

CITY OF NEWARK PLANNING COMMISSION

37101 Newark Boulevard, Newark, California 94560-3796 □ 510/578-4330 □ FAX 510/578-4265

City Administration Building
7:30 p.m.
City Council Chambers

AGENDA Tuesday, April 14, 2015

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, March 24, 2015. (MOTION)

C. WRITTEN COMMUNICATIONS

D. ORAL COMMUNICATIONS (Anyone wishing to address the Commission on any planning item not on the Agenda may take the podium and state his/her name and address clearly for the recorder.)

E. PUBLIC HEARINGS

E.1 Hearing to consider: (1) adopting a resolution approving P-15-5, a planned unit development, and U-15-6, a conditional use permit for: (a) reduced side and front yard setbacks for certain unit plans; and (b) the number of garage facades fronting one street to exceed what is allowed by the Form Based Codes, and ASR-15-9, an Architectural and Site Plan Review for the project building elevations and finding that Vesting Tentative Map 8085 is in substantial conformance; and (2) adopting a resolution approving the second Addendum to the Dumbarton TOD Specific Plan EIR (State Clearinghouse Number 2010042012) for development of 542 residential units within the Dumbarton Transit-Oriented Development (TOD) Specific Plan Area – from Assistant City Manager Grindall. (RESOLUTIONS-2)

F. STAFF REPORTS

G. COMMISSION MATTERS

G.1 Report on City Council actions.

H. ADJOURNMENT

Pursuant to Government Code 54957.5: Supplemental materials distributed less than 72 hours before this meeting, to a majority of the Planning Commission, will be made available for public inspection at this meeting and at the Planning Division Counter located at 37101 Newark Boulevard, 1st Floor, during normal business hours. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection.

CITY OF NEWARK

PLANNING COMMISSION

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City Administration Building
7:30 p.m.
City Council Chambers

MINUTES

Tuesday, March 24, 2015

A. ROLL CALL

At 7:30 p.m., Chairperson Fitts called the meeting to order. All Planning Commissioners were present. There are two vacancies.

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, March 10, 2015.

Commissioner Nillo moved, Commissioner Otterstetter seconded, to approve the Minutes of March 10, 2015. The motion passed 4 AYES, 1 ABSTENTION (Bridges).

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

None.

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Amending the Planning Commission By-laws to: (1) establish a quorum as a majority of the Planning Commissioners; (2) establish a time limit in which

to address the Planning Commission that is consistent with the time limit to address the City Council; (3) allow for regular Planning Commission meetings to be held other than in the Council Chambers if duly noticed; and (4) change the number of Commissioners required to amend, revise, or repeal the By-laws from four to a majority.

Assistant City Manager Grindall gave the staff report and stated a second reading and adoption of the Ordinance reducing the number of Planning Commissioners from seven to five will be heard at the March 26, 2015 City Council Meeting and if approved will become effective 30 days later.

Answering Commissioner Nillo, ACM Grindall stated an Ordinance passed by the City Council is necessary to change the number of Planning Commissioners and gave his opinion that they most likely would not be increasing the number to seven or nine in the near future.

Chairperson Fitts stated his belief that the proposed changes to the By-laws would result in a more streamlined process.

Motion made by Commissioner Bridges, seconded by Commissioner Nillo, to amend the Planning Commission By-laws, as shown on Exhibit A, to: (1) establish a quorum as a majority of the Planning Commissioners; (2) establish a time limit in which to address the Planning Commission that is consistent with the time limit to address the City Council; (3) allow for regular Planning Commission meetings to be held other than in the Council Chambers if duly noticed; and (4) change the number of Commissioners required to amend, revise, or repeal the By-laws from four to a majority. Motion passed 5 AYES.

G.2 Report on City Council actions.

None.

Commissioners' Comments

Commissioner Nillo wished everyone an early Happy Easter.

H. ADJOURNMENT

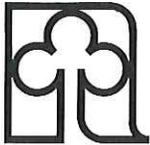
At 7:40 p.m., Chairperson Fitts adjourned the regular Planning Commission meeting of Tuesday, March 24, 2015.

Respectfully submitted,



TERRENCE GRINDALL

Secretary



- E.1 Hearing to consider: (1) adopting a resolution approving P-15-5, a planned unit development, and U-15-6, a conditional use permit, for: (a) reduced side and front yard setbacks for certain unit plans; and (b) the number of garage facades fronting one street to exceed what is allowed by the Form Based Codes; and ASR-15-9, an Architectural and Site Plan Review, for the project building elevations and finding that Vesting Tentative Map 8085 is in substantial conformance; and (2) adopting a resolution approving the second Addendum to the Dumbarton TOD Specific Plan EIR (State Clearinghouse Number 2010042012), for development of 542 residential units within the Dumbarton Transit-Oriented Development (TOD) Specific Plan area – from Assistant City Manager Grindall. TG
(RESOLUTIONS-2)**

Background/Discussion – William Lyon Homes is seeking further approvals for the development of the Torian parcels within the Dumbarton Transit-Oriented Development (TOD) Specific Plan area and has submitted applications for a planned unit development and conditional use permit, and for architectural and site plan review, with several project refinements to the City for review and approval (the project). The project proposes the construction of 542 residential units on 42.22 acres generally located on the west side of Willow Street at the terminus of Central Avenue in the City of Newark. The 42.22 acres being developed with residential uses is wholly within the 205-acre TOD Specific Plan area. The project refinements include relocating a wetland connection directly to the Alameda County Flood Control District (ACFCD) F1 Channel under the ACFCD access road, a reconfiguration of the proposed wetland area that would require less of the Hickory Street right-of-way, reconfiguration of certain lots and internal roads, realignment and enlargement of the wetlands reserve to 4.57 acres from 3.5 acres, and realignment of a trail to the north side of the wetlands reserve, a further reduction in the total proposed number of units from 547 units to 542 units, and other minor adjustments to the site plan. A conceptual alignment for the relocation of the force mains through the project site required by a 2013 Regional Board approval is also now available.

Planned Unit Development/Conditional Use Permit

The project proposes the development of a previously analyzed and approved project with minor deviations from the City's Form Based Code for the TOD Specific Plan area. These deviations require the approval of a planned unit development permit and accompanying conditional use permit. The specific proposed deviations are: (1) Village 3 would include 0' front setbacks in lieu of 10' setbacks for Plan 3. This reduced setback is generally consistent with the attached housing product included in the Village and would eliminate a potential nuisance corridor at the end of the Village's alleys; (2) Residences in Village 4 would have rear yard setbacks of 5.5' in lieu of 10'. The Village 4 rear yards have been designed to wrap around the corner of the residences which results in a greater amount of total rear yard square footage that the minimum required by the Form Based Code and is therefore consistent with the intent of the code; and (3) The garages fronting the public street in Villages 4 would exceed the Form Based Code allowed

façade area, however these garages would be split with varied setbacks to address the intent of the Form Based Code to avoid unarticulated frontages.

With these design changes, the project would result in 542 residential units and thus would continue to advance the Specific Plan's objectives to develop residential uses of stable and desirable character on the site; and the project would continue to achieve the purpose of the Form Based Code to ensure that the design and form of the development is compatible with the surrounding environment. Further, the environmental effects of the Project, including those related to traffic and affecting public health and safety, have been analyzed in previous CEQA documents, as discussed below. These CEQA documents demonstrate that the project would not overload roadways and would not adversely affect health and safety.

Architectural and Site Plan Review

Before the Project can be approved, in addition to the other requirements and approvals discussed herein, the City has required that the Project undergo architectural and site plan review. The proposed site plan substantially conforms to Vesting Tentative Tract Map 8085 and will produce a high quality residential development with landscaping and other site improvements that will greatly enhance the site, improve land values, and will complement existing development in the area and the City of Newark. Development of the 542 residential units as shown in the site plan would also promote the objectives of the TOD Specific Plan to produce an attractive, desirable residential community on the Torian parcels.

The proposed architectural styles are Seaside Modern and Agrarian to be consistent with the DTOD Form Based Codes.

Environmental Determination

The Dumbarton TOD Specific Plan EIR (State Clearinghouse Number 2010042012) was certified by the City of Newark on September 8, 2011. The EIR analyzes the impacts of development that will occur on many different parcels owned by various entities within the 205-acre Specific Plan area, including the Torian parcels at issue for the Project. The EIR analyzed the impacts of the construction and operation of 583 residential units on the Torian parcels. The Project calls for development of 542 residential units, which is 40 units less than the development already analyzed by the EIR.

Relying on the EIR, on November 29, 2012, the City of Newark approved Tentative Tract Map 8085 for a 553 residential unit development on the Torian parcels. On February 28, 2013 the City approved a revised Tentative Tract Map, which made minor revisions to the original Tentative Tract Map 8085. These revisions included a contemplated wetland connection through, and the abandonment of, Hickory Street and a total of 547 units, as well as other minor site plan revisions. The revised Tentative Tract Map approval relied on an addendum to the EIR, which concluded that the project revisions would not result in any new or substantially increased environmental impacts.

A second Addendum to the EIR has been prepared, which analyzes the proposed revisions to the development on the Torian parcels as well as any changed circumstances and new information that may require further environmental review. The Project was analyzed by the EIR, the first Addendum, and now the second Addendum; and as proposed, the Project will be undertaken pursuant to and in conformity with the TOD Specific Plan, and the City and applicant will

remain obligated to comply with all applicable mitigation measures and conditions of approval contained within the EIR.

Under CEQA, where a public agency has previously certified an EIR for a specific plan, no subsequent EIR shall be prepared for a project undertaken pursuant to that EIR and in conformity with the previously analyzed specific plan as long as the project has not changed in scope since the specific plan was adopted, and as long as the circumstances described in CEQA Guidelines section 15162 have not occurred. Based on the second Addendum, Staff concludes that, because the Project does not include substantial changes relative to the previously analyzed development, will not be developed under substantially changed circumstances, and no new information has come to light meeting the requirements of CEQA Guidelines section 15162(a)(3), preparation of a supplemental EIR is not required.

Attachments

Action – It is recommended that the Planning Commission: (1) adopt a resolution approving P-15-5, a planned unit development, and U-15-6, a conditional use permit, for: (a) reduced side and front yard setbacks for certain unit plans; and (b) the number of garage facades fronting one street to exceed what is allowed by the Form Based Codes; and ASR-15-9, an Architectural and Site Plan Review, for the project building elevations and finding that Vesting Tentative Map 8085 is in substantial conformance; and (2) adopt a resolution approving the second Addendum to the Dumbarton TOD Specific Plan EIR (State Clearinghouse Number 2010042012), for development of 542 residential units within the Dumbarton Transit-Oriented Development (TOD) Specific Plan area.

RESOLUTION NO.

RESOLUTION APPROVING A PLANNED UNIT DEVELOPMENT (P-15-5), A CONDITIONAL USE PERMIT (U-15-6), FOR: (A) REDUCED SIDE AND FRONT YARD SETBACKS FOR CERTAIN UNIT PLANS; AND (B) THE NUMBER OF GARAGE FACADES FRONTING ONE STREET TO EXCEED WHAT IS ALLOWED BY THE FORM BASED CODES; AND ASR-15-9, AN ARCHITECTURAL AND SITE PLAN REVIEW FOR THE PROJECT ELEVATIONS AND FINDING THAT THE VESTING TENTATIVE MAP 8085 IS IN SUBSTANTIAL CONFORMANCE

WHEREAS, William Lyon Homes has filed with the Planning Commission of the City of Newark applications for a Planned Unit Development (P-15-5) and a Conditional Use Permit (U-15-6), for: (a) reduced side and front yard setbacks for certain unit plans; and (b) the number of garage facades fronting one street to exceed what is allowed by the Form Based Codes; and ASR-15-9, an Architectural and Site Plan Review for the project elevations and finding that the Vesting Tentative Map 8085 is in substantial conformance; and

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in The Argus on April 3, 2015 and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on April 14, 2015 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, pursuant to Chapter 17.40 (Planned Unit Developments), Section 17.40.050 (Permit Procedure) and Chapter 17.72 (Use Permits), Section 17.72.070 (Action by Planning Commission), the Planning Commission makes the following findings:

1) That Application P-15-5 for a planned unit development is in accord with the purpose of the Form Based Code and other regulations applicable to the Dumbarton Transit-Oriented Development (TOD) Specific Plan area. Application P-15-5 proposes to construct a previously approved residential development with minor deviation from the City's Form Based Code for the TOD Specific Plan area. With these design changes, the project would result in 542 residential units and thus would continue to advance the Specific Plan's objectives; and the project would continue to achieve the purpose of the Form Based Code to ensure that the design and form of the development is compatible with the surrounding environment. The specific deviations addressed through the PUD permit are: (1) Village 3 would include 0' front setbacks in lieu of 10' setbacks for Plan 3. This reduced setback is generally consistent with the attached housing product included in the Village and would eliminate a potential nuisance corridor at the end of the Village's alleys; (2) Residences in Village 4 would have rear yard setbacks of 5.5' in lieu of 10'. The Village 4 rear yards have been designed to wrap around the corner of the residences which results in a greater amount of total rear yard square footage that the minimum required by the Form Based Code and is therefore consistent with the intent of the Code; and (3) The garages

fronting the public street in Villages 4 would exceed the Form Based Code allowed façade area, however these garages would be split with varied setbacks to address the intent of the Form Based Code to avoid unarticulated frontages.

2) That Application P-15-5 for a planned unit development is not likely to cause serious health problems. The Dumbarton TOD Specific Plan EIR (State Clearinghouse Number 2010042012) certified by the City Council on September 8, 2011, the first Addendum approved by the City Council on November 29, 2012, and the second Addendum approved by the Planning Commission on April 14, 2015 analyze all of the impacts on public health and safety that might occur from the project, including with the proposals contained in Application P-15-5. The project elements proposed by the planned unit development are within the scope of the project previously analyzed in these CEQA documents, and the second Addendum for the project demonstrates that the project would not cause serious health or safety problems.

3) That the standards for population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space, off-street parking and off-street loading facilities, and landscaped areas as contained in Application P-15-5 for a planned unit development will continue to produce an environment of stable and desirable character consistent with the objectives of the Dumbarton TOD Specific Plan.

4) That the standards for population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space, off-street parking and off-street loading facilities as contained in Application P-15-5 for a planned unit development will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload facilities. The Dumbarton TOD Specific Plan EIR (State Clearinghouse Number 2010042012) certified by the City Council on September 8, 2011, the Addendum approved by the City Council on November 29, 2012, and the second Addendum drafted to analyze the minor project changes analyze all of the impacts on traffic and utilities.

5) That the combination of different dwelling types and/or variety of land uses in the development will complement each other and will harmonize with existing and proposed land uses in the vicinity.

6) That Application U-15-6 for a conditional use permit is in accord with the purpose of the Form Based Code and other regulations applicable to the Dumbarton Transit-Oriented Development (TOD) Specific Plan area. Application U-15-6 proposes to construct a previously approved residential development with minor deviation from the City's Form Based Code for the TOD Specific Plan area. With these design changes, the project would result in 542 residential units and thus would continue to advance the Specific Plan's objectives; and the project would continue to achieve the purpose of the Form Based Code to ensure that the design and form of the development is compatible with the surrounding environment. The specific deviations addressed through the conditional use permit are: (1) Village 3 would include 0' front setbacks in lieu of 10' setbacks for Plan 3. This reduced setback is generally consistent with the attached housing product included in the Village and would eliminate a potential nuisance corridor at the end of the Village's alleys; (2) Residences in Village 4 would have rear yard setbacks of 5.5' in lieu of 10'. The Village 4 rear yards have been designed to wrap around the corner of the residences which results in a greater amount of total rear yard square footage that the minimum

required by the Form Based Code and is therefore consistent with the intent of the Code; and (3) The garages fronting the public street in Villages 4 would exceed the Form Based Code allowed façade area, however these garages would be split with varied setbacks to address the intent of the Form Based Code to avoid unarticulated frontages.

7) That Application U-15-6 for a conditional use permit is not likely to cause serious health problems. The Dumbarton TOD Specific Plan EIR (State Clearinghouse Number 2010042012) certified by the City Council on September 8, 2011, the first Addendum approved by the City Council on November 29, 2012, and the second Addendum approved by the Planning Commission on April 14, 2015 analyze all of the impacts on public health and safety that might occur from the project, including with the proposals contained in Application U-15-6. The project elements proposed by the conditional use permit are within the scope of the project previously analyzed in these CEQA documents, and the second Addendum for the project demonstrates that the project would not cause serious health or safety problems.

8) That Application U-15-6 for a conditional use permit will comply with each of the applicable provisions of the City's Code concerning use permits.

9) For ASR-15-9, the Architectural and Site Plan Review, that the location, exterior design and appearance, including materials, colors, and landscaping of the development would promote the stability of land values and investments, and the general welfare, and would help to prevent the depreciation or impairment of land values.

10) For ASR-15-9, the Architectural and Site Plan Review, that the standards for population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space, off-street parking and off-street loading facilities, and landscaped areas will be such that the development will continue to produce an environment of stable and desirable character consistent with the objectives of the Dumbarton TOD Specific Plan.

11) For ASR-15-9, the Architectural and Site Plan Review, that the site plan for 542 residential units is in substantial conformance with Vesting Tentative Tract Map 8085, which calls for construction of 547 residential units and was approved, as amended, by the City Council at its meeting on February 28, 2013.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby approve this application as shown on Exhibit A, pages 1 through 92, subject to compliance with the following conditions:

Planning Division

- a. This project is subject to all conditions of Planning Commission Resolution No. 1846 and City Council Resolution Nos. 10,034, 10,035, and 10,066 unless otherwise amended herein.
- b. There shall be no roof-mounted equipment other than satellite dishes, other similar television or radio antennas, and solar equipment. AC units shall not be mounted on the

roof.

- c. All lighting shall be directed on-site so as not to create glare off-site, as required by the Community Development Director.
- d. Construction site trailers and buildings located on-site shall be used for office and storage purposes only, and shall not be used for living or sleeping quarters. Any vehicle or portable building brought on the site during construction shall remain graffiti free.
- e. The covenants, conditions and restrictions (CC&Rs) filed for this development shall include a provision requiring that that garages shall only be used for automobile parking.
- f. The site and its improvements shall be maintained in a neat and presentable condition, to the satisfaction of the Community Development Director. This shall include, but not be limited to, repainting surfaces damaged by graffiti and site clean-up. Graffiti removal/repainting and site cleanup shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site during construction shall remain graffiti free.
- g. All exterior utility pipes and meters shall be painted to match and/or complement the color of the adjoining building surface, as approved by the Community Development Director.
- h. Prior to the issuance of a building permit, the elevations as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council. The building elevations shall reflect all architectural projections such as roof eaves, bay windows, greenhouse windows, chimneys and porches. A site plan showing the building locations with respect to property lines shall also show the projections. Said elevations shall specify exterior materials.
- i. Prior to the issuance of a building permit, the floor plans as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council.
- j. All roof material shall consist of fire retardant shake roof, concrete tile, or a roof of similar noncombustible material. Mansard roofs with the above material may be used to screen tar and gravel roofs. All roofs shall be of Class C fire resistant construction or better. Composition shingles shall be Presidential-style or of comparable quality, subject to the review and approval of the Community Development Director.
- k. Prior to the issuance of a building permit, the manner and location for garbage and recycling collection for the project shall be submitted for the review and approval of Republic Services and the Community Development Director, in that order.
- l. Prior to their installation, mailbox locations and designs shall be approved by the Community Development Director and Newark Postmaster. The mailbox compartments of centralized mailboxes shall identify the individual dwelling units with permanent,

easily legible lettering.

- m. Prior to the issuance of a sign permit, all signs, other than those referring to construction, sale, or future use of this site, shall be submitted for the review and approval of the Community Development Director.
- n. Measures to respond to and track complaints regarding construction noise shall include: (1) a procedure and phone numbers for notifying the City of Newark Building Inspection Division and Newark Police Department (during regular construction hours and off-hours); and (2) a sign posted on-site pertaining to the permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours).
- o. During project construction, if historic, archeological or Native American materials or artifacts are identified, work within a 50-foot radius of such find shall cease and the City shall retain the services of a qualified archeologist and/or paleontologist to assess the significance of the find. If such find is determined to be significant by the archeologist and/or paleontologist, a resource protection plan conforming to CEQA Section 15064.5 shall be prepared by the archeologist and/or paleontologist and approved by the Community Development Director. The plan may include, but would not be limited to, removal of resources or similar actions. Project work may be resumed in compliance with such plan. If human remains are encountered, the County Coroner shall be contacted immediately and the provisions of State law carried out.

Engineering Division

- p. The proposed storm drain box culverts to convey treated stormwater runoff from the biotreatment/wetlands area directly to the Alameda County Flood Control and Water Conservation District (ACFC & WCD) Line F-1 Channel shall be owned and maintained by the owner of proposed Parcel A in a manner consistent with condition 'b' of City Council Resolution No. 10066. The developer shall obtain all necessary easements and/or permits from the ACFC & WCD for construction and continuous operation and maintenance of the culverts.
- q. The developer shall be responsible for the design and construction of replacement sanitary sewer force mains through the project site to the satisfaction of the Union Sanitary District. Any additional modifications to the site plan, including but not limited to potential residential lot relocations or reductions and public and private street changes shall be the developer's responsibility.

Landscape-Parks Division

- r. Park and street name assignments shall be subject to review and approval by the City Council on the final map for Tract 8085. Names provided as placeholders on the conceptual landscape plans and other preliminary documents are for demonstration purposes only and are not subject to approval with the current planned unit development

and conditional use permit review.

- s. All plant material, surface treatments, park furniture, play equipment and other improvements shown on conceptual park and landscape exhibits are subject to final approval by the City Engineer as part of the Tract Improvement Plan for Tract 8085.

Building Inspection Division

- t. Construction for this project, including site work and all structures, can occur only between the hours of 7:00 AM and 6:00 PM, Monday through Friday. The applicant may make a written request to the Building Official for extended working hours and/or days. In granting or denying any request the Building Official will take into consideration the nature of the construction activity which would occur during extended hours/days, the time duration of the request, the proximity to residential neighborhoods and input by affected neighbors. All approvals will be done so in writing.

General

- u. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The applicant shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval.
- v. If any condition of this Planned Unit Development, Conditional Use Permit, and Architectural and Site Plan Review be declared invalid or unenforceable by a court of competent jurisdiction, this Planned Unit Development, Conditional Use Permit, and Architectural and Site Plan Review shall terminate and be of no force and effect, at the election of the City Council on motion.
- w. This Planned Unit Development, Conditional Use Permit, and Architectural and Site Plan Review shall be given a public hearing before the City Council for the Council's review and approval.
- x. Prior to the submittal for building permit review, all conditions of approval of this project, as approved by the City Council, shall be printed on the plans.
- y. The developer hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto or, alternatively, the City will rescind the approval.

- z. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. The developer is hereby further notified that the 90-day approval period in which the developer may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the developer will be legally barred from later challenging such exactions.

This Resolution was introduced at the Planning Commission's April 14, 2015 meeting by Commissioner, seconded by Commissioner, and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

WILLIAM FITTS, Chairperson

RESOLUTION NO.

A RESOLUTION OF THE CITY OF NEWARK PLANNING COMMISSION ADOPTING A SECOND ADDENDUM TO THE DUMBARTON TRANSIT-ORIENTED DEVELOPMENT SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT (SCH# 2010042012) FOR AND APPROVING THE DEVELOPMENT OF 542 RESIDENTIAL UNITS WITHIN THE SPECIFIC PLAN AREA, AND MAKING FINDINGS IN SUPPORT THEREOF

WHEREAS, the City of Newark certified the Dumbarton Transit-Oriented Development Specific Plan Environmental Impact Report (State Clearinghouse Number 2010042012) (Specific Plan EIR), adopted a statement of overriding considerations for the significant and unavoidable impacts identified therein, and approved a mitigation monitoring and reporting program on September 8, 2011; and

WHEREAS, the Specific Plan EIR analyzes the impacts of development that will occur on many different parcels owned by various entities within the 205-acre Specific Plan area, including the Torian parcels at issue for the project. The EIR analyzed the impacts of the construction and operation of 583 residential units on the Torian parcels; and

WHEREAS, relying on the Specific Plan EIR, on November 29, 2012, the City of Newark approved Tentative Tract Map 8085 for a 553 residential unit development on the Torian parcels; and

WHEREAS, on February 28, 2013 the City approved a revised Tentative Tract Map, which made minor revisions to the original Tentative Tract Map 8085. These revisions included a contemplated wetland connection through, and the abandonment of, Hickory Street and a total of 547 units, as well as other minor site plan revisions. The revised Tentative Tract Map approval relied on an addendum to the EIR, which concluded that the project revisions would not result in any new or substantially increased environmental impacts; and

WHEREAS, William Lyon Homes is seeking further approvals for the development of the Torian parcels within the Specific Plan area (the project). The project proposes the construction of 542 residential units on 42.22 acres within the 205-acre Specific Plan area; and

WHEREAS, the project would relocate a wetland connection directly to the Alameda County Flood Control District (ACFCD) F1 Channel under the ACFCD access road, reconfigure the proposed wetland area that would require less of the Hickory Street right-of-way, reconfigure certain lots and internal roads, realign and enlarge the wetlands reserve to 4.7 acres from 3.5 acres, and realign a trail to the north side of the wetlands reserve, a further reduction in the total proposed number of units from 547 units to 542 units, and make other minor adjustments to the site plan; and

WHEREAS, pursuant to CEQA Section 21166 and Sections 15162, 15163, and 15182 of the CEQA Guidelines, a second Addendum to the Specific Plan EIR was prepared by the City to analyze the project (second Addendum). The second Addendum incorporates by reference the analysis contained in the Specific Plan EIR and first Addendum, and addresses only those issues specific to the project. The second Addendum concludes that the project will not result in impacts beyond those previously analyzed in the Specific Plan EIR, because the project would not cause new or substantially increased significant direct or reasonably foreseeable indirect adverse effects on the environment; and

WHEREAS, the City of Newark is the lead agency for the project under CEQA; and

WHEREAS, the Planning Commission has reviewed and considered the Specific Plan EIR and the second Addendum for the project, and intends to take action on the project in compliance with CEQA, and state and local guidelines implementing CEQA; and

WHEREAS, the second Addendum to the Dumbarton TOD Specific Plan EIR for the project is on file in the Community Development Department, located at 37101 Newark Blvd, Newark, California 94560, is available for inspection by any interested person at that location and is, by this reference, incorporated into this Resolution as if fully set forth herein.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Newark as follows:

SECTION 1. THAT THE PLANNING COMMISSION does hereby make the following findings: (1) it has independently reviewed and analyzed the second Addendum and other information in the record and has considered the information contained therein, prior to acting upon or approving the project; (2) the second Addendum prepared for the project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the second Addendum represent the independent judgment and analysis of the City of Newark, as lead agency for the project.

SECTION 2. THAT THE PLANNING COMMISSION does hereby find that based upon the entire record of proceedings before it and all information received and pursuant to CEQA Guidelines Sections 15162 and 15164, that there is no substantial evidence that the project will result in any new, increased, or substantially different significant impacts, other than those previously considered and addressed in the Specific Plan EIR; and that no changes or additions to the Specific Plan EIR analyses are necessary, nor is there a need for any additional mitigation measures; and that none of the conditions described in CEQA Guidelines Section 15162 that would require subsequent or supplemental CEQA review for the project otherwise exist.

SECTION 3. THAT THE PLANNING COMMISSION does hereby incorporate by reference and readopt the statement of overriding considerations for the significant and unavoidable impacts identified in the Specific Plan EIR, and the approved mitigation monitoring and reporting program.

SECTION 4. THAT THE PLANNING COMMISSION does hereby adopt the second Addendum for the project, and approve the project.

SECTION 5. The City Clerk is directed to file a Notice of Determination as provided in Section 15094 of the CEQA Guidelines.

SECTION 6. The documents and materials that constitute the record of proceedings on which these findings have been based are located in the City of Newark City Hall, 37101 Newark Boulevard, Newark, California 94560. The custodian for these records is the City Clerk of the City of Newark.

This Resolution was introduced at the Planning Commission's April 14, 2015 meeting by Commissioner, seconded by Commissioner, and passed as follows:

AYES:

NOES:

ABSENT:

CITY OF NEWARK

ADDENDUM TO THE ENVIRONMENTAL IMPACT REPORT FOR THE DUMBARTON TRANSIT-ORIENTED DEVELOPMENT SPECIFIC PLAN

A. PROJECT INFORMATION

1. **Project Title:** Tract 8058 Architectural Design Review and Planned Unit Development (aka Torian Parcels)
2. **Lead Agency Name and Address:** City of Newark
37101 Newark Blvd.
Newark, CA 94560
3. **Contact Person(s) and Phone Numbers:** Terrence Grindall
(510) 578-4208
4. **Project Location:** The project is generally located on the west side of Willow Street at the terminus of Central Avenue in the Dumbarton Transit Oriented Development Specific Plan Area of the City of Newark

INTRODUCTION & PROJECT DESCRIPTION:

The Dumbarton Transit Oriented Development Specific Plan ("DTODSP") Environmental Impact Report ("EIR") was certified by the City of Newark in 2011. The DTODSP guides future development and redevelopment of an approximately 205 acre area generally located at the western edge of the City of Newark ("City") and south/southwest of the Dumbarton Rail Corridor ("DRC"). Figure 1 in Appendix A shows the project location. Implementation of the proposed Specific Plan would allow a mix of residential, office, retail, park and recreational open space uses.

The EIR analyzes the impacts of development that will occur on many different parcels owned by various entities within the 205-acre DTODSP project site. The EIR sets out the ownership by assessor parcel number ("APN"), and allocates certain permissible uses and permissible residential densities per ownership/APN. Among these ownership categories are the Torian parcels. On November 29, 2012, the City of Newark approved Tentative Tract Map 8085 for a 553 unit parcel on the Torian parcels. That approval relied on the DTODSP EIR. On February 28, 2013 the City approved a revised Tentative Tract Map which made minor revisions to the original Tentative Tract Map 8085. These revisions included a contemplated wetland connection through, and the abandonment of, Hickory Street and a total of 547 units, as well as other minor site plan revisions. The revised Tentative Tract Map approval relied on an addendum to the DTODSP EIR which concluded that the project revisions would not result in any new or substantially increased environmental impacts.

William Lyon Homes is now seeking further approvals for the development of the Torian parcels and has submitted Tract 8085 Architectural Design Review and Planned Unit Development

("Tract 8085 ADR/PUD"), with several project refinements to the City for review and approval. Those project refinements and their consistency with the DTODSP EIR are the subject of this addendum. This addendum analyzes these proposed revisions to the proposed development on Torian parcels as well as any changed circumstances and new information that may require further environmental review.

The express intent of the DTODSP EIR was to analyze and cover all impacts on the environment resulting from the development of the DTODSP project site, including the Tract 8085 ADR/PUD area. The Tract 8085 ADR/PUD project and refinements were analyzed by the EIR, prior addendum and now this addendum, and as proposed, the project will be undertaken pursuant to and in conformity with the DTODSP, and the City and applicant will remain obligated to comply with all applicable mitigation measures and conditions of approval contained within the EIR.

The Tract 8085 ADR/PUD proposes the construction of 542 residential units on 42.22 acres generally located on the west side of Willow Street at the terminus of Central Avenue in the City of Newark. The 42.22 acres being developed with residential uses is wholly within the 205 acre DTODSP project site. As with the revised Tentative Tract Map, the Tract 8085 ADR/PUD contemplates certain offsite improvements on properties adjacent to the DTODSP area.

The project refinements addressed in this addendum are shown in the vesting tentative map conformance exhibit (Figure 2, Appendix A) which is also included in the Tract 8085 ADR/PUD package submitted to the City. The project refinements include relocating the wetland connection directly to the Alameda County Flood Control District ("ACFCD") F1 Channel under the ACFCD access road, a reconfiguration of the proposed wetland area that would require less of the Hickory Street right-of-way, reconfiguration of certain lots and internal roads, realignment and enlargement of the wetlands reserve to 4.53 from 3.5 acres, (Figure 3, Appendix A, see also Appendix B) and realignment of the trail to the north side of the wetlands reserve, a further reduction in the total proposed number of units to 542 units, and other minor adjustments to the site plan.

Also, a portion of a Union Sanitary District ("USD") sewer force main system runs beneath the wetlands reserve. On September 4, 2013, the Regional Water Quality Control Board approved a Section 401 Water Quality Certification related to Tract 8085 that required that the force mains that run beneath the wetlands reserve be abandoned in place (RWQCB Site No. 02-01-C1123(BKW)). This addendum therefore also analyses the additional detail now available related to relocation of the force mains to outside the Wetland Reserve.

Consistent with RWQCB Site No. 02-01-C1123(BKW), William Lyon Homes proposes to construct new force mains and abandon the existing force main in place once the new force mains are completed. The new force mains would begin south of the Specific Plan area boundary, in Perrin Road near Willow Street and would go under the ACFCD F1 Channel, through Tract 8085, and would then travel within the existing Hickory Street right of way and the existing USD easement in the Integral Communities property and FMC properties. (Figure 4, Appendix A.) The new pipeline would continue north of the Specific Plan area through the

Hetch Hetchy right of ways and San Mateo County Transit property to the existing Newark Pump Station. Because USD owns and operates the force main system, its approval as a responsible agency for the force main relocation portion of the project would be required.

The DTODSP EIR anticipated that sewer force mains within the Hickory Street right of way may be replaced and that improvements to the force main within Willow Street might also occur (see, e.g., DTODSP EIR. P. 3-38), and included necessary mitigation (including, but not limited to, Mitigation Measures 4.2-2, 3.10-1, and 4.12-2). The DTODSP EIR also anticipated connections to existing major infrastructure improvements adjacent to the DTODSP project area (e.g. DTODSP EIR p. 3-35 [“The drainage systems within the Specific Plan area would be designed so that lots, streets, and parks convey surface runoff to new inlets within the development, which would then transport the storm water through underground piping networks to discharge outlets”].)

The EIR assumed complete disturbance of the parcels within the Specific Plan and also specifically allocated a maximum of 583 residential units to the Tract 8085 ADR/PUD site (138 units to APN 092-0115-008 and 445 units to APN 092-0115-010). As such, the EIR analyzed the impacts of the FI connection, force main relocation, and of the construction and operation of 583 residential units on the Tract 8085 ADR/PUD site. The Tract 8085 ADR/PUD only calls for development of 542 residential units, which is 40 units less than already analyzed and covered by the EIR.

CEQA REQUIREMENTS FOR AN ADDENDUM:

California Environmental Quality Act (“CEQA”) Guidelines Section 15164, subd. (a) provides that the lead agency or a responsible agency shall prepare an addendum to a previously certified Environmental Impact Report or Negative Declaration if some changes or additions are necessary, but none of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent EIR or Negative Declaration (ND) have occurred (CEQA Guidelines, Section 15164, subd. (a)).

An addendum need not be circulated for public review but can be included in or attached to the Final EIR or ND (CEQA Guidelines Section 15164, subd. (c)). The decision-making body shall consider the addendum with the Final EIR prior to making a decision on the project (CEQA Guidelines Section 15164, subd. (d)). An agency must also include a brief explanation of the decision not to prepare a subsequent EIR or ND pursuant to Section 15162 (CEQA Guidelines Section 15164, subd. (e)). Consequently, once an EIR or ND has been certified for a project, no subsequent EIR or ND is required under CEQA unless, based on substantial evidence:

- 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR . . . due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;¹
- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR [or ND] . . . due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR [or ND] was certified as complete . . . shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR [or ND] or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR [or ND];
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR [or ND] would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative
 (CEQA Guidelines, Section 15162, subd. (a); *see also* Pub. Resources Code, Section 21166).

This addendum and attached documents constitute substantial evidence supporting the conclusion that preparation of a supplemental or subsequent EIR or ND is not required prior to City's approval of the Tract 8085 ADR/PUD package and may be relied on by responsible and trustee agencies for any related approvals to the development of the Torian parcels.

The certified DTODSP EIR specifically states that under Government Code Section 65457, any residential development project, including any subdivision or zoning change, that is undertaken to implement and is consistent with the Dumbarton TOD Specific Plan is exempt from further CEQA analysis, unless an event specified in CEQA Section 21166 occurs, in which case a Supplemental EIR or other CEQA document may be required.

FINDINGS AND CONCLUSIONS

As required under CEQA, the City of Newark has reviewed the Tract 8085 ADR/PUD application to determine whether a subsequent or supplemental EIR is required. (Pub. Resources Code, Section 21166(a); CEQA Guidelines, Section 15162(a).

¹ CEQA Guidelines Section 15382 defines "significant effect on the environment" as ". . . a substantial, or potentially substantial adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance . . ." (see also Public Resources Code, Section 21068).

Based on the environmental analysis set forth in this addendum as well as the DTODSP EIR and its prior addendum, the General Plan EIR, the Staff Report, testimony received at public hearings, and the record of proceedings, the City has determined, based on substantial evidence, that:

1) No substantial changes are proposed that would require major revisions to the previous EIR resulting from new significant environmental impacts or a substantial increase in the severity of previously identified significant environmental impacts.

2) No substantial changes in the circumstances under which the Project will be developed have occurred that would require major revisions to the previous EIR resulting from new significant environmental impacts or a substantial increase in the severity of previously identified significant environmental impacts.

3) No new information has arisen that was not known and could not have been known when the previous EIR was certified demonstrates any of the following:

- The project will cause significant environmental impacts not discussed in the previous EIR;
- Significant environmental impacts previously examined will be substantially more severe than shown in the previous EIR;
- Mitigation measures or alternatives previously found to be infeasible would in fact be feasible, and would substantially reduce one or more significant environmental impacts, but the project proponents decline to adopt the mitigation measure or alternative; or
- Mitigation measures or alternatives considerably different from those analyzed in the previous EIR would substantially reduce one or more significant environmental impacts, but the project proponents decline to adopt the mitigation measure or alternative.

Accordingly, since none of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent or supplemental EIR has occurred, the City prepared this second Addendum to the DTODSP EIR for the Tract 8085 ADR/PUD. (CEQA Guidelines, Sections 15164, 15168.)

ANALYSIS:

As explained in greater detail in each impact category below, because Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information has come to light meeting the requirements of CEQA Guidelines Section 15162(a)(3), preparation of a supplemental EIR is not required.

Aesthetics

After considering the DTODSP's impacts on light and glare, alteration/degradation of the visual character of the project area, and changes to views in the project area, the EIR concluded the DTODSP would have a less than significant impact on aesthetics, and therefore the EIR did not propose any mitigation measures.

The Tract 8085 ADR/PUD is consistent with this analysis. Tract 8085 ADR/PUD proposes construction of 542 residential units, which is within the 583 unit limit for the Tract 8085 ADR/PUD area specifically analyzed by the EIR.

The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to aesthetics exists that meet the thresholds of CEQA Section 21166 or CEQA Guidelines Section 15162.

Agricultural Resources/Mineral Resources

The EIR excluded analysis of the DTODSP's impact on mineral resources and agriculture/forest resources from the EIR because through the scoping process, it was determined based on substantial evidence in the record that the project would have no impacts in these areas. Thus, the EIR concluded the DTODSP has no impact on agricultural or mineral resources. The Tract 8085 ADR/PUD is consistent with this analysis. The project does not affect any parcels/land not specifically analyzed by the EIR. As a result, the Tract 8085 ADR/PUD will have no impact on agricultural or mineral resources because the EIR already specifically concluded that the development of any of the Tract 8085 parcels will have no impact of agriculture or mineral resources. The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to agricultural or mineral issues exists that meet the thresholds of CEQA Section 21166 or CEQA Guidelines Section 15162.

Air Quality

After analyzing both short term impacts (construction) and long term impacts (operations), the EIR concluded the DTODSP had several potentially significant impacts on the environment with regard to air quality.

Short Term Impacts

The EIR concluded the short-term construction activities associated with the proposed project would result in significant air pollutant emissions when the various projects covered by the EIR, including the Tract 8085 ADR/PUD, commence.

The EIR proposed several construction mitigation measures in order to mitigate these impacts.

First, prior to issuance of any Grading Permit, the Public Works Director and the Building Official shall confirm that the Grading Plan, Building Plans, and specifications stipulate that, the project

is in compliance with the BAAQMD *CEQA Air Quality Guidelines*. The EIR also proposed many specific construction mitigation measures.

The EIR concluded that after implementation of these measures, the short term impacts of the DTODSP on air quality would be mitigated to a less than significant level.

The Tract 8085 ADR/PUD is consistent with this analysis. The project will not cause any more construction than already analyzed under the EIR. Further, the relocation of the USD force main, including those portions located adjacent to the DTODSP Area, will occur concurrently with construction on Tract 8085. The EIR also anticipated that the mains within the Hickory Street right of way may be replaced and that improvements to the main within Willow Street might also occur. Thus, no new or increased significant impacts will result from the Tract 8085 ADR/PUD.

The Tract 8085 ADR/PUD will implement all mitigation measures proposed by the EIR.

Long Term Impacts

The EIR concluded that the DTODSP had potentially significant impacts resulting from the long term operation of the project. The EIR specifically stated increased trip generation from the operation of the DTODSP could cause significant localized air quality impacts resulting from vehicle/public transit emissions.

To mitigate long term impacts, the EIR proposed installation of filtered air supply systems on residential units, air intakes located away from the freeway, and preparation of a plan ensuring ongoing maintenance of ventilation and filtration systems.

The EIR concluded that after mitigation, the DTODSP's long term impacts on air quality were less than significant.

The Tract 8085 ADR/PUD is consistent with this analysis. As discussed above, the Tract 8085 ADR/PUD proposes 542 residential units, which is within the 583 limit of residential units specifically allocated to the Tract 8085 ADR/PUD by the DTODSP and analyzed by the EIR. Thus, the Tract 8085 ADR/PUD will not increase the trip generation already analyzed by the EIR because the Tract 8085 ADR/PUD will not increase the number of residents on the Tract 8085 ADR/PUD site to a number not already analyzed by the EIR. Trip generation is the main driver for long term air quality impacts. Thus, no new or substantially greater impacts will result.

The Tract 8085 ADR/PUD will implement all the relevant mitigation measures proposed by the EIR.

The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to short or long term air quality impacts exists that meet the thresholds of CEQA Section 21166 or CEQA Guidelines Section 15162.

Biological Resources

The EIR found that before mitigation, the DTODSP caused potentially significant impacts on (1) salt marsh harvest mouse (2) nesting raptors (3) western burrowing owl (4) tricolored blackbird, saltmarsh common yellowthroat and other nesting passerine birds (5) special-status plant species (6) wetlands and waters of the State/U.S (7) protected trees, and (8) a cumulative impact on loss of vegetation and wildlife resources.

The EIR proposed a variety of mitigation measures to mitigate these potentially significant impacts. After mitigation, the EIR concluded that all biological impacts would be mitigated to a less than significant level.

The Tract 8085 ADR/PUD is consistent with this analysis.

Wetland delineations throughout Tract 8085 area have been completed in accordance MM 4.3-6, mitigation credits from an approved mitigation bank (San Francisco Bay Wetland Mitigation Bank, seasonal wetland 7.6 acres) have been purchased, and 4.53 acres (increased from 3.5 acres) have been designated as the Wetlands Reserve within Tract 8085, and are now incorporated into the development plan for the project area, as shown in Figure 3, Appendix A. In the Wetlands Reserve there are 0.89 acre of preserved wetlands, 1.95 acres of new tidal marsh, and 1.69 acres of upland buffer to enhance habitat quality.

Pursuant to Mitigation Measure 4.3-6 of the DTODSP EIR, the Corps consulted with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act for potential impacts to the federal-endangered salt marsh harvest mouse (SMHM, *Reithrodontomys raviventris*), Ridgway's rail (formerly California clapper rail, *Rallus obsoletus*), and Western snowy plover (*Charadrius nivosus nivosus*) resulting from the Torian Project . The Biological Assessment analyzed the Torian project site, and surrounding areas, including the F-1 Channel where the box culvert structure is proposed. The Biological Assessment found that the project site and adjacent areas do not contain suitable nesting habitat for Western snowy plover or Ridgeway's rail. The F-1 Channel does contain less-than optimal habitat for SMHM because it is deeply incised, contains only a thin fringe of marsh along its edges, and is dominated by alkali bulrush (*Scirpus robustus*), an indicator of brackish tidal marshes, which is not optimal habitat for SMHM. The USFWS does require implementation of Best Management Practices during construction of the project to minimize potential impacts to SMHM and its habitat. Relocation of the USD force main would not disturb the F-1 Channel because construction methods that would not require any ground disturbance within the ACFCD right of way would be employed. Also, the Torian project connection between the on-site wetland mitigation area and the F-1 Channel does include migration paths for SMHM within the proposed culverts. Therefore, the construction of the F-1 Channel culverts will not result in new substantially increased impacts to biological resources.

The Tract 8085 ADR/PUD will implement all relevant mitigation measures proposed in the EIR and the conclusion under the Tract 8085 ADR/PUD remains the same. The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new

information related to biological impacts exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Cultural Resources

The EIR found that the DTODSP caused the following potentially significant impacts on cultural resources:

Project implementation may cause a substantial adverse change to an unknown historical or archaeological resource, or result in the damage or destruction of unknown paleontological resources or human remains.

Future development of the project site allowed by the DTODSP could result in cumulatively considerable cultural resource impacts.

The EIR proposed several mitigation measures, including the retention of qualified archaeologist prior to the issuance of grading permits. The EIR concluded that after the implementation of the mitigation measures, all impacts on cultural resources would be less than significant.

The Tract 8085 ADR/PUD is consistent with this analysis. The Tract 8085 ADR/PUD will implement all relevant mitigation measures proposed in the EIR. The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to cultural resources exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Geology and Soils

The EIR found that the DTODSP caused the following potentially significant impacts on geology and soils:

The proposed project could expose people or structures to potentially substantial adverse effects, including the risk of loss, injury, or death as a result of seismic-related ground shaking, liquefaction, or landslides.

Future development of the project site allowed by the DTODSP could result in substantial soil erosion or the loss of topsoil.

Future development within the DTODSP area could be located on a geologic formation unit or soil that is unstable, or that would become unstable as a result of construction and potentially result in subsidence or differential settlement.

The proposed project could be located on expansive soil, as defined in Table 18-1-b of the California Building Code (2004), creating substantial risks to life or property.

Future development of the project site allowed by the DTODSP could result in cumulatively considerable seismic or soils hazards.

The EIR proposed several mitigation measures. The EIR concluded that after the implementation of these measures, all impacts on geology and soils will be mitigated to a less than significant level.

The Tract 8085 ADR/PUD is consistent with this analysis. The grading and construction activities associated with Tract 8085 ADR/PUD, including those associated with the F1 Channel culverts, will be subject to all relevant mitigation measures proposed in the EIR, and the USD force main relocation does not require any ground disturbance within the ACFCD right of way. The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to geology or soils exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Greenhouse Gasses

The EIR found that the DTODSP has potentially significant impacts relating to greenhouse gas emissions. However, the EIR concluded the DTODSP is consistent with all applicable GHG plans, policies, and regulations.

The EIR proposed a non-exclusive list of design features for future projects in the DTODSP that will mitigate potential impacts of GHG emissions. The EIR concluded after mitigation the DTODSP's impact on GHG emissions would be less than significant.

The Tract 8085 ADR/PUD is consistent with this analysis. The Tract 8085 ADR/PUD calls for a number of residential units (542) within its unit limit specifically stated in the EIR (583), and therefore the Tract 8085 ADR/PUD will not result in more construction or residents than already analyzed by the EIR. As such, the Tract 8085 ADR/PUD will not generate any more trips, will not result in more natural gas or water usage, produce more waste, or any increase any other source of GHG emissions not already analyzed in the EIR. The Tract 8085 ADR/PUD will implement all relevant mitigation measures proposed in the EIR. The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to greenhouse gasses exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Hazards

The EIR found that the DTODSP has the following potentially significant impacts with relation to hazards:

The sites that are included on a list of hazardous materials sites compiled pursuant to government code section 65962.5 and, as a result, could create a significant hazard to the public or the environment.

The proposed project may create a significant hazard to the public or the environment through reasonably foreseeable upset and accidental conditions involving the release of hazardous materials into the environment.

Future development of the project site allowed by the DTODSP could result in cumulatively considerable impacts associated with hazards and hazardous materials.

The EIR proposed several mitigation measures that apply to all these impacts. The EIR found after implementation of these measures, the DTODSP's impacts on hazards would be less than significant.

The Tract 8085 ADR/PUD is consistent with this analysis. The Tract 8085 ADR/PUD area does not include any of the eight parcels specifically identified by the EIR as containing hazardous materials. As a result, the first significant impact identified by the EIR does not apply to the Tract 8085 ADR/PUD. As discussed above, the Tract 8085 ADR/PUD will construct a number of residential units (542) within the limit imposed by the EIR (583), and will be constructed in an area fully analyzed under the EIR. Thus, no new or increased significant impacts will result.

The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to hazards exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Hydrology

The EIR found that the DTODSP has the following potentially significant impacts on hydrology:

The proposed project would substantially alter the existing drainage pattern of the site or area, which could result in substantial erosion or siltation on or off-site.

The proposed project could substantially alter the existing drainage pattern of the site or area, which could substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off-site.

The proposed project could create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

Future development of the project site allowed by the DTODSP could result in cumulatively considerable hydrology and water quality impacts.

The EIR proposed several mitigation measures, including detailed hydrology reports which have been completed and measures to ensure that there is sufficient room for future storm drainage lines to pass over Hetch Hetchy Pipeline. After implementation of these mitigation measures, the EIR concluded that all impacts on hydrology will be mitigated to a less than significant level.

The Tract 8085 ADR/PUD is consistent with this analysis. The storm drainage plan has been completed as required in EIR MM 4.8-4a. The required storm drainage plan provides for outfalls

into the Alameda County Flood Control Line F-1, which is consistent with the Specific Area Plan conceptual Grading and Drainage Plan (Exhibit 8.2 in the SAP). With the Wetland Reserve in place, storm water would continue to flow into Line F-1, which is a channelized version of Plummer Creek under BCDC 'Certain Waterways' jurisdiction (as opposed to the typical 'Bay' and adjacent 100' shoreline band jurisdictions).

The outfall into Line F-1 would consist of multiple parallel culverts passing beneath the ACFCWCD access road that parallels the southern side of the site. The outfall would allow higher tides to flow into and out of the Wetland Preserve, thereby providing a regular source of water for the wetlands, enlarging the total area of tidal marsh habitat, and providing a connection to other areas of tidal marsh habitat for sensitive species in the area. To access tidal waters, the new outfall would likely require a minor encroachment (~200 square feet) into BCDC and Corps jurisdiction below the high tide line on Plummer Creek, which would be addressed in permitting with the Corps, RWQCB, CDFW and BCDC.

Allowing tidal waters into the Wetland Preserve would subject that area to regular tidal inundation, and any additional water level variations that may result from sea level rise and/or Alameda County Flood Control and Water Conservation District (ACFCWCD) capacities and operations. Water flow rate and level variations in Alameda County Flood Control District Line F-1, however have been analyzed (CBG 2015; Balance Hydrologics 2015) and the housing areas have been elevated out of any potential inundation area and would not be subject to flooding. Therefore there are no additional hydrologic impacts resulting from allowing tidal waters onto the project site.

Next to the Wetland Reserve are water quality treatment bioretention basins which intercept and infiltrate storm water runoff, to capture sediment and pollutants, before the storm water drains into the Wetland Reserve and ultimately Line F-1. The Wetland Reserve provides on-site wetland mitigation for permits required by the Corps, Regional Water Quality Control Board, and U.S. Fish and Wildlife permits and approvals. As discussed above, the Tract 8085 ADR/PUD will construct a number of units within the limit imposed by the EIR and specifically analyzed by the EIR.

The Tract 8085 ADR/PUD will implement all relevant mitigation measures proposed in the EIR and the conclusion under the Tract 8085 ADR/PUD remains the same. The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to hydrology exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Land Use

The EIR found the DTODSP will have a less than significant impact on land use, and the EIR did not propose any mitigation measures. The EIR found the DTODSP does not disrupt or divide a community, and found that it is consistent with the City's General Plan land use strategy, the Bay Area Regional Smart Growth Strategy/Regional Livability Footprint Project, the San Francisco Bay Trail Plan and the San Francisco Bay Plan. The EIR concluded that even without mitigation, the DTODSP would have a less than significant impact on land use.

The Tract 8085 ADR/PUD is consistent with this analysis. The Tract 8085 ADR/PUD proposed to build 542 residential units, which as discussed above, is well, within the 583 unit Limit set out in the DTODSP for the Tract 8085 ADR/PUD area Secondly, the Tract 8085 ADR/PUD only proposes uses that are permissible under the DTODSP. The specific permissible uses of the Tract 8085 ADR/PUD site analyzed by, the EIR are MDR/MHDR (APN 092-0 115-008) and LDR/MDR/MHDR (APN '092-011.5-010), both of which allow for the construction of 542 residential units in the manner proposed by the Tract 8085 ADR/PUD.² Thus, the EIR specifically contemplated the Tract 8085 ADR/PUD 's proposed residential use and unit density, and therefore the Tract 8085 ADR/PUD is consistent with the DTODSP.

The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to land use exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Noise

The EIR found that the DTODSP has the following potentially significant impacts on noise:

Construction related activities could result in temporary noise impacts to nearby noise sensitive receivers.

Development associated with implementation of the proposed project could result in temporary vibration impacts to nearby sensitive receptors during grading and construction activities.

Implementation of the proposed project would not result in an increase in onsite ambient noise levels due to operational noise impacts.

Traffic generated by the proposed project could significantly contribute to existing traffic noise in the area or exceed the City's established standards.

Implementation of the proposed project and other related cumulative projects, anticipated by the General Plan, as most recently updated, could result in cumulatively considerable noise impacts.

The EIR proposed several mitigation measures, including preparation of an acoustical assessment before grading permits are issued and a speed limit change on Willow Street. The EIR concluded after mitigation, the DTODSP's impacts on noise were less than significant.

The Tract 8085 ADR/PUD is consistent with this analysis. The Tract 8085 ADR/PUD proposed to build 542 residential units, which as discussed above, is well within the 583 unit limit set out in the EIR for the Tract 8085 ADR/PUD site. Further, construction of the USD force main

² LDR =Low Density Residential; MDR =Medium Density Residential; MOHR= Medium High Density Residential. (EIR, p. 3-28)

relocation, including the portions adjacent to the DTODSP Area boundary, would occur concurrently with construction of Tract 8085, and the EIR anticipated that development of the Specific Plan would require that mains within the Hickory Street right of way may be replaced and that improvements to the main within Willow Street might also occur. Therefore, the force main relocation would not be expected to extend the construction period or otherwise result in a significant construction noise impact. Thus, the Tract 8085 ADR/PUD will not increase noise either from construction activities or operations to a level higher than already analyzed under the EIR. The noise impacts created by construction and occupation of 583 units has already been analyzed under the EIR, which would exceed the noise impacts resulting from the Tract 8085 ADR/PUD 's 542 units.

The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to noise exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Population & Housing

The EIR found the DTODSP will have a less than significant impact on population and housing, and as a result the EIR did not propose any mitigation measures. Specifically, the EIR found the DTODSP will increase the population by 8,150 people (through the construction of 2,500 residential units), yet this number was less than significant.

The EIR analyzed an increase in population resulting from 2,500 residential units and concluded that such an increase would have less than significant population and housing impacts. The Tract 8085 ADR/PUD proposes to build 542 residential units is well less than the 583 unit limit assumed in the DTODSP and DTODSP EIR for the Tract 8085 parcels.

The Tract 8085 ADR/PUD 's impacts on population increase resulting from the construction of 542 residential units are certain to be less than significant. This conclusion is consistent with the EIR's and prior addendum's conclusions.

The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to population and housing exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Public Services/Utilities

The EIR found that the DTODSP had a potentially significant impact on wastewater, but all other impacts on public services and utilities were less than significant. Specifically, the EIR found the proposed project could result in a determination by the wastewater treatment provider that it has inadequate capacity to provide for the project's projected demand in addition to the provider's existing commitments.

The EIR proposed a mitigation measure calling for possible improvements to wastewater systems. After implantation of the mitigation measure, the EIR concluded that all impacts on public services and utilities would be less than significant.

The Tract 8085 ADR/PUD is consistent with this analysis. The Tract 8085 ADR/PUD proposes to build 542 residential units, which as discussed above, is well within the 583 unit for the Tract 8085 parcels. Thus, the Tract 8085 ADR/PUD will not increase demand on wastewater systems beyond the level than was already analyzed by the EIR. The Tract 8085 ADR/PUD will implement all relevant mitigation measures proposed in the EIR.

The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to public services and utilities exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Recreation

The EIR found that the DTODSP has the following two potentially significant impacts on recreation:

The proposed project would include the construction of recreational facilities that might have an adverse effect on the environment.

Future development of the project site allowed by the DTODSP could cumulatively contribute to increased demand for recreational facilities, and impacts associated with the construction or expansion of recreational facilities.

The EIR concluded that if the mitigation measures proposed in the Air Quality and Noise sections were implemented, the DTODSP's impact on recreation would be mitigated to a less than significant level. The Tract 8085 ADR/PUD will implement all relevant mitigation measures proposed in the EIR in the Air Quality and Noise sections

The Tract 8085 ADR/PUD is consistent with this analysis. The Tract 8085 ADR/PUD proposes to build 542 residential units which is less than the 583 unit limit set out in the DTODSP for the Tract 8058 parcels. The trail planned to connect to the Bay Trail would be realigned away from the southern and western perimeter roads, slightly inland, along the Central Avenue alignment at the southern edge of the developed area, and just north of the wetland habitat area to improve user experience. The trail will be completed through the property as a requirement development as discussed in the DTODSP EIR and therefore there are no additional impacts resulting from the realignment of the trail. The Tract 8085 ADR/PUD will not increase demand on recreation beyond the level than was already analyzed under the EIR.

The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to recreation exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Traffic and Circulation

The EIR found that the DTODSP has the following potentially significant impacts on traffic and circulation:

The proposed project would increase traffic and have a significant impact at the following four intersections: (1) Willow Street/Thornton Avenue, (2) Cedar Boulevard/Thornton Avenue, (3) Willow Street/Enterprise Drive, and (4) Cherry Street/Mowry Avenue.

The proposed project would create demand for public transit lines serving the area.

Traffic generated by the proposed project would cause unacceptable operations at the Enterprise Drive/Willow Street intersection.

The EIR proposed mitigation measures specific to all four of these intersections, and found that all traffic impacts on all intersections except impacts on Cedar Boulevard/Thornton Avenue will be mitigated to a less than significant level. The EIR concluded DTODSP's impacts on Cedar/Thornton are significant and unavoidable. The EIR also proposed mitigation measures for the increased demand on public transit lines, but concluded that even after mitigation the impacts will be significant and unavoidable. Finally, the EIR proposed a mitigation measure calling for improvements to the Enterprise/Willow intersection, and the EIR concluded that after mitigation, the DTODSP's impacts on this intersection would be less than significant.

The EIR also found the following potentially significant impacts on traffic and circulation in the year 2035 (project buildout conditions):

The proposed project would increase cumulative traffic volumes and have a potentially significant cumulative impact on ten intersections.

Traffic generated by the proposed project would contribute to unacceptable operations at the Enterprise Drive/Willow Street intersection under Cumulative Conditions.

The proposed project would increase traffic on regional roadways in the project vicinity.

The EIR proposes mitigation measures specific to each impacted intersection, but still concluded that the DTODSP's impacts on these intersections will be significant and unavoidable. Similarly, the EIR's proposed mitigation measures to mitigate impacts on regional roadways in the project vicinity, but the EIR still concluded the DTODSP's impacts remained significant and unavoidable. Finally, the EIR proposed mitigation measures specific to the Enterprise/Willow intersection, and the EIR concluded that after mitigation, impacts on this intersection would be reduced to a less than significant level.

The Tract 8085 ADR/PUD is consistent with this analysis. As discussed above, the Tract 8085 ADR/PUD proposes 542 residential units, which is less than the 583 units analyzed in the EIR. Thus, the Tract 8085 ADR/PUD will not increase the trip generation already analyzed by the EIR

because the Tract 8085 ADR/PUD will not increase the number of residents on the Tract 8085 ADR/PUD.

The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed circumstances, and no new information related to traffic and circulation exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

Mandatory Findings of Significance

The EIR concluded the DTODSP had four significant and unavoidable impacts:

The addition of project traffic to existing conditions would cause the intersection Level of Service (LOS) at Cedar Boulevard/Thornton Avenue to degrade from acceptable to unacceptable during the PM peak hour and exacerbate operations by increasing the average delay by four or more seconds during the AM peak hour.

The project's increased demand for transit service may not be met by Dumbarton Rail Corridor (DRC) project, as the future of the DRC project is uncertain as of the publication of the Draft EIR and improved bus service to the Specific Plan area cannot be guaranteed, as it is under Alameda County (AC) Transit's jurisdiction.

The addition of project traffic to future year 2035 conditions would cause intersection LOS to degrade from acceptable to unacceptable or exacerbate operations by increasing the average delay by four or more seconds at the following five intersections: SR-84 Eastbound Ramps/Thornton Avenue, Cherry Street/Thornton Avenue, Newark Boulevard/Thornton Avenue, Cedar Boulevard/Thornton Avenue, and Cherry Street/Central Avenue.

The addition of project traffic to future year 2035 conditions would degrade operations on the following five roadway segments:

1. I-880, from SR 84 Eastbound to Thornton Avenue;
2. I-880, from Mowry Avenue to Stevenson Boulevard;
3. Thornton Avenue, from Willow Street to Spruce Street;
4. Thornton Avenue, from Spruce Street to Cherry Street; and
5. Thornton Avenue, from Cedar Boulevard to I-880 Southbound Ramps.

The Tract 8085 ADR/PUD is consistent with this analysis. As discussed above, the Tract 8085 ADR/PUD proposes 542 residential units, which is less than the 583 units analyzed in the EIR. Thus, the Tract 8085 ADR/PUD will not increase the trip generation already analyzed by the EIR because the Tract 8085 ADR/PUD will not increase the number of residents on the Tract 8085 ADR/PUD.

The Tract 8085 ADR/PUD does not include substantial changes relative to anticipated development previously analyzed, will not be developed under substantially changed

circumstances, and no new information related to traffic and circulation exists that meet the thresholds of CEQA section 21166 or CEQA Guidelines section 15162.

CONCLUSION:

Accordingly, and based on the findings and information contained in the certified DTODSP EIR, the analysis above, and the CEQA statute and State CEQA Guidelines, including sections 15164 and 15162, the proposed Tract 8085 ADR/PUD, a subset of what was already approved in the certified EIR, will not result in any additional effects on any environmental resources located on or near the project site and the potential environmental effects of the proposed relocation have been adequately addressed in the certified EIR for the Dumbarton TOD Specific Plan. Therefore, an Addendum to the EIR is appropriate under State CEQA Guidelines section 15164.

List of Appendices

APPENDIX A

Figure 1: Project Location Map

Figure 2: Tract 8085 Site Plan

Figure 3: Wetland Reserve Conceptual Mitigation Plan

Figure 4: USD Force Main Re-Alignment Exhibit

APPENDIX B

Biological Technical Memorandum

APPENDIX A
Figures 1-4

Figure 1: Project Location Map

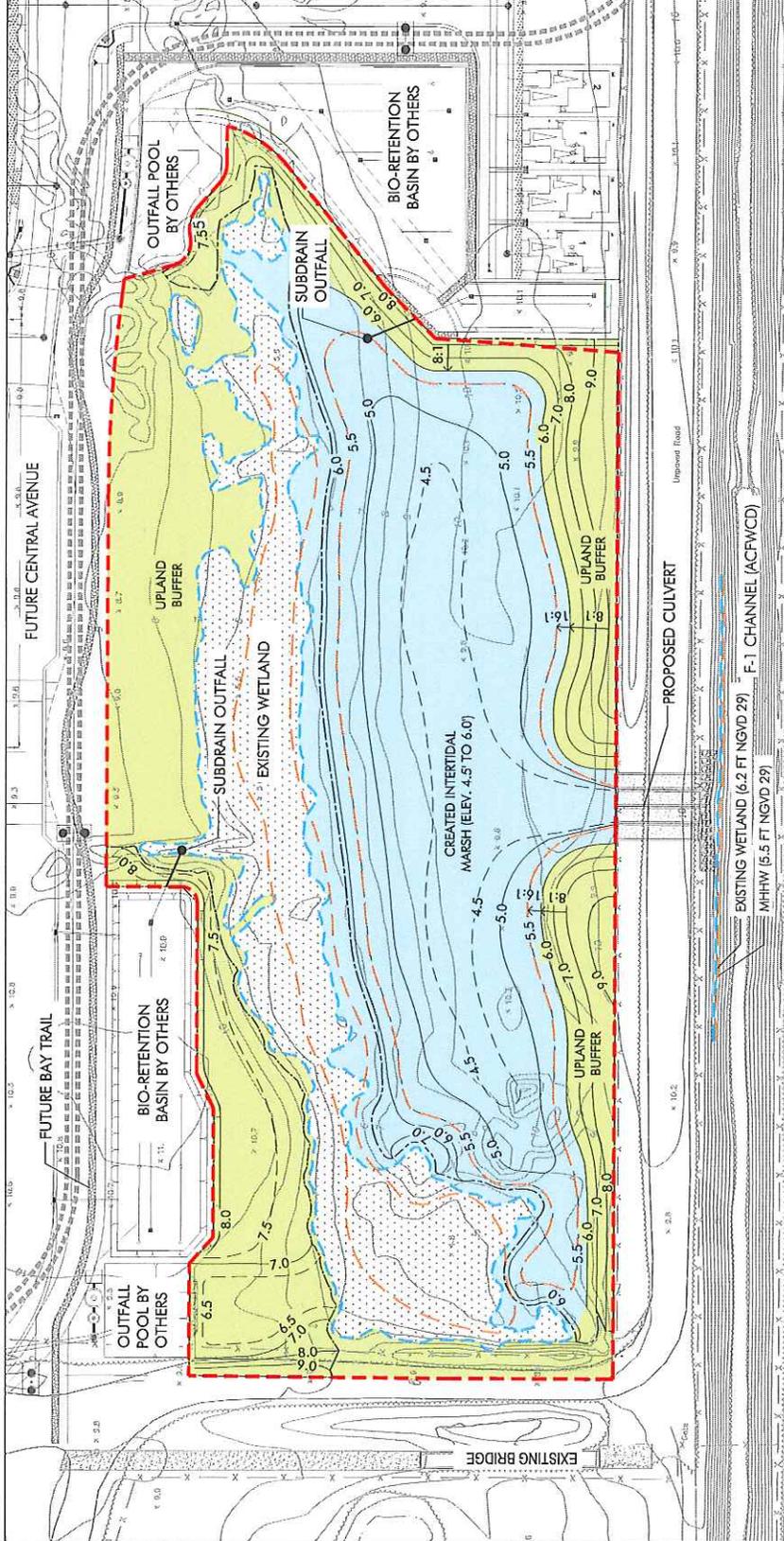


Source: Dahlin Group (2010)

Figure 2: Tract 8085 Site Plan

Figure 3: Wetland Reserve Conceptual Mitigation Plan

Figure 3.
Wetland Reserve
Conceptual
Mitigation Plan



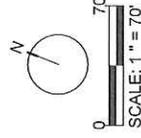
LEGEND

-  WETLAND RESERVE BOUNDARY
-  PROPOSED CONTOUR
-  EXISTING CONTOUR
-  PRESERVED WETLAND

-  CREATED INTERTIDAL MARSH
-  UPLAND BUFFER
-  LIMIT OF GRADE
-  MEAN HIGHER HIGH WATER (5.5 FT NGVD 29)
-  EXISTING WETLAND BOUNDARY

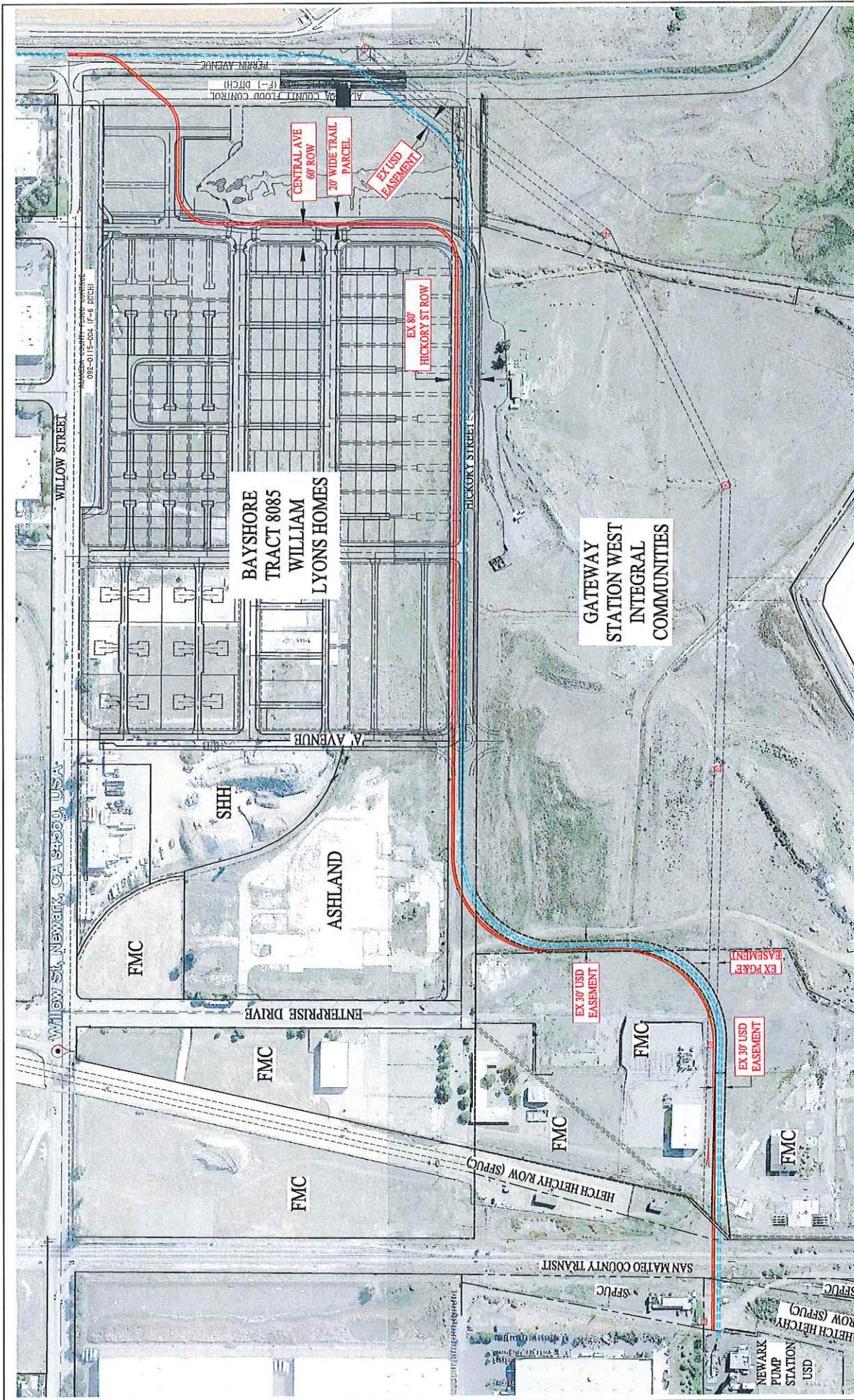
PROPOSED MITIGATION AREAS

HABITAT TYPE	AREA WITHIN WETLAND RESERVE
PRESERVED WETLAND	0.89 AC.
CREATED INTERTIDAL MARSH	1.95 AC.
UPLAND BUFFER	1.69 AC.
TOTAL WETLAND RESERVE	4.53 AC.



NOT FOR CONSTRUCTION
Date: March 19, 2015
Figure By: LM, JAV, CS

Figure 4: USD Force Main Re-Alignment Exhibit



USD FORCE MAIN RE-ALIGNMENT EXHIBIT
 TRACT 8085
 TORIAN PROPERTY
 CITY OF NEWARK
 ALAMEDA COUNTY
 CALIFORNIA

DATE: FEBRUARY, 2015
 SCALE: 1" = 100'
 C&G CONSULTING ENGINEERS
 1000 RAYBURN DRIVE
 SAN FRANCISCO, CA 94133
 (415) 774-1100
 www.candg.com

LEGEND
 PROPOSED TWIN 33" SANITARY SEWER FORCE MAINS
 EXISTING TWIN 33" SANITARY SEWER FORCE MAINS
 EXISTING PC&E HIGH VOLTAGE TOWERS
 EASEMENT
 PROPERTY LINE

Figure 4

APPENDIX B
Biological Technical Memorandum

Memorandum

To: William Lyon Homes

From: Mark Kalnins
kalnins@wra-ca.com
415-524-7357

Subject: Biological Technical Memorandum, Torian Project Connection to F-1 Channel

Date: February 3, 2015

This technical memorandum provides an assessment of the Torian Project connection to the Alameda County Flood and Water Conservation District's (ACFWCD) F-1 Channel (aka Plummer Creek). The connection to the F-1 Channel was anticipated as part of the Torian Project, as shown in Figure 8.2 Conceptual Grading and Drainage Plan of the Specific Plan, and analyzed in the Dumbarton Transit Oriented Development Specific Plan (DTODSP) Environmental Impact Report (EIR), as certified by the City of Newark in 2011. To implement the Grading and Drainage Plan, and to comply with permit requirements discussed below, the Torian Project includes an on-site wetlands mitigation and habitat conservation area in the southwestern corner of the project that connects to the F-1 channel via a box culvert structure.

In accordance with Mitigation Measure 4.3-6 of the DTODSP EIR, a wetland delineation is required (completed) to identify waters of the U.S./State, and authorization from the U.S. Army Corps of Engineers (Corps) and the California Regional Water Quality Control Board (RWQCB) are also required (in varying stages of completion). Additional permits will also be required from the San Francisco Bay Conservation and Development Commission (BCDC) for impacts to wetlands located within the F-1 channel due to construction of the outfall improvements. The permit approvals for the F-1 channel portion of the project will also likely include replacement of impacted wetlands within the channel at a minimum 1:1 ratio (replacement to impacts).

Subsequent to adoption of the Final EIR and pursuant to Mitigation Measure 4.3-6 of the DTODSP EIR, the Corps consulted with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act for potential impacts to the federal-endangered salt marsh harvest mouse (SMHM, *Reithrodontomys raviventris*), Ridgway's rail (formerly California clapper rail, *Rallus obsoletus*), and Western snowy plover (*Charadrius nivosus nivosus*) resulting from the Torian Project¹. The Biological Assessment analyzed the Torian project site, and surrounding areas, including the F-1 Channel where the box culvert structure is proposed. The Biological Assessment found that the project site and adjacent areas do not contain suitable nesting habitat for Western snowy plover or Ridgeway's rail. The F-1 Channel does contain less-than optimal habitat for SMHM because it is deeply incised, contains only a thin fringe of marsh along its edges, and is dominated by alkali bulrush (*Scirpus robustus*), an indicator of brackish tidal marshes, which is not optimal habitat for SMHM. The USFWS does require implementation of Best Management Practices during construction of the project to minimize potential impacts to SMHM and its habitat. The Torian project connection between the on-site

¹ Zentner and Zentner. 2012. Torian Property Biological Assessment for salt marsh harvest mouse, California clapper rail, and Western snowy plover. February 2012.

wetland mitigation area and the F-1 Channel does include migration paths for SMHM within the proposed culverts.