E.1 Hearing to consider adoption of an Initial Study/Mitigated Negative Declaration (E-13-19) and an amendment to a conditional use permit (U-93-22) for modifications (conversion to LED) to an existing parcel identification sign (Fremont Mazda) at 39800 Balentine Drive – from Assistant City Manager Grindall. (MOTIONS-2)

Background/Discussion - Mr. Amir Fariso has submitted an application to modify the existing digital parcel identification sign at 39800 Balentine Drive. The original 50-foot high sign was approved by the Planning Commission and City Council in 1993. The current sign face is 22'-4" x 29'-7". The current sign is internally illuminated with static panels. The proposed sign would utilize the existing column to convert the entire sign faces to digital display. The height and orientation of the sign would not change, however the sign face would be reduced to 19'-9" x 29'-4".

Environmental Review

An Initial Study/Mitigated Negative Declaration (IS/MND) evaluating the sign was prepared by the consulting firm Lamphier-Gregory. As noted above, the IS/MND was circulated for public review and comment.

The IS/MND reviewed and considered applicable Federal and State regulations including the Highway Beautification Act of 1965 (enforced by the Federal Highway Administration), the California Outdoor Advertising Act, and the California Code of Regulations (enforced by Caltrans), and the California Vehicle Code (enforced by Caltrans, California Highway Patrol or local authorities). A summary of these regulations is provided on pages 3 and 4 of the IS/MND.

Of the 18 potentially affected environmental factors evaluated per the IS checklist, three were determined as potentially involving at least one impact that requires mitigation to reduce the impact(s) to *less than significant* levels: Aesthetics, Biological Resources, and Transportation/Traffic. All other IS checklist items were either *less than significant impact* or *no impact*.

The Aesthetics analysis identifies steps to be taken to ensure the brightness of the LED display does not affect traffic safety and complies with guidelines of the Outdoor Advertising Association of America (OAAA). The Biological Resources analysis deals with potential impacts to nesting birds if construction occurs during the breeding season of February through August. The Transportation/Traffic analysis addresses traffic safety concerns from the potential effects of illumination brightness and changing images on driver attention. The IS/MND identified mitigation measures to reduce these potential impacts to *less than significant levels*, and staff has incorporated these mitigation measures into the resolution as conditions of approval.

The IS/MND public review and comment period closed on January 21, 2014. No comments were received.

Attachment

Update – At its meeting of February 11, 2014, the Planning Commission approved Resolution No. 1856, with Exhibit A, pages 1 and 2, recommending approval of the adoption of an Initial Study/Mitigated Negative Declaration (E-13-19) and an amendment to a conditional use permit (U-93-22) for modifications (conversion to LED) to an existing parcel identification sign (Fremont Mazda) at 39800 Balentine Drive.

Action - It is recommended that the City Council, by motions: (1) adopt E-13-19, an Initial Study/Mitigated Negative Declaration; and (2) approve Resolution No. 1856, with Exhibit A, pages 1 and 2, for an amendment to a conditional use permit (U-93-22) for modifications (conversion to LED) to an existing parcel identification sign (Fremont Mazda) at 39800 Balentine Drive.

RESOLUTION NO. 1856

RESOLUTION APPROVING AN AMENDMENT TO A CONDITIONAL USE PERMIT (U-93-22) FOR MODIFICATIONS (CONVERSION TO LED) TO AN EXISTING PARCEL IDENTIFICATION SIGN (FREMONT MAZDA) AT 39800 BALENTINE DRIVE

WHEREAS, Fremont Mazda has filed with the Planning Commission of the City of Newark application for an amendment to U-93-22, a conditional use permit, for an outdoor advertising digital (LED) sign at 39800 Balentine Drive, adjacent to Interstate 880 (Nimitz Freeway); and

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in The Argus on January 31, 2014, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on February 11, 2014 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby approves this application as shown on Exhibit A, pages 1 and 2, subject to compliance with the following conditions:

Planning Division

a. The duration of each message center display shall be between four (4) and 10 seconds (8 seconds recommended). The transition time between messages shall be no greater than one (1) and four (4) seconds (1 to 2 seconds recommended). The sign displays shall be equipped with sensors that modify the brightness of the display in response to ambient lighting conditions to ensure that the brightness at all times does not constitute a traffic hazard, as determined by the Community Development Director. Shaders shall be located above the lights to limit light from projecting upwards into the sky, as determined by the Community Development Director. In the event of a malfunction, the display default shall be to either turn the display off or go to a full black screen. Prior to the issuance of any permits, the developer shall provide written evidence, to the Community Development Director, demonstrating that the requirements of this section will be met.

b. The developer shall demonstrate compliance with a 0.3 foot candle increase over ambient light at 250 feet during nighttime conditions upon initial start-up through field testing. If subsequent complaints consisting of direct personal impacts are received, the City shall require the developer to fund follow-up field testing by an independent contractor trained in the use of a handheld photometer to demonstrate continued compliance with the 0.3 footcandle standard. In the event of ongoing complaints despite repeated demonstrated compliance, field testing shall occur twice yearly for the first two years, and once yearly following.

If increases in ambient light are found to be above the 0.3 footcandle level, the dimming level shall be adjusted until this level can be demonstrated.

c. The project shall demonstrate proposed compliance with all applicable regulations and operating procedures prior to issuance of demolition, building or grading permits, including implementation of the following Bay Area Air Quality Management District (BAAQMD) "Basic Construction Mitigation Measures":

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
8. Post a publicly visible sign with the telephone number and person to contact at the City of Newark regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

d. If construction occurs during the breeding season (February through August), the site and a surrounding radius of not less than 0.5 miles shall be surveyed by a qualified biologist to verify the presence or absence of nesting birds protected under the Federal Migratory Bird Treaty Act and the California Fish and Game code. Pre-construction surveys shall be conducted within 15 days prior to start of work and shall be submitted to the Building Inspection Division. If the survey indicates the potential presence of nesting birds, the developer shall comply with recommendations of the biologist regarding an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be based to a large extent on the nesting species and its sensitivity to disturbance.

e. The developer or the contractor shall provide in the construction contracts that crews involved in ground disturbance shall be required to implement the following procedures in the event that archaeological/paleontological resources or human remains are encountered during ground disturbance activities:

1. Immediately halt or relocate excavations and contact a qualified archaeologist/paleontologist to inspect the site as appropriate. If the qualified expert determines that potentially significant archaeological/paleontological materials or human remains are encountered, a qualified expert must record, recover, retrieve and/or remove any archaeological/paleontological materials.
2. The qualified expert must study any archaeological/paleontological resources found onsite and publish data concerning these resources.
3. If a human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find, and the County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission, who shall notify the person most likely believed to be a descendent. The most likely descendent shall work with the contractor to develop a program for re-internment of the human remains and any associated artifacts. No additional work is to take place within the immediate vicinity of the find until the identified appropriate actions have taken place.
4. The qualified expert shall provide a copy of documentation of all recovered data and materials found on-site to the regional information center of the California Archaeological Inventory (CAI) for inclusion in the permanent archives, and another copy shall accompany any recorded archaeological/paleontological materials and data.
5. If any historic or pre-historic artifacts are exposed, the qualified expert shall record the data and prepare a report to be submitted to the local historical society.
6. Monitoring for these measures must be performed by the developer on a continual basis during construction. At the completion of work, the developer shall submit a summary of findings to the Community Development Director for review and for the final record.

f. The operation of the digital sign by the operator shall comply with the following at all times:

1. No special visual effects that include moving or flashing lights shall accompany the transition between two successive messages, and no special visual effects that include moving or flashing lights shall accompany any message display.
2. The operator shall report its intention of installing, implementing or using any technology that would allow interaction with drivers, vehicles or any device located in vehicles including, but not limited to, a radio frequency identification device, geographic positions system or other device, in advance of such operation, in the annual report required in Condition "g" herein.

g. The operator of the digital sign shall submit, within 30 days following June 30th of each year, a written report regarding operation of the digital sign during the preceding period of July 1st to June 30th. The operator may submit a combined report for all such digital signs operated by such operator within the City of Newark limits. The report shall, when appropriate, identify incidents or facts that relate to specific digital signs. The report shall be submitted to the Community Development Director and shall include information relating to the following:

1. Status of the operator's license as required by California Business and Professions Code §§5300 et seq.;
2. Status of the required permit for the digital sign, as required by California Business and Professions Code §§5350 et seq.;
3. Compliance with the California Outdoor Advertising Act, California Business and Professions Code §§5200 and all regulations adopted pursuant to such Act;
4. Compliance with California Vehicle Code §§21466.5 and 21467;
5. Compliance with provisions of written agreements between the U.S. Department of Transportation and the California Department of Transportation pursuant to the Federal Highway Beautification Act (23 U.S.C. §131);
6. Compliance with mitigation measures identified in the Initial Study/Mitigated Negative Declaration adopted as part of this Project approval;
7. Each written or oral complaint received by the operator, or conveyed to the operator by any government agency or any other person, regarding operation of the digital sign within the City of Newark;
8. Each malfunction or failure of a digital sign approved by the City of Newark and operated by the operator within the City of Newark, which shall include only those malfunctions or failures that are visible to the naked eye, including reason for the malfunction, duration and confirmation of repair; and
9. Operating status of the digital sign operated by the operator within the City of Newark, including estimated date of repair and return to normal operation of the digital sign identified in the report as not operating in normal mode.

h. 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 clean-up shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site during construction shall remain graffiti free.

Engineering Division

i. Prior to the issuance of any construction permits, the project sponsor or contractor shall provide detailed construction drawings prepared by an architect or civil engineer licensed in the State of California. The construction drawings shall clearly indicate the precise location of the proposed sign structure and all appurtenances.

j. Prior to the issuance of any construction permits, the project sponsor or contractor shall provide a copy of the preliminary approval letter from the State of California Department of Transportation to the City.

k. Construction shall not commence until a copy of the required Outdoor Advertising Display Permit approved by the State of California Department of Transportation is provided to the City for the outdoor advertising digital (LED) sign.

l. The contractor shall implement all applicable Best Management Practices (BMPs) from the latest releases of the California Stormwater Quality Association's Best Management Practice Handbook for Construction and the Caltrans Stormwater Quality Handbooks

Construction Site Best Management Practices Manual for the duration of all work activity. The construction drawings prepared for the sign installation shall reference the specific BMPs to be employed with the project. Additional BMPs may be required by the City Engineer, as necessary, to minimize the pollution of stormwater runoff from the project area.

m. The contractor shall repair and/or replace any public or private improvements that are damaged as a result of construction activity associated with this project. A note to this effect shall appear on the construction plan set.

Landscape-Parks Division

n. The contractor shall repair or replace any public or private landscape improvements that area damaged as a result of construction activity associated with this project. A note to this effect shall appear on the construction plan set.

General

o. 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.

p. If any condition of this amendment to a conditional use permit be declared invalid or unenforceable by a court of competent jurisdiction following the exhaustion of all appeals which may be brought by any party to such action, this amendment to a conditional use permit shall terminate and be of no force and effect, at the election of the City Council on motion.

q. This amendment to a conditional use permit shall be given a public hearing before the City Council for the Council's review and approval.

r. Prior to the submittal for building permit review, all conditions of approval for this project, as approved by the City Council, shall be printed on the plans.

s. Developer agrees to protect, defend at its expense, indemnify and hold harmless the CITY, its officers, employees and agents (collectively, "Indemnified Parties") from any and all third party liabilities, losses, damages, suits, actions, or claims, including without limitation reasonable attorneys' fees, (collectively, "Claims"), which Claims are alleged or claimed to have arisen out of or in connection with, in whole or in part, directly or indirectly: The performance of Developer obligations under this CUP by Developer, its employees, agents, representatives or contractors; The failure of Developer, its employees, agents, representatives or contractors to comply and conform with applicable laws in the performance of Developer obligations under this CUP; Any negligent act or omission of Developer, its employees, agents, representatives or contractors, in the performance of Developer obligations under this CUP, whether or not such negligence is

claimed to be either solely that of Developer, its employees, agents, representatives or contractors, or to be in conjunction with the actual negligence of others. Any reckless or intentional wrongful act or omission of Developer, its employees, agents, representatives or subcontractors in the performance of Developer obligations under this CUP; or Any injury, medical condition, illness, disease, or death caused, in whole or in part, or aggravated, by Developer construction, operation or maintenance of the LED SIGN. Notwithstanding any other provision of this CUP, Developer shall not have the obligation to protect, defend, indemnify or hold harmless any of the Indemnified Parties from Claims to the extent they arise out of the negligence or reckless or intentional wrongful act or omission of any of the Indemnified Parties.

t. 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.

The Commission makes the findings prescribed in Newark Municipal Code Section 17.72.070, and directs a Notice of Decision be mailed to the applicant and filed with the City Clerk who shall present said Notice to the City Council pursuant to Newark Municipal Code Section 17.72.080.

This Resolution was introduced at the Planning Commission's February 11, 2014 meeting by Vice-Chairperson Hannon, seconded by Commissioner Bridges, and passed as follows:

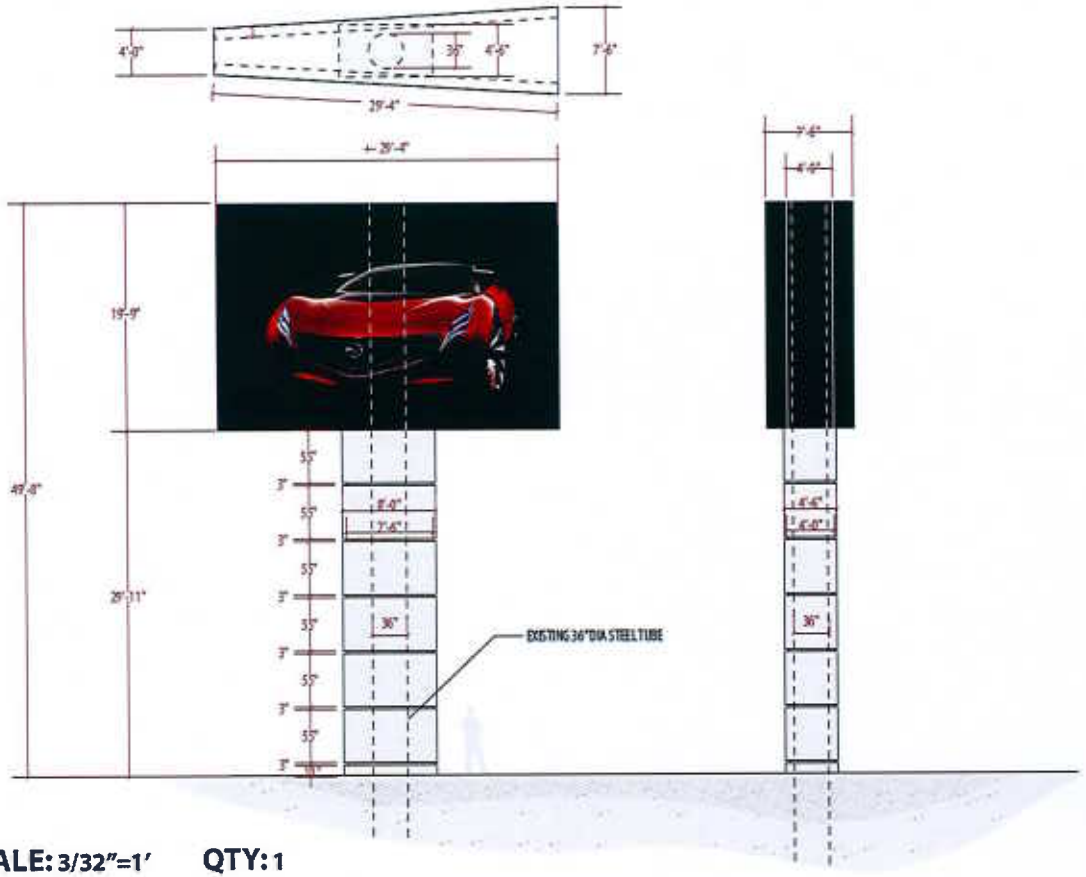
AYES: Bridges, Fitts, Hannon and Nillo.

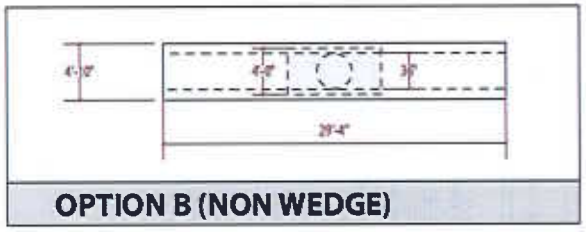
NOES: None.

ABSENT: Drews and Otterstetter.

s/Terrence Grindall
TERRENCE GRINDALL, Secretary

s/Bernie Nillo
BERNIE NILLO, Chairperson





OPTION B (NON WEDGE)

SCALE: 3/32"=1' **QTY:** 1

DESCRIPTION: PYLON SIGN - D/F

1 Existing 50'-0" x 29'-7" double sided pylon sign to have all aluminum cladding removed.
Existing top cabinet and frame to be removed, leaving only the bare 36" diameter steel tube exposed.
(2) new 19'-9" x 29'-4" electronic reader board displays 287432.
Top, bottom, & sides to have alum cladding wedge shape to close in reader boards, smooth finish painted to match board.
New cladding w/ reveals at every 55" for base cover. All to have smooth finish painted off white, color TBD.

Ellis&Ellis
SIGN SYSTEMS
Phone/916.924.1930 1111 Jocktis Way
Fax/916.924.3133 Sacramento, CA 95815
Contractors License #545167

Project: Fremont Hotels
Address: 4100 Stevens Creek Blvd. San Jose, Ca

All ideas, designs, arrangements and plans indicated or represented by this drawing are owned by and the property of Ellis & Ellis, and were created, evolved and developed for use on and in connection with the specified project. None of such ideas, designs, arrangements or plans shall be used by or disclosed to any person, firm or corporation for any purpose whatsoever, without the written permission of Ellis & Ellis.

Date: 03.14.13
Revisions
A: 03.14.13 B: 04.23.13
C: 00.00.00 D: 00.00.00
E: 00.00.00 F: 00.00.00

Quote# 3570 Order#
Designer: Mike V. Sales Rep: Mike T.
Sales Rep. Approval for Production
Date

Please check spelling and layouts. If approved, sign the layouts and return for production. If there are changes, please note them on the layout to which they pertain and send back for revision. Layouts must be returned no more than 72 hours after receipt, or a change order extending contract time will be issued. All signs are produced after the approval of shop drawings by client. Production time will be 6-8 weeks after layouts are received and signed without any changes. Any signs made incorrectly due to inaccurate client-approved drawings will not be the responsibility of Ellis & Ellis.

This document is submitted for review/approval of all aspects including: layout spelling, content / content, grammar, graphics, etc. By signing, I acknowledge my review / approval and further acknowledge that any requested revisions may result in additional charges. Written dimensions on these drawing shall have precedence over scaled dimensions.

Tenant Signature Date
Landlord Signature Date

Electrical requirements client is responsible for:
1) Electrical must be within 6' of sign.
2) Must have bonded earth ground from electrical panel to sign location.
3) N.E.C. requires dedicated circuits for signs.
4) No roof penetrations.

Landlord Signature Date

ellissigns.com

EXHIBIT A.p1

Ellis&Ellis
SIGN SYSTEMS

Phone/916.924.1936 1111 Joellis Way
Fax/916.924.3133 Sacramento, CA 95815
Contractors License #645167

Project: Fremont Mazda
Address: 4100 Stevens Creek Blvd. San Jose, Ca

All ideas, designs, arrangements and plans indicated or represented by this drawing are owned by and the property of Ellis & Ellis, and were created, evolved and developed for use on and in connection with the specified project. None of such ideas, designs, arrangements or plans shall be used by or disclosed to any person, firm or corporation for any purpose whatsoever, without the written permission of Ellis & Ellis.

Date: 05.14.13
Revisions
A: 05.14.13 B: 06.25.13
C: 00.00.00 D: 00.00.00
E: 00.00.00 F: 00.00.00

Quote# 1505 Order#
Designer: Mike V Sales Rep: Mike T.

Sales Rep. Approval for Production

x Date

Please check spelling and layouts. If approved, sign the layouts and return for production. If there are changes, please note them on the layout to which they pertain and send back for revision. Layouts must be returned no more than 72 hours after receipt, or a change order extending contract time will be issued. All signs are produced after the approval of shop drawings by client. Production time will be 6-8 weeks after layouts are received and signed without any changes. Any signs made incorrectly due to inaccurate client-approved drawings will not be the responsibility of Ellis & Ellis.

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3) N.E.C. requires dedicated circuits for signs.
4) No roof penetrations.

Landlord Signature Date

ellissigns.com

EXHIBIT A.p2

INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION

BALENTINE DRIVE AUTO DEALERSHIPS SIGNAGE UPGRADE PROJECT

PREPARED FOR:

CITY OF NEWARK

COMMUNITY DEVELOPMENT DEPARTMENT
37101 NEWARK BLVD.
NEWARK, CA 94560-3796

PREPARED BY:

LAMPHIER – GREGORY
1944 EMBARCADERO
OAKLAND, CA 94606

DECEMBER 2013

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INTRODUCTION TO THIS DOCUMENT

This document serves as the Initial Study and Mitigated Negative Declaration (IS/MND) for the proposed Project, prepared in accordance with the California Environmental Quality Act (CEQA) (Public Resources Code Sections 1500 et seq.).

Per CEQA Guidelines (Section 15070), a Mitigated Negative Declaration can be prepared to meet the requirements of CEQA review when the Initial Study identifies potentially significant environmental effects, but revisions in the Project and/or incorporation of mitigation measures would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur.

This document is organized in three sections as follows:

- Introduction and Project Information. This section introduces the document and discussed the project description including location, setting, and specifics of the lead agency and contacts.
- Mitigated Negative Declaration. This section lists the impacts and mitigation measures identified in the Initial Study and proposes findings that would allow adoption of this document as the CEQA review document for the proposed project.
- Initial Study Checklist. This section discusses the CEQA environmental topics and checklist questions and identifies the potential for impacts and proposed mitigation measures to avoid these impacts.

PROJECT INFORMATION

1. **Project Title:** Balentine Drive Auto Dealerships Signage Upgrade Project

2. **Lead Agency Contact:**
City of Newark
Terrence Grindall, Community Development Director
Community Development Department
37101 Newark Blvd.
Newark, CA 94560
(510) 578-4208 or terrence.grindall@newark.org

3. **Project Location:** 39800 Balentine Drive in the City of Newark

4. **Project Applicant's Name and Address:**
Amir Farsio
4100 Stevens Creek Boulevard
San Jose, CA 95129
(408) 244-3000
Email: amir@farsio.com

5. **General Plan Designation:** Community Commercial (CC)

6. **Zoning:** Community Commercial (CC)

7. **Site and Vicinity:** The project location is shown in **Figure 1**. Note that to simplify discussion in this document, Interstate 880 (I-880) is considered to run north/south and other directions are simplified along that orientation. (Figure 1 shows "Reference North" as used in this document as well as True North.) The sign is located at the northeastern corner of the lot adjacent to Mowry School Road, with I-880 beyond to the east. The sign is located at the boundary between the parking area for the auto dealership site and a small landscaped boundary area.

   The surrounding parcels on the Newark side of I-880 are developed with commercial uses including adjacent auto mall uses and the Newark mall to the north. Residential uses are located approximately 340 feet away, across I-880 in Fremont behind a solid concrete block noise wall. The closest residential uses in Newark are located 0.3 miles to the west. A FAME Public Charter School is located approximately 900 feet to the south in Newark and two additional schools are located between 1300 to 1500 feet to the west, Newark Memorial High School and Challenger School – Newark. The John F. Kennedy High School is located 1200 feet to the east in Fremont.

8. **Project Description:**

   Digital Sign Face Conversion

   The Project involves replacement of the display faces of an on-premise advertisement back-to-back double-faced 22'4" by 29'7" sign on a column such that the sign reaches a maximum height of 49'8". The current sign consists of a 7' high digital sign with two columns of four internally lit static panels above. The existing sign and dimensioned elevations of the existing sign are shown in **Figures 2** and **3**.

   The proposed Project would utilize the existing column to convert both sign faces to full digital display. The column façade would also be replaced. The height, orientation and total size of the sign faces would not change substantially. Minor changes include the following: marginally smaller sign faces, at 29'4" wide and 19'9" tall; marginally wider column façade at 8' compared to the existing 7'6", and a subtle wedge shape to the two faces. The wedge shape would result in sign faces that are not back-to-back at a 90 degree angle to the Mowry School Road as they are today, but sign faces that are 86.6 degrees in relation to Mowry School Road. This minor change in orientation would result in slight improvements in readability from locations to the east, including the nearby I-880.

A digital sign consists of a display surface that supports an image generated by light emitting diodes (LED). The image on the sign is static for a period of time, usually eight seconds, before cycling to the next image. Signage is generally controlled remotely and programmed for nighttime reduced power operation (4 percent of peak power is a standard with current LED technologies).

LED lighting has a directional nature, meaning that light is projected generally forward and not in all directions. Projected viewing angle values are approximately ± 30° vertically and ± 60° horizontally, consistent with current LED technologies.

Construction

The existing sign column will remain in place to support the new sign faces. The column façade around this column would be removed and replaced and the sign framing and faces would be removed and replaced with LED panels. It is anticipated that this work could be completed in one or two days.

9. **Required Approvals**: Approval of the project will require an amendment to an existing conditional use permit (U-93-2) from the City of Newark.

   Construction activities will require appropriate administrative permits.

   Note that it is intended that advertisements on the sign would be limited to the auto dealerships in the immediate vicinity, as currently displayed on the sign, and would continue to be considered for regulatory purposes as on-premise advertisement, as opposed to general advertisement, which can include advertisements unrelated to the site. On-premise displays, even if seen from a highway, do not generally require a Highway Outdoor Advertising Permit from Caltrans.

10. **Regulatory Provisions:**

    The California Vehicle Code includes restrictions relevant to outdoor signage, such as Sections 21466 and 21466.5, which prohibit the placing of any light source that could interfere with the ability of a driver to readily recognize any official traffic control device, or which impair the vision of drivers upon the highway. The restrictions may be enforced by Caltrans, the California Highway Patrol or local authorities.

    The following regulations are targeted at off-premise signs and are not necessarily directly applicable to on-premise signs. However, these are included here to inform discussion of traffic safety in the transportation analysis section.

    Federal

    The federal Highway Beautification Act of 1965 (23 U.S.C. 131) provides for control of outdoor advertising along the interstate highway system. The Act is enforced by the Federal Highway Administration (FHWA).

    As part of its enforcement effort, FHWA has entered into agreements regarding the Act with state departments of transportation. The agreements with California are described under the State provisions, below.

    State

    The California Department of Transportation (Caltrans) is involved in the control of "off-premise" displays along state highways. Off-premise displays advertise products or services of businesses located on property other than that which includes the display. Caltrans does not regulate on-premise displays, such as the proposed sign. (Caltrans Landscape Architecture Program, 2008)

    California has entered into two agreements with FHWA as part of the implementation of the Highway Beautification Act: one dated May 29, 1965, and a subsequent agreement dated February 15, 1968. The agreements generally provide that the State will control the construction of all outdoor advertising signs, displays and devices within 660 feet of the interstate highway right-of-way. The

agreements provide that such off-premise signs shall be erected only in commercial or industrial zones and are subject to the following restrictions:

- No signs shall imitate or resemble any official traffic sign, signal or device, nor shall signs obstruct or interfere with official signs;
- No signs shall be erected on rocks or other natural features;
- Signs shall be no larger than 25 feet in height and 60 feet in width, excluding border, trim and supports;
- Signs on the same side of the freeway must be separated by at least 500 feet; and
- Signs shall not include flashing, intermittent or moving lights, and shall not emit light that could obstruct or impair the vision of any driver.

California regulates off-premise outdoor advertising in the Outdoor Advertising Act (Business and Professions Code, Sections 5200 et seq.) and the California Code of Regulations, Title 4, Division 6 (Sections 2240 et seq.), which incorporate the Federal Highway Beautification Act by reference. Caltrans enforces the law and regulations. Caltrans requires applicants for new outdoor lighting to demonstrate that the owner of the parcel consents to the placement of the sign, that the parcel on which the sign would be located is zoned commercial or industrial, and that local building permits are obtained and complied with.

In brief, off-premises changeable electronic variable message signs (CEVMS) adjacent to controlled routes shall incorporate standards pertaining to:

1. Duration of Message
2. Transition Time
3. Brightness
4. Spacing
5. Locations

Most importantly as a result of FHWA recommendations, to ensure driver safety, no billboard manufacturers presently use moving displays or less than a 4 second duration time between messages.

The Outdoor Advertising Act contains a number of provisions relating to the construction and operation of billboards:

- The sign must be constructed to withstand a wind pressure of 20 pounds per square feet of exposed surface (§5401);
- No sign shall display any statements or words of an obscene, indecent or immoral character (§5402);
- No sign shall display flashing, intermittent or moving light or lights (§5403(h));
- Signs are restricted from areas within 300 feet of an intersection of highways or of highway and railroad right-of-ways, but a sign may be located at the point of interception, as long as a clear view is allowed for 300 feet, and no sign shall be installed that would prevent a traveler from obtaining a clear view of approaching vehicles for a distance of 500 feet along the highway (§5404); and
- Message center signs may not include any illumination or message change that is in motion or appears to be in motion or that change or expose a message for less than four seconds. No message center sign may be located within 500 feet of an existing billboard, or 1,000 feet of another message center display, on the same side of the highway (§5405).

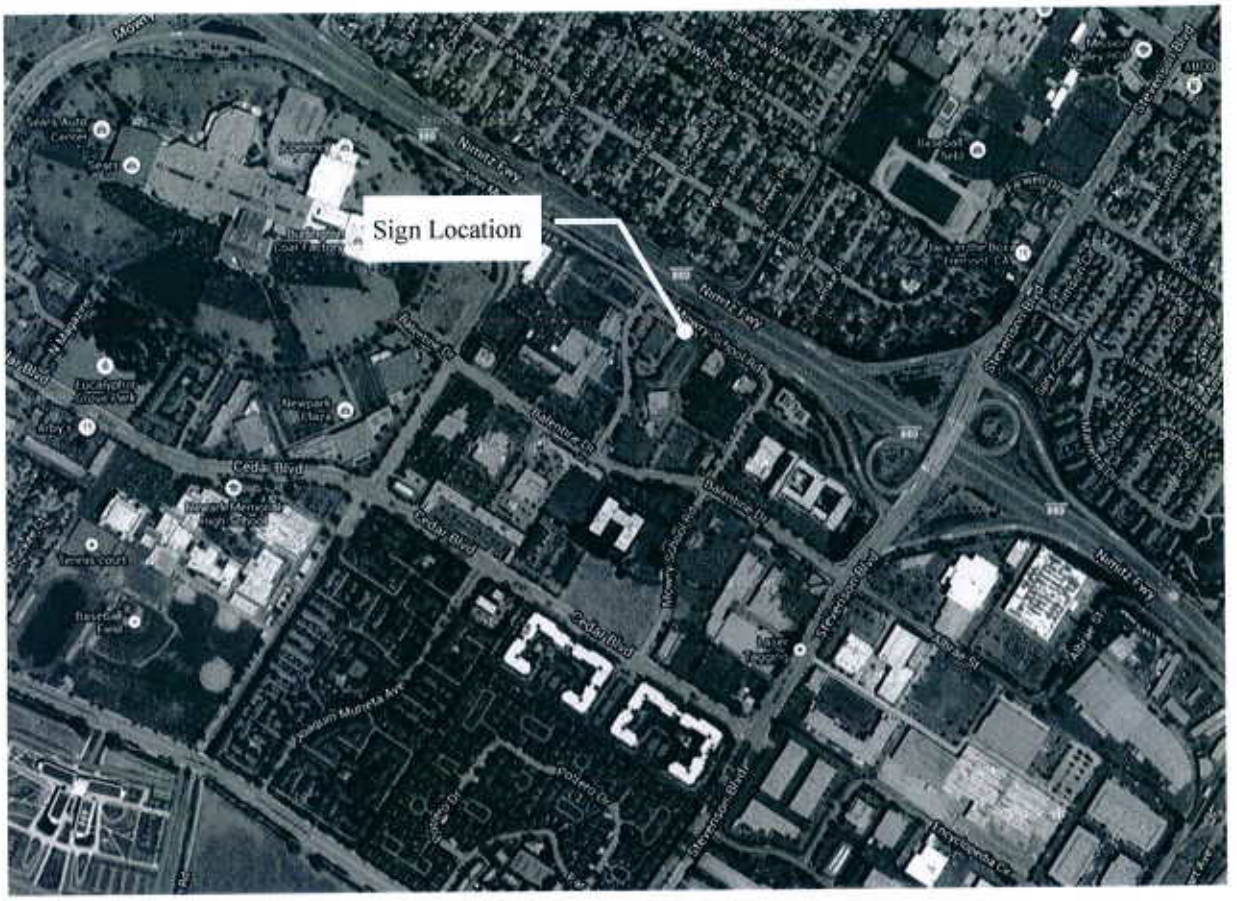

Figure 1: Project Location

Source: Google Inc., Google Maps with project location noted by Lamphier-Gregory.

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Figure 2: View of Existing Sign

Source: Google, Inc. Google Maps Street View from Mowry School Road, looking northwest.

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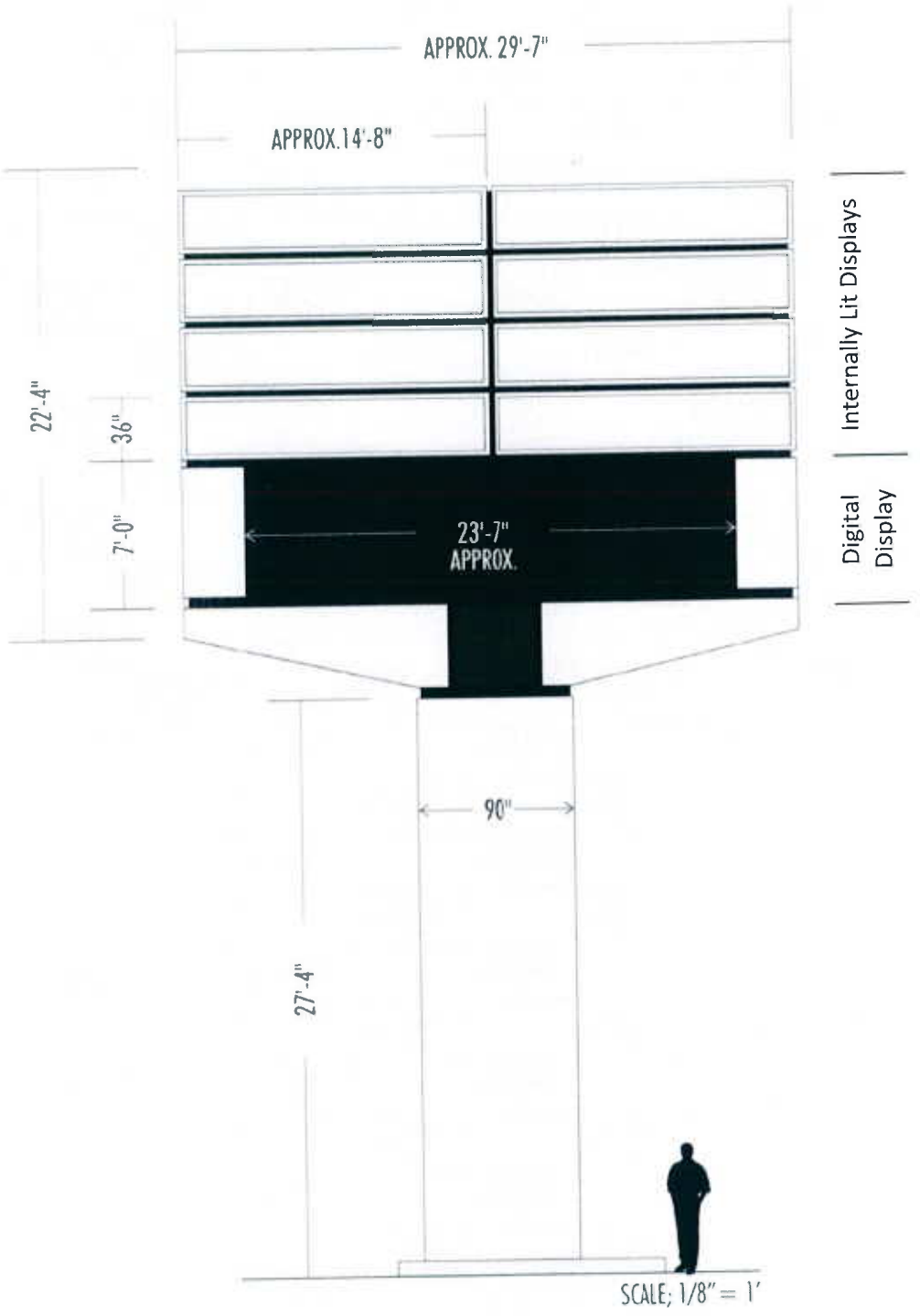

Figure 3: Existing Sign Dimensions

Source: Applicant

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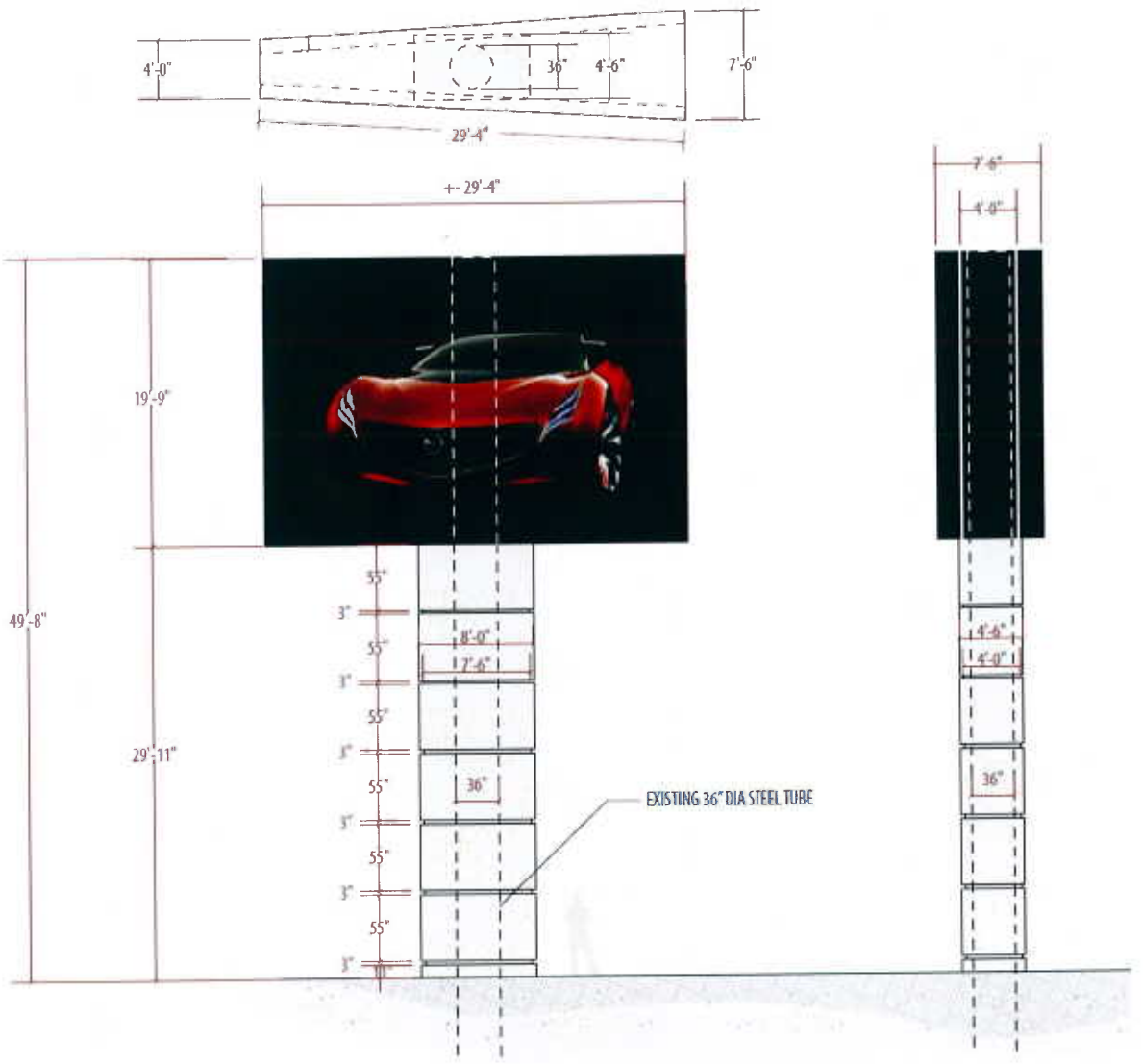

Figure 4: Proposed Sign Dimensions

Source: Applicant, Ellis & Ellis Sign Systems, dated 4/23/13

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Figure 5: Proposed Sign Visual Modeling

From I-880 (above) and Mowry School Road (below)

Source: Applicant, Ellis & Ellis Sign Systems, dated 4/23/13

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MITIGATED NEGATIVE DECLARATION

PROJECT DESCRIPTION, LOCATION, AND SETTING

This Mitigated Negative Declaration has been prepared for the Balentine Drive Auto Dealerships Signage Upgrade Project. See the Introduction and Project Information section of this document for details of the Project.

POTENTIALLY SIGNIFICANT IMPACTS REQUIRING MITIGATION

The following is a list of potential Project impacts and the mitigation measures recommended to reduce these impacts to a less than significant level. Refer to the Initial Study Checklist section of this document for a more detailed discussion.

The digital sign technology has the potential to operate at levels brighter than those recommended. Impacts would remain less than significant under specified operating conditions, which are required to be tested under Mitigation Measure Visual-1, below.

Mitigation Measure Visual-1: **Sign Brightness Field Testing.** The Applicant shall demonstrate compliance with a 0.3 footcandle increase over ambient light at 250 feet during nighttime conditions upon initial start-up through field testing. If subsequent complaints consisting of direct personal impacts are received, the City shall require the applicant to fund follow-up field testing by an independent contractor trained in the use of a handheld photometer to demonstrate continued compliance. (In the event of ongoing complaints despite repeated demonstrated compliance, field testing shall occur twice yearly for the first 2 years and once yearly following.)

If increases in ambient light are found to be above the 0.3 footcandle level, the dimming level shall be adjusted until this level can be demonstrated.

If modification of the sign was to occur during the avian breeding season, it is possible that birds nesting in the nearby marsh may be disturbed by construction activities. Native birds are protected from take by the federal Migratory Bird Treaty Act and the California Fish and Game Code, and the abandonment of even one active nest as a result of Project construction activities could be considered "take" under the Fish and Game Code. Mitigation Measure Biology-1 would ensure nesting birds will not be disturbed and that the impact in this regard would be less than significant.

Mitigation Measure Bio-1: **Nesting Birds.** If construction occurs during the breeding season (February through August), the site and a surrounding radius of not less than 0.5 miles shall be surveyed by a qualified biologist to verify the presence or absence of nesting birds protected under the federal Migratory Bird Treaty Act and the California Fish and Game code. Pre-construction surveys shall be conducted within 15 days prior to start of work and shall be submitted to the Building Division. If the survey indicates the potential presences of nesting birds, the applicant shall comply with recommendations of the biologist regarding an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be based to a large extent on the nesting species and its sensitivity to disturbance.

Significant effects could occur if the proposed digital sign did not comply with restrictions regarding the content of the digital display. Implementation of Mitigation Measure Traf-1 would reduce the potential hazard to drivers, consistent with current research and regulations and impacts on transportation and traffic safety would be ***less than significant***.

Mitigation Measures

Traf-1: **Operational Safety.** The operation of a digital sign by the operator within the City of Newark shall comply with the following at all times:

a. The display shall not imitate or resemble any official traffic sign, or include illumination that interferes with the effectiveness of, or obscures any official traffic sign, device or signal.

b. The duration of each display shall be no less than 4 seconds and the transition time between messages shall be between 1 and 4 seconds

c. No special visual effects that include moving or flashing lights shall accompany the transition between two successive messages, and no special visual effects shall accompany any message display;

d. The sign shall be programmed to freeze the display in one static position if a malfunction occurs.

PROPOSED FINDINGS

The City of Newark has determined that with the implementation of mitigation measures identified in this Mitigated Negative Declaration, the proposed Project will not have a significant effect on the environment. If this Mitigated Negative Declaration is adopted by the City of Newark, the requirements of CEQA will be met by the preparation of this Mitigated Negative Declaration and the Project will not require the preparation of an Environmental Impact Report. This decision is supported by the following findings:

a. The Project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels or threaten to eliminate a plant or animal community. It does not reduce the number or restrict the range of a rare or endangered plant or animal. It does not eliminate important examples of the major periods of California history or pre-history, since there is no identified area at the Project site which is habitat for rare or endangered species, or which represents unique examples of California history or prehistory. The Project does not have any significant, unavoidable adverse impacts. Implementation of specified mitigation measures will avoid or reduce the effects of the Project on the environment and thereby avoid any significant impacts.

b. The Project does not involve impacts which are individually limited but cumulatively considerable, because the described Project will incorporate mitigation measures to avoid significant impacts of the Project in the context of continued growth and development in the City of Newark.

c. The Project does not have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly, because all adverse effects of the Project will be mitigated to less than significant levels.

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INITIAL STUDY CHECKLIST

INTRODUCTION

The Initial Study has been prepared in accordance with the California Environmental Quality Act (CEQA) (Public Resources Code Sections 1500 et seq.).

Note that a number of technical studies were performed for a nearby digital billboard Project that are applicable to and helped inform the assessment of the current Project:

City of Newark, prepared by Lamphier-Gregory, May 2012, *Recirculated Initial Study and Mitigated Negative Declaration: Clear Channel Newark Sign Project*, State Clearinghouse Number 2011062051.

The above document was circulated for public review and is available at the City of Newark, Community Development Department, 37101 Newark Blvd, Newark, CA.

This current document is not tiered off that previous analysis per CEQA Guidelines section 15152, as the previous analysis did not assess potential impacts of signs other than those that had been proposed at the time. Rather, this document incorporates technical information by reference for use in informing assessment of the current Project in this separate analysis.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

Environmental factors that may be affected by the Project are listed alphabetically below. Factors marked with an "X" (☒) were determined to be potentially affected by the Project, involving at least one impact that required mitigation to reduce the impact to less than significant levels, as indicated in the Environmental Evaluation Form Checklist and related discussion that follows. Unmarked factors (☐) were determined to not be significantly affected by the Project, based on discussion provided in the Checklist, including the application of mitigation measures which the applicant has agreed to implement.

☒ Aesthetics	☐ Agricultural and Forest Resources	☐ Air Quality
☒ Biological Resources	☐ Cultural Resources	☐ Geology/Soils
☐ Greenhouse Gas Emissions	☐ Hazards/Hazardous Materials	☐ Hydrology/Water Quality
☐ Land Use/Planning	☐ Mineral Resources	☐ Noise
☐ Population/Housing	☐ Public Services	☐ Recreation
☒ Transportation/Traffic	☐ Utilities/Service Systems	

☐ Mandatory Findings of Significance

There are no impacts that would remain significant with implementation of the identified mitigation measures.

LEAD AGENCY DETERMINATION

On the basis of this evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because mitigation measures to reduce these impacts will be required of the project. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Terrence Grindall 12-17-13

Signature Date

Terrence Grindall, Community Development Director

EVALUATION OF ENVIRONMENTAL EFFECTS

The Checklist portion of the Initial Study begins below, with explanations of each CEQA issue topic. Four outcomes are possible, as explained below.

1. A "no impact" response indicates that no action that would have an adverse effect on the environment would occur due to the Project.
2. A "less than significant" response indicates that while there may be potential for an environmental impact, there are standard procedures or regulations in place, or other features of the Project as proposed, which would limit the extent of this impact to a level of "less than significant."
3. Responses that indicate that the impact of the Project would be "less than significant with mitigation" indicate that mitigation measures, identified in the subsequent discussion, will be required as a condition of Project approval in order to effectively reduce potential Project-related environmental effects to a level of "less than significant."
4. A "potentially significant impact" response indicates that further analysis is required to determine the extent of the potential impact and identify any appropriate mitigation. If any topics are indicated with a "potentially significant impact," these topics would need to be analyzed in an Environmental Impact Report.

Note that this document does not indicate that any environmental topics would be considered to be "potentially significant" after application of mitigation measures identified in this document.

1. AESTHETICS Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?			☒	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?			☒	
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			☒	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?		☒		

a-c) Scenic Vistas, Resources and Visual Quality and Character. I-880 is not a designated or eligible State Scenic Highway in the vicinity of the Project.[1] There are no other state highways in close enough proximity for the Project site to be prominent in views.

The Project vicinity is also not identified as an area of visual significance in the current Newark General Plan.[2]

Figures 6 and 7 show views of the existing sign. The Project proposes to upgrade the existing sign display faces, which are a mix of digital and internally lit components, with entirely digital sign faces of substantially the same total size, height, location and orientation. Visual modeling of the proposed sign can also be seen in Figures 4 and 5 and minor changes to size and orientation are detailed on pages 2 and 3. Other than potential changes to light, discussed separately below, because the modifications do not substantially change the physical dimensions or location of the sign, the Project would not change scenic vistas, resources, or visual quality. (***Less Than Significant Impact***)

d) Light and Glare. The conclusions below are supported by the Technical Lighting Memorandum prepared for the environmental analysis for a nearby Clear Channel billboard proposed in 2011/2012.[3] There has been no substantial change to the vicinity in relation to light and glare in the interim.

Digital signs rely on LED technology to display messages on a lit screen. The lighting is designed to make the message displays visible to passing motorists. Restrictions on digital signs, imposed and enforced by Caltrans, preclude lighting that would be directed at motorists that is so directed or intense that it could blind or confuse drivers, or create conditions that make recognition of the roadway or official signage difficult.

Caltrans has imposed these restrictions for traffic safety reasons, and they are discussed in more detail in the Transportation section. The resulting controls, however, effectively regulate light and glare to ensure that the operation of any digital sign does not create a substantial new source of light or glare.

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[1] California Department of Transportation, State Scenic Highway Mapping System, http://www.dot.ca.gov/hq/LandArch/scenic_highways/index.htm

[2] City of Newark, June 1992, General Plan Update Project 2007, pp.6-3 to 6-4.

[3] City of Newark, prepared by Lamphier-Gregory, May 2012, *Recirculated Initial Study and Mitigated Negative Declaration: Clear Channel Newark Sign Project*, Attachment B and pp.20-21.

Figure 4: Existing View from Southbound I-880

Figure 5: Existing View from Northbound I-880

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The Illuminating Engineering Society of North America (IESNA) Lighting Handbook 10th Edition recommendations are in units of "nits," which are appropriate when light is being bounced off a surface, as is the case with a conventional sign, but is not the case with an LED sign. With assumptions about content, "nits" and footcandles can be converted for comparison of LED illuminance to conventional sign luminance. Conversion of nits using conservative assumptions (80% reflectance) and IESNA Handbook recommendations for bright surrounds results in recommendations of 0.256 footcandles at 250 feet. This is similar to digital sign-specific guidelines of 0.3 footcandles presented by the Outdoor Advertising Association of America (OAAA). [4] It is anticipated that the illuminance at that level would be negligible beyond 500 feet.[5]

The value of 0.3 footcandles is utilized here because it is practical to measure with a handheld photometer and therefore to verify following installation and during operation. This 0.3 footcandle level would be perceptible, but at the low end, to the human eye, over ambient light on a surface. It would be equivalent to average residential street illumination provided by low wattage street lights (i.e., similar to ambient conditions in the vicinity).

Mitigation Measure

Visual-1: **Sign Brightness Field Testing.** The Applicant shall demonstrate compliance with a 0.3 footcandle increase over ambient light at 250 feet during nighttime conditions upon initial start-up through field testing. If subsequent complaints consisting of direct personal impacts are received, the City shall require the applicant to fund follow-up field testing by an independent contractor trained in the use of a handheld photometer to demonstrate continued compliance. (In the event of ongoing complaints despite repeated demonstrated compliance, field testing shall occur twice yearly for the first 2 years and once yearly following.)

If increases in ambient light are found to be above the 0.3 footcandle level, the dimming level shall be adjusted until this level can be demonstrated.

The increase in light levels at the closest residential uses approximately 340 feet from the sign are anticipated to be barely perceptible above ambient conditions. Increases in light levels at further residences would be even lower. With implementation of Mitigation Measure Visual-1, light levels from the proposed sign will be assured to remain at these low levels and impacts related to light and glare would be reduced to ***less than significant***.

[4] OAAA prepared by Light Sciences Inc., November 29, 2006, *Comparison of Digital and Conventional Billboards.*

[5] OAAA prepared by Light Sciences Inc., November 29, 2006, *Comparison of Digital and Conventional Billboards.*

2. AGRICULTURE AND FORESTRY RESOURCES In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				☒
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production(as defined by Government Code section 51104(g))?				☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?				☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				☒

a-e): The Project site is located in a developed urban area adjacent to a highway. No part of the site is zoned for or currently being used for agricultural or forestry purposes or is subject to the Williamson Act. There would be ***no impact*** to agricultural and forestry resources as a result of this Project.

3. AIR QUALITY Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?			☒	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			☒	
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			☒	
d) Expose sensitive receptors to substantial pollutant concentrations?			☒	
e) Create objectionable odors affecting a substantial number of people?			☒	

a) Air Quality Plan. The Project site is subject to the Bay Area Clean Air Plan, first adopted by the Bay Area Air Quality Management District (BAAQMD) (in association with the Metropolitan Transportation Commission and the Association of Bay Area Governments) in 1991 to meet state requirements and those of the Federal Clean Air Act. As required by state law, updates are developed approximately every three years. The plan is meant to demonstrate progress toward meeting the ozone standards, but also includes other elements related to particulate matter, toxic air contaminants, and greenhouse gases. The latest update to the plan, which was adopted in September 2010, is called the Bay Area 2010 Clean Air Plan.

A project would be judged to conflict with or obstruct implementation of the regional air quality plan if it would be inconsistent with regional growth assumptions or implementation of control strategies. The Project would have no effect on growth of population or vehicle travel and the Clean Air Plan does not recommend measures directly applicable to this type of use. The Project, therefore, would be generally consistent with the Clean Air Plan and have a ***less than significant*** impact in this regard.

b-c) Air Quality Standards/Criteria Pollutants. Ambient air quality standards have been established by state and federal environmental agencies for specific air pollutants most pervasive in urban environments. These pollutants are referred to as criteria air pollutants because the standards established for them were developed to meet specific health and welfare criteria set forth in the enabling legislation and include ozone precursors (NOx and ROG), carbon monoxide (CO), and suspended particulate matter (PM_{10} and $PM_{2.5}$). The Bay Area is considered "attainment" for all of the national standards, with the exception of ozone. It is considered "nonattainment" for State standards for ozone and particulate matter.

Past, present and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project's contribution to the cumulative impact is considerable, then the project's impact on air quality would be considered significant.[6]

[6] BAAQMD, May 2011, *California Environmental Quality Act Air Quality Guidelines*, p. 2-1.

BAAQMD's updated CEQA Guidelines including thresholds of significance were adopted on June 2, 2010. On March 5, 2012 the Alameda County Superior Court issued a judgment finding that BAAQMD had failed to comply with CEQA when it adopted its 2010 Thresholds. The court did not determine whether the Thresholds were valid on the merits, but found that the adoption of the Thresholds was a project under CEQA. The court issued a writ of mandate ordering BAAQMD to set aside the Thresholds and cease dissemination of them until BAAQMD had complied with CEQA. The court of appeals subsequently determined the BAAQMD CEQA Thresholds do not qualify as a "project" under CEQA and do not require CEQA review. BAAQMD has yet to officially reinstitute their thresholds.

The 2010 Thresholds are more conservative than the previous 1999 version and have been used in this analysis for a conservative determination of impact significance. Current thresholds of significance for Criteria Air Pollutants are set by BAAQMD as summarized below:

BAAQMD CRITERIA POLLUTANT THRESHOLDS OF SIGNIFICANCE

Pollutant	Construction-Related	Operational-Related	
	Average Daily Emissions (lbs./day)	Average Daily Emissions (lbs./day)	Maximum Annual Emissions (tons/yr)
ROG	54	54	10
NOX	54	54	10
PM10	82 (exhaust only)	82	15
PM2.5	54 (exhaust only)	54	10
PM10/PM2.5 (fugitive dust)	Best Management Practices	None	
Source: BAAQMD Adopted Air Quality CEQA Thresholds of Significance - June 2, 2010			

Project-related air quality impacts fall into two categories: short-term impacts that would occur during construction of the Project and long-term impacts due to Project operation.

Construction Emissions

BAAQMD presents screening criteria in their CEQA Guidelines that identify project sizes by type that could have the potential to result in emissions over criteria levels. For example, this table includes a construction-period criteria pollutant screening level of 114 single family dwelling units or 277,000 square feet of retail uses.[7] While construction of a sign is not specifically listed on this screening table, it can be reasonably concluded from a comparison to the entries on this table that the minimal construction activities required for this Project, including only a day or two of activity, would be well below threshold levels. The impact related to construction-period air quality emissions is ***less than significant***.

Operational Emissions

Similar to the analysis for construction-period impacts above, the Project was compared to BAAQMD screening criteria for operational pollutants. As it relates to operational pollutants, this table includes screening levels of 325 single family dwelling units or 99,000 square feet of regional shopping center uses.[8] These example uses would utilize over 1,000,000 kilowatt-hours per year.[9]

While the projected usage of this particular sign was not known at the time of this analysis, it can be compared to the digital billboard proposed by Clear Channel in Newark in 2011/2012 that would use the same LED technology. The Clear Channel digital billboard had a similar proposed square footage

[7] BAAQMD, May 2011, *California Environmental Quality Act Air Quality Guidelines*, pp. 3-2 to 3-3.

[8] BAAQMD, May 2011, *California Environmental Quality Act Air Quality Guidelines*, pp. 3-2 to 3-3.

[9] Calculated using energy utilization rates from BAAQMD's Greenhouse Gas Model (BGM).

of LEDs and was anticipated to have average annual usage of 86,400 kilowatt-hours (kwh) or less.[10] This is less than one tenth the energy usage of a project that would be expected to have emissions above threshold levels.

While operation of a digital sign is not specifically listed on BAAQMD's screening table, it can be reasonably concluded from a comparison to this screening table that operational emissions resulting from this Project would be well below threshold levels.

Additionally, BAAQMD presents as screening criteria for carbon monoxide impacts, traffic-based criteria. As operation of the proposed Project would not impact traffic levels, the Project would be below carbon monoxide threshold levels.

Therefore, the Project impact related to operational pollutant emissions would be ***less than significant***.

d) Sensitive Receptors

For the purpose of assessing impacts of a proposed project on exposure of sensitive receptors to risks and hazards, the threshold of significance is exceeded when the project-specific cancer risk exceeds 10 in one million or the non-cancer risk exceeds a Hazard Index of 1.0. Examples of sensitive receptors are places where people live, play or convalesce and include schools, hospitals, residential areas and recreation facilities.

The Project itself is not considered a sensitive receptor. Nor would operation of the Project be considered a source of hazardous emissions. However, construction activity that uses traditional diesel-powered equipment results in the emission of diesel particulate matter including fine particulate matter, which is considered a toxic air contaminant and potential health risk. The generation of these emissions would be temporary, confined to the construction-period of a few active days at each site.

BAAQMD provides a Screening Tables for Air Toxics Evaluation during Construction to estimate the potential for significant air quality health risk impacts associated with construction activity based on general project characteristics, such as type and size and includes worst-case and conservative assumptions.[11] The smallest projects identified in the screening table include construction of a 5 unit residential project on 1.7 acres and construction of a 5,000 square foot commercial project on 0.2 acres. The screening table reports that under worst-case conditions, there is the potential for significant health risk if a sensitive receptor is located within 95 or 100 meters (up to 328 feet) of such a construction site.

The nearest sensitive receptor to the Project site are approximately 340 feet away. While construction of a digital sign is not specifically listed on BAAQMD's screening table, it can be reasonably concluded from a comparison to this screening table that air toxics emissions resulting from the day or two of construction activities proposed by this Project would be well below those listed in the screening table.

Additionally, BAAQMD Screening Tables for Air Toxics Evaluation use a two-year construction period for screening purposes, the shortest period they recommend with the health risk modeling. It is reasonable to conclude that emissions and the resultant health risks from an exposure period of only a day or two would be substantially less than emissions over a 2 year period. The health risk models and methods are not considered accurate for such short durations as the construction-period of this Project.

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[10] City of Newark, prepared by Lamphier-Gregory, May 2012, *Recirculated Initial Study and Mitigated Negative Declaration: Clear Channel Newark Sign Project*, p. 25.

[11] BAAQMD, May 2010, *Screening Tables for Air Toxics Evaluation During Construction*, Version 1.0.

Given the distance to sensitive uses, and that the exposure duration would be shorter than that able to be accurately modeled and substantially shorter than projects in BAAQMD's screening table, it can reasonably be assumed that the potential health risk from construction-period emissions would be ***less than significant***.

e) Objectionable Odors. Operation of the sign would not result in objectionable odors. During construction, diesel-powered vehicles and equipment would create odors that some may find objectionable. However, these odors would be temporary and not likely to be noticeable much beyond the Project site's boundaries. Therefore, the potential for objectionable odor impacts is considered ***less than significant***.

4. BIOLOGICAL RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		☒		
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?			☒	
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			☒	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				☒

The conclusions below are supported by the biological assessment conducted by H.T. Harvey and Associates that was prepared for the environmental analysis for a nearby Clear Channel billboard proposed in 2011/2012.[12] There has been no substantial change to the vicinity in relation to biological resources in the interim.

a, b) Special Status Species and Habitat.

Due to the highly disturbed nature of the Project site and surrounding area, it is extremely unlikely that any special-status plant species would occur in the Project area. The vast majority of plant and animal species occurring within the Project site are very common species associated with urban, developed and ruderal conditions throughout the Bay area. Common birds such as house finch, American robin, northern mockingbird, European starling, and/or Brewer's blackbird could utilize the Project site. These species are locally and regionally abundant, and Project effects on these species would be minimal or nil. However, note that nearly all native birds are protected under the federal Migratory Bird Treaty Act and the California Fish and Game Code, so the following mitigation would be applicable to prevent a "take" of these species under these regulations related to disturbance during nesting.

[12] City of Newark, prepared by Lamphier-Gregory, May 2012, *Recirculated Initial Study and Mitigated Negative Declaration: Clear Channel Newark Sign Project*, Attachment C.

Mitigation Measure

Bio-1: **Nesting Birds.** If construction occurs during the breeding season (February through August), the site and a surrounding radius of not less than 0.5 miles shall be surveyed by a qualified biologist to verify the presence or absence of nesting birds protected under the federal Migratory Bird Treaty Act and the California Fish and Game code. Pre-construction surveys shall be conducted within 15 days prior to start of work and shall be submitted to the Building Division. If the survey indicates the potential presences of nesting birds, the applicant shall comply with recommendations of the biologist regarding an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be based to a large extent on the nesting species and its sensitivity to disturbance.

There are no other special status species with the potential to be significantly impacted directly by the installation of the proposed sign.

With implementation of Mitigation Measure Bio-1, the impact related to special-status species and habitats would be ***less than significant***.

Indirect Effects of Illuminance on Off-Site Areas

Some animals are extremely sensitive to light queues, which influence their physiology and shape their behaviors. Artificial lighting may indirectly impact mammals and birds by increasing the nocturnal activity of predators and/or causing avoidance of well-lit areas resulting in a net loss of habitat availability and quality.

The area surrounding the Project site is developed urban habitat that does not support sensitive species that might be significantly impacted by illuminance from the proposed sign and increased illuminance would be negligible beyond 500 feet so would not substantially increase the amount of illuminance currently experienced by sensitive habitats (and the species inhabiting them) farther away. The indirect impact of illuminance from the sign on sensitive habitats and species is ***less than significant***.

c) Wetlands. There are man-made drainage channels near the Project site that may meet the physical criteria and regulatory definition of "Waters of the United States". However, disturbance of these areas is not proposed as a part of the Project and there would be ***no impact*** related to wetlands.

d) Wildlife Corridors. The physical structure of the sign itself would not impact the movement of any wildlife species nor would the footing be changed with this Project. However, avian flight behavior could be impacted by artificial illuminance. There are two primary ways in which the luminance of an LED sign might impact the movements of birds. First, nocturnally migrating birds may alter their orientation upon sighting the light and become drawn toward the sign, potentially striking objects such as buildings, adjacent power lines, or even the sign itself. Second, any birds foraging in the area may become disoriented during flights among foraging areas and fly toward the sign, colliding with it or with nearby structures such as power lines.

The visibility of the proposed LED sign to birds in flight, and thus the risk they pose to flying birds, depends primarily on the beam angle of the signs relative to the flightlines of birds and on the luminance (brightness) of the sign as perceived by the birds. The directional nature of LED lighting and the projected viewing angle values of ± 30° vertically and ± 60° horizontally suggest that the viewing angle of the sign will be narrow enough to preclude attracting migrating birds on clear nights, when they fly high enough to be outside the viewing angle of the sign. Migrating birds are forced to fly low during foggy and rainy conditions, which may bring them into the viewing angle of the sign. Likewise, any foraging birds flying into the sign's viewing angle may be susceptible to effects of the sign's luminance.

However, because the Project site is heavily urbanized, few birds are expected to be flying directly toward the sign, at which angle they could become disoriented by the light. If they are disoriented by

the sign, this disorientation is based upon a steady light and is likely to stop once the image on the sign, including its color, brightness, and pattern change with the cycling of advertisement every 8 seconds or so. Thus, it is not expected that birds moving through or around the Project area would be attracted to the sign for such a long duration that increased bird-strike mortality occurs or substantial interference with bird movements occurs.

Therefore, the Project's impact related to movement of wildlife would be ***less than significant***.

d) Local Policies and Ordinances. There are no local policies or ordinances related to biological resources directly applicable to this Project. The landscaping on the adjacent Caltrans setback is maintained by Caltrans with sign visibility taken into consideration and would continue to operate that way. No tree removal is proposed with this Project. Therefore, the Project would have ***no impact*** regarding conflicts with local policies and ordinances.

e) Habitat Conservation Plan. There is no Habitat Conservation Plan applicable to the Project site. Therefore, the Project would have ***no impact*** in this regard.

5. CULTURAL RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in Public Resources Section 15064.5?				☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Public Resources Section 15064.5?				☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				☒
d) Disturb any human remains, including those interred outside of formal cemeteries?				☒

The conclusions below are supported by the Northwest Information Center records search conducted for the environmental analysis for a nearby Clear Channel billboard proposed in 2011/2012.[13] There has been no substantial change to the vicinity in relation to cultural resources in the interim.

a–d) Historic, Archaeological and Paleontological Resources and Human Remains. The Project site is previously disturbed and there are no known cultural resources at this site and low likelihood of discovery of such resources. The Project involves replacement of sign display faces and column façade on an existing footing only and does not represent a potential for accidental discovery of cultural resources. (***No Impact***)

[13] City of Newark, prepared by Lamphier-Gregory, May 2012, *Recirculated Initial Study and Mitigated Negative Declaration: Clear Channel Newark Sign Project*, Attachment D.

6. GEOLOGY AND SOILS Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42)				☒
ii) Strong seismic ground shaking?			☒	
iii) Seismic-related ground failure, including liquefaction?			☒	
iv) Landslides?				☒
b) Result in substantial soil erosion or the loss of topsoil?			☒	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			☒	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			☒	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				☒

a- d) Geologic Hazards. The San Francisco Bay Area is a seismically active region and the structure is likely to encounter strong seismic ground shaking during its lifetime. The sign requires building permits and would be constructed to the current building code standards including consideration of geologic and seismic conditions.

There are no active earthquake faults known to pass through the City of Newark.[14] There would be no impact related to rupture of a known earthquake fault.

The City of Newark has relatively flat topography and the possibility of landslides is considered unlikely.[15] There would be no impact related to landslides. The Project would not involve changes in topography.

There are no recognized unique geologic features or physical features that would be affected by the construction of the proposed Project.

Therefore, impacts related to area soils and earth conditions would be ***less than significant***.

e) Septic Tanks. The Project would not include the use of septic tanks and associated disposal facilities. Therefore, the Project would have ***no impact*** in this regard.

[14] City of Newark, June 1992, *General Plan Update Project 2007*, p. 9-3.

[15] City of Newark, June 1992, *General Plan Update Project 2007*, p. 9-4.

7. GREENHOUSE GAS EMISSIONS Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			☒	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?				☒

a) Greenhouse Gas Emissions. BAAQMD has determined that greenhouse gas (GHG) emissions and global climate change represent cumulative impacts. BAAQMD does not have an adopted threshold of significance for construction-related GHG emissions. The operational threshold of 1,100 metric tons carbon dioxide equivalent (CO_2e) per year was used for both construction-period and operational period for a conservative analysis.

BAAQMD's GHG Emissions Model includes a GHG emission factor of 804.54 lbs of CO_2 per megawatt-hour of electricity usage. (Other GHGs would have a negligible contribution to overall GHG levels from energy usage, so were not calculated here.) While the projected usage of this particular sign was not known at the time of this analysis, it can be compared to the digital billboard proposed by Clear Channel in Newark in 2011/2012 that would use the same LED technology. The Clear Channel digital billboard had a similar proposed square footage of LEDs and was anticipated to have average annual usage of 86,400 kilowatt-hours (kwh) or less.[16] This results in emissions of 31.53 metric tons CO_2 per year, which is well below the threshold level of 1,100 metric tons.

BAAQMD does not suggest a threshold for assessment of construction-period GHG emissions impacts or provide a screening level at which to compare projects. However, with a construction period of only a few days, construction-period GHG emissions would be minimal and would add a negligible amount to the lifetime operational GHG emissions discussed above.

Therefore, the Project impact related to GHG emissions would be ***less than significant***.

b) Greenhouse Gas Reduction Plans. The Project is not located in a community with an adopted qualified GHG Reduction Strategy, so consistency with such a plan cannot be analyzed. GHG emissions associated with the proposed Project were analyzed per the BAAQMD Guidelines. BAAQMD's thresholds and methodologies take into account implementation of state-wide regulations and plans, such as the AB 32 Scoping Plan and adopted state regulations such as Pavley and the low carbon fuel standard. Therefore, there would be ***no impact*** in relation to consistency with GHG reduction plans.

[16] City of Newark, prepared by Lamphier-Gregory, May 2012, *Recirculated Initial Study and Mitigated Negative Declaration: Clear Channel Newark Sign Project*, p. 25.

8. HAZARDS AND HAZARDOUS MATERIALS Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			☒	
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			☒	
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				☒
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				☒
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				☒

a, b) Hazardous Materials. Digital signs are designed to withstand wind forces as required by state law, and are subject to building permit requirements that ensure compliance with applicable building and electrical codes. Soil conditions are identified and considered in the design of such structures. No hazardous materials are emitted during operation of the sign.

Project operations are not expected to create a significant hazard through the routine transport, use or disposal of hazardous materials. It is assumed that any materials used during construction activities or for maintenance of the sign that would be considered hazardous would be utilized in compliance with applicable regulations. It is also noted that state and federal laws require proper handling, use and disposal of hazardous materials. These same laws and regulations require the prevention and reduction of injury to people and the environment in the event of an accidental release. Consequently, there are no reasonably foreseeable operational upset or accidental conditions that would involve a significant release of hazardous materials into the environment.

Additionally, electronic components of digital signs may contain materials considered "e-waste" when disposed of due to potentially hazardous metals, flame retardants, and other chemicals. The operator will be required to follow applicable regulations regarding proper disposal and/or recycling, as appropriate, as components are replaced or removed over time.

With compliance with applicable regulations, the impact relating to the possible presence of hazardous materials at this site would be ***less than significant***.

c, d) Hazardous Materials Site/Near Schools. The FAME Public Charter is located within a half mile of the Project site, but no hazardous materials with the potential for release are located on or would be handled on or emitted from the site. The Project would represent ***no impact*** relative to the potential exposure of the public including students at nearby schools to hazardous materials at the Project site.

e, f) Airport Hazards. The closest airport is the Hayward Executive Airport in the city of Hayward, over 8 miles from the Project site. The Project site is in non-regulated airspace and is not under any landing or take-off zones.[17] There are no other airports, either public or private within the vicinity of the Project. There would be ***no impact*** related to airport hazards.

g) Emergency Response Plan. The Project would not alter traffic patterns and would not impair implementation of any adopted emergency response plan or emergency evacuation plan. Therefore, the Project would have ***no impact*** in this regard.

h) Wildland Fire. The Project site is located in an urbanized area removed from areas typically subject to wildland fire. Therefore, the Project would have ***no impact*** related to wildland fire.

[17] City of Hayward prepared by Coffman Associates, Inc., April 2002, *Hayward Executive Airport, Airport Master Plan.*

9. HYDROLOGY AND WATER QUALITY Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Result in a significant increase in pollutant discharges to receiving waters (marine, fresh, and/or wetlands) during or following construction (considering water quality parameters such as temperature, dissolved oxygen, turbidity, and typical stormwater pollutants, e.g., heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash?				☒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				☒
d) Substantially increase the rate or amount of surface runoff (e.g., due to due to increased impervious surfaces) in a manner which would result in flooding on- or off-site (i.e. within a watershed)?				☒
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems due to changes in runoff flow rates or volumes?				☒
f) Result in an increase in any pollutant for which a water body is listed as impaired under Section 303(d) of the Clean Water Act?				☒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				☒
h) Place within a 100-year flood hazard area structures, which would impede or redirect flood flows?				☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				☒
j) Inundation by seiche, tsunami, or mudflow?			☒	

a-f) Water Quality and Pollutants. Operation of the Project does not involve the use of water or generation of waste water. Construction activities include only replacement of sign display faces and column façade on an existing footing and would be required to comply with any applicable City and State regulations related to water quality. Existing drainage at each site would be maintained. (***No Impact***)

g-j) Flooding and Inundation. The Project is not located in a 100 year flood zone[18] and does not consist of housing or present a risk for flooding or redirection of flood flows. (***No Impact***)

The Project site is located approximately 34 feet above mean sea level and is not along the coastline of the Bay or Ocean, near an inland body of water, or adjacent to a soil slope susceptible to rapid mass wasting or mudflows. Climate change induced sea level rise is estimated at up to 17 inches by 2050 and 69 inches by 2100, well below the height of the Project site.[19] Therefore, there would be a ***less than significant*** impact related to inundation.

[18] City of Newark, June 1992, *General Plan Update Project 2007*, Figure 6-5.

[19] Bay Conservation and Development Commission, adopted Oct 6, 2011, *San Francisco Bay Plan*.

10. LAND USE AND PLANNING Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Physically divide an established community?				☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				☒

a) Physical Division of a Community. The Project involves replacement of the display faces and column façade of an existing sign and does not involve any physical changes that would have the potential to divide the established community. (***No Impact***)

b) Conflict with Land Use Plan. The Project site is designated for and already developed with commercial uses and the Project can be allowed with an amendment to the existing conditional use permit. The Project will comply with applicable highway safety regulations (see the Transportation section for additional detail) to minimize potential hazards. Additionally, the Project will comply with any conditions of approval related to the conditional use permit. Therefore, the Project would have ***no impact*** with regard to land use plan conflicts.

c) Conflict with Conservation Plan. The Project site is not subject to a conservation plan. It is surrounded by urban development and has been designated for such land use for a considerable period of time. The Project would, therefore, have ***no impact*** under this item.

11. MINERAL RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				☒
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				☒

a, b) Mineral Resources. The site contains no known mineral resources.[20] The Project would have ***no impact*** with regard to mineral resources.

[20] U.S. Geological Survey, 2005, Mineral Resources Data System: U.S. Geological Survey, Reston, Virginia. Available through: http://tin.er.usgs.gov/mrds/

12. NOISE Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				☒
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				☒
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				☒
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			☒	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, exposure of people residing or working in the project area to excessive noise levels?				☒
f) For a project in the vicinity of a private airstrip, exposure of people residing or working in the project area to excessive noise levels?				☒

a-d) Excessive Noise or Vibration. Operation of a digital sign does not produce substantial levels of vibration or noise. (***No Impact***)

Standard construction practices and hours are assumed. Construction activities would be limited to replacement of sign display faces and column façade over one or two days at a location that is not proximate to noise-sensitive uses. Impacts from noise and vibration generated by construction of the Project would be ***less than significant***.

e, f) Airport Noise. The Project proposes operation of a digital sign and is not a noise sensitive use. Therefore, the Project would result in ***no impact*** related to airport noise.

13. POPULATION AND HOUSING Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				☒

a-c) Substantial Population Growth. The proposed Project would not induce population growth and would displace neither existing housing nor people. Therefore, there would be ***no impact*** related to population and housing.

14. PUBLIC SERVICES Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services?	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Fire protection.				☒
b) Police protection.				☒
c) Schools.				☒
d) Parks.				☒
e) Other public facilities.				☒

a-e) Public Services. The proposed Project would not increase the population or related demand for public services. Therefore, there would be ***no impact*** to public services.

15. RECREATION Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.				☒
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.				☒

a-b) Recreation. The proposed Project would not construct or increase the use of recreational facilities. Therefore, there would be ***no impact*** in this regard.

16. TRANSPORTATION Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?				☒
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?				☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?		☒		
e) Result in inadequate emergency access?				☒
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?				☒

a-c, f) Vehicle and Air Traffic and Alternative Transportation. The operation of a digital sign would not result in any increase in vehicle trips or changes in air traffic patterns or alternative transportation. Traffic generated for construction would be minimal in both level and duration. There would be ***no impact*** in this regard.

d) Hazards. The Project proposes to replace mixed digital/internally lit sign faces with fully digital sign faces for an on-premise sign visible from I-880.

Digital signs employ LED technology and allow for periodic changes in display. The capability of digital signs to present changing images has raised concerns regarding the effect of such signage on traffic safety. The primary concern has been effects on driver attention, but concerns have also been raised regarding the potential for such signage to produce light of such intensity or direction that it could interfere with driver vision.

Additional regulations apply to off-premise signs. The proposed Project is an on-premise sign, so these regulations would not strictly apply. However, elements of these regulations related to sign display and safety are discussed below to inform the discussion of safety:

FHWA has addressed signage issues in general, and digital signs in particular. As part of its agreement with various states pursuant to the Highway Beautification Act, for example, FHWA has confirmed that no sign is allowed that imitates or resembles any official traffic sign, and that signs may not be installed in such a manner as to obstruct, or otherwise physically interfere with an official traffic sign, signal, or device, or to obstruct or physically interfere with the vision of drivers in approaching, merging or intersecting traffic.

The FHWA agreement with California includes specific provisions regarding the brightness of signage:

Signs shall not be placed with illumination that interferes with the effectiveness of, or obscures any official traffic sign, device or signal; shall not include or be illuminated by flashing, intermittent or moving lights (except that part necessary to give public service information such as time, date, temperature, weather or similar information); shall not cause beams or rays of light to be directed at the traveled way if such light is of such intensity or brilliance as to cause glare or impair the vision of any driver, or to interfere with any driver's operation of a motor vehicle. (Agreement dated February 15, 1968)

The FHWA has responded to the development of signs that present changing messages, either mechanically or digitally, with an interpretation of its agreements with the states pursuant to the Highway Beautification Act. The FHWA discussed "changeable message signs" in a Memorandum dated July 17, 1996, concluding that a state could reasonably interpret the provisions of its agreement with the FHWA "...to allow changeable message signs..."

On September 25, 2007 the FHWA again issued a Memorandum on the subject of off-premises changeable electronic variable message signs, or CEVMS. The Memorandum stated that proposed laws, regulations and procedures that allowed CEVMS subject to acceptable criteria would not violate the prohibition on "intermittent" or "flashing" or "moving" signs as used in the state agreements. The Memorandum identified "ranges of acceptability" relating to the displays on such signage, including:

- Duration of message: Duration of display is generally between 4 and 10 seconds; 8 seconds is recommended;
- Transition time: Transition between messages is generally between 1 and 4 seconds; 1 to 2 seconds is recommended;
- Brightness: The sign brightness should be adjusted to respond to changes in light levels;

The Memorandum also referred to other standards that have been found helpful to ensure driver safety. These include a default designed to freeze the display in one still position if a malfunction occurs; a process for modifying displays and lighting levels where directed by Caltrans to assure safety of the motoring public; and requirements that a display contain static messages without movement such as animation, flashing, scrolling, intermittent or full-motion video. Manufacturers and operators of digital signs currently use a full-black screen in the event of a malfunction.

In addition to the provisions of the Highway Beautification Act (23 U.S.C. §131) and the FHWA memoranda discussed above, the state of California has adopted the Outdoor Advertising Act (Business and Professions Code §§5200 et seq.) and regulations implementing its provisions (California Code of Regulations, Title 4, Division 6, §§2240 et seq.). These include provisions that deal specifically with off-premise "message centers," which are defined as "...an advertising display where the message is changed more than once every two minutes, but no more than once every four seconds." (§5216.4)

Consistent with the memoranda executed pursuant to the Highway Beautification Act, the Outdoor Advertising Act provides that message center displays that comply with its requirements are not considered flashing, intermittent or moving light. (§5405(d)(1)) The requirements provide that such signs must not display messages that change more than once every four seconds.

The California Vehicle Code regulates the brightness of signage lighting. Vehicle Code §21466.5, which identifies the applicable standard, may be enforced by Caltrans, the California Highway Patrol, or local authorities.

As digital sign technology has developed, the issue has been raised as to whether digital signs themselves, regardless of compliance with such operating restrictions, present a distraction to drivers and thereby create conditions that could lead to accidents. FHWA has monitored the issue closely, and

released its report updating the agency's view of the issues and research. The report is titled: "The Effects of Commercial Electronic Variable Message Signs (CEVMS) on Driver Attention and Distraction: An Update."[21]

The FHWA report addressed the basic research question of whether operation of a CEVMS along the roadway is associated with a reduction of driving safety for the public. The report identified three fundamental methods for answering this question: (1) whether there is an increase in crash rates in the vicinity of CEVMS, (2) whether there is an increase in near-crashes, sudden braking, sharp swerving and other such behaviors in the vicinity of CEVMS, and (3) whether there are excessive eye glances away from the roadway in the vicinity of CEVMS.

The report discusses existing literature and reports of studies, key factors and measures relating to CEVMS and effects on traffic, and recommends a study approach. An extensive bibliography is included in the report. The report does not purport to provide guidance to states on the control of CEVMS. The report confirmed that there have been no definitive conclusions about the presence or strength of adverse safety impacts from CEVMS. Similarly, a study performed under the National Cooperative Highway Research Program (NCHRP), Project 20-7 (256) titled "Safety Impacts of the Emerging Digital Display Technology for Outdoor Advertising Signs" (NCHRP Report) reviewed existing literature. Both reports agreed that digital signs should be regulated as a means of protecting the public interest.

It should be noted that there are various studies supporting conflicting conclusions regarding the safety of digital signs and incidence of driver distraction. This analysis has been performed utilizing state and federal published studies and adopted regulations as the best information available at this time.

While not necessarily applicable to the proposed on-premise sign, significant traffic hazard effects could occur if the proposed digital sign did not comply with restrictions regarding the content of the digital display.

Mitigation Measures

Traf-1: **Operational Safety.** The operation of a digital sign by the operator within the City of Newark shall comply with the following at all times:

a. The display shall not imitate or resemble any official traffic sign, or include illumination that interferes with the effectiveness of, or obscures any official traffic sign, device or signal.

b. The duration of each display shall be no less than 4 seconds and the transition time between messages shall be between 1 and 4 seconds

c. No special visual effects that include moving or flashing lights shall accompany the transition between two successive messages, and no special visual effects shall accompany any message display;

d. The sign shall be programmed to freeze the display in one static position if a malfunction occurs.

Implementation of the mitigation measure Traf-1 would reduce the potential hazard to drivers, consistent with current research and regulations. The impact related to traffic hazards would be ***less than significant***.

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[21] U.S. Department of Transportation Federal Highway Administration, The Effects of Commercial Electronic Variable Message Signs (CEVMS) on Driver Attention and Distraction: An Update, February 2009, Publication no. FHWA-HRT-09-018. Available at http://www.fhwa.dot.gov/realestate/cevms.htm.

e) Inadequate Emergency Access. The proposed digital sign would be located outside travelled portions of the roadway and would present no obstacles to emergency access. The Project would have ***no impact*** with regard to inadequate emergency access.

17. UTILITIES AND SERVICE SYSTEMS Would the project	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				☒
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				☒
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				☒
g) Comply with federal, state, and local statutes and regulations related to solid waste?				☒

a-g) Utilities. The Project would result in replacement of the displace faces of an existing sign to which electrical service is already provided. The Project would not generate any wastewater or require a supply of potable water. Construction and operation of the digital sign would not require other utility services, and would not affect drainage. There would be ***no impact*** on utility services.

Energy: While the projected energy usage of this particular sign was not known at the time of this analysis, it can be compared to the nearby digital billboard proposed by Clear Channel in Newark in 2011/2012 that would use the same LED technology. The Clear Channel digital billboard had a similar proposed square footage of LEDs and was anticipated to have average annual usage of 86,400 kilowatt-hours (kwh) or less.[22] For a comparison, this equates to the annual electricity usage of approximately 14.25 single family homes (calculated using BAAQMD's GHG Emissions Model rate of 6,047 kwh annual electricity usage). This does not account for existing energy usage by the sign faces to be replaced, so the net increase would be lower.

The digital sign installed and operated as part of the Project would use electrical energy, and would be constructed pursuant to current electrical codes, including Title 24. These standards would ensure that electrical energy would be used efficiently. The GHG emissions associated with this energy demand are addressed in Item 7, Greenhouse Gas Emissions. The underlying question as to whether digital signs are an effective or desirable use of electrical energy is a policy question that may be considered in the Project review process, but any environmental effects related to this question are ***less than significant***.

[22] City of Newark, prepared by Lamphier-Gregory, May 2012, *Recirculated Initial Study and Mitigated Negative Declaration: Clear Channel Newark Sign Project*, p. 25.

18. MANDATORY FINDINGS OF SIGNIFICANCE	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			☒	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)			☒	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			☒	

a) Environmental Quality. Environmental Quality. With the implementation of mitigation measures, the Project would not degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, or threaten to eliminate a plant or animal community. The Project would not impact rare or endangered wildlife species, or eliminate important examples of the major periods of California history or prehistory.

b, c) Cumulative Impacts and Adverse Effects on Human Beings. The sign to be upgraded is located approximately 525 feet south of the Clear Channel digital billboard proposed in 2011/2012. While regulatory provisions related to off-premise sign spacing would not apply to the proposed on-premise sign, this is farther than the 500 feet recommended as a minimum by some agencies for off-premise signs.

The Project would neither have individually limited nor cumulatively considerable adverse impacts and would not involve substantial adverse effects on human beings, either directly or indirectly, including effects for which project-level mitigation were identified to reduce impacts to less than significant levels. All of these potential effects would be less than significant with implementation of mitigation measures identified in this document and would not contribute in considerable levels to cumulative impacts.

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