

PUBLIC ACCESS PATHWAYS RECOMMENDATION

SUMMARY: As part of the Tidal Canal transfer, the City, in cooperation with the U.S. Army Corps of Engineers, transferred 84 lots of submerged land to the adjacent residents. At that time, City Council directed staff to conduct a feasibility study on the three public pathways along Fernside Blvd., as well as the three pathways on Eastshore Dr. A public input process was conducted and that information along with input from City staff from a variety of departments was compiled into the following recommendations for each of the six public access pathways.

Location	City Property Right	Recommendations	Additional Information
Pathway A – Fernside Blvd. near High Street	City access easement.	<ul style="list-style-type: none"> • Retain existing path condition as water view area until funding is identified to bring to ADA compliance. • Modify bulb-out to be cone shaped - 30' from water's edge and 35' wide (see Exhibit 1). • Install fencing or other clear delineation of the public area and remove the gate. • Add safety improvements. 	<ul style="list-style-type: none"> • Existing pathway is not ADA compliant due to steep grades and narrow pathway. • Approximately \$750,000 to implement ADA compliance by regrading and widening pathway and building retaining walls for adjacent homes. • Keeping the pathway open allows public viewing of the water; staff will seek grant funds to make major improvements. • Last priority for existing funding per the City's public engagement efforts.
Pathway B – Fernside Blvd. at Monte Vista Ave.	City access easement.	<ul style="list-style-type: none"> • Improve pathway as a viewing area of the water. • Modify bulb-out to be cone shaped - 30' from water's edge and 35' wide. • Add safety improvements. 	<ul style="list-style-type: none"> • Add viewing amenities such as benches, trash/recycle receptacles, and landscaping. • Creates a safer configuration and an improved visitor experience.
Pathway C – Fernside Blvd. at Fairview Ave.	City access easement.	<ul style="list-style-type: none"> • Vacate City easement via recorded document. • Sell vacated easement area to adjacent property owners. 	<ul style="list-style-type: none"> • The path serves as a driveway for both adjacent homes and is used daily. The home on the right has a 3-car garage and drivers back blindly into the path to exit the garage. • Material safety concerns have been raised about the incongruent use of this path as a driveway and a public walkway. • Vacating easement is consistent with City's Vision Zero to reduce pedestrian & bicyclist fatalities.
Pathway D – Eastshore	City access easement.	<ul style="list-style-type: none"> • Expand width of public path and make improvements for viewing 	<ul style="list-style-type: none"> • Currently well-used as a public pathway to the water.

Location	City Property Right	Recommendations	Additional Information
Drive at Liberty Ave.		<p>of the water and informal access into the water.</p> <ul style="list-style-type: none"> • Address existing encroachments on each side to increase easement area. • Complete pathway fencing and adjust existing fencing as needed. • Address rock wall at end of pathway for easier informal access to the water. 	<ul style="list-style-type: none"> • Recommend non-motorized watercraft launch at Towata Park, which is better suited for a formal launch with existing parking and closer to deep water. • Expand width of pathway by removing landscape and fencing barriers. • Improve with amenities such as picnic tables, benches, trash/recycling receptacles, rock and log seating/climbing areas.
Pathway E – Eastshore Drive at Central Ave.	City access easement.	<ul style="list-style-type: none"> • Improve public viewing area with amenities. • Adjust fencing as needed. 	<ul style="list-style-type: none"> • Already well-used as a public pathway to the water. • Increase public amenities such as benches, picnic tables, trash/recycle receptacles.
Pathway F – Eastshore Drive at Meyers St.	No City legal interest in path – no ownership or easement interest.	<ul style="list-style-type: none"> • Remain closed. 	<ul style="list-style-type: none"> • City has no rights to this pathway.

Additional details regarding above recommendations

- Per the boundaries shown for each pathway on Exhibit 1, it is recommended that encroachments in those areas be enforced.
- Where any easement area remains that is not recommended to be enforced as part of the public pathway area, it is recommended that the City do a formal survey, sell the easement rights as part of the submerged land transfer and issue a new public access easement with accurate boundaries. This includes:
 - Survey modified path to create new legal description, including legal descriptions for slivers shown in Exhibit 1.
 - Sell unused easement area (i.e., slivers on either side of the 30’ wide funnel shape and water’s edge) to adjacent property owners, together with the sale of submerged land.
 - Record replacement easement reflecting revised legal description and clear statement of obligations of parties with respect to the path.

PROJECT BACKGROUND

- As part of the Tidal Canal transfer, the City, in cooperation with the U.S. Army Corps of Engineers, transferred 84 lots of submerged land to the adjacent residents. At that time, City

Council directed staff to conduct a feasibility study on the three public pathways along Fernside Blvd., as well as the three pathways on Eastshore Dr.

- The Feasibility Study of Six Public Access Pathways on Fernside Blvd. and Eastshore Dr. (“**Feasibility Study**”) was issued in August 2018.
- A public input process was conducted in September and October of 2018, including two community meetings and an online survey.
- In response to questions raised by the public during the input process, the City Attorney’s office determined it was necessary to conduct further title analysis to clarify boundaries, ownership and other property rights related to the pathways.
- Alameda Police Department (“**APD**”), security consultants and other relevant staff members also offered input:
 - APD Lieutenant provided initial safety and security input that was incorporated into the Feasibility Study.
 - As a result of a community request made during the input meetings, APD staff, who are certified in Crime Prevention Through Environmental Design (“**CPTED**”), conducted a thorough assessment of all six pathways using the CPTED criteria and issued a report that is available to the public here. This information helped inform the above recommendations.
 - Inter-departmental staff meetings, including APD, Planning, Recreation and Parks, PIO and City Attorney’s office, were held to review the CPTED report, property issues, and draft recommendations.
 - Further analysis was conducted by the City’s Risk Manager in April 2019.

OWNERSHIP AND EASEMENTS INFORMATION

The additional title analysis undertaken by the City Attorney’s office provided the following information with respect to the six pathways. For ease of reference, the pathways are referred to as A through F with pathway A being the one closest to the High Street Bridge and the other five pathways proceeding down Fernside Blvd. and then down Eastshore Dr., with the last path nearest to Meyers Ave. being referred to as pathway F.

Pathways A, B and C: Ownership of these pathways is held jointly by the adjacent property owners or a predecessor of an owner. The title information for each of these pathways shows that the area was designated as a “public thoroughfare” and that the paths were then dedicated to and accepted by the City on a 1912 map. The impact of this information is that the City holds an easement over both pathways that it may enforce in order to protect the rights of the public to safely access these paths in an unobstructed manner.

Pathway D: Ownership of this entire pathway is held by the owners on only one side of the path. The title information for this pathway indicates that the City has an easement for street and incidental purposes; that the public has an easement for street purposes; and that private parties who own other lots shown on the map also have easements for ingress and egress. Again, these easements give the City the right to enforce safe public access over the pathway, as described above.

Pathway E: Ownership of this pathway is held by the original developer. The title information for this pathway indicates that the public has an easement for street purposes and that private parties who own other lots shown on the map also have easements for ingress and egress. Again, these easements give the City right to enforce safe public access over the pathway.

Pathway F: Ownership of this pathway is held by a single person who presumably held the land when it was mapped. The title information for this pathway does not show that rights on or over this pathway were ever dedicated to the City or that any easements over it were dedicated to the City, the public, or any private parties. In other words, the City has no rights or interest in this pathway. As a result, the City does not have any rights that it may enforce in connection with this pathway and this pathway is owned by a private party who may use it as they elect in compliance with the law.

RECOMMENDATIONS – Additional Information

Pathway A: This pathway is recommended to remain open, but it is narrow and winding and not currently in compliance with ADA standards. The existing landscape is not compliant with CPTED safety standards and will need to be lowered below 3' or cleared up to 3' for trees. A more permanent barrier must be installed on one owner's deck to better delineate the public pathway area. The cost to improve this pathway is approximately \$750,000 to bring it into compliance with ADA standards, which includes widening the path, grading it to an ADA compliant level and installing retaining walls on each side. Staff will include design of this pathway in the overall pathway detailed design project and will seek funding for this pathway construction through grants and other opportunities.

Pathway B: This pathway is recommended to remain open and be improved as a viewing area of the water with basic amenities. The improvements will include new fencing and landscaping in a funnel shape that is recommended to be 35' across, starting 30' back at the ten foot wide pathway easement to the water's edge (See Exhibit 1). The remaining portions of the bulb-out will be sold by the City to the adjacent owners. The price will be based on the market rate for non-developable land in Alameda.

Pathway C: This pathway is recommended to be closed due to a material safety conflict arising from daily use of the path both as a driveway for the adjacent owners and path of travel for bicycle riders and pedestrians. Closing this pathway is also consistent with the City's Vision Zero initiative to reduce the likelihood of and eliminate pedestrian and bicycle injuries and fatalities by 2030. The City's easement will be released in a recorded document.

Pathway D: This pathway is recommended to remain open and be improved as a water viewing area with nearly all portions of the City easement being enforced on both sides of the pathway, which includes removing a fence and hedge along one side. This will open the pathway up to approximately 45' across with landscape and amenity improvements being added.

A non-motorized boat launch was considered for this location and while it is feasible, staff is instead recommending that a launch be constructed at Towata Park. This park is only 0.72 miles from this location and is an existing park with available parking, more space for a boat launch and related amenities and is closer to deep water. This idea was raised during the community input process.

Pathway E: This well-used pathway is recommended to remain as a well-used public access to view the water and be improved with increased public amenities. There are no significant encroachments. The City will take over maintenance responsibility and will improve the pathway with amenities such as picnic tables, benches, trash/recycle receptacles.

Pathway F: This pathway is not owned by the City and the City holds no easement over it. Therefore the City has no rights to this pathway and it will subsequently remain closed.

SAFETY MEASURES AT ALL PATHWAYS

CPTED provides design guidelines for public areas in order to create a safer environment and reduce the incidence of crime. APD produced the CPTED Feasibility Study for the six pathways. The recommendations to increase safety include:

- For path areas that are further from the street and not as easily seen by an officer in a patrol car, install uniform lighting with shields or a lower height light (such as bollard lights) to avoid light bleed into neighbor windows.
- Install 6 foot fences along all boundaries between a pathway and an adjacent home.
- To increase visibility and reduce areas to hide, maintain and install landscape with bushes trimmed down to 3' or lower and trees trimmed up to 3' or higher.
- For pathways remaining open, improve signage so entries are more identifiable and create celebrated entryways.
- Consider fencing into the shore area for the two pathways on Eastshore Dr. to discourage concealment along the estuary bank.
- Remove any items, such as trash bins, that can be used as makeshift ladders into surrounding private properties.
- Fix irregularities in concrete/asphalt pathways to improve safety.
- Install surveillance cameras to discourage criminal behaviors.

NEXT STEPS

- In June 2019, the will hear public comment, discuss and make its final recommendation to City Council.
- In September 2019, City Council will consider the Recreation and Parks Commission ("**Commission**") recommendations, hear public comment in open session and make its final determination for each pathway.
- Staff will engage an architect for design of each pathway, submit for regional and local permits, and ultimately construct the pathway improvements.
- Following the creation of legal lots for each of the submerged lots behind the Fernside Blvd. homes and the creation of legal descriptions for the various easement portions to be sold to owners, the City Attorney's office will begin the work to sell the submerged parcels and the remaining land easement parcels to the six homeowners on Fernside Blvd. The lot lines for these submerged parcels are anticipated to be drawn around existing docks as was done for the other submerged land sales along Fernside Blvd. These docks do not block views to the water and are recommended as compatible with the viewing areas.
- The City Attorney's office will also work on encroachment enforcement in consultation with staff.

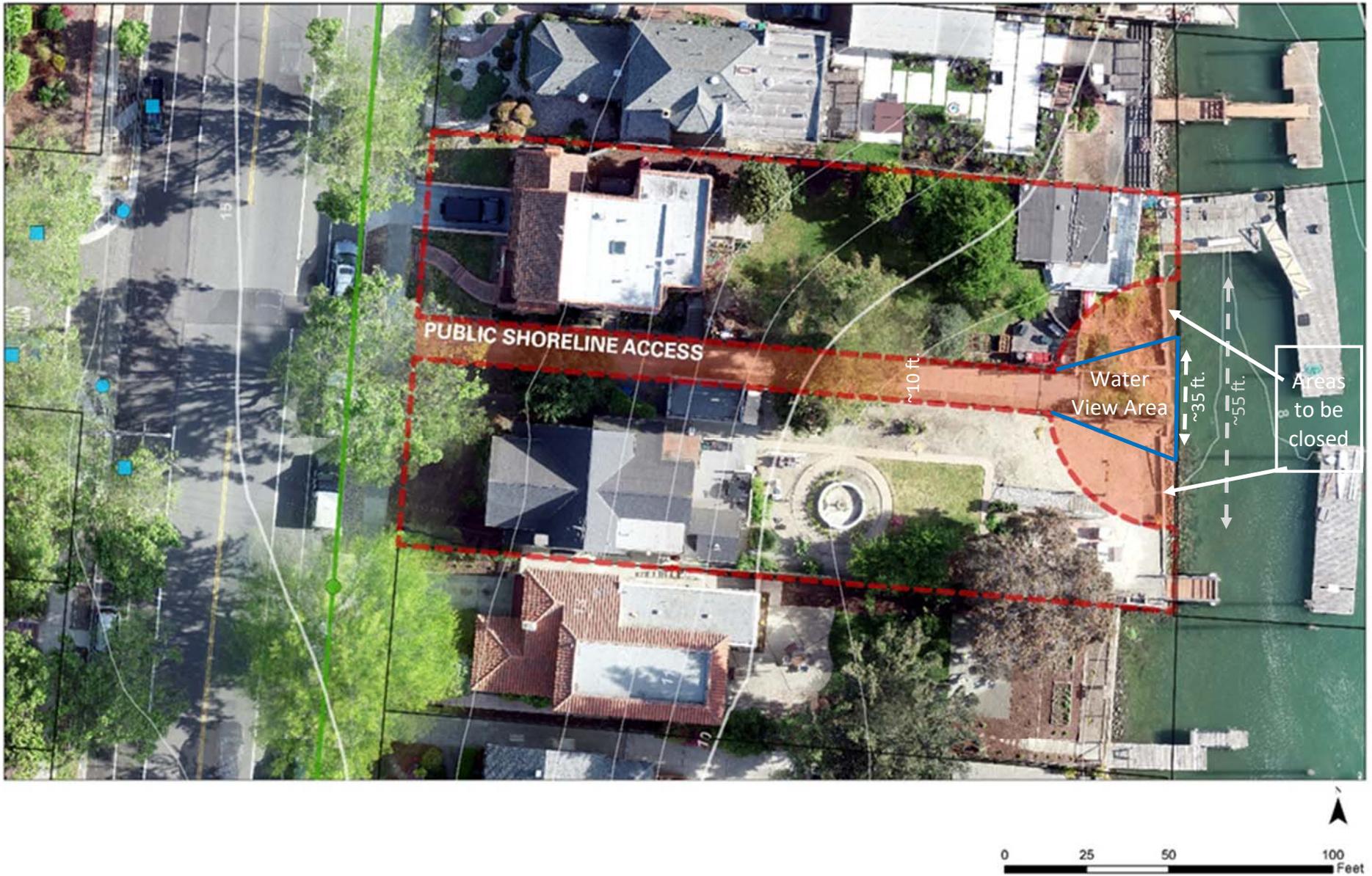
Public Access Pathway Locations



Pathway A: Fernside Blvd. near High St.



Pathway B: Fernside Blvd. at Monte Vista Ave.

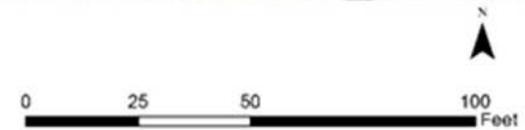


Pathway C: Fernside Blvd. at Fairview Ave.



CLOSED— PRIVATE

~55 ft.



Pathway D: Eastshore Dr. at Liberty Ave.



Pathway E: Eastshore Dr. at Central Ave.



Pathway F: Eastshore Dr. at Meyers Ave.

