

Draft letter to BCDC design review.

SUMMARY

San Francisco Boardsailing Association participated in the development of the East Shore State Park Master Plan. We strongly supported provision of new access for windsurfing, reasoning that the provision of 12 miles of new shoreline park between the Bay Bridge and Richmond should accommodate new points of access for windsurfing and kayaking. Despite our requests, no new sites were designated, and the plans designations favored preservation and conservation over recreation. Indeed, examination of Table III-2 shows that only about 70 acres of upland were designated for recreation and the vast majority of the land, which was highly disturbed and artificially created, was designated for preservation and conservation. For the Albany area of the park, 57 acres are designated as conservation and preservation and only 20 acres as recreational.

It has been 15 years since the park plan was adopted, and during the intervening time the District has implemented many projects to restore habitat, and only a few to enhance access, continuing this tilt away from active recreation. During that time kite boarders and kayakers have discovered Albany beach as an ideal place to launch their equipment—without needing any improvements-- and have used much of the proposed site for that purpose. The plan proposed for inclusion as a Water Trail site would essentially eliminate most of the parking and rigging areas that are now being used for access, and would make it far more difficult if not impossible to continue these uses at their current levels. The plan before you reflects a series of design decisions which decrease, rather than protect the existing, established levels of access to the water. The plan ignores the policies contained within the adopted master plan, and the additional guidance about the importance of access to the water established after plan adoption. The District failed to coordinate the development of the site plan with the affected non-motorized boating constituencies, recognize the increasing use of the site by those constituencies, or even to fairly evaluate the impact of their proposal on continued use. A new design that protects existing users must be required.

ESTABLISHED POLICIES MANDATE PROVISION OF NEW ACCESS, NOT MERELY PROTECTION OF EXISTING ACCESS

The right of access to the tidelands is so fundamental to California's identity as a state that it is enshrined in the highest body of State law, the State Constitution. Article X, Section 4 provides:

No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

The Water Trail Act, AB 1296, adopted in 2005, gave additional priority to access to the water.

Water-oriented recreational uses of the San Francisco Bay, including kayaking, canoeing, sailboarding, sculling, rowing, car-top sailing, and the like, are of great benefit to the public welfare of the San Francisco Bay Area. With loss of public open space, the public

increasingly looks to the bay, the region's largest open space, for recreational opportunities. **Water-oriented recreational uses are an integral element of the recreational opportunities that span the San Francisco Bay Area and add to the community vitality and quality of life that the citizens of the region enjoy.** (emphasis added)

BCDC's Bay Plan Amendment No 2-06, adopted following the enactment of the Water Trail Act, recognized the value of access with the following new policy language:

Policy 4a. Public **launching facilities** for a variety of boats and other water-oriented recreational craft, such as kayaks, canoes and sailboards, **should be provided in waterfront parks where feasible.** (emphasis added)

Similar language is included in policy 3e, which also recognizes the importance of both parking and rigging areas.

Finally, the adopted park plan, in Policy A-5, calls for enhanced access.

Enhance beach/Bay access for non-motorized watercraft by creating a vehicle drop-off and parking at the south end of the beach.

Additional language regarding water access was included in the Final EIR, which included proposals to "Installation of beach access ramp for pedestrians and non-motorized watercraft access to the south end of Albany Beach. [and] Construction of a 20-stall parking lot, [and a] **staging** area..."

A context for considering new access is provided in Chapter II of the documents, as follows:

organizations and individuals have requested that the park project include conveniently spaced access points for enhanced use of the Bay waters by kayakers, windsurfers, dragon boats, and other human-powered watercraft. Corresponding upland support facilities such as restrooms, water, **parking, and lay-down areas** would further ensure the popularity and use of the aquatic recreational opportunities provided by the Bay. However, the siting of potential facilities and water access points should first consider the significance of adjacent habitat and compatibility with other land uses before approval (emphasis added)

In considering the application of this discussion, it is important to note two things. First, the area currently used for rigging and parking has virtually no existing habitat value; it is an asphalt parking lot covered with a few inches of wind-blown sand. Second, it is important to note the expectations established in the adopted plan. We have no objections to the enlargement of a dune field, even one so tiny, as long as it is implemented according to the adopted plan. The relevant language is contained in policy A-3, as follows: "Explore the feasibility of expanding the dune areas **behind** the beach." (Emphasis added.) Contrary to this direction, the Park District proposes to expand the dune laterally, in a way that reduces access across the beach for all users.

CONCERNS ABOUT THE PLAN'S IMPACT ON WINDSURFING, KITEBOARDING, STAND UP PADDLING AND KAYAKING

The importance of rigging/lay down areas is recognized both in the Bay Plan and in the discussion in the adopted Park Plan. Kiteboarding is an activity that occurs on the water, but equipment must be rigged on land. The kites used to power the sailors have lines that are 80- feet long. Additional room must be provided for the sailor who holds the kite, and the kite at the end of the lines. Sailors at the meeting in Albany on May 16, 2017, estimated that they need a clear area of 115 feet perpendicular to the prevailing wind for this purpose.

The plan submitted for review differs from that included in the Final EIR, which specifically identified a staging area. The revised plan does not designate any staging area, rather it designates an "Open Use Area." However, that area is not large enough to lay out kites, and includes the Bay Trail and a fence between the rigging area and the water.

The site plan proposed by the District includes 20 spaces, but only 14 of them would be available for kayakers and kiteboarders, users that spend a substantial amount of time on the water. Our members have testified that up to 40 kiteboarders are sometimes present at the existing site, thus the limited number of spaces provided would significantly reduce access. A number of interested parties from Albany have argued for removing the parking entirely. That would have a devastating impact on kayaking. Currently a kayaker can park about 50 feet from the beach and easily transport his or her equipment. The alternatives suggested by some would move parking to 500 feet from the beach, and require wheeled dollies and multiple trips.

Arguments about the value of bicycle access in lieu of parking may be appropriate for a City park intended to serve primarily City residents, but this is a regional facility. There are only a handful of potential launch sites along the entirety of the 12-mile State Park—Point Emery/Ashby Beach, Berkeley Marina, Albany, Point Isabel, Shimada and Vincent Park. Of these, only Vincent, Albany and Ashby are kiter-friendly. The plan prepared by the District fails to recognize the relative scarcity of sites useful for water access and develop a design that reflects that understanding. Instead they have prepared a plan that tries to cram perhaps too much into the site, and creates numerous barriers and conflicting use patterns in small spaces. The layout of the single access point to the beach is a case in point. To reach the beach, a kiter with a kite in the air must cross through the parking lot, cross over the Bay Trail, and then cross through an obstacle course of a seat wall, a sand fence, interpretive displays beach mats and benches. While developing a design that brings users together is an appropriate concept in larger parks, suggesting that in such a small space without any understanding of the hazards created is simply irresponsible.

We have similar concerns about the proposed location of the Bay Trail. While it is important to located the Bay Trail as close to the shoreline as feasible, the ultimate location must consider rider safety, the nature of the site, and the level of use. We support formalizing a Bay Trail segment over or adjacent to the racetrack. While the climb is not rigorous, and the route is heavily used, there is no clear Bay Trail path to the connection along Hoffman Marsh, and such a connection would be a significant improvement. Extension of the Bay Trail along the beach is not necessarily the optimal route to reach the existing trail, which is well to the east. It is necessary as a spur trail, but need not be located between the parking and the sand where it creates substantial design and safety concerns. One of our members rode that area on May 18th. The proposed location of the Bay Trail is now asphalt covered with several inches of sand. It is impossible to ride a road bike over that sand safely. The same wind

that makes this site attractive for kiteboarding will blow fine sand several hundred feet to the east. A fence will only somewhat reduce that movement, not prevent it. The District does not have the resources to keep the trail swept on a daily or even weekly basis—heavy growth from winter rains currently narrow the trail width between Buchanan Street and Point Isabel. Sand under the wheels of a road bike is like ball bearings—it makes riding dangerous. Locating the trail as proposed not only conflicts with water access, it poses hazards to bicyclists.

THE PARK DISTRICT HAS AN ONGOING RESPONSIBILITY TO PLAN AND COORDINATE WITH INTERESTED PARTIES

As noted in the beginning, SFBA was a participant in the development of the plan and expressed a continuing interest. Discussions with the District's planners and the Coastal Conservancy during the preparation of the plan led SFBA to believe that while no new sites would be provided in the plan, existing sites would be improved if feasible. At no time in the intervening 15 years did the District reach out to SFBA to discuss how to bring the policies in the plan into fruition in a way that would work for the end users. This stands in sharp contrast to the District's planning efforts at Point Isabel, where on May 18, 2017, the District and its consultants held the second of two on-site workshops to discuss preliminary draft plans with both windsurfers and dogwalkers.

We believe the District has seriously under-estimated the number of kite boarders and kayakers using the site. The District FEIR (page 44) estimates current daily use by kitesurfers at 10 per day, with essentially no kayaking. At the May 16 meeting, 15 regular kiteboarders attended and reported as many as 30 to 40 people parked in order to kiteboard from the site.

The District has legal responsibilities under Section 15162 of the CEQA guidelines to evaluate projects and whether or not there are changes circumstances that might require further analysis. Here, the project proposes only 14 parking spaces that are of sufficient duration to allow kiteboarding. If there are 30-40 existing users, such a project element would in fact significantly reduce the availability of the site for existing, let alone future, recreational needs. Further, the design of the site, in particular the location of many of the elements of the trail, fencing, and the dunes, so constrain rigging as to make the site of limited use for existing kiteboarders. As pointed out earlier, the location of the expanded dune in particular is contrary to that established in the plan. The District has prepared no analysis of the impact of those changes on recreational users.

Such adverse impacts to established recreational patterns are generally considered to be significant under CEQA, and the District has, at the least, a responsibility to evaluate the changes against plan policies.

Rather than engage the end-user communities, as they have in other locations, the District's response is, in essence, to threaten them with complete loss of access. When a kiteboarder testified at the first DRB meeting, the district prepared this response:

Response by East Bay Regional Park District to comments raised on BCDC Permit Number 2014.005.01 at Design Review Board Meeting of April 17, 2017

Due to the size of the site as well as wind direction challenges, it may not be possible to provide safe and suitable accommodations for the exclusive use of kitesurfers, nor is it consistent with adopted plans that support the Beach area for universal recreational use and inclusion of the Bay Trail. As currently envisioned, the District does not intend to prohibit kitesurfing from the Park. **However, if kitesurfing activities demonstrate a clear hazard to other Park users, the District reserves the right to institute and enforce such prohibitions.**

So, having made changes to the site plan without consultation with the kiteboarding community that pose serious safety concerns, the District then threatens them with a loss of access for exercising their right to testify before the DRB!