



**Bicycle and Pedestrian Advisory Committee, Monthly Meeting**  
**April 16, 2009, 5:30-7:30 p.m.**  
**Oakland City Hall: Hearing Room 4, Second Floor**

**AGENDA**

Time	Item #	Topic	Topic Type *
5:30	1	<b>Introductions, Appointment of Note Taker</b> (5 minutes)	Ad
5:35	2	<b>Approval of Meeting Minutes (consent item)</b> (5 minutes) Vote on motion to adopt last month's minutes.	A
5:40	3	<b>City speed surveys</b> (25 minutes)—Joe Wang, Supervising Transportation Engineer, will explain the statewide legal requirements for how speed limits are set in local jurisdictions, and how that may influence speed limits on Oakland streets in the next several years.	I
6:05	4	<b>Oakland's Walkway Rehabilitation Program Attachment</b> (30 minutes)—Eric Uddenberg, Architect with the City's Engineering Design and Right of Way Management Division, will present ideas on how Oakland's backlog of stairway maintenance might be prioritized, and will take comments from the committee.	I
6:35	5	<b>MacArthur Blvd Medians Redesign—Kaiser Hospital Project</b> (25 minutes) David Mog, Building Services Division, will describe the process for modifying the design of the MacArthur Blvd medians (which, based on the Kaiser Hospital Project EIR, were closed to through traffic).	A
7:00	6	<b>Shepherd Canyon Creek Trail Attachment</b> (20 minutes)—Mike Petouhoff, member of the Shepherd Canyon Homeowner's Association, will describe efforts to build this creek trail based on agreements that date to the early 1970s.	I
7:20	7	<b>Announcements, suggestions for next meeting topics</b>	Ad

**\* Topic Types:**

I=informational; A=action item; Ad=administrative

**Proposed point system for prioritizing and selecting future stair / path projects**

	100 points Alternate 1	100 points Alternate 2
Proximity to a School, Library or a Commercial District	15	20
Proximity to AC transit or Ride Share	15	20
Overall Condition ( Non compliant with codes, trip and fall hazard )	40	30
No functioning handrail	10	7.5
Impassable / closed to the Public	10	7.5
Part of a network of Stairs / Paths ( Serving > 100 homes )	10	15
	100	100

# Shepherd Creek Trail

*- Enabling Pedestrian Access*

*Preserving Public Access to Open Space*

*-Respecting the EIR Process*

## **Trail Requirement and Responsibilities Established in 1975 SCC EIR**

- Caltrans plans for Highway 77 through Shepherd Canyon were cancelled by citizen activism in early 1970's. Caltrans proposed sale of all its then excess 47 acres of Shepherd Canyon land holdings for residential development.
- Oakland asked Caltrans to hold up its sale and Oakland imposed a building moratorium in Shepherd Canyon. Oakland asked Caltrans and EBRPD to participate in the Shepherd Canyon Corridor (SCC) EIR with Oakland as Lead Agency. Moratorium twice extended so EIR could be completed. The EIR Project Area addresses public and private land in SCC and was adopted in fall 1975. EIR establishes:
  - **Significant Impact:** Loss of publically available open space in Shepherd Canyon
  - **Mitigation:** Creek Trail Parcel to be set aside for public ownership and trail use, to accomplish both
    - Scenic creek preservation and
    - Pedestrian access to Montclair Commercial District from Shepherd Canyon residential areas.EIR specifies
  - Creek Parcel purchase by EBRPD with special legislation- AB431
  - Creek trail and routing established, with need for easements to cross short segment of two private parcels to access creek parcel/trail documented in EIR
- Fall 1975: EBRPD purchased creek trail parcel "for trail purposes" along with a former railroad right of way parcel, at special price from Caltrans provided it be used for transportation (trail) use. "Trail use" covenant is included in land purchase contract between EBRPD and Caltrans. Caltrans placed "public use" reversionary clause in deed until 2025.
- Fall 1975: Oakland and EBRPD enter into O&M agreement; Oakland takes "sole financial responsibility" for easement acquisition, trail construction, and maintenance.
- Caltrans sold their remaining 32 acres, Oakland lifted the building moratorium, and Shepherd Canyon development went forward in EIR Project Area, including areas designated with "S-10" zoning that resulted from EIR, all of which was conditioned on the EIR mitigation measures.
- Railroad right of way trail **was** built on the other EBRPD parcel about 1988, but creek trail not yet built on creek parcel.

## **Trail Has Not Yet Been Built:**

- Oakland has not acquired easements or built the trail, and the creek trail parcel is still zoned residential- no "public use".
- The issue *has been raised a number of times*, including during community planning workshops for Shepherd Canyon Park conducted jointly by Jean Quan and SCHA in 2004.

- Oakland City Council Member Jean Quan held a meeting about implementing the trail with neighbors in 2005, but has put the issue “on the back burner”, with Jean apparently intimidated into inaction by immediate Scout Road neighbors who in her words, “want public funds to buy public land adjacent to their homes, but just don’t want the public to use it”. Unfortunately, city resources have been spent to avoid the trail obligation rather than to find ways to enforce it.
- Larger Public and Shepherd Canyon Residents would benefit from the trail
- The first indication that plans for trail have been **abandoned** comes when Oakland and EBRPD, in 2007, propose Oakland City Council and EBRPD Board action on a swap of several parcels including the creek trail parcel, which would nullify the EBRPD-Caltrans “trail use” covenant, since EBRPD, a party to the contract, would no longer own the land, and there is no provision in the 2007 proposed board action for the creek trail.

#### **New Opportunities for Realization:**

- Shepherd Canyon Homeowners Assn (SCHA) expressed concern that the parcel swap jeopardized the “trail use covenant” in Caltrans contract with EBRPD, since EBRPD, a party to the contract, would no longer own the land.
- SCHA able to persuade EBRPD to get Oakland to agree to add a deed restriction that upon the swap, land would be used for “park, trail and related uses”. But no timeline set.
- Oakland-EBRPD “Parcel swap” agreement is intended to supersede the previous Oakland-EBRPD contract, in which Oakland agreed to acquire easements and build and maintain the creek trail, and so this new agreement is a good opportunity to clarify any ambiguities.
- Oakland stands to save \$32K per year when they complete parcel swap with EBRPD- Can that money be set aside until Oakland fulfills their EIR commitment?

#### **What can be done next?**

##### **Oakland needs to comply with its own EIR and contract with EBRPD and build the trail:**

- Ask Oakland to set aside the \$32K/year savings from the parcel swap into an account to implement the Shepherd Creek Trail, **and also** to pursue related outside funds.
- Ask Oakland to rezone the entire parcel from private residential use, to a public use zoning that is consistent with the SCCP EIR and covenants in the deed.
- Ask Oakland to acquire the needed trail easements, and to build and maintain the trail as required by the EIR and its contract with EBRPD.
- Ask Oakland to comply with AB 3180 for CEQA mitigation measure reporting until trail and other mitigation measures are completed,
  - -“whenever a public agency... is responsible for mitigation pursuant to an EIR, the agency must adopt a program for monitoring or reporting on project compliance with the adopted mitigation”

Since Oakland continues to issue building permits to this day in the S-10 zoning Project Area established in the SCCP EIR, and to receive parcel taxes on improvements in the Shepherd Canyon EIR project area.

This summary is provided by the Shepherd Canyon Homeowner’s Assn, a non profit 501(c)3

# Shepherd Canyon Park

## Bicycle and Pedestrian Accessibility Improvements

Interpretive signs and Benches Along RR Row Path

Parking Lot Expansion (done)

Torii Gate at Scenic Overlook, Sunset Bench, Interpretive Sign



Trail Connection Behind Corp Yard

Planned Improved Connector Path to Fire Station and Village

Sunrise Meditation Bench



Planned Bridge Over Escher Creek

Picnic Tables



Shepherd Creek and Creek Trail

Switch Back Trail, and Shortcut Path to Soccer Field

Additional Soccer Parking on Escher Road, by Yellow Gate. Walk down path to Field



## Making the Shepherd Creek Trail Happen....

.....The path not *yet* taken

## Shepherd Creek Trail

- Shepherd Canyon History
- What we **have** gotten done
- What we need help with now...

## Shepherd Creek Trail

- Shepherd Canyon History
- What we **have** gotten done
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### *The Shepherd Creek Trail*

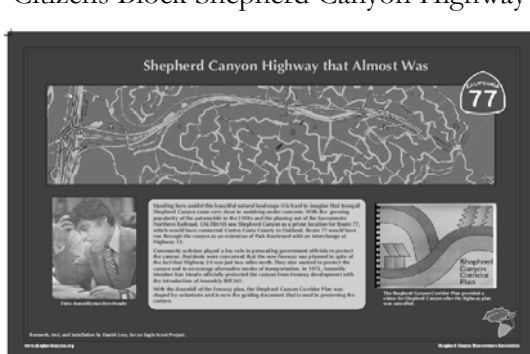
## Shepherd Creek History

- Sacramento Northern Inter Urban Railway through the 1950's
- Caltrans Plans Highway 77
- Citizen's Cancel Highway Plans
- Oakland Initiates Shepherd Canyon Corridor Environmental Impact Report

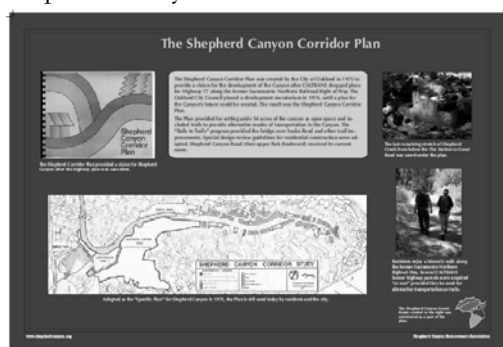
## Rail Road History



## Citizens Block Shepherd Canyon Highway



## Shepherd Canyon Corridor Plan and EIR



## Shepherd Canyon 1975 EIR

- Oakland Issues SC Building Moratorium and asks CALTRANS and EBRPD to join in EIR
- EIR Requires Mitigation for Significant Impact- Loss of Publicly Available Open Space:
- 15 of Caltrans 47 Acres be held back from sale and private residential development
  - 12 Acres for Rail Road Right of Way Trail
  - 3.5 Acres for Shepherd Creek Woodland Trail
    - Scenic resource conservation
    - Public Pedestrian Access to Montclair Commercial District
- To be bought directly by EBRPD under AB431

## Shepherd Canyon 1975 EIR

- EIR Specifies Creek Trail Routing
  - Moves one section to the north side of creek in response to neighbor comments
- Requirement for private easements for access to creek trail parcel is identified in EIR
- EBRPD buys land with **“trail covenant”** in EBRPD-Caltrans purchase agreement
- Caltrans places “public use” reversionary clause in deed through 2025
- Oakland Agrees to take “sole financial responsibility” for trail easements, and construction and maintenance in contract with EBRPD

## Current Day

- Rail Road Trail **was** built
- Shepherd Creek Trail still **not built** after years of follow up
- 2005- Council Member Quan meets with neighbors to discuss trail implementation, but puts it on “back burner”
- 2007- EBRPD and Oakland propose to swap the Two Shepherd Canyon Parcels for other parcels
  - Change in Title would nullify the “Trail Use” covenant in EBRPD-Caltrans purchase contract

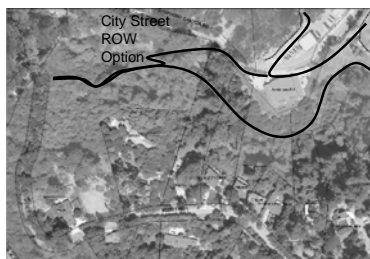
## Next Steps

- SCHAs expresses concern
- EBRPD got Oakland to agree to new deed restriction for swapped SC parcels
  - “for park, trail and related uses”
  - But No Timeline
- But.. Oakland to save \$32K per year when they complete parcel swap with EBRPD

## We can ask Oakland take further actions with parcel swap

- Set aside \$32/year saved in parcel swap to meet creek trail requirements and seriously pursue outside funds
- Change zoning of parcels from private residential
- Acquire easements
- Build trail
- Report compliance with this and other Shepherd Canyon EIR Mitigation Requirements as required by AB3180

## Creek Trail Route Consideration



Existing Trail Connections

Preferred Private Easement Option

## Regional Route Consideration. School Access

### Opportunities

- Accomplish long term goal of trail connection
- Provide a walking route for schoolchildren connecting to Mountain Blvd
- Share one of Oakland's creek side gems



## Regional Connections- Loop Through Montclair Village



## Some things we *have* gotten done... on the *west side* of SC Road

- RR Trail completed by Oakland around 1988
  - **SCHA added benches and interpretive signs**
- Also brought attention to EIR requirement to preserve access to this trail behind city Corp Yard, blocked by PWA



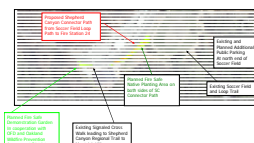
## Some things we have gotten done... on the *east side* of SC Road

- Cleared Meadow connection of City Dumped Debris, and built paths, benches, picnic tables



## Some things **planned**... on the *east side* of SC Road

- Bridge Over Seasonal Creek Between Meadows- Approved as a Boy Scout Project for this spring-summer
- Connector Path improvement approved by Oakland Parks and Rec Commission
  - Will use remaining rubble gathered by volunteers
  - **But needs to be scheduled by City Park Crews**



### Shepherd Canyon Summary Action Item List

- Two Modest Action Items
  - Get Connector Path Scheduled with Parks Dept
  - Get PWA to address blocked access behind corp yard
- Major Shepherd Creek Trail Action Items for Oakland:
  - Set aside \$32/year saved in parcel swap to meet creek trail requirements and seriously pursue outside funds
  - Change zoning of parcels from private residential
  - Acquire Trail easements
  - Build trail
  - Report compliance with this and other Shepherd Canyon EIR Mitigation Requirements as required by AB3180

