Maritime Safety Concerns with the Draft EIR for the Oakland A's Proposed Stadium Project at Howard Terminal

April 8, 2021
Harbor Safety Committee

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The Oakland A's Proposed Development at Howard Terminal of a Baseball Stadium, 3000 Housing Units, 1.5 million Square Feet of Office Space, Hotel, Retail, and Public Spaces Presents Inherent Conflicts with the Working Industrial Seaport and Navigational Channels Surrounding the Howard Terminal.


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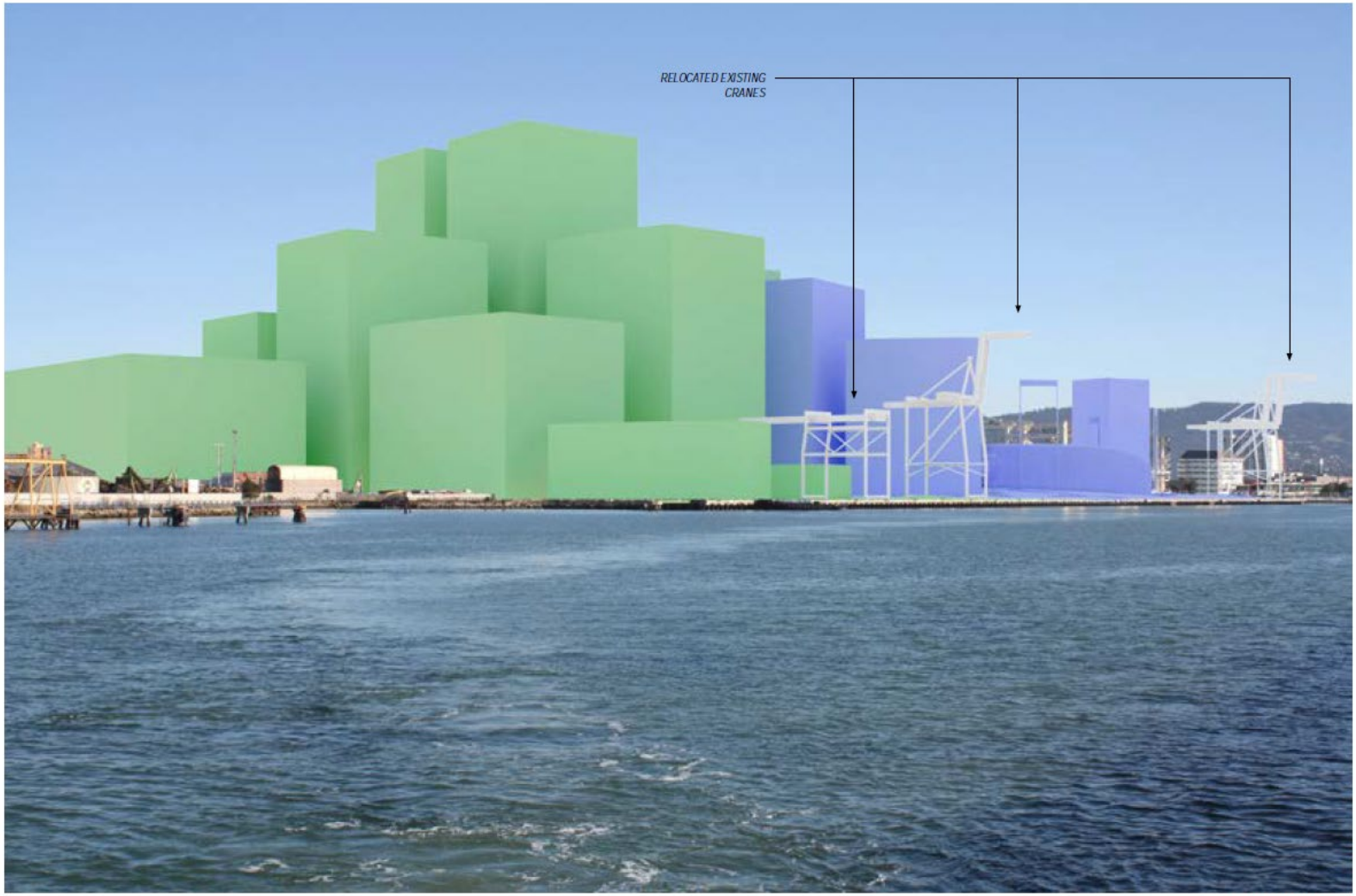
PREVIOUS HOWARD TERMINAL
PREVIOUS BALLPARK & SKYLINE


HOWARD TERMINAL
CURRENT BALLPARK & SKYLINE

EXISTING



FULL BUILDOUT

City of Oakland is the Lead Agency for Environmental Impact Report (EIR) preparation under the California Environmental Quality Act (CEQA).

The City released the Draft EIR on February 26, 2021. Comments are due to the City by April 27, 2021.

This is the only opportunity that the public has to comment on the adequacy and accuracy of the Environmental Impact Report. The City will not accept comments and will not incorporate answers or respond to suggestions to improve the project EIR after April 27th.

We recommend that the Harbor Safety Committee submit comments which identify areas of inadequacy and inaccuracy to the City of Oakland with respect to potential issues of maritime safety.

It is incumbent on the Maritime Community to take the opportunity to address and identify all increased risks and related negative impacts on maritime safety to the City at the Draft EIR stage.

Given the wide cross-section of maritime industry stakeholders represented, the expertise at the table, and the forum for consensus on safety issues exclusive of commercial interests, the Harbor Safety Committee is a leading voice for identifying risks and impacts.

Specifically, given the short timeline at hand, HSC should consider directing the submission of comments to the DEIR which express concern with the adequacy of the project and proposed mitigation measures which it finds result in increased risks to safe navigation when compared to current conditions in the Oakland Estuary and San Francisco Bay.

In other words, HSC should identify when, where and how a risk factor is possible to change in any way compared to the status quo if this project moves forward. These should consider submitting all concerns in a comment letter before the end of the public comment period.

Potential Maritime Safety Issues Discussed in the Draft EIR:

- Maintaining Clear and Controlled Navigational Channels and Turning Basin for Commercial Traffic
- Minimizing Recreational Vessel Interactions in Estuary and Turning Basin
- Stadium Lighting Impacts on Safe Vessel Operations
- Building Glare Impacts on Safe Vessel Operations
- Fireworks Impacts on Safe Vessel Operations
- Maintaining Inner Harbor Turning Basin Expansion Option ("Maritime Reservation Scenario")

- Maintaining Clear and Controlled Navigational Channels and Turning Basin for Commercial Traffic
- Minimizing Recreational Vessel Interactions in Estuary and Turning Basin

Draft EIR (4.10-36) acknowledges these inherent conflicts:

possible, which reduces, but does not eliminate, the potential for conflict with recreational users in this area. If recreational boaters increase activity, including congregating or anchoring during ballgames, in the channel and turning basin, this could result in a fundamental conflict between the proposed Project and adjacent or nearby water-based uses, including maritime navigation and ferry transit, resulting in the need for mitigation. More specifically, if recreational watercraft are present in adjacent and nearby federal waterways, including the Inner Harbor Turning Basin, or if there is a risk of recreational watercraft impeding the safe transit of commercial ship traffic due to Project activities, a ship's Bar Pilot, in protecting the public, is likely to delay a vessel transit until recreational watercraft are no longer a safety concern. In addition to the vessel directly affected, delays can result in: (a) canceled and rescheduled truck appointments to pick up and drop off containers; (b) delays in subsequent truck appointments for other ships while time is made up for the first ship; (c) delays in the ship's departure from Oakland and arrival at its next port of call; and (d) fees and penalties on terminal operators associated with the delays. If substantial or recurring, these disruptions would create transportation inefficiencies that could require several days or more to return the Port to normal operations and ultimately lead to the risk of shipping companies terminating their business with the Port.

Mitigation Measure LUP-1a: Boating and Recreational Water Safety Plan and Requirements.

The Project sponsor shall develop a protocol for boating and water recreation around the Project site with the approval of the City of Oakland and the Port of Oakland, the San Francisco Bay Area Water Emergency Transportation Authority, the Harbor Safety Committee of the San Francisco Bay Region, and the United States Coast Guard.

The protocol shall specify measures intended to minimize conflicts with maritime navigation resulting in safety hazards and ship delay, and shall be implemented prior to and during baseball games, concerts, and other large events (as defined in the TMP) scheduled at the ballpark or the Waterfront Park. The protocol shall include, but shall not be limited to, the following requirements:

1. Installation and maintenance of signs along the wharf informing recreational watercraft of the prohibition on docking and anchoring adjacent to the Project site, including the wharf adjacent to the Project site;

2. Water-based patrols by the Oakland Police Department during and reasonably prior and subsequent to, all baseball games, concerts, and other large events (as defined in the TMP) at the ballpark or the Waterfront Park, sufficient to remove any boating and water recreation activity that is not in compliance with all the applicable laws, regulations, and rules governing navigation in the shipping channel or in the turning basin, as well as ensuring that no such boating or water recreation activity loiters, anchors, or otherwise impedes maritime navigation;

3. Procedures for response to water-related emergencies adjacent to the Project site during all baseball games, concerts, and other large events (as defined in the TMP) at the ballpark or the Waterfront Park; and

4. Communications by the Project sponsor to its guests, customers, and the public regarding this protocol through communicating on (without limitation) its websites and on communications to those who have purchased entry to ballpark events.

The Project sponsor shall solely fund the cost of all of the above requirements, including the incremental cost of the additional water-based OPD patrols.

The Project sponsor, the City of Oakland, and the Port of Oakland (collectively, the "Approving Parties") shall reach agreement on a protocol achieving all of these requirements prior to the issuance of a certificate of occupancy and Port Building Permit for the ballpark. During the opening baseball season in which games are played in the ballpark, the Approving Parties shall meet at least monthly to review the effectiveness of the protocol in preventing non-compliant boating activity, shipping delays, and water safety hazards. After this opening baseball season, the Approving Parties shall continue to meet monthly to review the effectiveness of the protocol unless less frequent meetings are mutually agreed upon. Additionally, the Approving Parties shall review annually the number of OPD warnings and citations, safety incidents, and water-related emergency responses to ensure that the safety measures are effective.

The Approving Parties shall make good faith efforts to regularly revise the initial protocol based on the effectiveness and feasibility of the protocol in preventing non-compliant boating activity, shipping delays, and water safety hazards. If the Approving Parties cannot mutually agree to revise the protocol to ensure that it effectively prevents non-compliant boating activity, shipping delays, and water safety hazards within 30 days of first making such efforts, then the Port may require additional operational safety measures that are similar to those listed in the initial protocol, including measures such as increased water-based patrols or enhanced signage, which shall be promptly implemented by Project sponsor at Project sponsor's sole cost.

Concerns With Mitigation Measure LUP-1a:

- Harbor Safety Committee, USCG and WETA are listed as being included in Safety Plan and Protocol development but are not "Approving Parties" included in Protocol review or implementation. Only "Approving Parties" are the City, the Port, and the A's.
- City and A's after the opening baseball season may reduce OPD patrols without any further input, notice, or safety feedback. Any Port objections are limited to re-imposition of initial protocols only.
- OPD patrols only provided based on game and event schedules at the ballpark or waterfront park, but project is intended to create 24/7/365 waterfront access and uses. A's are not responsible for additional patrols.
- Communications with the Recreational Boating focused on "Anchoring" prohibition instead of problematic "loitering" enforcement needs
- No restrictions on A's team marketing to promote future conflicts which have already been disclosed (i.e. the A's creation of "fan flotillas" and a "party barge")

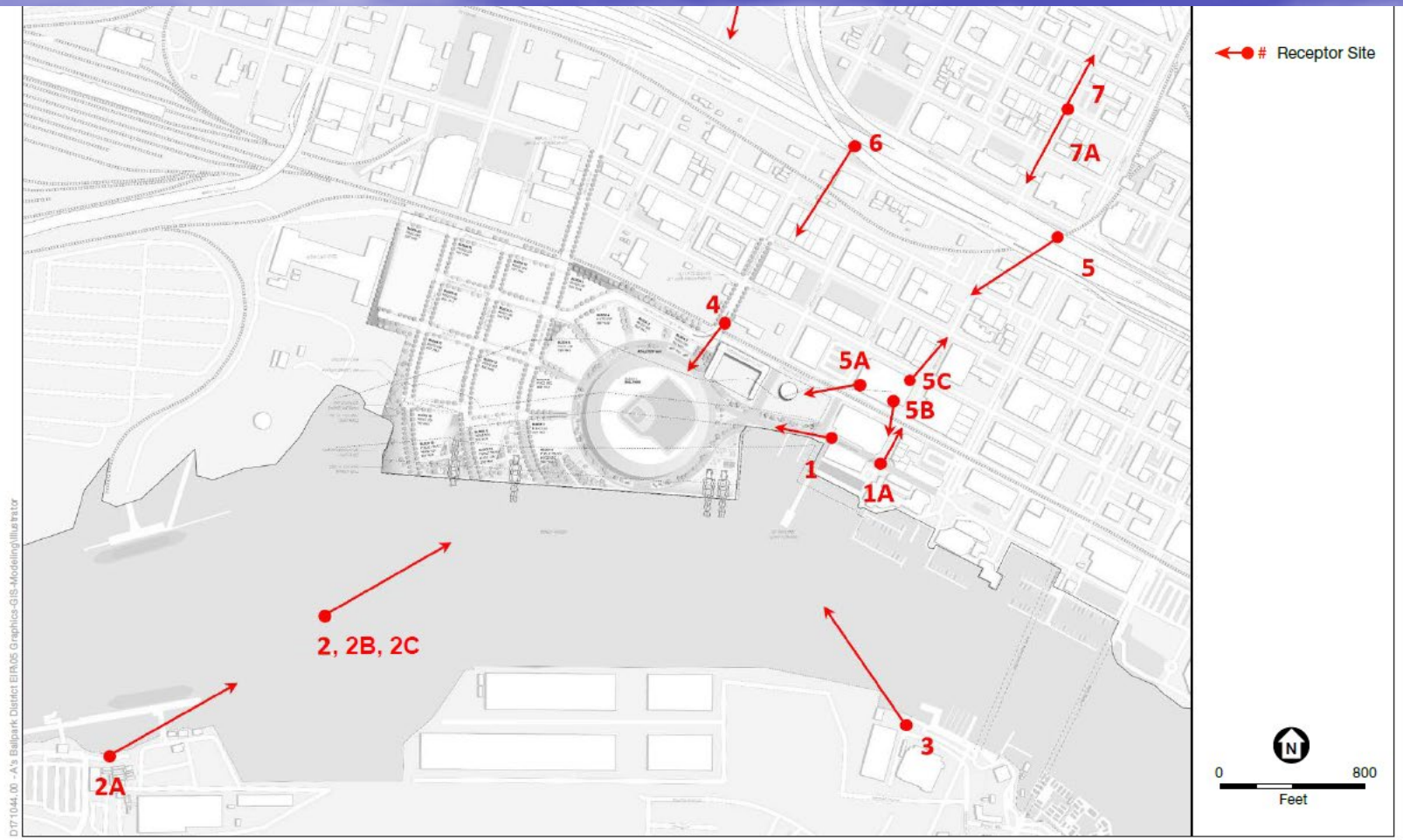
Concerns With Mitigation Measure LUP-1a: (cont'd)

- No provision for imposition of safety zones, security zones or restricted navigational areas for OPD pier and security assets outside of the main navigational channel but proximate to where recreational vessels are likely to loiter and congregate
- No provision for imposition of safety zones or security zones or restricted navigational areas for Ferry terminal and Ferry routes
- No discussion of needs to maintain navigational security in the event of MARSEC levels 2 or 3 with respect to vessel or terminal assets
- Presumption that there are no impacts on Ferry schedules or Ferry landing accessibility
- Lack of evaluation of different event likelihoods to result in different vessel traffic patterns – concerts and fireworks likely to draw both highest concentration of vessels and highest concentration of vessels after dark – and requirements of needs for special permits

➢Stadium Lighting Impacts on Safe Vessel Operations

Draft EIR (4.10-39-43) acknowledges the need to reduce impacts of ballpark lighting which might impair safe vessel navigation:

navigation. During the EIR scoping process, the City received comments requesting that the EIR analyze the potential effects of light and glare on maritime navigation. For example, the Port of Oakland stated that the EIR should "evaluate the impacts of lighting on navigational safety in the Inner Harbor" and should "identify mitigation measures, including design and operational restrictions relating to light and glare interference, to allow safe vessel navigation in the federal channels in compliance with all applicable standards, such as the Port of Oakland Exterior Lighting Policy." (Port of Oakland Comments on Waterfront Ballpark NOP of DEIR, p. 10 (January 7, 2019).)[12] Due to the sensitivity of surrounding uses, including use of the nearby turning basin by vessels, a quantitative light and glare analysis was prepared by HLB Lighting Design (2020) (**Appendix AES**).



SOURCE: HLB Lighting Design

Oakland Waterfront Ballpark District Project

Figure 4.1-21
Light and Glare Receptor Locations

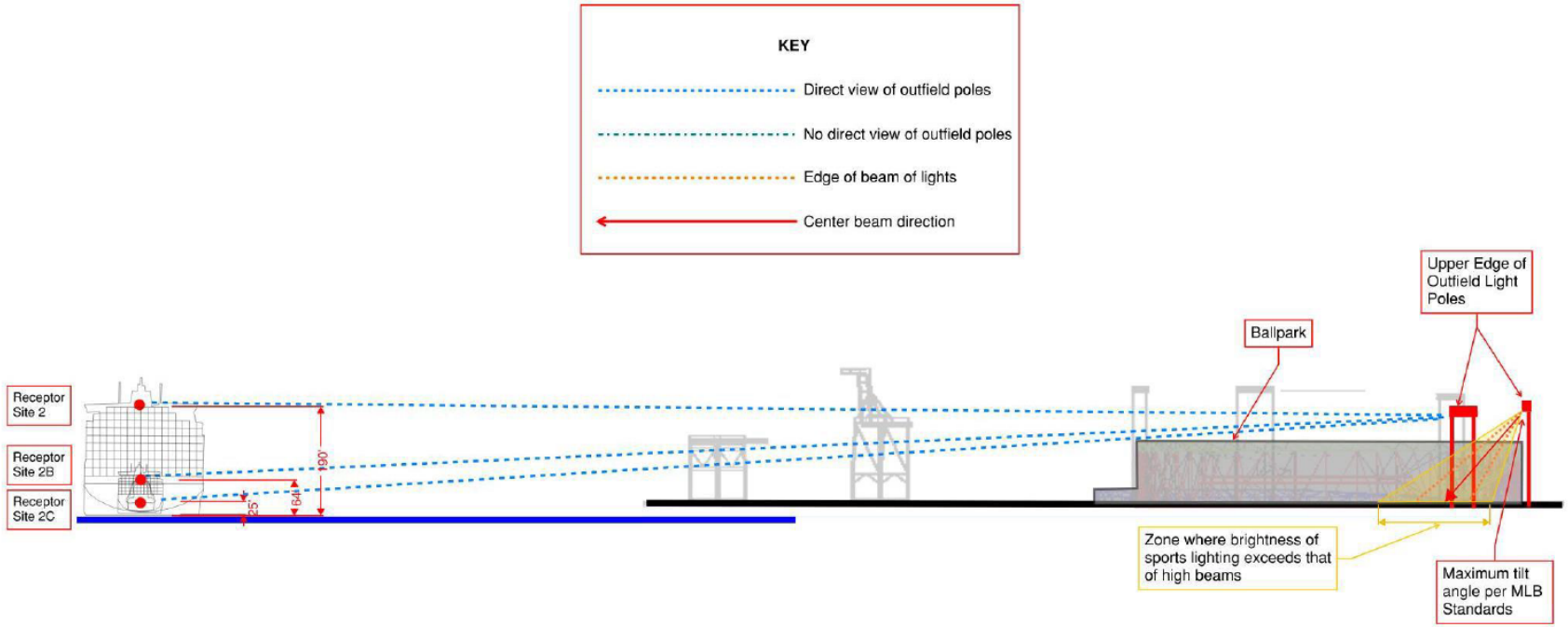


Figure 4.10-7
Section Showing the Line-of-Site Between Receptor Locations 2, 2B, and 2C and the Proposed Project Outfield Lighting Fixture

In summary, the anticipated glare at the turning basin receptor sites from the proposed ballpark lighting is not anticipated to exceed recommended limits per available glare standards (Disability Glare/Veiling Luminance; maximum luminaire intensity in the direction of sensitive sites per EN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In addition to the maritime pilots navigating vessels for shipping, the Water Emergency Transportation Authority (WETA) operates the San Francisco Bay Ferry, which uses the Jack London Square terminal approximately 550 feet from the outfield lighting stands at the ballpark. The height of ferry pilots' eyes on the San Francisco Bay Ferry vessels are 25 to 30 feet above water and could have a direct line-of-sight to the LED ribbon boards, primary outfield scoreboard, the display on the exterior of the ballpark facing Jack London Square, or field lighting, which would be illuminated at night during games. Both light sources could be a substantial source of nighttime glare for the ferry pilots.

To provide context, the WETA operations department was consulted for the purposes of this analysis. WETA did not indicate that glare from light stands at Oracle Park in San Francisco has been an issue on approach to or departing from Oracle Park before, during, or after baseball games or other events at night. However, WETA did indicate that ballpark lights aimed directly at ferry pilots' eyes could interfere with their ability to dock (Stahnke, 2019). As described in the Lighting Technical Report prepared by HLB Lighting Design, Inc. and shown in Figure 4.10-7, field lighting would be directed downward at the field of play as required by Major League Baseball, and not toward the ferry dock. As shown in the figure, the zone where field lighting would exceed the brightness of an automobile's high beam headlights would not extend beyond the ballpark itself; thus, the brightness experienced by ferry pilots in the Inner Harbor would be substantially lower than the brightness of high beam automobile headlights. Moreover, as described earlier, the light intensity experienced by receptors falls off dramatically as the point of view of a receptor, such as the vessel pilots, is further from the center of the beam. For these reasons, field lighting would not be expected to adversely affect the ability of maritime or ferry pilots to navigate in the Estuary. Scoreboard signage would be in direct view of highway driving positions and thus would be required to comply with the California Vehicle Code, which would limit its perceived brightness from the perspective of a ferry pilot.

Concerns With Lighting Conclusions:

- Regarding lighting, the study relied upon in the DEIR is focused on the direct impact of these factors on one single position and point in time – when the bridge of a vessel is at the center of the turning basin facing the stadium.
- Lighting impacts must include impacts on all safety aspects and components of vessel turning, including tug assets and various additional members of the crew not on the bridge – especially during narrow margin transits in the turning basin.
- Ferry master impacts only mentioned for docking/undocking, but not the ferry approach or while in transit
- No evaluation of lighting impacts in the estuary or at the Ferry terminal included in the lighting study.
- Lighting study conclusions are limited to direct sight impacts, ignoring completely any impacts of reflected light from the water surface.
- Comparisons to Oracle Park are invalid in general, but especially given new rotation of A's proposed ballpark to be open to the Estuary

➢ Building Glare Impacts on Safe Vessel Operations

Draft EIR (4.10-39, 4.3-38-39) acknowledges the need to reduce impacts of daytime building Reflection and Glare which might impair safe vessel navigation:

As discussed in Section 4.1, the ballpark alone would not create a substantial source of daytime glare because the façade has been designed without reflective materials and field lighting would not be employed during daytime hours. However, adjacent buildings under Phase 1 and Buildout could create new sources of daytime glare. The potential for substantial new daytime glare from the building facades would be minimized through implementation of **Mitigation Measure BIO-1b, Bird Collision Reduction Measures**, as described in Section 4.3, *Biological Resources*, which would reduce the amount of reflective glass and polished surfaces on proposed buildings.

Mitigation Measure BIO-1b: Bird Collision Reduction Measures.

Prior to the approval of a construction-related permit, the Project sponsor shall prepare and submit a Bird Collision Reduction Plan to the City of Oakland Bureau of Building for review and approval to reduce potential bird collisions to the maximum feasible extent. The Plan shall include all of the following mandatory measures, as well as applicable and specific Project Best Management Practice (BMP) strategies, described below, to reduce bird strike impacts to the maximum feasible extent. The Project sponsor shall implement the approved Plan. Mandatory measures include all of the following:

v. Apply bird-friendly glazing treatments to no less than 90 percent of all windows and glass between the ground and 60 feet above ground or to the height of existing adjacent landscape or the height of the proposed landscape. Examples of bird-friendly glazing treatments include the following:

Concerns With Building Glare Conclusions in Reliance on BIO-1b:

- Buildings being authorized by the Draft EIR for this project are up to 600 feet tall, but glare reducing requirements of BIO-1b only apply to the first 60 feet of building heights. 90% of the building surface of the tallest buildings are uncontrolled under this mitigation measure, and the tallest components create the most substantial impacts for reflection and glare.
- No evaluation of Glare impacts in the estuary including in the turning basin were conducted
- Buildings are built close to the edge of the navigational channel and turning basin and facing the navigational channel and turning basin, increasing intensity and likelihood of glare impacting safe navigation
- Multiple potential building scenarios present multiple potential glare impacts that have not been studied

➢ Fireworks Impacts on Safe Vessel Operations

Draft EIR (4.10-43) acknowledges that fireworks may impair safe vessel navigation:

Pyrotechnic Events

Refer to Section 4.1, *Aesthetics, Shadow, and Wind* for a more general discussion regarding pyrotechnic events and their effects on nearby uses. This paragraph considers the effects of pyrotechnic events, or fireworks, on adjacent or nearby water-based uses, specifically maritime pilots while they navigate the Inner Harbor. Lighting from these events would result in temporary and short-term increases in glare when looking toward the fireworks in the sky or above the horizon, but would not be expected to substantially interfere with their ability to see navigational aids in the Estuary or on the shoreline.

When viewing navigational aids or physical landmarks along the shoreline, maritime pilots look down toward the water or immediately across the surface of the water at the shoreline from a perspective 25 to 190 feet above water. Because of this downward angle, fireworks are not likely to be in the direct line of site of maritime pilots, and therefore, would not substantially interfere with their ability to navigate the Estuary.

Additionally, the U.S. Coast Guard regulates firework displays that are set off from barges in the San Francisco Bay (33 CFR § 165.1191). Currently, pyrotechnic events using barges are held near Oracle Park during home baseball games, near Pier 39 during the Fourth of July, near Pier 3 during Fleet Week, and near the San Francisco Ferry Building on New Year's Eve, among others. Prior to these events, the U.S. Coast Guard establishes a temporary safety zone during the loading and transit of the fireworks barge, until after completion of the fireworks display to restrict navigation in the vicinity of the fireworks loading, transit, and firing site (typically a 100-foot radius during loading and set-up, and increases to a 560-1,000-foot radius upon commencement of the fireworks display). These regulations are needed to keep spectators and vessels away from the immediate vicinity of the fireworks firing sites to ensure the safety of participants, spectators, and transiting vessels. The Project sponsor would be required to obtain clearance for the pyrotechnic events involving barges from the U.S. Coast Guard, which would include notification of the event in the U.S. Coast Guard's Local Notice to Mariners prior to the event. The U.S. Coast Guard would also determine the radius required for the safety zone.

Given that fireworks displays would be typically above the line of sight of maritime pilots, safety zones would be enforced the U.S. Coast Guard, and notification would be given prior to fireworks displays, pyrotechnic displays are not expected to adversely affect the ability of maritime pilots to navigate the Inner Harbor and the Project would not result in a fundamental conflict in this regard.

Based on the foregoing, and with implementation of Mitigation Measures LUP-1b and BIO-1b, impacts to maritime pilots would not be expected to be substantial or adverse, and the proposed Project would not result in a fundamental conflict with regard to water-based uses, such as maritime navigation, due to light and glare conflicts

Concerns With Fireworks Conclusions:

- The claim that pilots field of vision is limited and that they would not take notice of fireworks is pure conjecture – and wrong
- The conclusion that on commercial vessels that the only source of human errors due to distraction is that of a distracted pilot ignores all other bridge team and tug resources necessary to complete a transit, especially in the turning basin
- No discussion of the impacts of Fireworks on Ferries is included
- No evaluation of the number of OPD patrols necessary to clear recreational vessels from navigational channel and safety zone
- Recreational vessel risks of injury and death increase dramatically at night and in relation to water-based fireworks displays, especially when boaters turn off their navigational lights
- Comparisons to San Francisco waterfront and Oracle Park fireworks displays are not applicable, not a Rule 9 waterway.
- No discussion of where the Fireworks barge is proposed to actually be moored such that the 1,000 foot safety zone radius would not hinder or reduce access to the navigational channel or turning basin.
- No justification given for need for Fireworks over water
- No justification given for need for Fireworks display when vessel is transiting the channel or in turning basin

➢ Maintaining Turning Basin Expansion Option ("Maritime Reservation Scenario")

BASE LINE SCENARIO

MARITIME RESERVATION SCENARIO

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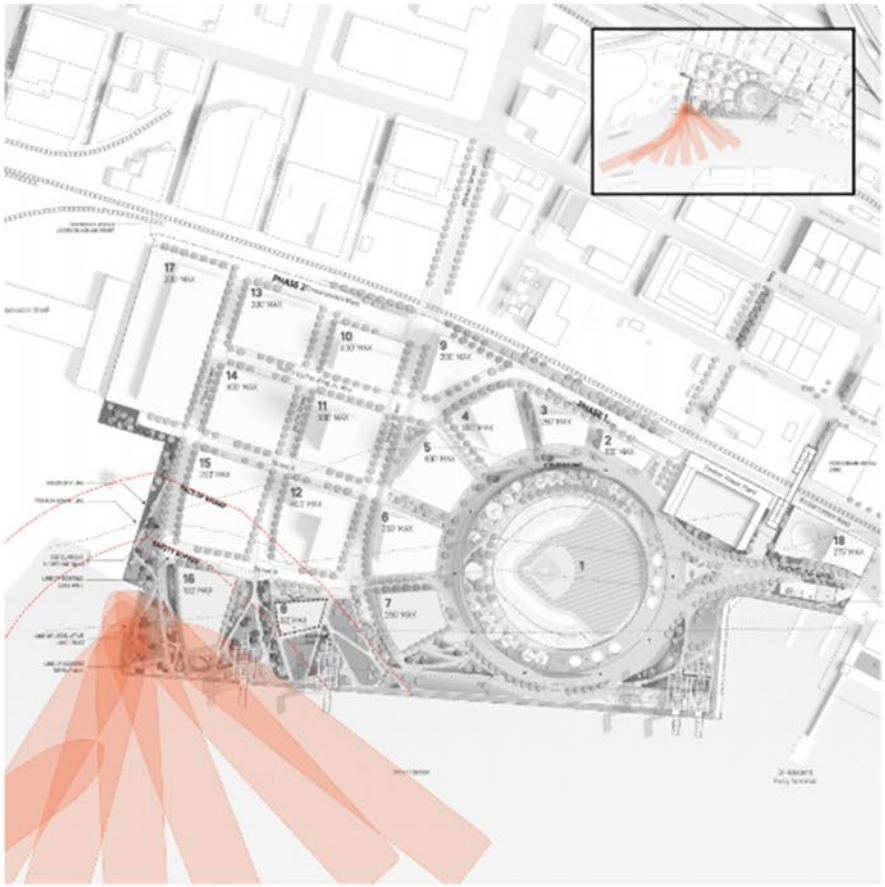
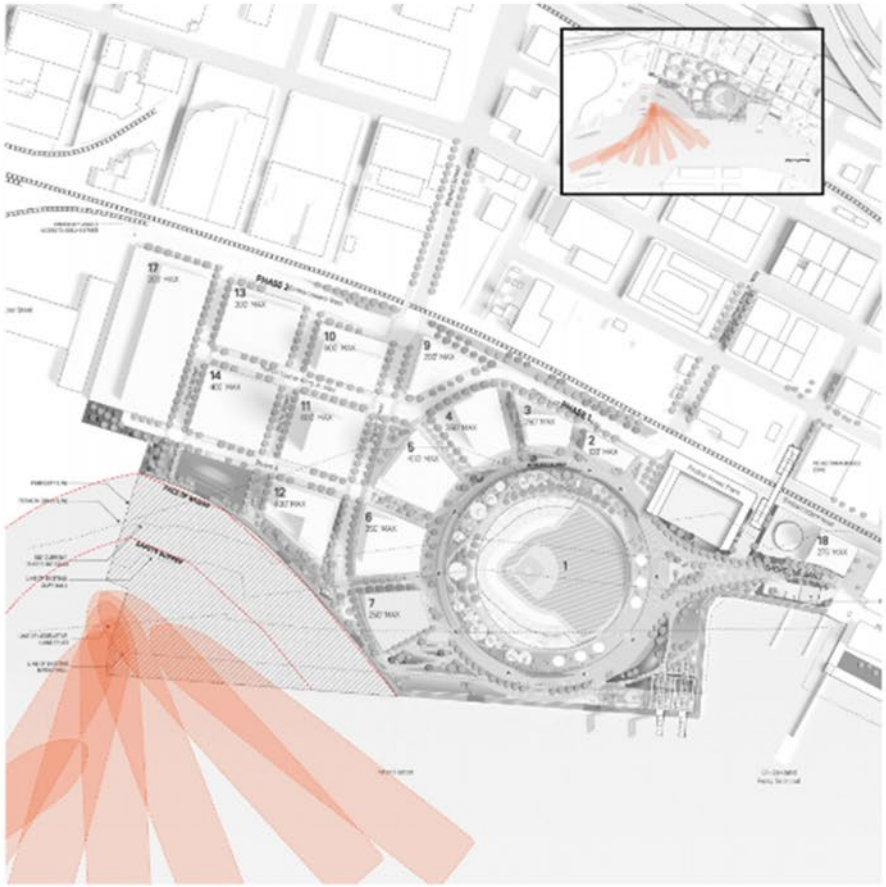
SITE PLANS



BASE LINE SCENARIO



MARITIME RESERVATION SCENARIO

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POTENTIAL TURNING BASIN


BIG
JAMES CORNER FIELD OPERATIONS
HOWARD TERMINAL - MRS
TURNING BASIN TERRACE
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TURNING BASIN

Maritime Reservation Scenario:

Expansion of the Turning Basin increases Safety and minimizes Risk – with or without the A's Stadium project.

HSC should consider submitting a comment to the City that maritime safety is enhanced under the Maritime Reservation Scenario and that this is the preferred scenario with respect to optimal safety.

Draft EIR does not discuss the question of whether Turning Basin expansion should also make the turning of a ship into a spectator focus like proposed by the A's in its most recent renderings.

Additional Considerations Not Included in DEIR:

- Indemnification by the A's: All Vessel Casualty, Mariner Injury & Jones Act Claims, Standby Time or Delay Charges to Any Commercial Vessel when the Direct or Proximate Cause of the casualty or claim is the result of an impact from the A's Project or an Event at the Project

- Navigation First: The A's should sign a formal Declaration acknowledging the primacy of the rights of vessels to navigation on the channels of the estuary waterways and deferral all competing rights to the waterway at all times

- Emergency Operations: The A's should ensure that personnel, equipment, and the environment are not put at greater risk via the diversion of resources to handle the additional tasks of the project and distractions from maritime safety.

- Safety Zones and Security Zones for Cargo, OPD, and Ferry Vessels: These should be discussed and identified prescriptively in anticipation of request for event permits or MARSEC level 2 and level 3 events in order to accomplish anticipated needs for both safe maneuvering and security. Safe maneuvering should not be limited to technical measurement of maritime space only but should also include consideration of congestion in unpredictable circumstances, such as weather, fire, and other concentrated risks in the maritime domain to enhance safety in a systems view of maritime safety.

Project Alternatives Discussed in the Draft EIR:

6.2.1 Alternative 1: The No Project Alternative

CEQA requires EIRs to analyze a No Project Alternative, which allows decision makers to compare impacts of approving the proposed Project to impacts of not approving the proposed Project (CEQA Guidelines Section 15126.6(e)(1)).

Under the No Project Alternative, the Oakland A's would not relocate to Howard Terminal, which would not be redeveloped with a mix of new uses and would remain in use by the Port of Oakland for maritime uses. For the foreseeable future, uses and activities at Howard Terminal would continue to include truck parking, loaded and empty container storage and staging, longshoreperson training facilities, and occasional berthing of vessels for repair or storage. There would continue to be no public access to the Bay from Howard Terminal, and on- and off-site park and open space improvements proposed as part of the Project would not be constructed. No changes would be made to the regulatory documents governing site uses and maintenance given hazardous materials in the soil and groundwater; no changes would be made to address stormwater runoff; and there would be no increased demand for potable water, wastewater treatment, or public services. The turning basin could be expanded if desired and permitted in the future, as discussed for the Project's Maritime Reserve Scenario.

Land Use

Under Alternative 1, the No Project Alternative, no physical changes would occur at the Project site, and therefore, no impacts would occur. The Project site would continue to be leased for maritime support uses, and existing uses including truck parking, loaded and empty container storage and staging, and a longshoreperson training facility would remain in place. With no change in use, impacts on the Seaport and land use compatibility concerns between Project uses and nearby industrial uses would be avoided, and there would be no need for mitigation of these impacts. The site would not develop as anticipated when it was included in *Plan Bay Area 2040's* Oakland Downtown & Jack London Square Priority Development Area (PDA).

6.2.2 Alternative 2: The Off-Site (Coliseum Area) Alternative

Under this alternative, Howard Terminal would remain in its current use, and the Oakland A's would construct a new ballpark and their proposed mixed-use development at the site of the Oakland Coliseum. No physical changes would occur at Howard Terminal, which would remain in use by the Port of Oakland for maritime uses. Uses and activities at Howard Terminal would continue to include truck parking, loaded and empty container storage and staging, longshoreperson training facilities, and occasional berthing of vessels for repair or storage. There would continue to be no public access to the Bay from Howard Terminal, and on-site park and open space improvements proposed as part of the Project would not be constructed. No changes would be made to the regulatory documents governing site uses and maintenance given hazardous materials in the soil and groundwater, no changes would be made to stormwater runoff, and there would be no increased demand for potable water, wastewater treatment, or public services.

Project at Howard Terminal, although related impacts would be less than significant, as with the CASP EIR Alternative 2C, for the reason explained above. In addition, potential impacts of the proposed Project related to land use compatibility under CEQA would not occur at the Coliseum site, because the Coliseum site is not adjacent to maritime uses like the proposed Project at Howard Terminal, and no mitigation would be required.

Recommended Comments by HSC on Draft EIR Alternatives #1 and #2:

Both Draft EIR Alternative #1 (No Project) and Alternative #2 (A's Stadium Project at the Current Coliseum Location) result in increased maritime Safety and minimized Risk of a navigational incident resulting from incompatible uses or undesired concentrations of recreational vessel traffic interacting with commercial vessels.

HSC should consider commenting to the City that maritime safety is enhanced under both DEIR Alternative #1 and Alternative #2.

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