2005.pdf) or a different document. Please reach out to BCDC staff so that we may assist in ensuring that this reference is made correctly.

BIOLOGICAL RESOURCES

The following text is included on page 4.3-12 of the DEIR: "Along the tidal channel of Easton Creek, where narrow bands of tidal salt marsh are present, BCDC's Bay jurisdiction is defined as MHW plus the upper extent of marsh vegetation." This description of BCDC's jurisdiction in areas of tidal marsh is not entirely accurate and should instead indicate that the shoreline in areas of tidal marsh is determined as the upland edge of tidal marsh up to 5 feet above Mean Sea Level.

Also please note that the description of BCDC as part of the Regulatory Framework should be categorized under State rather than Local as BCDC is a State agency. As part of the Regulatory Framework, please also acknowledging that the Bay Plan includes a number of policy sections related to biological resources, including Fish, Other Aquatic Organisms and Wildlife; Tidal Marshes and Tidal Flats; Subtidal Areas; and Mitigation.

GEOLOGY AND SOILS

Impact GEO-3 on page 4.6-15 includes the following statement: "The BMPs may include dewatering procedures, storm water runoff quality control measures, watering for dust control, and the construction of silt fences, as needed." For this analysis, please include an additional statement that establishes how such measures will ensure that the project would not result in substantial soil erosion or the loss of topsoil. The connection between the action and the lessening of the impact is not currently clear and should include more details to provide relevant context for the finding.

HYDROLOGY AND WATER QUALITY

The Bay Plan includes policy sections for Water Quality and Climate Change that are relevant to the DEIR hydrology and water quality analysis. Please review these policies and include a section on the Bay Plan in the State Regulatory Framework for this section.

Additionally, the analysis for Impact HYD-3 assesses the capacity of the Project's proposed storm drainage to avoid significant impacts related to drainage. However, the analysis appears to be limited to shorter-term conditions that do not consider rising sea levels in the future. As future sea levels may affect the functionality of the storm drainage system, please include a discussion of how storm drainage will continue to function adequately at higher sea levels and/or how the storm drainage system can be adapted in the future to ensure adequate drainage for the life of the project.

PUBLIC SERVICES AND RECREATION

Per the McAteer-Petris Act, BCDC is tasked with ensuring maximum feasible public access to the Bay. Please include a section describing BCDC's authority and policies as related to public access in the Regulatory Framework for this section. Please note that the Commission is required to

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ensure that permitted projects provide maximum feasible public access consistent with the project and that public access improvements will likely be included as conditions of approval as part of any BCDC permit for the Project.

Additionally, please review the wording of the finding for Impact PSR-5, which currently states, "Implementation of the Project would include recreational facilities, but would not require the construction or expansion of recreational facilities which might have a substantially adverse physical effect on the environment." Based on the Project proposal and BCDC's laws and policies, implementation of the project will require the construction and expansion of recreational facilities.

TRANSPORTATION

One of BCDC's key considerations for assessing maximum feasible public access is the convenience and safety of site access where a project connects to the larger transportation network, particularly for members of the public approaching the site via the Bay Trail or by surface roads. Please review the findings and policies in the Bay Plan's sections on Transportation and Public Access and reference them in the Regulatory Framework for the Section 4.14. Note that the Bay Plan should be considered a plan or policy "addressing the circulation system" that is the subject of the analysis in Impact TR-1.

Conclusion

We appreciate your attention to the topics discussed above and for the opportunity to make the above comments on the DEIR. If you have any questions or concerns regarding this matter, please do not hesitate to contact me at (415)-352-3650 or by email at katharine.pan@bcdc.ca.gov.

Sincerely,

DocuSigned by:

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KATHARINE PAN
Shoreline Development Program Manager

KP/ra

cc: State Clearinghouse (state.clearinghouse@opr.ca.gov)

