

RESOLUTION NO. 9886

RESOLUTION RECOMMENDING APPROVING AND CERTIFYING AN ENVIRONMENTAL IMPACT REPORT FOR THE DUMBARTON TRANSIT ORIENTED DEVELOPMENT SPECIFIC PLAN AND RELATED GENERAL PLAN AMENDMENTS, INCLUDING FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVAL OF A MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, the City of Newark has caused an Environmental Impact Report (State Clearinghouse Number 2010042012) to be prepared to assess the potential environmental impacts of the proposed Dumbarton Transit Oriented Development project and related General Plan Amendments, and

WHEREAS, the Environmental Impact Report consists of a Draft Environmental Impact Report document as well as the Final Environmental Impact Report document, which in turn consists of all comments received by the City of Newark regarding the Draft Environmental Impact Report during the mandatory public review period and responses to those comments; and

WHEREAS, the City distributed copies of the Environmental Impact Report to public agencies which have jurisdiction by law with respect to the Project and other interested persons and agencies, and sought the comments of such persons and agencies; and

WHEREAS, notice inviting comments on the Draft Environmental Impact Report was given in compliance with CEQA Guidelines Section 15058; and

WHEREAS, written comments to the Draft Environmental Impact Report have been received, and responses to those comments were prepared in the form of a Final Environmental Impact Report; and

WHEREAS, pursuant to Public Resources Code Section 21092.5, the City provided copies of the Final Environmental Impact Report to commenting agencies; and

WHEREAS, the members of the City Council have read, reviewed, and considered the information contained in the Environmental Impact Report and staff report, and have conducted a public hearing on the subject of the Environmental Impact Report, and have discussed, evaluated, analyzed, reviewed and considered the information presented at said hearing, as well as all of the printed matter in the Environmental Impact Report; and

WHEREAS, Findings of Fact and Statement of Overriding Considerations (attached Exhibit A) have been prepared for the Dumbarton Transit Oriented Development Specific Plan Project and related General Plan Amendments, consistent with the requirements of Public Resources Code, Section 21000 et seq., which provide the written analysis and conclusions of the City Council regarding the Project's environmental impacts, mitigation measures, and alternatives to the Project; and

WHEREAS, the City Council, has reviewed and considered the information contained in the Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan Project, set forth in the Dumbarton Transit Oriented Development Specific Plan Findings of Fact and Statement of Overriding Considerations (attached Exhibit A) as required by the California Environmental Quality Act; and

WHEREAS, a Mitigation Monitoring and Reporting Program (attached Exhibit B) has been prepared for the Dumbarton Transit Oriented Development Specific Plan project, consistent with the requirements of Public Resources Code 21081.6, which lists all of the mitigation measures contained in the Environmental Impact Report, specified the appropriate agency or organization responsible for implementing each mitigation measure and approximate time frames for implementation of each mitigation measure; and

WHEREAS, the Planning Commission on August 23, 2011, after a Public Hearing, recommended that the City Council certify the Environmental Impact Report for the Dumbarton Transit Oriented Development Project Specific Plan; and

WHEREAS, the City Council held a duly noticed public hearing on September 8, 2011, and finds that the Environmental Impact Report (State Clearinghouse Number 2010042012) is complete and adequate pursuant to the California Environmental Quality Act, and that the Commission has considered and reviewed all information considered in it; and

WHEREAS, the City Council finds that the Environmental Impact Report reflects the independent judgment of the City of Newark.

NOW, THEREFORE, BE IT RESOLVED that the City Council:

- a. Certify the Environmental Impact Report (State Clearinghouse Number 2010042012), prepared pursuant to the California Environmental Quality Act; and
- b. That the project, with the exception of traffic impacts, will not have a significant impact on the environment once the proposed mitigation measures have been applied; and
- c. Adopt the Findings of Fact (attached Exhibit A), which provide the written analysis and conclusions regarding the Project's environmental impacts, mitigation measures, and alternatives to the Dumbarton Transit Oriented Development Specific Plan project; and
- d. Adopt a Statement of Overriding Considerations (attached Exhibit A) documenting the unavoidable significant impacts that will result from the Dumbarton Transit Oriented Development Specific Plan project; and the benefits that will occur as a result of the project that outweigh the impacts; and
- e. Adopt the Mitigation Monitoring and Reporting Program (attached Exhibit B).

I HEREBY CERTIFY the foregoing resolution was introduced at a regular meeting of the City Council of the City of Newark held on September 8, 2011, by Council Member Nagy, who moved its adoption and passage, which motion was carried after being duly seconded, and passed by the following vote:

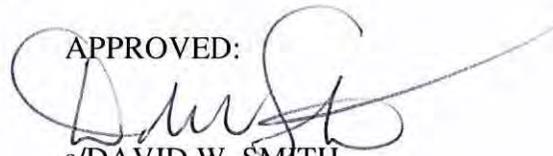
AYES: Council Members Apodaca, Huezo, Nagy, Vice Mayor Freitas, and Mayor Smith

NOES: None

ABSENT: None

SECONDED: Council Member Apodaca

APPROVED:



s/DAVID W. SMITH

Mayor

ATTEST:



s/SHEILA HARRINGTON

City Clerk

APPROVED AS TO FORM:



s/GARY T. GALLIANO

City Attorney

**RESOLUTION NO. 9886
EXHIBIT A**

**DUMBARTON TRANSIT ORIENTED DEVELOPMENT SPECIFIC
PLAN**

**FINAL ENVIRONMENTAL IMPACT REPORT
(State Clearinghouse No. 2010042012)**

**FINDINGS OF FACT AND
STATEMENT OF OVERRIDING CONSIDERATIONS**

August 2011

1.0 INTRODUCTION

This statement of findings addresses the potentially significant environmental impacts associated with the Dumbarton Transit Oriented Development (TOD) Specific Plan located in Alameda County, California and are made pursuant to Section 15091 of the California Environmental Quality Act (CEQA) Guidelines, which provide that:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.
- (b) The findings required by subsection (a) shall be supported by substantial evidence in the record.

Section 15092 of the CEQA Guidelines further stipulates that:

- (b) A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless either:
 - (1) The project as approved will not have a significant effect on the environment, or
 - (2) The agency has:
 - (A) Eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091, and
 - (B) Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

According to Section 15093 of the CEQA Guidelines:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in

the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

- c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the Notice of Determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

As required by CEQA, the City of Newark (City), in adopting these findings, must also adopt a Mitigation Monitoring and Reporting Program (MMRP) for the project. The MMRP, which is incorporated by reference and made a part of these findings, meets the requirements of Section 15097 of the CEQA Guidelines by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project.

Whenever these findings specifically refer to and adopt a mitigation measure that will avoid or mitigate a potentially significant impact, that specific mitigation measure is hereby made a Condition of Approval of the Dumbarton TOD Specific Plan project.

1.1 PROJECT SUMMARY

The Dumbarton TOD Specific Plan provides a comprehensive policy and regulatory framework to guide future development and redevelopment within the approximately 205-acre Dumbarton TOD Specific Plan area. The Specific Plan establishes the allowable land uses, development regulations, design guidelines, necessary infrastructure improvements, and an implementation plan to direct future development and redevelopment of the Dumbarton TOD Specific Plan area. Implementation of the Specific Plan will result in a mix of residential, office, retail, parks and recreational open space uses. The following table provides a summary of the land use distribution within the Specific Plan area.

Land Use/Zoning Designation	Total
Maximum Residential Units	2,500 units
Low Density Residential (LDR)	16.8 acres
Medium Density Residential (MDR)	67.9 acres
Medium High Density Residential (MHDR)	59.3 acres
High Density Residential (HDR)	5.0 acres
Retail (R)	5.0 acres (35,000 square feet)
Commercial (C)	7.2 acres (195,000 square feet)
Transit Station (TS)	6.1 acres (including parking areas)
Parks and Open Space (POS)	16.3 acres (including parkland provided through the City's Parks Ordinance)
Miscellaneous (M)	23.1 acres
TOTAL	206.7 acres

1.2 ENVIRONMENTAL REVIEW PROCESS

In accordance with the requirements of CEQA and the CEQA Guidelines, a Notice of Preparation (NOP) of a Draft Environmental Impact Report (Draft EIR) was filed with the State Clearinghouse (SCH) Office of Planning and Research (OPR) on March 31, 2011. The NOP was distributed to public agencies and interested parties for a 30-day public review period, which extended from March 31 to April 30, 2011.

A Notice of Completion (NOC) of the Draft EIR was filed with the SCH OPR on May 18, 2011. The Draft EIR was circulated for a 45-day public review period, which ended on July 1, 2011. During this public review period, the City received written comments on the Draft EIR. Section 15088 of the CEQA Guidelines requires that the lead agency responsible for the preparation of an EIR evaluate comments on environmental issues received from parties who reviewed the Draft EIR and prepare a written response addressing each of the comments. A Final EIR was prepared for the project, which assembles in one document all of the environmental information and analysis prepared for the project, including comments on the information and analysis contained in the Draft EIR and responses by the City to those comments.

Pursuant to Section 15132 of the CEQA Guidelines, the Final EIR consists of the following:

- (a) The Draft EIR, including all of its appendices.
- (b) A list of persons, organizations, and public agencies commenting on the Draft EIR.
- (c) Copies of all letters received by the City during the Draft EIR public review period and responses to significant environmental points concerning the Draft EIR raised in the review and consultation process.
- (d) Revisions to the Draft EIR.
- (e) Any other information added by the lead agency.

2.0 CEQA FINDING OF INDEPENDENT JUDGMENT

The City is the lead agency with respect to the Dumbarton TOD Specific Plan pursuant to the Section 15367 of the CEQA Guidelines. As noted above, Section 15091 of the CEQA Guidelines requires that the lead agency prepare written findings for identified significant impacts, accompanied by a brief explanation for the rationale for each finding. The Final EIR for the project identified potentially significant effects that could result from project implementation. However, the City finds that the inclusion of certain mitigation measures as part of the project approval will reduce most, but not all, of those effects to less than significant levels. Those impacts that are not reduced to less than significant levels are overridden due to specific project benefits identified in a Statement of Overriding Considerations provided below in Section 7.0.

In accordance with CEQA and the CEQA Guidelines, the City adopts these findings as part of its approval of the project. Pursuant to Section 21082.1(c)(3) of the Public Resources Code, the City also finds that the Final EIR reflects the City's independent judgment as the lead agency for the project.

3.0 ADMINISTRATIVE RECORD

The record, upon which all findings and determinations related to the approval of the project are based, includes the following:

- ◆ The EIR and all documents referenced in or relied upon by the EIR.
- ◆ All prior and present information (including written evidence and testimony) provided by City staff to the Planning Commission and City Council relating to the EIR, the approvals, and the project.
- ◆ All prior and present information (including written evidence and testimony) presented to the Planning Commission and City Council by the project sponsor and consultants.
- ◆ All final applications, letters, testimony, exhibits, and presentations presented by the project sponsor and consultants to the City in connection with the project.
- ◆ All final information (including written evidence and testimony) presented at any City public hearing or City workshop related to the project and the EIR.
- ◆ For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation the general plan, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.
- ◆ The MMRP for the project.
- ◆ All other documents composing the record pursuant to Public Resources Code section 21167.6(e).
- ◆ The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is Terrence Grindall, Community Development Director, or his designee. Such documents and other materials are located at the Newark Community Development Department, 37101 Newark Boulevard, Newark, CA 94560.

4.0 FINDINGS OF FACT

The following sections make detailed findings with respect to the potential effects of the project and refer, where appropriate, to the mitigation measures set forth in the Final EIR and the MMRP to avoid or substantially reduce potentially significant adverse impacts of the project. The EIR and the administrative record concerning the project provide additional facts in support of the findings herein. The Final EIR is hereby incorporated into these findings in its entirety. Furthermore, the mitigation measures set forth in the Final EIR and the MMRP are incorporated by reference in these findings. The MMRP was developed in compliance with Section 15097 of the CEQA Guidelines and is provided under separate cover.

4.1 POTENTIALLY SIGNIFICANT BUT MITIGABLE IMPACTS

Pursuant to CEQA Guidelines Sections 15091(a)(1) and 15092(b), and to the extent reflected in the EIR and the MMRP, the City finds that changes or alterations have been required to, or incorporated into, the components of the project to mitigate or avoid potentially significant effects on the environment. Based on the analysis contained in the EIR, the following impacts have been determined to fall within the category of impacts that can be reduced to less than significant levels with implementation of the mitigation measures set forth below.

- ◆ Air Quality (potential impacts resulting from air pollutant emissions during short-term construction activities and long-term project operations)
- ◆ Biological Resources (potential impacts to salt marsh harvest mouse, nesting raptors, western burrowing owl, tricolored blackbird, salt marsh common yellowthroat and other nesting passerine birds, special-status plant species, wetlands and waters of the U.S./State, and protected trees)
- ◆ Cultural Resources (potential impacts to historical, archaeological and paleontological resources and human remains)

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- ◆ Geology and Soils (potential impacts resulting from seismic risk, soil erosion, unstable soil and expansive soil)
 - ◆ Greenhouse Gas Emissions (potential impacts associated with greenhouse gas emissions)
 - ◆ Hazards and Hazardous Materials (potential impacts associated with accidental release or exposure to hazardous materials)
 - ◆ Hydrology and Water Quality (potential impacts associated with erosion and/or siltation, on or offsite flooding, exceedance of storm drainage system capacity and additional sources of polluted runoff)
 - ◆ Noise (potential impacts resulting from short-term increases in noise and ground-borne vibration during construction, exposure of future residential uses to noise from future commuter train service, and long-term increases in traffic noise)
 - ◆ Public Services, Utilities and Service Systems (potential impacts to existing wastewater conveyance facilities)
 - ◆ Recreation (potential impacts resulting from the construction of recreational facilities)
 - ◆ Traffic (potential impacts resulting from the deterioration of the level of service at several intersections)

4.1.1 Air Quality

Summary of Potential Impacts

An evaluation of potential impacts from air pollutant emissions during construction activities and long-term project operations is found in Section 4.2 (Air Quality) of the Draft EIR.

Construction activities during development allowed by the Dumbarton TOD Specific Plan would result in fugitive dust (PM₁₀ and PM_{2.5}) emissions, exhaust from the operation of vehicles and equipment on the project site, and additional dust from grading and hauling activities associated with site preparation. It is possible that asbestos-containing materials exist in buildings that may be modified or demolished and naturally occurring asbestos (NOA) has been identified within the project area.

The Dumbarton TOD Specific Plan includes space for a future multi-modal transit station that would include commuter train service. Based on the land use plan, residential uses have the potential to be located in proximity to the transit station. Diesel trains are a common source of toxic air contaminants (TACs) and PM_{2.5} emissions and require adequate buffers and/or other mitigation.

Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the project, which would mitigate or avoid potential impacts from air pollutant emissions during construction activities and long-term project operations as identified in the Final EIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Findings

Short-term air quality impacts during construction will be less than significant with implementation Mitigation Measures 4.2-1a and 4.2-1b, which require implementation of Bay Area Air Quality Management District (BAAQMD) “basic” and “additional” measures to reduce air pollutant emissions during construction. Long-

term impacts associated with the proximity of the future transit station to residential uses will be mitigated to less than significant with implementation of Mitigation Measure 4.2-2, which requires a minimum of 1,000 feet between the future transit station and residential uses or filtered air supply systems.

4.1.2 Biological Resources

Summary of Potential Impacts

An evaluation of potential impacts to special-status species, nesting birds and raptors, wetlands and waters of the U.S./State, and protected trees is found in Section 4.3 (Biological Resources) of the Draft EIR.

The salt marsh harvest mouse is a federal and state listed endangered species. It is found in salt marsh habitats that are dominated by pickleweed. Parcels within the project area that will be developed contain pickleweed that could support the salt marsh harvest mouse. Suitable nesting habitat for white-tailed kite, red-tailed hawk, northern harrier and western burrowing owl occurs within the project area. Common passerine birds and other birds with special-status, such as the tricolored blackbird and salt marsh common yellowthroat, could be impacted by future development activities within the project area, including loss of nesting habitat, disturbance to nesting birds and death of adults and/or young. The project area provides suitable habitat for special-status plants, which could be impacted by the project. Future development within the project area will result in the fill of wetlands and waters of the U.S./State, and the removal of trees protected by the City's Municipal Code. Project-related impacts would be cumulatively considerable when combined with other projects in the region.

Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the project, which mitigate or avoid potential impacts to special-status species, nesting birds and raptors, wetlands and waters of the U.S./State, and protected trees as identified in the Final EIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Findings

Potential impacts to the salt marsh harvest mouse will be less than significant with implementation of Mitigation Measure 4.3-1, which requires preparation of a Habitat Assessment to determine presence of suitable habitat and pre-construction measures. Implementation of Mitigation Measures 4.3-2 through 4.3-4 requiring pre-construction nesting surveys, appropriate non-disturbance buffers and a Mitigation Plan (for the western burrowing owl), if nests are identified, will reduce impacts to nesting raptors, the western burrowing owl and nesting passerine birds to less than significant. Potential impacts to special-status plant species will be less than significant with implementation of Mitigation Measure 4.3-5, which requires pre-construction plant surveys and implementation of specific measures, if special-status plants are found. Implementation of Mitigation Measure 4.3-6, requiring a wetland delineation, if not already completed, verification of the delineation by the Army Corps of Engineers (ACOE), authorization of any fill of wetlands and/or waters of the U.S./State, and mitigation compensation, will reduce impacts to wetlands and/or waters of the U.S./State to less than significant. Potential impacts to protected trees will be less than significant with implementation of Mitigation Measure 4.3-8, which requires a tree permit, tree replacement at a 1:1 ratio and a Tree Management Plan. Implementation of mitigation for project-related impacts would reduce cumulative impacts to less than significant.

4.1.3 Cultural Resources

Summary of Potential Impacts

An evaluation of potential impacts on historical, archaeological and paleontological resources and human remains is found in Section 4.4 (Cultural Resources) of the Draft EIR.

There are no recorded archaeological resources, including prehistoric sites and no recorded, reported or known Native American sites located in, adjacent or near the project area. In addition, no historic resources have been formally recorded or reported. Nevertheless, given the location of the project area adjacent to historic salt marshlands at the edge of San Francisco Bay, the area is considered to be moderately sensitive for archaeological resources, including historic resources and human remains. Thus, ground disturbing activities have the potential to damage or destroy unknown cultural resources. Although no paleontological resources are known to exist in the project area and it has a low sensitivity for such resources, the presence of unknown paleontological resources cannot be ruled out. Ground disturbing activities have the potential to damage or destroy unknown paleontological resources. Project-related impacts would be cumulatively considerable when combined with other projects in the region.

Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the project, which mitigate or avoid the potential impacts on historical, archaeological and paleontological resources and human remains as identified in the Final EIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Findings

Potential impacts to archaeological and paleontological resources and human remains will be less than significant level with implementation of Mitigation Measures 4.4-1a, which requires training of construct crews on the mechanisms used to identify cultural resources and to caution them on the implications of knowingly destroying cultural resources or removing artifacts or human remains from the project area. This mitigation measure also includes specific steps to take should subsurface deposits believed to be cultural and human in origin are discovered. Implementation of Mitigation Measure 4.4-1b, requiring the evaluation of existing buildings or structures or the Union Pacific Railroad corridor that will be affected by the project for inclusion on the National Register of Historic Places, will reduce impacts to historical resources to less than significant. Implementation of mitigation for project-related impacts would reduce cumulative impacts to less than significant.

4.1.4 Geology and Soils

Summary of Potential Impacts

An evaluation of potential impacts associated with seismic risk, soil erosion, unstable soil and expansive soil is found in Section 4.5 (Geology and Soils) of the Draft EIR.

Future development within the Dumbarton TOD Specific Plan area will involve construction of structures in a seismically active region. Consequently, the project area will likely experience moderate ground shaking during earthquakes occurring on offsite faults and secondary events such as liquefaction or landslides that

could expose people or structures to the risk of loss, injury or death. Vegetation removal and grading associated with future development within the project area will expose soil and increase the potential for soil erosion from wind or stormwater runoff. Soil conditions within the project area have the potential for differential settlement that could damage structures. In addition, the project area is underlain by clayey, expansive soil that has a high shrink/swell potential that could damage structures.

Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the project, which mitigate or avoid potential impacts associated with seismic risk, soil erosion, unstable soil and expansive soil as identified in the Final EIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Findings

Potential impacts associated with ground shaking, seismic-related liquefaction and landslides, soil erosion, unstable soil and expansive soil will be less than significant with implementation of Mitigation Measure 4.5-1, which requires preparation of a design-level geotechnical investigation for individual properties within the project area prior to their development and implementation of recommended construction measures identified in the investigation. In addition, Mitigation Measures 4.5-2 and 4.5-3 require coordination with the Alameda County Water District (ACWD) to ensure compliance with ACWD Ordinance No. 2010-01.

4.1.5 Greenhouse Gas Emissions

Summary of Potential Impacts

An evaluation of potential impacts related to greenhouse gas (GHG) emissions is found in Section 4.6 (Greenhouse Gas Emissions) of the Draft EIR.

The Dumbarton TOD Specific Plan is part of a regional effort to reduce vehicle trips and GHG emissions, support transit and enhance the quality of life in the region. It is a Priority Development Area as a part of the Sustainable Communities Strategy development. Although the project will generate GHG emissions, sustainable practices will be incorporated into the project design, including water, energy, solid waste, and transportation efficiency measures to reduce project GHG emissions to 27.92 percent below the business as usual scenario.

Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the project, which mitigate or avoid potential impacts related to GHG emissions as identified in the Final EIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Findings

Implementation of Mitigation Measure 4.6-1, which will ensure that proposed project design features are incorporated in future development plans, will reduce impacts to less than significant.

4.1.6 Hazards and Hazardous Materials

Summary of Potential Impacts

An evaluation of potential impacts associated with hazardous materials sites and accidental release of hazardous materials is found in Section 4.7 (Hazards and Hazardous Materials) of the Draft EIR.

Eight properties within the Dumbarton TOD Specific Plan area are known to have contaminated groundwater and soils. For all eight properties, soil and water sampling have been performed through contaminant testing and disclosure documentation. Mitigations associated with remediation of properties have been identified and appropriate pollutant thresholds that need to be achieved prior to development have been established. In addition, use of hazardous materials in the project area after construction may create a hazard if accidentally released into the environment.

Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the project, which mitigate or avoid potential impacts associated with hazardous materials sites and accidental release of hazardous materials as identified in the Final EIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Findings

Potential impacts associated with development on sites with known contaminated groundwater and soil and accidental release of hazardous materials into the environment will be reduced to less than significant with adherence to federal, state and local standards and implementation of Mitigation Measures 4.7-1a through 4.7-1e. Mitigation Measure 4.7-1a requires the property owner to: 1) summarize available information regarding soil and groundwater contamination; 2) perform a data gap analysis; 3) determine whether any additional investigation is needed; 4) provide either a Health Risk Assessment (HRA) or Feasibility Study (FS); 5) based on the HRA or as set forth in the FS, develop remedial options to address the identified risks; and 6) submit a report to the Oversight Agency. Remedial action plans, risk management plans and health and safety plans will be required as determined by the Oversight Agency for a given property, if not already completed, to prevent an unacceptable risk to human health, including workers during and after construction.

Mitigation Measure 4.7-1b requires areas that will be graded to be cleared of debris, significant vegetation, pre-existing abandoned utilities, buried structures and asphalt concrete and Mitigation Measure 4.7-1c requires testing of import soil needed for future development for toxic substances. Mitigation Measure 4.7-1d requires areas within the project area with NOA to be confirmed, any necessary permits obtained from the BAAQMD, and implementation of dust control measures and an NOA air monitoring program. Mitigation Measure 4.7-1e provides guidance for development of properties where NOA is known to occur.

4.1.7 Hydrology, Drainage and Water Quality

Summary of Potential Impacts

An evaluation of potential impacts associated with erosion and/or siltation, on or offsite flooding, exceedance of storm drainage system capacity and additional sources of polluted runoff is found in Section 4.8 (Hydrology, Drainage and Water Quality) of the Draft EIR.

Future development within the Dumbarton TOD Specific Plan area will involve vegetation removal, grading, and the construction of buildings, roads, sidewalks, driveways and parking lots, which will alter existing drainage patterns and increase the potential for erosion and/or siltation. The project will also result in changes to absorption rates, drainage patterns, and the corresponding rate and amount of surface runoff that could cause flooding on or offsite, exceed the capacity of the existing storm drainage system and provide additional sources of polluted runoff. Portions of the project area that are located north of the San Francisco Public Utilities Commission (SFPUC) right-of-way will likely require crossings of the Hetch Hetchy Pipeline. Any proposed crossings will need to be verified to ensure that there is sufficient depth to allow the storm drainage lines to pass over the pipeline.

Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the project, which mitigate or avoid potential impacts associated with erosion and/or siltation, on or offsite flooding, exceedance of storm drainage system capacity and additional sources of polluted runoff as identified in the Final EIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Findings

Implementation of Mitigation Measure 4.8-4a, which requires preparation of detailed site-specific hydrology reports, and compliance with the requirements of the General Permit and other federal, state and local policies and regulations, will reduce impacts associated with on or offsite flooding or increased amounts of polluted runoff to less than significant. New development will need to construct adequately sized storm drainage facilities to convey onsite surface water runoff to existing storm drainage facilities. These facilities will be designed to carry stormwater at buildout of the individual development sites, and will be subject to City and Alameda Flood Control District review to verify that they are designed to accommodate increased flows, which will reduce potential impacts associated with the capacity of the existing storm drainage system to less than significant. Implementation of Mitigation Measure 4.8-4b, which requires future projects requiring storm drainage lines and water mains that cross the Hetch Hetchy Pipeline to include measures to ensure that there is sufficient room for the storm drainage lines to pass over the pipeline (i.e., placement of additional fill), will reduce impacts to less than significant.

4.1.8 Noise

Summary of Potential Impacts

An evaluation of the potential impacts resulting from short-term increases in noise and ground-borne vibration during construction, exposure of future residential uses to noise from future commuter train service, and long-term increases in traffic noise is found in Section 4.10 (Noise) of the Draft EIR.

Construction activities during future development allowed by the Dumbarton TOD Specific Plan will expose surrounding sensitive receptors to noise and ground-borne vibration. The project will provide space for a multi-modal transit station that will include commuter train service. Trains have the potential produce noise levels in excess of the normally acceptable land use compatibility standards for residential uses that will be located adjacent to the transit corridor. During operation, development within the project area will result in additional traffic on adjacent roadways, thereby increasing vehicular noise in the vicinity of the existing and proposed land uses and resulting in offsite noise impacts. When combined with other projects, the increase in traffic noise will be cumulatively considerable.

Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the project, which mitigate or avoid potential impacts resulting from short-term increases in noise and ground-borne vibration during construction, exposure of future residential uses to noise from future commuter train service, and long-term increases in traffic noise as identified in the Final EIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Findings

Implementation of Mitigation Measures 4.10-1a and 4.10-1b will reduce construction noise impacts to less than significant, while vibration associated with construction will be reduced to less than significant by Mitigation Measure 4.10-2. Mitigation Measure 4.10-1a requires construction contractors to implement a noise reduction program, including limitations on the hours of construction, noise control techniques for equipment and trucks, use of hydraulically or electronically powered impact tools wherever possible, stationary noise sources located as far from adjacent receptors as possible, and the noisiest phases of construction limited to ten days at a time, when feasible. Mitigation Measure 4.10-1b requires submission to the City Building Inspection Division of a list of measures to respond to and track complaints pertaining to construction noise, ongoing throughout demolition, grading and construction. Mitigation Measure 4.10-2 requires noise control measures if pile driving is necessary for building construction.

Potential noise impacts from commuter trains on future residential uses will be less than significant with implementation of Mitigation Measure 4.10-3, which requires preparation of an Acoustical Assessment to demonstrate that exterior and interior noise levels are consistent with applicable land use compatibility standards. Measures (e.g., attenuation barriers, acoustically rated windows, upgraded insulation, etc.) will be implemented where conditions exceed the normally acceptable noise exposure level. Implementation of Mitigation Measure 4.10-4, requiring the posted speed limit on Willow Street to be 35 miles per hour, will reduce offsite vehicular noise impacts to less than significant.

4.1.9 Public Services and Utilities

Summary of Potential Impacts

An evaluation of potential impacts on existing wastewater conveyance facilities is found in Section 4.12 (Public Services and Utilities) of the Draft EIR.

Existing sewer pipelines that will serve the Dumbarton TOD Specific Plan area may not be sized to accommodate project buildout. In addition, dual 33-inch sewage force mains under the project area will likely

require structural upgrades or relocation as a result of future development. A 14-inch gravity sewer line in Enterprise Drive may also require structural upgrades.

Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the project, which mitigate or avoid potential impacts on existing wastewater conveyance facilities as identified in the Final EIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Findings

Impacts to existing wastewater conveyance facilities will be less than significant with implementation of Mitigation Measure 4.12-2, which requires installation of any necessary improvements, beyond those already included in the Union Sanitary District Master Plan and updated fee program.

4.1.10 Recreation

Summary of Potential Impacts

An evaluation of potential impacts resulting from the construction of recreational facilities is found in Section 4.13 (Recreation) of the Draft EIR.

The construction of proposed recreational facilities could result in temporary increases in air emissions, dust, noise and erosion from a variety of construction activities, including excavation, grading, vehicle travel on unpaved surfaces, and vehicle and equipment exhaust.

Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the project, which mitigate or avoid potential impacts resulting from the construction of recreational facilities as identified in the Final EIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Findings

Implementation of Mitigation Measures 4.2-1a and 4.2-1b and Mitigation Measures 4.10-1a, 4.10-1b and 4.10-2 will reduce temporary construction impacts to less than significant, as described above in Sections 4.1.1 and 4.1.8.

4.1.11 Traffic

Summary of Potential Impacts

An evaluation of the potential traffic impacts is found in Section 4.14 (Traffic) of the Draft EIR.

The addition of project traffic to the existing roadway network will cause operations to degrade from an acceptable level of service (LOS) (i.e., LOS C or better) to unacceptable LOS D, E or F, or it would exacerbate unacceptable operations by increasing the average intersection delay by four or more seconds at the following three intersections:

1. Willow Street/Thornton Avenue
2. Willow Street/Enterprise Drive
3. Cherry Street/Mowry Avenue

In addition, the Willow Street/Enterprise Drive intersection also meets peak-hour signal warrants during the AM and PM peak hours.

The addition of project traffic under future year 2035 (cumulative) conditions will cause intersection LOS to degrade from acceptable to unacceptable or exacerbate operations by increasing the average delay by four or more seconds at the following five intersections:

1. Gateway Boulevard/Thornton Avenue
2. Willow Street/Thornton Avenue
3. Willow Street/Enterprise Drive
4. Cherry Street/Mowry Avenue
5. I-880 NB Ramps/Mowry Avenue

The Willow Street/Enterprise Drive intersection also meets peak-hour signal warrants during the AM and PM peak hours.

Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the project, which mitigate or avoid potential traffic impacts as identified in the Final EIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Findings

Impacts to the intersections of Willow Street/Thornton Avenue, Willow Street/Enterprise Drive and Cherry Street/Mowry Avenue under existing plus project conditions will be less than significant with implementation of Mitigation Measure 4.14-1, which requires construction of specific improvements identified in the Final EIR at each intersection. Implementation of Mitigation Measures 4.14-6, which requires construction of specific improvements identified in the Final EIR at the intersections of Gateway Boulevard/Thornton Avenue, Willow Street/Thornton Avenue, Willow Street/Enterprise Drive, Cherry Street/Mowry Avenue and I-880 NB Ramps/Mowry Avenue, will reduce impacts at each intersection under future year 2035 conditions to less than significant.

4.2 ENVIRONMENTAL EFFECTS THAT ARE CONSIDERED SIGNIFICANT AND UNAVOIDABLE IMPACTS

This section identifies the significant and unavoidable impacts that require a Statement of Overriding Considerations to be issued by the City, pursuant to Section 15093 of the CEQA Guidelines, if the project is

approved. Based on the analysis contained in the EIR, the following impacts would be significant and unavoidable:

- ◆ Traffic (degrade an acceptable intersection LOS to an unacceptable LOS under existing plus project conditions at one intersection, increase demand on transit service, degrade acceptable LOS at five intersections to unacceptable LOS under future year 2035 conditions, and degrade operations on five roadway segments under future year 2035 conditions).

4.2.1 Traffic

Summary of Significant and Unavoidable Impacts

An evaluation of potential traffic impacts is found in Section 4.14 (Traffic) of the Draft EIR.

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

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

The addition of project traffic under future year 2035 conditions will cause intersection LOS to degrade from acceptable to unacceptable or exacerbate operations by increasing the average delay by four or more seconds at the following five intersections:

1. SR-84 Eastbound Ramps/Thornton Avenue
2. Cherry Street/Thornton Avenue
3. Newark Boulevard/Thornton Avenue
4. Cedar Boulevard/Thornton Avenue
5. Cherry Street/Central Avenue

The addition of project traffic under future year 2035 conditions will also degrade operations on the following five roadway segments:

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

Findings

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final EIR.

Facts in Support of Findings

Impacts to the intersection of Cedar Boulevard/Thornton Avenue would be less than significant with implementation of Mitigation Measure 4.14-1 requiring an additional westbound left turn lane from Thornton

Avenue to Cedar Boulevard. While no project traffic is added directly to this movement, the addition of this lane would improve overall intersection operations. However, due to the limited right-of-way available along Thornton Avenue and potential secondary impacts (such as increased pedestrian crossing distances), this is not feasible. Therefore, this impact is significant and unavoidable.

Implementation of Mitigation Measure 4.14-2 requiring the City to coordinate with AC Transit to improve bus service to the Specific Plan area would reduce impacts to less than significant. However, ultimate implementation would be under AC Transit's jurisdiction and cannot be guaranteed. Thus, the impact is significant and unavoidable.

An additional eastbound right turn lane on the SR 84 Eastbound Off-Ramp at the intersection of SR 84 Eastbound Ramps/Thornton Avenue would mitigate the impact at this intersection to less than significant. However, this intersection is outside of the City's jurisdiction. SR 84 is a Caltrans-controlled facility, and implementation of this mitigation measure cannot be guaranteed. Therefore, this impact is significant and unavoidable.

As identified in Mitigation Measure 4.14-6, the following improvements would mitigate impacts under future year 2035 conditions at the five intersections list above but are infeasible for the reasons stated:

- ◆ An additional eastbound right turn lane on Thornton Avenue would mitigate the impact at the intersection of Cherry Street/Thornton Avenue. However, due to the built out nature of the City, limited right-of-way is available at the intersection. The City would need to exercise eminent domain to obtain the right-of-way, resulting in impacts to the land owner on the southwest corner of the intersection. Additionally, potential secondary impacts (such as increased pedestrian crossing distances and impacts to bicyclists in the corridor) would occur with the improvement. Therefore, this improvement is not feasible and the impact is significant and unavoidable.
- ◆ An additional northbound left turn lane on Newark Boulevard to accommodate the heavy left turn movement would mitigate the impact at the intersection of Newark Boulevard/Thornton Avenue. While no project traffic is added directly to this movement, the addition of this lane would improve overall intersection operations. However, due to the built out nature of the City, limited right-of-way is available at the intersection. The City would need to exercise eminent domain to obtain the right-of-way, resulting in impacts to the land owners on the southeast and southwest corners of the intersection. Additionally, potential secondary impacts (such as increased pedestrian crossing distances and impacts to bicyclists in the corridor) would occur with the improvement. Therefore, this improvement is not feasible and the impact is significant and unavoidable.
- ◆ An additional westbound left turn lane on Thornton Avenue to accommodate the high left turn demand would mitigate the impact at the intersection of Cedar Boulevard/Thornton Avenue. While no project traffic is added directly to this movement, the addition of this lane would improve overall intersection operations. However, due to the built out nature of the City, limited right-of-way is available at the intersection. The City would need to exercise eminent domain to obtain the right-of-way, resulting in impacts to the land owners on the northeast and southeast corners of the intersection. Additionally, potential secondary impacts (such as increased pedestrian crossing distances and impacts to bicyclists in the corridor) would occur with the improvement. Therefore, this improvement is not feasible and the impact is considered significant and unavoidable.
- ◆ An additional eastbound right turn lane on Central Avenue would mitigate the impact at the intersection of Cherry Street/Central Avenue. However, due to the built out nature of the City, limited right-of-way is available at the intersection. The City would need to exercise eminent domain to

obtain the right-of-way, resulting in impacts to the land owner on the southwest corner of the intersection. Additionally, potential secondary impacts (such as increased pedestrian crossing distances and impacts to bicyclists in the corridor) would occur with the improvement. Therefore, this improvement is not feasible and the impact is significant and unavoidable.

Mitigation for impacts to the five roadway segment listed above would require adding travel lanes and widening roadways throughout the City. As the City is built out, there is little opportunity to widen roadways within the available right-of-way. Therefore, any widening would require property acquisition. Widening of Thornton Avenue could also result in secondary impacts to bicyclists and pedestrians by creating longer crossing distances and creating a less comfortable environment for walking or bicycling. Additionally, four of the impacted roadway segments (on I-880 and SR 84) are Caltrans facilities, and not within the City's jurisdiction. Funding and construction of any necessary improvements is uncertain. Due to the number of affected properties and financial implications, along with the fact that the project cannot legally be conditioned upon the construction of improvements over land over which neither the applicant or the City has control, mitigation for roadway segment impacts is infeasible. Mitigation Measure 4.14-8 requiring the payment of all applicable transportation-related fees will partially mitigate the impacts of the Specific Plan. However, since the fee programs will not fully fund all the mitigation necessary, the impact to roadway segments is significant and unavoidable.

Overriding Considerations

The environmental, economic, legal, social, technological, and other benefits of the project outweigh and override these potentially significant adverse impacts as more fully described in the Statement of Overriding Considerations, set forth in Section 7.0 below.

5.0 FINDINGS REGARDING CONSIDERATIONS THAT MAKE ALTERNATIVES ANALYZED IN EIR INFEASIBLE

Based on the entire record, the City finds that the EIR identified and considered a reasonable range of feasible alternatives to the proposed project which are capable, to varying degrees, of reducing identified impacts. The EIR evaluated three alternatives in accordance with the CEQA Guidelines, including:

- ◆ Alternative 1: No Project/No Build
- ◆ Alternative 2: High Density Residential
- ◆ Alternative 3: Medium-High Density Residential

5.1 NO PROJECT/NO BUILD

Under the No Project/No Build Alternative (Alternative 1), the development and redevelopment which would be established by the Specific Plan, namely, a mix of residential, office, retail, public/quasi-public and park and open space uses would not occur. The General Plan would not be amended, the Dumbarton TOD Specific Plan would not be adopted, and the site would not be rezoned. The zoning designations for the land comprising the Specific Plan area would remain a combination of High Technology Park District, Limited Industrial District and General Industrial District. Therefore, under Alternative 1, there would be no immediate physical or operational changes within the Specific Plan area and existing conditions would remain unchanged.

5.1.1 Environmental Effects

Implementation of Alternative 1 would avoid the project's significant and unavoidable traffic impacts as well as potentially significant impacts associated with air quality, biological resources, cultural resources, geology and soil, GHG emissions, hydrology, drainage and water quality, noise, and public services and utilities. Because the project site would remain largely as vacant, weedy industrial land and fields and would not be replaced by more complimentary land uses which enhance the existing aesthetic values of the area, the aesthetic impacts under Alternative 1 would generally be greater in comparison to the proposed project. In addition, without new residential and commercial uses, land values would not increase to help absorb the cost of remediation and there would not be incentives to facilitate the remediation of Specific Plan area. Thus, Alternative 1 would result in a greater impact from hazards and hazardous materials in comparison to the proposed project. Under Alternative 1, current land use conflicts between the project area and existing residences would remain and result in greater land use impacts than the proposed project

5.1.2 Relation to Project Objectives

Alternative 1 would not meet the primary project objectives of developing a sustainable community that includes a variety of residential, retail, employment generating and recreational opportunities in close proximity to each other; providing a mix of housing opportunities at a range of densities from single-family detached to multi-family housing to meet the varied housing needs of the community; creating compact, connected, safe and walkable neighborhoods with convenient access to a future, planned transit station along the DRC, existing employment centers, including Silicon Valley, parks and open space, and commercial services; and providing a sufficient number of residential units within walking distance of the future planned transit station to generate the ridership necessary to support the station if and when the DRC project is implemented.

5.1.3 Feasibility

Alternative 1 is infeasible because it would not meet the project objectives. This alternative would not provide any of the specific social, economic, and other project benefits outlined above or in the Statement of Overriding Considerations.

5.2 HIGH DENSITY RESIDENTIAL

Under the High Density Residential Alternative (Alternative 2), development would be concentrated around the space provided for the future DRC transit station. The mix of residential, office, retail, public/quasi-public, and park and open space uses would remain the same, along with the maximum of 2,500 residential units. However, housing would consist of high density (60 units/acre) development on approximately 42 acres, rather than a variety of residential housing types on approximately 147.2 acres. The acreage proposed for office, retail and public/quasi-public uses would remain the same with approximately 35,000 square feet of retail use and 195,000 square feet of office use. Under Alternative 2, the amount of park and open space uses would increase from 16.31 acres to 121.5 acres. Thus, substantially less area of the Specific Plan area would be developed with housing; however, the same number of units would be construction.

5.2.1 Environmental Effects

Implementation of Alternative 2 would reduce impacts related to: aesthetics, air quality, biological resources, cultural resources, GHG emissions, hydrology, drainage, and water quality, public services and utilities, population and housing, recreation, and noise because less of the project area would be developed. Similar or

greater impacts would result in areas of geology and soils, hazards and hazardous materials, land use and planning, and traffic under Alternative 2.

5.2.2 Relation to Project Objectives

Alternative 2 would satisfy some of the project objectives, including creating compact, connected, safe and walkable neighborhoods with convenient access to a future, planned transit station along the DRC, existing employment centers, including Silicon Valley, parks and open space, and commercial services; and providing a sufficient number of residential units within walking distance of the future planned transit station to generate the ridership necessary to support the station if and when the DRC project. However, this alternative would not meet the project objectives of implementing strategies to ensure success for the Specific Plan area developers, homebuilders, and the City; providing a mix of housing opportunities at a range of densities from single-family detached to multi-family housing to meet the varied housing needs of the community; effectuating the City's General Plan goals, policies and programs that require a mix of housing types at a range of densities and for a range of income levels; and encouraging the development of a predominantly vacant area of land for its highest and best use.

5.2.3 Feasibility

Alternative 2 is infeasible because it would not meet the project objectives. This alternative would not provide the mix of housing opportunities needed to ensure success of Specific Plan developers, homebuilders and the City.

5.3 MEDIUM-HIGH DENSITY RESIDENTIAL

Under the Medium High Density Residential Alternative (Alternative 3), residential development would be concentrated away from sensitive biological resources. The mix of residential, office, retail, public/quasi-public and park and open space uses would remain the same, along with the maximum of 2,500 residential units. However, housing types would consist of medium high density (30 units/acre) development on approximately 83 acres, rather than a variety of residential types on approximately 147.2 acres. The acreage proposed for office, retail and public/quasi-public uses would remain the same and approximately 35,000 square feet of retail use and 195,000 square feet office use would be developed.

Under Alternative 3, the remainder of the Specific Plan area (not developed for residential, office and retail uses) would be rezoned from the current industrial/R&D/office zoning to park and open space; the amount of park and protected open space uses would, therefore, increase from 16.31 acres to approximately 80.5 acres. Thus, substantially less of the Specific Plan area would be developed with housing.

5.3.1 Environmental Effects

Implementation of Alternative 3 would reduce impacts related to: aesthetics, air quality, biological resources, cultural resources, GHG emissions, hydrology, drainage, and water quality, public services and utilities, population and housing, recreation, and noise because less of the project area would be developed. Similar or greater impacts would result in areas of geology and soils, hazards and hazardous materials, land use and planning, and traffic under Alternative 3.

5.3.2 Relation to Project Objectives

Alternative 3 would satisfy some of the project objectives, including creating compact, connected, safe and walkable neighborhoods with convenient access to a future, planned transit station along the DRC, existing

employment centers, including Silicon Valley, parks and open space, and commercial services; and providing a sufficient number of residential units within walking distance of the future planned transit station to generate the ridership necessary to support the station if and when the DRC project. However, this alternative would not meet the project objectives of implementing strategies to ensure success for the Specific Plan area developers, homebuilders, and the City of Newark; providing a mix of housing opportunities at a range of densities from single-family detached to multi-family housing to meet the varied housing needs of the community; effectuating the City's General Plan goals, policies and programs that require a mix of housing types at a range of densities and for a range of income levels; and encouraging the development of a predominantly vacant area of land for its highest and best use.

5.3.3 Feasibility

Alternative 3 is infeasible because it would not meet the project objectives. This alternative would not provide the mix of housing opportunities needed to ensure success of Specific Plan developers, homebuilders and the City.

6.0 FINDINGS WITH RESPECT TO MITIGATION OF SIGNIFICANT IMPACTS AND ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM

Based on the entire record before the City, and having considered the significant and unavoidable impacts of the project, the City hereby determines that all feasible mitigation within the responsibility and jurisdiction of the City has been adopted to reduce or avoid the potentially significant impacts identified in the EIR, and that no additional feasible mitigation is available to further reduce significant impacts. The feasible mitigation measures are discussed in Section 4.1 and are set forth in the MMRP.

CEQA provides that each public agency shall mitigate or avoid the significant effects on the environment of projects it approves or carries out whenever it is feasible to do so (Public Resources Code 21001.1[b]). In mitigating or avoiding a significant effect of a project on the environment, a public agency may exercise only those express or implied powers provided by law other than under CEQA (Public Resources Code 21004). The City has specific powers to mitigate effects that occur within its jurisdiction, namely within the City.

Section 21081.6 of the Public Resources Code requires the City to adopt a monitoring or compliance program regarding the changes in the project and mitigation measures imposed to lessen or avoid significant effects on the environment. The MMRP for the Dumbarton TOD Specific Plan is hereby adopted by the City because it fulfills the CEQA mitigation monitoring requirements, as follows:

- ◆ The MMRP is designed to ensure compliance with the changes in the project and mitigation measures imposed on the project during project implementation
- ◆ Measures to mitigate or avoid significant effects on the environment are fully enforceable through conditions of approval, permit conditions, agreements or other measures.

7.0 STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires decision makers to balance, as applicable, the economic, legal, social, technological or other benefits of a project against its significant and unavoidable environmental impacts when determining whether to approve the project. If the specific economic, legal, social, technological or other benefits of the project outweigh the significant and unavoidable impacts, those impacts may be considered "acceptable" (CEQA

Guidelines Section 15093(a)). When significant impacts are not avoided or lessened, CEQA requires the agency to state, in writing, the specific reasons for considering a project acceptable. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record (CEQA Guidelines Section 15093(b)).

In accordance with the requirements of CEQA and the CEQA Guidelines, the City finds that the mitigation measures identified in the Final EIR and the Mitigation Monitoring and Reporting Program, when implemented, will avoid or substantially lessen virtually all of the significant impacts identified in the Final EIR for the Dumbarton TOD Specific Plan. However, certain significant impacts of the project are unavoidable even after incorporation of all feasible mitigation measures. The project would result in significant and unavoidable traffic impacts. The Final EIR provides detailed information regarding these impacts.

The City finds that all feasible mitigation measures identified in the Final EIR within the purview of the City will be implemented with the project, and that the remaining significant and unavoidable impacts are outweighed and are found to be acceptable due to the following specific overriding economic, legal, social, technological or other benefits based upon the facts set forth above in the Findings of Fact, the Final EIR and the administrative record. Each of the following specific overriding economic, legal, social, technological or other benefits (overriding considerations) set forth below constitutes a separate and independent ground for finding that the project benefits outweigh its significant adverse environmental impacts and, alone, is an adequate overriding consideration associated with the project that outweigh the project's significant and unavoidable impacts and are, therefore, considered acceptable, warranting approval of the project.

- ◆ The Dumbarton TOD Specific Plan will develop a sustainable community that includes a variety of residential, retail, employment generating, and park and recreational opportunities in close proximity to each other.
- ◆ The Dumbarton TOD Specific Plan is consistent with and effectuates the City of Newark's General Plan and other applicable planning and zoning goals, policies, objectives and requirements.
- ◆ The Dumbarton TOD Specific Plan will create compact, connected, safe and walkable neighborhoods with convenient access to a future, planned transit station along the Dumbarton Rail Corridor, existing employment centers, including Silicon Valley, parks and open space, and commercial services.
- ◆ The Dumbarton TOD Specific Plan will facilitate development based on the principles of sustainability. It is intended to be a community that meets the needs of people and the environment by providing energy efficient buildings, walkable streets, parks, open space, habitat protection, and a diversity of housing opportunities.
- ◆ Mixed-use developments, such as proposed by the Dumbarton TOD Specific Plan, typically generate fewer auto trips per unit of land use than single-use suburban developments, which in turn reduce automobile dependence, gasoline consumption, greenhouse gas emissions and emissions of other pollutants associated with automobile use. Fewer automobile trips associated with mixed-use developments also reduce noise pollution and improve congestion on local roadways.
- ◆ The Dumbarton TOD Specific Plan will provide employment and shopping opportunities in a centralized location, surrounded by housing, which provides the benefits of reduced automobile dependence, gasoline consumption, greenhouse gas emissions and emissions of other pollutants associated with automobile use, noise pollution and improved congestion on local roadways.
- ◆ The Dumbarton TOD Specific Plan will provide a maximum of 2,500 residential units, which will help the City meet its regional housing needs allocation.

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- ◆ The Dumbarton TOD Specific Plan, when compared to the other alternatives analyzed in the Final EIR (including the No Project Alternative), provides that best available balance between maximizing the attainment of the project objectives while minimizing significant environmental impacts.

Considering all factors, the City finds that each of the above-referenced overriding considerations constitutes a separate and independent ground for finding that the project benefits outweigh its significant adverse environmental impacts and, alone, is an adequate overriding consideration associated with the project that outweigh the project's significant and unavoidable impacts and are, therefore, considered acceptable, warranting approval of the project.

DUMBARTON TRANSIT ORIENTED DEVELOPMENT SPECIFIC PLAN

FINAL ENVIRONMENTAL IMPACT REPORT
(State Clearinghouse No. 2010042012)

MITIGATION MONITORING AND REPORTING PROGRAM

RESOLUTION NO. 9886
EXHIBIT B

August 2011

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<i>Air Quality</i>					
<p>4.2-1a - Prior to issuance of any Grading Permit, the Public Works Director and the Building Official shall confirm that Grading Plans, Building Plans, and specifications stipulate that, in compliance with the BAAQMD CEQA Air Quality Guidelines, the following basic construction mitigation measures shall be implemented for all construction projects:</p> <ul style="list-style-type: none"> ▪ All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas and unpaved access roads) shall be watered two times per day. ▪ All haul trucks transporting soil, sand, or other loose material off-site shall be covered. ▪ 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. ▪ All vehicle speeds on unpaved roads shall be limited to 15 mph. ▪ All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. ▪ Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of 	<p>Require as a condition of project approval.</p> <p>Project applicant includes measures on plans submitted for grading permits.</p> <p>Construction contractor implements control measures.</p>	<p>City Council and Planning Division</p> <p>Engineering/Building Division</p> <p>Building Division</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Review plans prior to issuance of grading permits to ensure that requirements described in Mitigation Measure 4.2-1a have been met.</p> <p>Conduct periodic site visits during demolition, grading and construction.</p>	<p>Deny project approval.</p> <p>Deny grading permits.</p> <p>Halt demolition, grading or construction until control measures are implemented.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <ul style="list-style-type: none"> ▪ 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. ▪ A publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints shall be posted. 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. 					
<p>4.2-1b - Prior to issuance of any Grading Permit, the Public Works Director and the Building Official shall confirm that the Grading Plans, Building Plans, and specifications stipulate that, in compliance with the BAAQMD CEQA Air Quality Guidelines, the following additional construction mitigation measures shall be implemented for all construction projects:</p> <ul style="list-style-type: none"> ▪ All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe. ▪ All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph. 	<p>Require as a condition of project approval.</p> <p>Project applicant includes measures on plans submitted for grading permits.</p> <p>Construction contractor implements control measures.</p>	<p>City Council and Planning Division</p> <p>Engineering/Building Division</p> <p>Building Division</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Review plans prior to issuance of grading permits to ensure that requirements described in Mitigation Measure 4.2-1b have been met.</p> <p>Conduct periodic site visits during demolition, grading and construction.</p>	<p>Deny project approval.</p> <p>Deny grading permits.</p> <p>Halt demolition, grading or construction until control measures are implemented.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<ul style="list-style-type: none"> ▪ Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity. ▪ Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established. ▪ The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time. ▪ All trucks and equipment, including their tires, shall be washed off prior to leaving the site. ▪ Site accesses up to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel. ▪ Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent. ▪ Minimizing the idling time of diesel powered construction equipment to two minutes. ▪ The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 					

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>percent NO_x reduction and 45 percent PM reduction compared to the most recent CARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.</p> <ul style="list-style-type: none"> ▪ Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings). ▪ Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NO_x and PM. ▪ Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines. 					
<p>4.2-2 - Prior to building permit issuance, the project applicant shall demonstrate to the City of Newark Community Development Director that emissions from the Dumbarton Transit Station would not exceed BAAQMD health risk criteria at the high/mixed-use residential, medium/high density residential, medium density residential parcels located within 1,000 feet. If health risks are determined for any sensitive receptors located within 1,000 feet of the Dumbarton Transit Station, the project applicant shall demonstrate that the following is provided:</p> <ul style="list-style-type: none"> ▪ A filtered air supply system shall be 	<p>Require as a condition of project approval.</p> <p>Project applicant hires air quality specialist to prepare analysis and submits with building permit plans for residential development within 1,000 feet of Transit Station and meets requirements of Mitigation Measure</p>	<p>City Council and Planning Division</p> <p>Planning/Building Division</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Review plans prior to issuance of building permits to ensure that requirements described in Mitigation Measure 4.2-2 have been met.</p>	<p>Deny project approval.</p> <p>Deny issuance building permits.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>installed in all residential units to maintain positive pressure when windows are closed. The ventilation system, whether a central heating, ventilation and air conditioning (HVAC) or a unit-by-unit filtration system, shall include high-efficiency filters meeting minimum efficiency reporting value (MERV) 13, per American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 52.2 (equivalent to approximately ASHRAE Standard 52.1 Dust Spot 85 percent) or shall be certified by a licensed design professional that the ventilation system is capable of removing more than 80 percent of ambient PM_{2.5} from habitable areas of dwelling units.</p> <ul style="list-style-type: none"> ▪ Air intakes for HVAC shall be located away from the freeway to the maximum extent feasible. ▪ The applicant shall also prepare and implement a plan that ensures on-going maintenance of ventilation and filtration systems, including informing occupant's of the proper maintenance of any installed air filtration system. 	4.2-2, if health risks are determined.				
Biological Resources					
4.3-1 - In order to avoid potentially impacting the salt marsh harvest mouse, prior to any site grading or development of properties within the Specific Plan area, a federal and state permitted salt marsh harvest mouse biologist shall conduct a "Habitat Assessment" to determine if the parcel where work is proposed provides suitable habitat for the salt marsh	<p>Require as a condition of project approval.</p> <p>Project applicant hires qualified biologist to conduct habitat assessment prior to</p>	<p>City Council and Planning Division</p> <p>Planning Division, CDFG and USFWS</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to commencement of grading or construction, ensure that habitat assessment has</p>	<p>Deny project approval.</p> <p>Delay commencement of grading or construction.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>harvest mouse. The exception to this requirement would be the Torian property since two Habitat Assessments have been prepared for the property (by Live Oak Associates and Zentner and Zentner), which concluded that the property does not provide suitable habitat for the salt marsh harvest mouse. However, the Torian property shall implement protective measures, such as hand removal of pickleweed onsite and installation of mouse-proof exclusion fencing, prior to site development as further described below under "preconstruction measures." If a qualified, CDFG and USFWS permitted salt marsh harvest mouse biologist renders a conclusion that no impacts to the salt marsh harvest mouse would occur from development of the project site, the standards of care dictated by CEQA will be met and no further action shall be warranted.</p> <p>However, if the permitted biologist believes the project could impact the salt marsh harvest mouse or if the biologist that prepares the assessment does not hold current permits from CDFG and USFWS that allow work with the salt marsh harvest mouse, then the Habitat Assessment prepared for the project site parcels would need to be submitted to USFWS and CDFG for their review and comment. These two agencies administer the FESA and CESA (respectively) and oversee the protection of this species. If the non-permitted biologist determines that habitat conditions are not suitable for the salt marsh harvest mouse, and the USFWS and CDFG (the regulatory agencies with jurisdictional authority over this</p>	<p>commencement of grading or construction. If suitable habitat is found, project applicant preserves/acquires suitable habitat and implements preconstruction measures as described in Mitigation Measure 4.3-1.</p>		<p>been conducted and requirements described in Mitigation Measure 4.3-1 have been met.</p>		

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>listed species) concur with these findings in writing via a letter or email, then no further regard for the salt marsh harvest mouse would be necessary.</p> <p>However, if a permitted biologist determines that the project site's habitat conditions are suitable for the salt marsh harvest mouse, and the project applicant wishes to pursue development of the parcel, the Habitat Assessment shall be submitted to the USFWS and CDFG and these agencies will be contacted to determine if they will allow a live-trapping study on the parcel to determine this mouse's presence or absence.</p> <p>Since the salt marsh harvest mouse is a "fully protected" mammal species pursuant to CDFG Code §4700, CDFG typically does not allow live-trapping for this species (unless it is a research proposal) since live-trapping/handling the animals constitutes "harassment" (a form of "take" under the Endangered Species Acts). If CDFG and/or USFWS do not allow a trapping study to determine the salt marsh harvest mouse's presence/absence, yet they believe that habitat conditions on a project site are suitable to support this mouse, they typically assume this mouse's presence on the site and require the project applicant to enlist in precautionary preconstruction methods to avoid take of this state and federal listed mouse. Since "take" of fully protected mammals is not allowed under California Fish and Game Code, an "incidental take" permit cannot be issued authorizing take of this species; hence, the need for precautionary</p>					

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>preconstruction measures as described below. In addition to the measures detailed below, it shall be necessary to preserve/acquire suitable habitat for the salt marsh harvest mouse at a minimum 1:1 mitigation ratio (that is, for each acre of habitat impacted, one acre of suitable habitat onsite or offsite shall be preserved) or at a ratio as required by CDFG and USFWS. Any salt marsh harvest mouse habitat preserved onsite shall be separated from development by installing a cat-proof fence to protect the salt marsh harvest mouse from cats and other mammalian predators.</p> <p>Preconstruction measures would include hand removal of all suitable salt marsh vegetation from the project area and excluding the suitable habitat area from the remainder of the project area by installing "mouse-proof" fencing. These methods are described in detail below and would only be necessary and/or allowed if:</p> <ul style="list-style-type: none"> ▪ A permitted biologist determines that suitable habitat is present on the project site and, ▪ USFWS and CDFG concur with this determination and do not allow live-trapping to determine the mouse's presence/absence, but require vegetation stripping to remove suitable habitat conditions. <p>As approved by the CDFG and USFWS, all suitable vegetation that could support the salt marsh harvest mouse within the proposed development footprint shall be removed by hand prior to the initiation of grading or other</p>					

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>construction activities. This will remove the attraction of the development site to salt marsh harvest mouse. A permitted CDFG/USFWS salt marsh harvest mouse biologist shall be onsite to monitor vegetation clearing to ensure no mice are harmed. The area that is cleared for the development would be minimized to the extent possible. The vegetation would be stockpiled in an area away from the work activities. In addition, a mouse-proof fence shall be installed and maintained around the cleared area to prevent mice from entering the work area. Fencing has to be climb-proof (for example, smooth plastic, not silt fencing) and installed in such a manner so that the salt marsh harvest mouse cannot dig under the fence. The salt marsh harvest mouse is known to be an agile climber, often climbing vegetation to escape rising tidal waters, but rarely digs extensively. Regardless, fencing material must account for both behaviors.</p> <p>The optimal salt marsh harvest mouse fence shall be constructed using eight-millimeter plastic sheeting that is sandwiched between wooden stakes and buried in a minimum six-inch deep trench. The stakes shall screw together firmly sandwiching the plastic in place. It is mandatory to sandwich the plastic between stakes if the fence is to last through even moderate winds. The finished installed fence shall be three feet above the ground. Plastic sheeting is smooth and non-climbable, and by burying the sheeting and stapling it to the ground at three inch intervals, it prevents rodents from going underneath the fence. However, the integrity of plastic fencing only</p>					

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>lasts for a couple of months, or perhaps three months at the longest. Accordingly, the timeframe for completing the project must be within a three-month window or the fencing shall be replaced. The integrity of the salt marsh harvest mouse fencing shall be inspected on a weekly basis by a qualified biologist.</p> <p>Prior to installing the salt marsh harvest mouse fence, all vegetation must be cleared from alongside the fence line route. Vegetation removal shall be pre-approved by CDFG and USFWS. Once the vegetation has been removed and the exclusion fencing installed, an “as-built” report, complete with photographs, shall be prepared by a qualified biologist and submitted to the City Community Development Department.</p>					
<p>4.3-2 - In order to avoid impacts on nesting raptors, a nesting survey shall be conducted on individual project site parcels prior to commencing with earth-moving or construction work if this work would occur during raptor nesting season (between February 1 and August 31). The raptor nesting survey shall include examination of all trees on or within 300 feet of the entire project site, not just trees slated for removal, since ground vibrations and noise from earth-moving equipment can disturb nesting birds and potentially result in nest abandonment. Since northern harriers are ground nesting raptors, the nesting survey shall also include systematic walking transects across all suitable ground on the project site parcels.</p>	<p>Require as a condition of project approval.</p> <p>Project applicant hires qualified biologist to conduct nesting survey if grading or construction would occur during nesting season.</p> <p>Project applicant provides necessary buffer if nests are identified.</p>	<p>City Council and Planning Division</p> <p>Planning Division</p> <p>Planning/Building Divisions</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to commencement of grading or construction, ensure that survey has been conducted and requirements described in Mitigation Measure 4.3-2 have been met.</p> <p>Conduct periodic site visits during grading and construction.</p>	<p>Deny project approval.</p> <p>Delay commencement of grading or construction.</p> <p>Halt grading and/or construction until necessary buffer is provided.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>If nesting raptors are identified during the surveys, orange construction fence shall be installed to establish a 300-foot radius around the nest unless a qualified biologist determines that a lesser distance will adequately protect the nest (refer to discussion below for more detail). If the tree or nest is located off the project site, then the buffer shall be demarcated per the above where the buffer intersects the project site.</p> <p>The size of the non-disturbance buffer may be altered if a qualified raptor biologist conducts behavioral observations and determines the nesting raptors are well acclimated to disturbance. If this occurs, the raptor biologist shall prescribe a modified buffer that allows sufficient room to prevent undue disturbance/harassment to nesting raptors. If the buffer is reduced, the qualified raptor biologist shall remain onsite to monitor the raptors' behavior during heavy construction in order to ensure that the reduced buffer does not result in take of eggs or nestlings. No construction or earth-moving activity shall occur within the established buffer until it is determined by a qualified raptor biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones. This typically occurs by August 1. This date may be earlier or later, and would have to be determined by a qualified raptor biologist. If a qualified biologist is not hired to monitor the nesting raptors then the full 300-foot buffers shall be maintained in place from February 1 through the month of August. The buffer may be removed and work</p>					

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>may proceed as otherwise planned within the buffer on September 1.</p>					
<p>4.3-3 - Western burrowing owl surveys shall be conducted by a qualified western burrowing owl biologist 90 days prior to construction of any project within the project site and again 30 days prior to construction of a project as described below to ensure there are no impacts on burrowing owls. Burrowing owl surveys conducted according to the methodologies prescribed by CDFG in their 1995 Staff Report on Burrowing Owl Mitigation are more likely to be accepted by CDFG. The survey methodologies that will otherwise meet the standards of care required by CEQA are provided below. These methods may not be as intense as those methods described in the document cited above but these methods have been coordinated with CDFG biologists for other projects and are sufficient for detecting burrowing owls provided an experienced burrowing owl biologist conducts the surveys.</p> <p>Using the methodology prescribed below, burrowing owl and burrow surveys shall be conducted 90 and 30 days in advance of project site disturbance. Two surveys shall be conducted 90 days before ground disturbance associated with the project and two surveys shall be conducted in the 30 day period prior to ground disturbance associated with the project. The CDFG Staff Report states that preconstruction surveys need to be completed within 30 days of grading prior to CDFG accepting a survey conclusion that no burrowing owls occur in a proposed study area</p>	<p>Require as a condition of project approval.</p> <p>Project applicant hires qualified biologist to conduct surveys.</p> <p>Project applicant provides necessary buffer and meets other requirements, as described in Mitigation Measure 4.3-3.</p>	<p>City Council and Planning Division</p> <p>Planning Division and CDFG</p> <p>Planning/Building Divisions</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to commencement of grading or construction, ensure that survey has been conducted and requirements described in Mitigation Measure 4.3-3 have been met.</p> <p>Conduct periodic site visits during grading and construction.</p>	<p>Deny project approval.</p> <p>Delay commencement of grading or construction.</p> <p>Halt grading and/or construction until buffer is provided and other requirements are met.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>(i.e., negative findings). Western burrowing owl surveys shall be conducted from two hours before sunset to one hour after, or one hour before to two hours after sunrise. All burrowing owl sightings, occupied burrows, and burrows with owl sign (e.g., pellets, excrement, and molt feathers) shall be counted and mapped. Surveys shall be conducted by walking all suitable habitat on the entire project site and (where possible) in areas within 150 meters (approximately 500 feet) of the project impact zone. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the project area which may be impacted by factors such as noise and vibration (heavy equipment) during project construction. Pedestrian survey transects shall be systematically spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines shall be no more than 30 meters (approx. 100 feet) and shall be reduced to account for differences in terrain, vegetation density, and ground surface visibility. To effectively survey large projects (100 acres or larger), two or more surveyors shall be used to walk adjacent, parallel transects. To avoid impacts on owls from surveyors, owls and/or occupied burrows shall be avoided by a minimum of 50 meters (approx. 160 feet) if in the non-breeding months (October 1 through February 1) and 250 feet during the breeding months (February 1 through October 1). Disturbance to occupied burrows and within the established buffers shall be avoided until no burrowing owls occur on the site.</p>					

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>If burrowing owls are detected on the site during the breeding season (peak of the breeding season is April 15 through July 15), and appear to be engaged in nesting behavior, a fenced 250-foot buffer shall be required between the nest site(s) (i.e., the active burrow(s)) and any earth-moving activity or other disturbance in the project area. This 250-foot buffer could be decreased to 160 feet once it is determined by a qualified burrowing owl biologist that the young have fledged (that is, left the nest). Typically, the young fledge by August 31. This date may be earlier than August 31, or later, and would have to be determined by a qualified burrowing owl biologist. If burrowing owls were found on the project site, a qualified biologist shall delineate the extent of burrowing owl habitat on the site.</p> <p>To mitigate impacts on burrowing owls, CDFG prescribes that six and a half acres (6.5 acres) of replacement habitat be set aside (i.e., protected in perpetuity) per pair of burrowing owls, or unpaired resident bird. Such a set-aside would offset permanent impacts on burrowing owl habitat. To illustrate the extent of mitigation land required by CDFG, this example is provided: If two pairs of burrowing owls are identified on the study area, 13 acres of mitigation land would be acquired. Or, if one pair and one resident bird are identified, 13 acres of mitigation land would be acquired. The protected lands shall be adjacent to occupied burrowing owl habitat if possible, and at a location selected in consultation with CDFG. Land identified to offset impacts on burrowing owls shall be protected in perpetuity by a</p>					

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>suitable property instrument (e.g., a conservation easement or fee title acquisition). A Mitigation Plan shall be prepared in consultation with CDFG for review and approval by the City.</p> <p>The Mitigation Plan shall identify the mitigation site and any activities proposed to enhance the site, including the construction of artificial burrows and maintenance of California ground squirrel populations on the mitigation site. In addition, for each pair of burrowing owls found in the construction area, two artificial nesting burrows shall be created at the mitigation site. The Plan shall also include a description of monitoring and management methods proposed at the mitigation site. Monitoring and management of any lands identified for mitigation purposes shall be the responsibility of the applicant for at least five years. An annual report shall be prepared for submittal to CDFG and the City by December 31 of each monitoring year. Contingency measures for any anticipated problems should be identified in the plan.</p>					
<p>4.3-4 - In order to avoid impacts on nesting passerines, a nesting survey shall be conducted on individual project site parcels and within 100 feet of the parcel being developed prior to commencing initial earth-moving or construction work on that parcel if this work would occur during the passerine nesting season, that is, between March 1 and September 1. The nesting survey shall also survey lands within 100 feet of the parcel being developed. The nesting surveys shall be</p>	<p>Require as a condition of project approval</p> <p>Project applicant hires qualified biologist to conduct nesting survey if grading or construction would occur during nesting season.</p>	<p>City Council and Planning Division</p> <p>Planning Division</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to commencement of grading or construction, ensure that survey has been conducted and requirements described in Mitigation Measure</p>	<p>Deny project approval.</p> <p>Delay commencement of grading and/or building permits.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>completed approximately 15 days prior to commencing work. If special-status birds are identified nesting on or near the project site, a 100-foot radius around all identified active nests shall be demarcated with orange construction fencing to establish a non-disturbance buffer. If an active nest is found offsite, the intersecting portion of the buffer that is onsite shall be fenced. No construction or earth-moving activity shall occur within this 100-foot staked buffer until it is determined by a qualified biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones.</p> <p>If common (that is, not special-status) birds, for example, red-winged blackbird, are identified nesting on or adjacent to the project site, a non-disturbance buffer of 75 feet shall be established or as otherwise prescribed by a qualified ornithologist. The buffer shall be demarcated with orange construction fencing. Disturbance around an active nest shall be postponed until it is determined by the qualified wildlife biologist that the young have fledged and have attained sufficient flight skills to leave the area.</p> <p>Typically, most birds in the region of the project site are expected to complete nesting by August 1. However, in the region many species can complete nesting by the end of June or in early to mid-July. Regardless, nesting buffers shall be maintained until August 1 unless a qualified wildlife biologist determines that young have fledged and are independent of</p>	<p>Project applicant provides necessary buffer if nests are identified.</p>	<p>Planning/Building Divisions</p>	<p>4.3-4 have been met.</p> <p>Conduct periodic site visits during grading and construction.</p>	<p>Halt grading and/or construction until necessary buffer is provided.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>their nests at an earlier date. If buffers are removed prior to August 1st, the biologist conducting the nesting surveys shall prepare a report that provides details about the nesting outcome and the removal of buffers. This report shall be submitted to the City project planner prior to the time that buffers are removed if the date is before August 1.</p>					
<p>4.3-5 - Prior to City approval of any specific development, special-status plant surveys shall be conducted in appropriate habitats during the appropriate period in which the species are most identifiable in compliance with all CDFG (2000), USFWS (1996), and CNPS (2001) published survey guidelines. Project construction shall not be initiated until all special-status plant surveys are completed and subsequent mitigation, if necessary, is implemented.</p> <p>If special-status plant species are found during surveys, those individuals or populations shall be avoided to the maximum degree possible. If avoidance is not possible while otherwise obtaining the project's objectives, then other suitable measures and mitigation shall be developed in consultation with the agencies that are responsible for protection of that plant species based on its protection status. [i.e., City (protected by CEQA), CDFG (protected by California law/regulation), or USFWS (protected by federal law/regulation)]. Appropriate mitigation prescriptions for impacts on special-status plants shall be included as conditions of project approval as detailed below.</p>	<p>Require as a condition of project approval.</p> <p>Project applicant hires qualified biologist to conduct plant surveys and prepare mitigation compliance report, as described in Mitigation Measure 4.3-5.</p>	<p>City Council and Planning Division</p> <p>Planning Division, CDFG and USFWS</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to commencement of grading or construction, ensure that survey has been conducted and requirements described in Mitigation Measure 4.3-5 have been met.</p>	<p>Deny project approval.</p> <p>Delay commencement of grading or construction.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>Special-status plant surveys shall be completed as described above prior to breaking ground on any parcel within the project site. A special-status plant survey report that includes the methods used, survey participants, and findings shall then be prepared and submitted to the City demonstrating absence of special-status plants at least 30 days prior to breaking ground. The special-status plant report shall be reviewed by a City planner or biologist. If the report documents that there are no special-status plants on the particular project site parcel surveyed, then there would be no further mitigation and the project may proceed, provided all other applicable permits and authorizations are obtained for the project. However, if a special-status plant is found on the project site, the following mitigation measures shall also be implemented as a condition of project approval.</p> <p>If special-status plant species are found during surveys, project development plans shall consider avoidance to the extent practicable. If avoidance is not practicable while otherwise obtaining the project's objectives, then other suitable measures and mitigation shall be implemented as detailed below.</p> <p>A mitigation compliance report shall be submitted to the City planning staff or staff biologist at least 30 days prior to breaking ground. The compliance report shall detail the avoidance and other mitigation measures that have been implemented by the project. The City may approve grading/site disturbance in a</p>					

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>quicker timeframe than 30 days if compliance with the mitigation measures can be verified by the City sooner than 30 days.</p> <p>The following measures shall be implemented if special-status plants are found on the project site:</p> <ul style="list-style-type: none"> ▪ Initially the feasibility of avoidance shall be evaluated as noted above. ▪ If avoidance is not feasible, a mitigation plan shall be developed in consultation with CDFG personnel if it is a state listed (i.e., protected pursuant to the CESA) or a CNPS List 1B or List 2 plant. If the plant is state listed, an incidental take permit (i.e., a 2081 Agreement) shall be acquired for the project from CDFG prior to any grading within the project area. A copy of this permit shall be provided to the appropriate department within the City prior to any grading within the project area. Any conditions for the project established by CDFG in the 2081 Agreement shall become conditions of the project also enforceable by the City. ▪ If the plant is federally listed (i.e., protected pursuant to the Federal Endangered Species Act), the project sponsor shall formally notify the USFWS within five days of the finding and this agency's permitting instructions shall be incorporated into the project conditions of approval. As required in-practice by the USFWS, an "incidental take" permit may be necessary from the USFWS for any proposed impacts on any federally listed 					

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>plants found within the project site. A copy of this permit or a letter from the USFWS that otherwise states this agency is satisfied with the avoidance and/or mitigation measures shall also be provided to the appropriate department at the City prior to the time the project site can be graded.</p> <ul style="list-style-type: none"> ▪ If a plant is found on the project site that is a CNPS List 1B or 2 species, and the species is not otherwise protected pursuant to state or federal regulations, prior to construction within the project area, a qualified botanist shall collect the seeds, propagules, and top soils, or other part of the plant that would ensure successful replanting of the population elsewhere. The seeds, propagules, or other plantable portion of all plants shall be collected at the appropriate time of the year. Half of the seeds and top soils collected shall be appropriately stored in long-term storage at a botanic garden or museum (for example, Rancho Santa Ana Botanic Garden). The other half of the seeds, propagules, or other plantable portion of all plants shall be planted at the appropriate time of year (late-fall months) in an area of the subject property or off-site, protected property that will not be impacted by the project (if the project has a designated off-site mitigation site for impacts on other special-status species, the plants can be seeded on the mitigation site). This area shall be fenced with permanent fencing (for example, chain link fencing) to ensure protection of the 					

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>species. The applicant shall hire a qualified biologist to conduct annual monitoring surveys of the transplanted plant population for a five year period and shall prepare annual monitoring reports reporting the success or failure of the transplanting effort. These reports shall be submitted to the City and appropriate resource agency (CDFG and/or USFWS) no later than December 1st each monitoring year.</p> <p>These steps shall be implemented prior to site disturbance. If the seeding/transplanting effort fails, the stored seeds and top soils can be taken out of long-term storage and sown in another location (either onsite or offsite) deemed suitable by CDFG. This seeding effort shall then be monitored for an additional three year period to ensure survivorship of the new population. Annual monitoring reports shall be submitted to the City for the three year period.</p> <p>A CNDDDB form shall be filled out and submitted to CDFG for any special-status plant species identified within the project site. Any mitigation plan developed in consultation with CDFG shall be implemented prior to the initiation of grading or issuance of a development permit.</p> <p>In lieu of the above prescribed mitigation, as allowed in writing by the City (for CEQA protected species only) and/or CDFG (for CEQA and/or state listed species), mitigation requirements may be satisfied via the purchase of qualified mitigation credits or the</p>					

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<p>preservation of offsite habitat. If the species in question is federally listed, then USFWS would also have to agree in writing typically through issuance of a Biological Opinion that the purchase of qualified mitigation credits or the preservation of offsite habitat would constitute satisfactory mitigation compensation.</p>					
<p>4.3-6 - Wetland mitigation shall, to the extent not already completed, require a wetland delineation conducted according to the 1987 USACE Wetland Delineation Manual (U.S. Army Corps of Engineers 1987) and the Regional Supplement to the USACE Wetland Delineation Manual: Coast Region (Corps 2008) prior to City approval of any specific development proposal. During the wetland delineation, if vernal pools are identified, they shall be noted as areas requiring further study and/or consideration for protection from potential project impacts. This delineation shall be submitted to the USACE for verification. Once that map is "verified," the full extent of waters of the U.S./State would be known and the extent of impacts on regulated areas ascertained.</p> <p>Authorization from the Corps and the RWQCB (for example, a Nationwide Permit and a Certification of Water Quality) shall be obtained as necessary/required by these agencies prior to filling any waters of the U.S./State on the project site.</p> <p>As approved by the USACE and the RWQCB, the project applicant may purchase mitigation credits from an approved mitigation bank or an</p>	<p>Require as a condition of project approval.</p> <p>Project applicant hires qualified biologist to conduct wetland delineation and submits to USACE for verification.</p> <p>If required, project applicant obtains authorization to fill any waters of the U.S./State, minimizes impact and provides required compensation, as described in Mitigation Measure 4.3-6.</p>	<p>City Council and Planning Division</p> <p>Planning Division and USACE</p> <p>Planning Division, USACE and RWQCB</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to issuance of grading permits, confirm that wetland delineation has been prepared and verified by USACE.</p> <p>Prior to grading that would involve filling any waters of the U.S./State, confirm that authorization has been granted.</p>	<p>Deny project approval.</p> <p>Deny issuance of grading permits.</p> <p>Halt grading until authorization is obtained, impacts are minimized and/or compensation is provided.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>approved in-lieu fee mitigation entity at a minimum 1:1 ratio. As an alternative to the purchase of credits in a mitigation bank, wetlands may be created onsite and, if so, shall have an equal or higher functional value than those wetlands affected by the project (known as in-kind replacement).</p> <p>Impacts shall also be minimized by the use of Best Management Practices (BMPs) to protect preserved waters of the U.S./State and to ensure that water quality standards are not compromised in preserved wetlands and other waters within the watershed. These practices can include installing orange construction fencing buffers, straw wattles to keep fill from entering preserved/avoided wetlands and other waters, and other protective measures. During project construction, a biological monitor shall be onsite to monitor the integrity of any preserved wetlands and other waters during mass grading or filling of the project site.</p> <p>For those wetland areas that are not avoided, mitigation compensation wetlands shall be completed. As approved by the USACE and the RWQCB, the project sponsor may purchase mitigation credits from an approved mitigation bank or an approved in-lieu fee mitigation entity at a minimum 1:1 ratio.</p> <p>As an alternative to the purchase of credits in a mitigation bank, wetlands may be created onsite and, if so, shall have an equal or higher functional value than those wetlands affected by the project (known as in-kind replacement). If wetlands cannot be created in-kind and onsite, other alternatives shall include off-site</p>					

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<p>and/or out-of-kind. In any case, mitigation requirements for wetland areas that are not avoided shall be that all impacted wetlands are replaced at a minimum 1:1 ratio (for each square foot of impact, one square foot of wetland would be restored/created) or at a ratio determined by the RWQCB and USACE at the time permits are issued. Mitigation requirements would be based upon the existing conditions of the wetlands impacted. Where practicable, wetland plant/animal populations shall be relocated from the wetlands that would be impacted to any re-created wetlands. Topsoils shall also be removed from wetlands that would be impacted if practicable, and placed into the re-created wetlands. These topsoils would contain a seed bank of the impacted plant species which would germinate with fall/winter hydration of the re-created wetlands.</p> <p>If wetlands are restored/created, adequate compensation shall include creating wetlands at a suitable location that meet the following performance standards:</p> <ul style="list-style-type: none"> ▪ The wetlands shall remain inundated or saturated for sufficient duration to support a predominance of hydrophytic vegetation. ▪ The wetlands shall exhibit plant species richness comparable to existing wetlands. ▪ The wetlands shall replace the lost wetlands at a minimum ratio of one acre created for each acre, or fraction thereof, permanently impacted. 					

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<ul style="list-style-type: none"> ▪ The developer shall provide for the protection of the mitigation areas in perpetuity either through deed restrictions or conservation easements. ▪ The developer shall establish a five-year program to monitor the progress of the wetland mitigation toward these standards. At the end of each monitoring year, an annual report shall be submitted to the City, the RWQCB, and the USACE. This report shall document the hydrological and vegetative condition of the mitigation wetlands, and shall recommend remedial measures as necessary to correct deficiencies. ▪ The USACE and other regulatory agencies generally require that wetlands not impacted by the proposed project and any new wetlands created to mitigate project impacts be set aside in perpetuity, either through deed restrictions or conservation easements. If a perpetual deed restriction is used to preserve the wetland preserve site the land owner and any assignees/transferees of the title of the property shall assume liability for the perpetual management of the preserved lands. The deed restriction shall provide the allowed and prohibited uses of the preserved site and these uses shall be approved by the RWQCB and the Corps. If a conservation easement is established, a non-wasting management endowment (non-wasting infers that principal may not be used to pay for management actions, only interest on the principal sum may be 					

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<p>used) shall be established in concert with the grantee of the conservation easement and shall be large enough to pay for necessary management actions. In lieu of a management endowment, other financial assurances may be provided that otherwise are found acceptable to the grantee of the conservation easement. An example of an alternative funding source would be via a Geologic Hazards Assessment District (GHAD). Home Owners' Associations and Landscape Lighting Districts are not suitable funding entities as funds collected via these entities can be distributed City wide at the discretion of the City. In contrast, GHADs must be used within the taxing district where the funds are acquired.</p>					
<p>4.3-8 - A tree permit shall be obtained from the City prior to the removal of any tree protected by City ordinance on project site parcels. To offset impacts resulting from the removal of these trees, replacement trees shall be planted in designated open space areas on the subject parcel. Tree replacement shall be at a 1:1 ratio (that is, for each tree removed, one tree shall be planted as a replacement). Replacement trees shall be native California species that are native to the Newark area.</p> <p>Replacement trees planted adjacent to the Don Edwards San Francisco Bay National Wildlife Refuge should first be coordinated with the Refuge to avoid the introduction of perching sites for predatory species.</p>	<p>Require as a condition of project approval.</p> <p>Project applicant obtains tree permit, provides tree replacement and prepares a Tree Management Plan, as described in Mitigation Measure 4.3-8.</p>	<p>City Council and Planning Division</p> <p>Planning Division</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Review tree permit to ensure that requirements of Mitigation Measure 4.3-8 have been met.</p>	<p>Deny project approval.</p> <p>Deny issuance of tree permit.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>A Tree Management Plan shall be prepared for any project on any project site parcel where tree removal occurs. Preparation of this plan and subsequent planting and monitoring shall be a condition of project approval and shall be tied to a security bond or cash deposit posted by the developer with the City to pay for any remedial work that might need to occur, if the prior effort fails.</p> <p>All planted trees shall be provided with a buried, irrigation system that shall be maintained over a minimum three-year establishment period. The irrigation system shall be placed on automatic electric or battery operated timers so that trees are automatically watered during the dry months of the establishment period. At the end of the three-year establishment period, the irrigation system could be removed, if necessary. The planted trees' health shall be monitored annually for five years by a qualified biologist or arborist. Annual monitoring reports shall be submitted to the City.</p> <p>At the end of a five-year monitoring period, at least 80 percent of planted trees shall be in good health. If the numbers of planted trees falls below an 80 percent survival rate, additional trees shall be planted to bring the total number of planted trees up to 100 percent of the original number of trees planted. Irrigation and follow-up monitoring shall be established over an additional three year period after any replanting occurs. Any replanting and follow-up monitoring shall be reported in</p>					

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annual reports prepared for the City, Community Development Department. A performance bond, letter of credit, or other financial instrument shall be established to pay for any remedial work that might need to occur, if the prior effort fails.					
Cultural Resources					
<p>4.4-1a - Prior to the issuance of grading permits for future development allowed within the Dumbarton TOD Specific Plan area, project sponsors shall retain qualified archaeologists meeting the Secretary of the Interior's Professional Qualification Standards to train the construction crew on the mechanisms used to identify cultural resources and to caution them on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts or human remains from the project sites.</p> <p>If subsurface deposits believed to be cultural or human in origin are discovered during the construction of future development projects within the Dumbarton TOD Specific Plan area, then all work shall halt within a 200-foot radius of the discovery and they shall be evaluated by a professional archaeologist. If a potentially-eligible resource is encountered, then the archaeologist, lead agency, and project sponsor shall arrange for either: 1) total avoidance of the resource, if possible; or 2) test excavations to evaluate eligibility and, if eligible, data recovery as mitigation.</p> <p>If human remains of any kind are found during</p>	<p>Require as a condition of project approval.</p> <p>Project applicant hires qualified archaeologist to train construction crew.</p> <p>If subsurface deposits are discovered during construction, contractor halts work and complies with requirements, as described in Mitigation Measure 4.4-1a.</p>	<p>City Council and Planning Division</p> <p>Planning Division</p> <p>Planning/Building Divisions</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to issuance of grading permits, confirm that archaeologist has been hired and training has been completed.</p> <p>Conduct periodic site visits during grading and construction.</p>	<p>Deny project approval.</p> <p>Deny issuance of grading permits.</p> <p>Halt grading and/or construction until requirements are met.</p>	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
<p>construction activities, all activities shall cease immediately and the Alameda County Coroner shall be notified as required by State law (Section 7050.5 of the Health and Safety Code). If the coroner determines the remains to be of Native American origin, he or she shall notify the Native American Heritage Commission (NAHC). The NAHC shall then identify the most likely descendant(s) (MLD) to be consulted regarding treatment and/or reburial of the remains.</p>					
<p>4.4-1b - Prior to approval of Tentative Subdivision Maps for any development within the Dumbarton TOD Specific Plan area that would directly affect any existing buildings or structures or the Union Pacific Railroad corridor, or is proposed within 100 meters (328 feet) of any existing buildings or structures or the Union Pacific Railroad corridor, the resource shall be evaluated for inclusion in the National Register by a qualified professional archaeologist familiar with the architecture and history of Alameda County.</p> <p>If the building or structure is considered eligible for inclusion in the National Register, then the project sponsor shall submit a study prepared by a qualified historian or architectural historian to determine whether the proposed project would materially alter in an adverse manner those physical characteristics of the known historical resource that conveys its historical significance.</p>	<p>Require as a condition of project approval.</p> <p>Project applicant hires qualified archaeologist or architectural historian to evaluate affected buildings or structures or the Union Pacific Railroad corridor and complies with requirements, as described in Mitigation Measure 4.4-1b.</p>	<p>City Council and Planning Division</p> <p>Planning Division</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to approval of Tentative Maps, confirm that archaeologist or architectural historian has conducted evaluation, as needed, and requirements of Mitigation Measure 4.4-1b have been met.</p>	<p>Deny project approval.</p> <p>Deny Tentative Map approval.</p>	

Geology and Soils					
<p>4.5-1 - The ACWD regulates the construction, repair, and destruction of wells, exploratory holes, and other excavations located within the City of Newark under ACWD Ordinance No. 2010.01. Future developers within the Specific Plan area shall have a design-level geotechnical engineering investigation performed for their individual property or properties prior to its (their) development. The mitigation measures specified by the design-level geotechnical engineering investigations shall become conditions to the issuance of grading permits for such individual property. The design-level geotechnical engineering investigations shall only address each specific individual property proposing construction, unless future developers mutually agree to include more than one property in a single investigation.</p> <p>The design-level geotechnical engineering investigations shall take into consideration the specific locations and types of development, as well as specific soil and rock conditions identified by subsurface investigation and laboratory testing. The likely mitigation measure recommendations of the design-level geotechnical engineering investigations regarding the design and construction of project-related development are regularly employed, have known and proven efficacy, and could include without limitation, one or more of the following:</p> <ul style="list-style-type: none"> ▪ Removing the soft/loose soil by excavating the soil and backfilling the excavation with compacted soil, thus densifying the soft/loose soil; 	<p>Require as a condition of project approval.</p> <p>Project applicant submits design-level geotechnical investigation.</p>	<p>City Council and Planning Division</p> <p>Engineering Division</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to issuance of grading permits, review geotechnical investigation and confirm that recommendations are included in construction plans.</p>	<p>Deny project approval.</p> <p>Deny issuance of grading permits.</p>	

<ul style="list-style-type: none"> ▪ Supporting structures on deep foundations, such as piles or piers; ▪ Improving the soft/loose soils by various methods, such as dynamic deep compaction, constructing surcharge fills, installing wick drains, grouting, and other methods; ▪ Strengthening structures to withstand seismic shaking and differential ground settlement; and/or, ▪ Other methods as determined by the geotechnical engineer in the geotechnical report to be prepared for the sites. 					
<p>4.5-2 Prior to any soil improvement measures and/or dewatering activities, the project geotechnical engineer(s) shall coordinate with the ACWD to ensure compliance with ACWD Ordinance No. 2010-01.</p>	<p>Require as a condition of project approval.</p> <p>Project geotechnical engineer coordinates with ACWD.</p>	<p>City Council and Planning Division</p> <p>Engineering Division and ACWD</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to issuance of grading permits, review plans and confirm that requirements of ACWD Ordinance No. 2010-01 are met.</p>	<p>Deny project approval.</p> <p>Deny issuance of grading permits.</p>	
<p>4.5-3 Prior to construction, the project applicant shall develop a plan, reviewed and approved by ACWD, for the protection of wells prior to issuance of demolition and grading permits to ensure compliance with ACWD Ordinance No. 2010-01.</p>	<p>Require as a condition of project approval.</p> <p>Project applicant submits plan for protection of wells.</p>	<p>City Council and Planning Division</p> <p>Engineering Division and ACWD</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to issuance of demolition or grading permits, review plans and confirm that requirements of ACWD Ordinance No. 2010-01 are met.</p>	<p>Deny project approval.</p> <p>Deny issuance of demolition or grading permits.</p>	

<i>Greenhouse Gas Emissions</i>					
<p>4.6-1 - The Specific Plan shall include energy (e.g. increase energy efficiency beyond Title 24 requirements, plant shade trees if feasible) and transportation design features (e.g. provide secure bike parking, provide free or preferential parking for carpool, vanpool, low emission vehicles, and car share vehicles). These features shall be incorporated into the Specific Plan and future buildings to ensure consistency with adopted Statewide plans and programs. The project applicant shall demonstrate the incorporation of energy and transportation design features prior to the issuance of building permits.</p> <p>Energy Efficiency</p> <ul style="list-style-type: none"> ▪ Increase energy efficiency beyond Title 24 requirements. ▪ Plant shade trees within 40 feet of the south side or within 60 feet of the west sides of properties (if feasible given the lot size and other physical constraints). ▪ Require the use of cool roof materials (albedo greater than or equal to 30). ▪ Provide homebuyers the option to purchase green roofs. ▪ Require smart meters and programmable thermostats. ▪ Provide homebuyers the option to purchase solar or tank-less water heaters. ▪ Make residential and commercial buildings solar ready. ▪ Incorporate design guidelines for transit oriented development and complete street standards. ▪ Implement HVAC duct sealing. 	<p>Require as a condition of project approval.</p> <p>Project applicant incorporates energy and transportation design features in Specific Plan and future buildings.</p>	<p>City Council and Planning Division</p> <p>Planning/Building Divisions</p>	<p>Draft and incorporate as part of conditions of project approval.</p> <p>Review plans prior to issuance of building permits and ensure that energy and transportation design features are included.</p>	<p>Deny project approval.</p> <p>Deny issuance of building permits.</p>	

<ul style="list-style-type: none"> ▪ Maximize interior daylight in residential uses. ▪ Increase roof and ceiling insulation. <p>Transportation</p> <ul style="list-style-type: none"> ▪ Project applicant shall comply with the City's affordable housing requirements in effect or otherwise negotiated with the City at the time of its tentative map approval ▪ Provide secure bike parking (at least 1 space per 20 vehicle spaces). ▪ Provide information to the public (i.e., bike maps and transit schedules) on transportation alternatives. ▪ Provide free or preferential parking for carpool, vanpool, low emission vehicles, and car share vehicles. 					
Hazards and Hazardous Materials					
<p>4.7-1a - Prior to the issuance of grading or building permit for an individual property within the Specific Plan area with known, suspected, or potential residual environmental contamination, the property owner shall, to the extent such activities have not previously been performed by the property owner pursuant to the requirements of the San Francisco Bay Regional Water Quality Control Board (RWQCB) or other overseeing agency under applicable environmental laws (Oversight Agency), do all of the following: 1) summarize available information regarding the magnitude and extent of soil and groundwater contamination at the subject property; 2) perform a data gap analysis; 3) based on the results of the data gap analysis, determine whether any additional investigation is needed to fill data gaps and, if so, propose and perform</p>	<p>Require as a condition of project approval.</p> <p>Project applicant coordinates with Oversight Agency to determine that proposed land use does not present unacceptable risk.</p>	<p>City Council and Planning Division</p> <p>Planning Division</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to issuance of building permits, confirm that determination has been made.</p>	<p>Deny project approval.</p> <p>Deny issuance of building permits.</p>	

<p>such investigation with the approval of the Oversight Agency; 4) provide either a Health Risk Assessment (HRA) or Feasibility Study (FS) containing an HRA to summarize potential risks to human health and the environmental posed by the contamination with respect to the proposed development; 5) based on the HRA or as set forth in the FS, develop remedial options to address the identified risks based upon the proposed development, which remedial option may include engineering or institutional controls, and tentatively select the most appropriate remedial option to ensure that the proposed development will not present an unacceptable risk to human health or the environment as required by applicable environmental laws, as well as procedures for proper management of contaminated soil and groundwater that may be encountered during development; and 6) submit a report to the Oversight Agency for review and regulatory approval of the proposed remedial plan, including engineering and/or institutional controls, under applicable environmental laws.</p>					
<p>4.7-1b - Prior to grading permit issuance, areas to be graded shall be cleared of debris, significant vegetation, pre-existing abandoned utilities, buried structures, and asphalt concrete.</p>	<p>Require as a condition of project approval.</p> <p>Project applicant clears areas to be graded.</p>	<p>City Council and Planning Division</p> <p>Building/Engineering Divisions</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Prior to issuance of grading permits, confirm that areas to be graded have been cleared, as described in Mitigation Measure 4.7-1b.</p>	<p>Deny project approval.</p> <p>Deny issuance of grading permits.</p>	
<p>4.7-1c - Prior to the import of a soil to a particular property within the Specific Plan area as part of that property's site development, such soils shall be sampled for toxic or</p>	<p>Require as a condition of project approval.</p>	<p>City Council and Planning Division</p>	<p>Draft and incorporate condition as part of project approval.</p>	<p>Deny project approval.</p>	

hazardous materials. Exceeding applicable Environmental Screening Levels for the proposed land use at such a property as required by the Oversight Agency prior to importing to such a property.	Project applicant has import soil sampled for toxic or hazardous materials.	Building/Engineering Divisions	Prior to import of soil, confirm that soil has been sampled.	Delay import of soil.	
<p>4.7-1d - Areas containing Naturally Occurring Asbestos (NOA) within the Dumbarton TOD Specific Plan area shall be confirmed prior to grading permit issuance. Prior to grading or construction of a particular property containing NOA, an application from the Bay Area Air Quality Management District shall be required for projects over one-acre in size. Dust control and an NOA air monitoring program shall be required. Additionally, the following general construction practices shall be adhered to for those properties containing NOA:</p> <ul style="list-style-type: none"> ▪ The site shall be maintained in a wet condition to prevent airborne dust. Onsite soil shall be wetted during grading and trenching operations. ▪ Over excavation and removal of NOA material to one foot below utility is recommended for utility corridors. 	<p>Require as a condition of project approval</p> <p>Project applicant confirms areas containing NOA and obtains permit from BAAQMD, if required.</p>	<p>City Council and Planning Division</p> <p>Building/Engineering Divisions</p>	<p>Draft and incorporate condition as part of project approval</p> <p>Prior to issuance of grading permits, ensure that requirements of Mitigation Measure 4.7-1d have been met</p>	<p>Deny project approval</p> <p>Deny issuance of grading permits.</p>	
<p>4.7-1e - On those properties where NOA is known to occur, the following measures shall be used as guidance only. The specific requirements for each property shall be determined by the risks involved and appropriate mitigation measures required to protect human health.</p> <ul style="list-style-type: none"> ▪ <u>Detached Single Family Residences</u> – A minimum three-foot soil cover in building pad areas, extending at least five feet beyond the building perimeter is recommended. Deed restrictions should be considered (such as not allowing 	<p>Require as a condition of project approval.</p> <p>Project applicant incorporates appropriate measures on grading plans.</p>	<p>City Council and Planning Division</p> <p>Building/Engineering Divisions</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Review plans prior to issuance of grading permits and ensure that appropriate measures have been incorporated.</p>	<p>Deny project approval.</p> <p>Deny issuance of grading permits.</p>	

<p>swimming pools) if there is less than 10-feet of soil cover over the serpentinite with NOA.</p> <ul style="list-style-type: none"> ▪ <u>Podium Type Multi-Unit Residential Structures</u> – A minimum two-foot thick soil cover is recommended. ▪ <u>Commercial or Industrial Developments</u> – A minimum two-foot thick soil cover is recommended. ▪ <u>Pavement and Concrete Hardscape</u> – If NOA material is covered to prevent airborne dust after construction, soil cover is not required. ▪ <u>Landscaped Areas</u> – A minimum two-foot thick soil cover in landscaped areas is recommended. 					
<i>Hydrology and Water Quality</i>					
<p>4.8-4a - Plans submitted for grading permits shall include a detailed hydrology reports. The reports shall include calculations regarding the anticipated volume of stormwater runoff generated by the proposed development, and shall demonstrate that adequate stormwater conveyance and capacity is available in the existing facilities selected depending on the location of the proposed development (i.e., the Line F-1 channel, the City's existing outfall into the Line F-1 channel, the existing human-created tidal channel that is tributary to Newark Slough, and existing City facilities in Willow Street). The hydrology reports shall be subject to review and approval by the City Engineer.</p> <p>If the hydrology reports determine that the existing facilities do not have adequate stormwater conveyance and capacity to serve the proposed development, then the project applicant shall develop a detailed stormwater detention plan for the retention/detention of</p>	<p>Require as a condition of project approval.</p> <p>Project applicant submits detailed hydrology reports and submits a detailed retention/detention plan if adequate conveyance and capacity is unavailable.</p>	<p>City Council and Planning Division</p> <p>Building/Engineering Divisions</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Review hydrology reports prior to issuance of grading permits to ensure that requirements of Mitigation Measure 4.8-4a have been met.</p>	<p>Deny project approval.</p> <p>Deny issuance of grading permits.</p>	

<p>stormwater runoff on the project site. The stormwater detention facilities shall be designed with adequate capacity to ensure that that stormwater generated on the project site during a peak storm event is retained at a rate that would ensure that discharges from the site do not exceed pre-construction levels. All detention facilities shall be developed in conformance with the City's standards and the standards of the Alameda County Flood Control and Water Conservation District. The plans and specifications of the proposed detention facilities shall meet the standards of the City Engineering Department as an adequate engineering product. The construction of stormwater detention facilities may be phased to correspond with development of the project site over time, provided that adequate detention is provided at all times to ensure that runoff from the site does not exceed pre-construction levels.</p>					
<p>4.8-4b - Plans submitted for grading permits for future projects requiring storm drainage lines and water mains that cross the Hetch Hetchy Pipeline shall include measures to ensure that there is sufficient room for these infrastructure improvements to pass over Hetch Hetchy Pipeline (i.e., placement of additional fill).</p>	<p>Require as a condition of project approval.</p> <p>Project applicant submits plans that demonstrate that there is sufficient room for storm drainage lines.</p>	<p>City Council and Planning Division</p> <p>Building/Engineering Divisions</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Review plans prior to issuance of grading permits to ensure that requirements of Mitigation Measure 4.8-4b have been met.</p>	<p>Deny project approval.</p> <p>Deny issuance of grading permits.</p>	
Noise					
<p>4.10-1a. - To reduce noise impacts due to construction, project applicants shall require construction contractors to implement a site-specific noise reduction program, subject to City review and approval, which includes that following measures, ongoing through demolition, grading and/or construction:</p>	<p>Require as a condition of project approval.</p> <p>Project applicant submits noise reduction program.</p>	<p>City Council and Planning Department</p> <p>Planning/Building Divisions</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Review noise reduction program prior to issuance of demolition,</p>	<p>Deny project approval.</p> <p>Deny issuance of demolition, grading and/or building</p>	

<ul style="list-style-type: none"> ▪ Restrict noise-generating activities at the construction site or in areas adjacent to the construction site to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and between 8:00 a.m. to 5:00 p.m. on Saturdays. ▪ Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically-attenuating shields or shrouds, wherever feasible). ▪ Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electronically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible. ▪ Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporated insulation barriers, or other measures to the extent feasible. ▪ If feasible, the noisiest phases of construction shall be limited to less than 10 days at a time. 			grading and/or building permits.	permits.	
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<p>4.10-1b. - Prior to the issuance of each grading permit, project applicants shall submit to the City Building Inspection Division a list of measures to respond to and track complaints pertaining to construction noise, ongoing throughout demolition, grading, and/or construction. These measures shall include the following:</p> <ul style="list-style-type: none"> ▪ A procedure and phone numbers for notifying the City Building Inspection Division staff and Newark Police Department (during regular construction hours and off-hours). ▪ A sign posted onsite pertaining the permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours). ▪ The designation of an onsite construction complaint and enforcement manager for the project. The manager shall act as a liaison between the project and its neighbors (including onsite residents). The manager's responsibilities and authority shall include the following: <ul style="list-style-type: none"> - An active role in monitoring project compliance with respect to noise; - Ability to reschedule noisy construction activities to reduce effects on surrounding noise sensitive receivers; - Site supervision of all potential sources of noise (e.g., material delivery, shouting, debris box pick-up and delivery) for all trades; and, - Intervening or discussing mitigation 	<p>Require as a condition of project approval.</p> <p>Project applicant submits list of measures.</p>	<p>City Council and Planning Department</p> <p>Building Division</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Review list prior to issuance of grading permits to ensure that requirements of Mitigation Measure 4.10-1b have been met.</p>	<p>Deny project approval.</p> <p>Deny issuance of grading permit.</p>	
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<p>options with contractors.</p> <ul style="list-style-type: none"> ▪ Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of construction activities regarding the details and estimated duration of the activity; and, ▪ A preconstruction meeting shall be held with the job inspectors and the general contractor/onsite project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed. 					
<p>4.10-2 - If pile driving is required for building construction, construction contractors shall incorporate the following additional requirements:</p> <ul style="list-style-type: none"> ▪ Wherever possible, sonic or vibratory pole drivers shall be used instead of impact pile drivers (sonic pile drivers are only effective in certain soils). ▪ Engine and pneumatic exhaust controls on pile drivers shall be required as necessary to ensure that exhaust noise from pile driver engines are minimized to the extent feasible. ▪ Where feasible, pile holes will be pre-drilled to reduced potential noise and vibration impacts. ▪ Occupied residences within 300 feet of pile driving activities shall be notified of pile-driving activities at least two weeks prior to the commencement of pile driving. ▪ Should pile driving activities take place within 25 feet of an occupied structure, a site specific vibration impact analysis shall be conducted to ensure vibration levels do 	<p>Require as a condition of project approval.</p> <p>Construction contractors incorporate additional noise reduction requirements, as described in Mitigation Measure 4.10-2.</p>	<p>City Council and Planning Department</p> <p>Building Division</p>	<p>Draft and incorporate condition as part of project approval.</p> <p>Review plans prior to issuance of grading permits to ensure that additional requirements are incorporated.</p>	<p>Deny project approval.</p> <p>Deny issuance of grading permits.</p>	

not exceed 0.2 inch-per-second Peak Particle Velocity.					
4.10-3 - Prior to building permit issuance, an Acoustical Assessment shall be prepared for the high/mixed-use residential, medium/high density residential, medium density residential parcels located north of Enterprise Drive (within approximately 600 feet of the Dumbarton transit corridor) to demonstrate that the exterior and interior noise levels are consistent with the City's land use compatibility standards and Title 25, Section 1092 of the California Code of Regulations. The Acoustical Assessment shall be prepared by a qualified Acoustical Consultant and submitted to the Community Development Director for review and approval. Measures (e.g., attenuation barriers, acoustically rated windows [i.e., appropriate STC or OITC ratings], upgraded insulation, etc.) shall be implemented where conditions exceed the Noise and Land Use Compatibility Criteria of "Normally Acceptable" noise exposure levels.	Require as a condition of project approval. Project applicant submits Acoustical Assessment that demonstrates noise levels are consistent with land use compatibility standards and Title 25.	City Council and Planning Division Planning/Building Divisions	Draft and incorporate condition as part of project approval. Review Acoustical Assessment prior to issuance of building permits to ensure consistency.	Deny project approval. Deny issuance of building permits.	
4.10-4 - Prior to building permit issuance, the project applicant shall coordinate with the City's Public Works Director to change the posted speed limit along Willow Street (between Thornton Avenue and Central Avenue) to 25 miles per hour. Implementation of this measure shall be indicated on all project plans and specifications.	Require as a condition of project approval. Project applicant coordinates with Public Works Director and indicates speed limit on plans submitted for Tentative Maps.	City Council and Planning Division Public Works Department	Draft and incorporate condition as part of project approval. Prior to approval of Tentative Maps, review plans and confirm that posted speed limit will be changed.	Deny project approval. Deny issuance of building permits.	
Public Services, Utilities and Service Systems					
4.12-2 - Prior to approval of a tentative map within the Dumbarton TOD Specific Plan area, additional necessary improvements, if any,	Require as a condition of project approval.	City Council and Planning Department	Draft and incorporate condition as part of project approval.	Deny project approval.	

beyond those already included in the USD Master Plan and updated fee program, shall be determined regarding proposed new connections (from such tentative map development) and then-existing or proposed wastewater facilities. Such improvements shall be installed prior to issuance of a building permit and shall be consistent with requirements in the Sewer Master Plan (anticipated to be available in the summer of 2012). The City and USD shall verify that any necessary improvements will be available prior to occupation of those new residential dwelling units for which such improvements are necessary.	Project applicant determines if any additional improvements are necessary.	Engineering/Building Divisions	Prior to approval of Tentative Maps, confirm the determination has been made.	Deny Tentative Map approval.	
	Project applicant installs any necessary improvements prior to issuance of building permits.	Engineering/Building Divisions	Prior to issuance of building permits, confirm that improvements have been installed.	Deny issuance of building permits.	
Recreation					
4.13-2 - Implement Mitigation Measures 4.2-1a and 4.2.1b and Mitigation Measures 4.10-1a, 4.10-1b and 4.10-2.	Refer above.	Refer above.	Refer above.	Refer above.	
Transportation/Traffic					
Mitigation Measure 4.14-1 - <u>Willow Street/Thornton Avenue</u> : A right turn overlap phase to the northbound approach on Willow Street shall be provided. Additionally, a U-turn restriction for the westbound left turn movement on Thornton Avenue shall be posted. <u>Willow Street/Enterprise Drive</u> : Two options for mitigation at this intersection are proposed by the Specific Plan, including a roundabout or signalization of the intersection. One of the two options shall be implemented. <u>Cherry Street/Mowry Avenue</u> : The westbound approach of the intersection of Cherry Street/Mowry Avenue shall be modified to include a right turn and a through-right turn	Require as a condition of project approval.	City Council and Planning Division	Draft and incorporate condition as part of project approval.	Deny project approval.	
	<u>Willow Street/ Thornton Avenue</u> : Project applicant shows right turn overlap and U-turn restriction on plans submitted for Tentative Maps.	Public Works Department	Prior to approval of Tentative Maps, ensure that improvements are shown on plans.	Deny Tentative Map approval.	
	<u>Willow Street/ Enterprise Drive</u> : Project applicant shows roundabout or intersection	Public Works Department	Prior to approval of Tentative Maps, ensure that improvement is shown on plans.	Deny Tentative Map approval.	

lane. This improvement would require modification of the traffic signal and removal of the existing pork chop island.	signalization on plans submitted for Tentative Maps. <u>Cherry Street/Mowry Avenue</u> : Project applicant shows right turn and through-right turn lanes and removal of pork chop island on plans submitted for Tentative Maps and works with Public Works Department to modify signal timing.	Public Works Department	Prior to approval of Tentative Maps, ensure that improvements are shown on plans.	Deny Tentative Map approval.	
4.14-2 - The City shall coordinate with AC Transit to improve bus service to the Specific Plan area to lessen the impact of vehicular traffic on the local and regional roadways. Potential transit accommodations may include: <ul style="list-style-type: none"> ▪ Implementation of shuttle service to the Ardenwood Park and Ride lot to provide a connection to the Dumbarton Express bus line and the Fremont and/or Union City BART stations ▪ Rerouting bus lines 251 and/or 275 through the Specific Plan area to provide convenient stop(s) with bus shelters and benches ▪ Addition of a new bus line to serve the Specific Plan area 	City coordinates with AC Transit.	City Council and Planning Division Planning Division	Mitigation Measure does not require action by project applicant Prior to occupancy of any project within Specific Plan area.	NA NA	
4.14-6 - <u>SR 84 Eastbound Ramps/Thornton Avenue</u> : An additional eastbound right turn lane on the SR 84 Eastbound Off-Ramp at the intersection of SR 84 Eastbound Ramps/Thornton Avenue shall be provided.	Require as a condition of project approval. <u>SR 84 Eastbound Ramps/Thornton</u>	City Council and Planning Division Public Works Department and	Draft and incorporate condition as part of project approval. Prior to approval of Tentative Maps, ensure	Deny project approval. Deny Tentative Map approval.	

<p><u>Gateway Boulevard/Thornton Avenue:</u> The northbound right turn lane on Thornton Avenue at the intersection of Gateway Boulevard/Thornton Avenue shall be restriped to provide a shared through-right turn lane.</p>	<p><u>Avenue:</u> Project applicant submits plans to Caltrans for right turn lane.</p>	<p>Caltrans</p>	<p>that plans for improvements have been submitted to Caltrans.</p>		
<p><u>Willow Street/Thornton Avenue:</u> The intersection of Willow Street/Thornton Avenue shall have a right turn overlap phase to the northbound approach on Willow Street.</p>	<p><u>Gateway Boulevard/ Thornton Avenue:</u> Project applicant shows right turn lane and restriping on plans submitted for Tentative Maps.</p>	<p>Public Works Department</p>	<p>Prior to approval of Tentative Maps, ensure that improvements are shown on plans.</p>		
<p><u>Willow Street/Enterprise Drive:</u> Two options for mitigation at this intersection are proposed, including a roundabout or signalization of the intersection. One of the two options shall be implemented.</p>	<p><u>Willow Street/ Thornton Avenue:</u> Project applicant provides right turn overlap on plans submitted for Tentative Maps.</p>	<p>Public Works Department</p>	<p>Prior to approval of Tentative Maps, ensure that improvement is shown on plans.</p>		
<p><u>Cherry Street/Mowry Avenue:</u> The westbound approach at the intersection of Cherry Street/Mowry Avenue shall be restriped to include a right turn and a through-right turn lane.</p>	<p><u>Willow Street/ Enterprise Drive:</u> Project applicant shows roundabout or intersection signalization on plans submitted for Tentative Maps.</p>	<p>Public Works Department</p>	<p>Prior to approval of Tentative Maps, ensure that improvement is shown on plans.</p>		
<p><u>I-880 NB Ramps/Mowry Avenue:</u> The intersection of I-880 NB Ramps/Mowry Avenue shall be restriped to include a left/right share lane resulting the northbound approach having a final lane configuration of a left-turn lane, a left and right shared lane, and dual right-turn lanes.</p>	<p><u>Cherry Street/Mowry Avenue:</u> Project applicant shows restriping on plans submitted for Tentative Maps.</p>	<p>Public Works Department</p>	<p>Prior to approval of Tentative Maps, ensure that improvement is shown on plans.</p>		
<p>If restriping of the intersection is not achievable, an alternate mitigation shall be to revise the City's General Plan policy to permit LOS D operations at freeway ramp intersections with existing or proposed bicycle facilities. Currently, City General Plan Policy 3d states that the City should "Work with the State and City of Fremont to maintain LOS "C" at all intersections on the border of</p>	<p><u>I-880 NB Ramps/ Mowry Avenue:</u> Project applicant</p>	<p>Planning Division/Public Works Department</p>	<p>Prior to approval of Tentative Maps, ensure that improvement is</p>		

<p>Newark, particularly Newark Boulevard/Dumbarton Freeway, Thornton Avenue/Dumbarton Freeway, Stevenson Boulevard/Interstate 880, Mowry Avenue/Interstate 880 and Thornton Avenue/Interstate 880, to accommodate buildout of lands in Fremont and Newark in the vicinity of the intersections.” Additionally, General Plan Policy 2e supports completion of the Citywide Bicycle Master Plan, which may include new bicycle lanes on Mowry Avenue through the I-880 interchange. In order to recognize that automobile traffic operations should be balanced with bicycle access and pedestrian access across the interchange, General Plan Policy 3d may be amended in the following way to promote access for all travel modes: “Work with the State and City of Fremont to maintain LOS “C” at all intersections on the border of Newark, particularly Newark Boulevard/Dumbarton Freeway, Thornton Avenue/Dumbarton Freeway, Stevenson Boulevard/Interstate 880, Mowry Avenue/Interstate 880 and Thornton Avenue/Interstate 880, to accommodate buildout of lands in Fremont and Newark in the vicinity of the intersections, <i>except at intersections that are along the City’s proposed Bikeway Network where automobile LOS D is permitted.</i>” Revision of the City’s General Plan to permit LOS D at freeway interchange intersections along the proposed bicycle network would reduce this impact to less than significant.</p>	<p>shows restriping on plans submitted for Tentative Maps or General Plan Policy 3d is amended.</p>		<p>shown on plans or General Plan Amendment is approved.</p>		
<p>4.14-8 - Prior to issuance of a a certificate of occupancy for a home or structure the applicant shall pay all applicable transportation-related fees in accordance with the latest adopted fee schedule at the time permits are sought. Such fees shall include, but not be limited to, the City of Newark Capital Facilities</p>	<p>Require as a condition of project approval. Project applicant pays fees.</p>	<p>City Council and Planning Division Building Division</p>	<p>Draft and incorporate condition as part of project approval. Prior to issuance of building permits, collect required fees.</p>	<p>Deny project approval. Deny issuance of building permits.</p>	

Fee for Transportation, and the ACTC Regional Transportation Impact Fee.					
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ERRATA SHEET
DUMBARTON TRANSIT-ORIENTED DEVELOPMENT SPECIFIC PLAN
FINAL ENVIRONMENTAL IMPACT REPORT

Subsequent to the release of the Final Environmental Impact Report (Final EIR) prepared for the Dumbarton Transit-Oriented Development (TOD) Specific Plan, the following additional revision was made to Mitigation Measure 4.14-6 on page 4.14-70 of the Draft EIR. The modification noted below does not result in a material, substantive or significant change nor does it represent significant new information that would deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project, as specified in Section 15088.5 of the California Environmental Quality Act (CEQA) Guidelines.

Page 4.14-70 Mitigation Measure 4.14-6 is revised as follows:

I-880 NB Ramps/Mowry Avenue: The intersection of I-880 NB Ramps/Mowry Avenue shall be restriped to include a left/right share lane resulting the northbound approach having a final lane configuration of a left-turn lane, a left and right shared lane, and dual right-turn lanes. The proposed mitigation measures would allow the intersection to operate at an acceptable LOS B during the AM peak-hour and LOS C during the PM peak-hour.

If restriping of the intersection is not achievable, an alternate mitigation shall be to revise the City's General Plan policy to permit LOS D operations at freeway ramp intersections with existing or proposed bicycle facilities. Currently, City General Plan Policy 3d states that the City should "Work with the State and City of Fremont to maintain LOS "C" at all intersections on the border of Newark, particularly Newark Boulevard/Dumbarton Freeway, Thornton Avenue/Dumbarton Freeway, Stevenson Boulevard/Interstate 880, Mowry Avenue/Interstate 880 and Thornton Avenue/Interstate 880, to accommodate buildout of lands in Fremont and Newark in the vicinity of the intersections." Additionally, General Plan Policy 2e supports completion of the Citywide Bicycle Master Plan, which may include new bicycle lanes on Mowry Avenue through the I-880 interchange. In order to recognize that automobile traffic operations should be balanced with bicycle access and pedestrian access across the interchange, General Plan Policy 3d may be amended in the following way to promote access for all travel modes: "Work with the State and City of Fremont to maintain LOS "C" at all intersections on the border of Newark, particularly Newark Boulevard/Dumbarton Freeway, Thornton Avenue/Dumbarton Freeway, Stevenson Boulevard/Interstate 880, Mowry Avenue/Interstate 880 and Thornton Avenue/Interstate 880, to accommodate buildout of lands in Fremont and Newark in the vicinity of the intersections, *except at intersections that are along the City's proposed Bikeway Network where automobile LOS D is permitted.*" Revision of the City's General Plan to permit LOS D at freeway interchange intersections along the proposed bicycle network would reduce this impact to less than significant.

*Certified by
City Council
Reso. No. 9886
9/8/2011*

DUMBARTON TRANSIT ORIENTED DEVELOPMENT
SPECIFIC PLAN

FINAL ENVIRONMENTAL IMPACT REPORT
(STATE CLEARINGHOUSE No. 2010042012)

JULY 2011

PREPARED FOR:

CITY OF NEWARK
37101 NEWARK BOULEVARD
NEWARK, CA 94560

PREPARED BY:

RBF CONSULTING
500 YGNACIO VALLEY ROAD, SUITE 270
WALNUT CREEK, CA 94596

IN ASSOCIATION WITH:
MONK & ASSOCIATES
FEHR & PEERS

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Response to Comments

9 RESPONSE TO COMMENTS

9.1 INTRODUCTION

The Dumbarton Transit Oriented Development (TOD) Draft Environmental Impact Report (Draft EIR) was circulated for a 45-day public review period beginning May 18, 2011, and ending July 1, 2011, as assigned by the State of California Governor's Office of Planning and Research State Clearinghouse and consistent with the California Environmental Quality Act Guidelines (CEQA Guidelines). Copies of the document were distributed to state, regional and local agencies, as well as organizations and individuals, for their review and comment.

Section 15088(a) of the CEQA Guidelines states that:

“The lead agency shall evaluate comments on environmental issues received from persons who reviewed the Draft EIR and shall prepare a written response. The lead agency shall respond to comments received during the noticed comment period and any extension and may respond to late comments.”

In accordance with Section 15088(a) of the CEQA Guidelines, the City, as the lead agency, has evaluated the comments received on the Draft EIR for the Dumbarton TOD Specific Plan and has prepared written responses to the comments received.

All comments on the Draft EIR, and the responses thereto, are presented in this document. Section 9.4 provides a list of all those who submitted comments on the Draft EIR during the public review period. Section 9.5 contains all of the comments received on the Draft EIR along with responses to each. These responses include identifying text revisions in the Draft EIR. Text revisions resulting from comments on the Draft EIR, as well as staff-initiated text revisions, are presented in Chapter 10 (Revisions to Draft EIR). Revisions to the Draft EIR text are indicated by underline text (underline) for text additions and strike out (~~strike-out~~) for deleted text. Revised figures and tables are identified with the word “revised” in front of the figure or table number. It is important to note that none of the revisions are significant new information that would result in any new significant environmental impacts (including without limitation new environmental impacts from a new mitigation measure) or a substantial increase in the severity of any environmental impacts, nor do any of the revisions impose a new mitigation measure that the project applicants have declined to implement or adopt. Instead, they merely provide clarification or make minor modifications to an adequate EIR. Therefore, recirculation of the Draft EIR is not required pursuant to CEQA Guidelines Section 15088.5 (b).

9.2 CONTENTS OF FINAL EIR

The Final EIR is composed of the following elements:

- ◆ Draft EIR and Appendices
- ◆ List of persons, organizations and public agencies that commented on the Draft EIR
- ◆ Copies of all comments received
- ◆ Written responses to those comments
- ◆ Revisions to the Draft EIR resulting from comments

9.3 CERTIFICATION OF FINAL EIR AND APPROVAL PROCESS

For a period of at least ten days prior to any public hearing during which a lead agency will take action to certify an EIR, the Final EIR must be made available to, at a minimum, trustee and responsible agencies that provided written comments on the Draft EIR. Pursuant to Section 15090(a) of the CEQA Guidelines, the Final EIR must be certified before the lead agency can take action on the project.

Following Final EIR certification, but prior to taking action on a project, the lead agency must prepare a Mitigation Monitoring and Reporting Program (MMRP). Before approving (or conditionally approving) the project, the lead agency must also prepare written CEQA Findings for each significant impact identified for the project, accompanied by a brief explanation of the rationale for the finding, in accordance with Section 15091 of the CEQA Guidelines. If significant environmental impacts that cannot be reduced to a less than significant level are identified for the project, the lead agency must prepare a Statement of Overriding Considerations, pursuant to Section 15093 of the CEQA Guidelines. Four significant and unavoidable traffic impacts were identified for the Dumbarton TOD Specific Plan.

Certification of the Final EIR may occur at a public hearing independent of project approval or during the same hearing. Prior to approval of the project, the lead agency must adopt the CEQA Findings, Statement of Overriding Considerations, and MMRP. Certification of the Final EIR must be the first in this sequence of approvals.

9.4 LIST OF COMMENTORS

All commentors on the Draft EIR are listed below.

9.4.1 PUBLIC AGENCIES

- Comment Letter #1 Gregor Blackburn, U.S. Department of Homeland Security,
Federal Emergency Management Agency
- Comment Letter #2 Eric Mruz, U.S. Department of the Interior, Fish and
Wildlife Service
- Comment Letter #3 Gary Arnold, California Department of Transportation
- Comment Letter #4 Moses Stities, California Public Utilities Commission
- Comment Letter #5 Mary Rose Cassa, San Francisco Bay Regional Water
Quality Control Board
- Comment Letter #6 Robert Shaver, Alameda County Water District
- Comment Letter #7 Beth Walukas, Alameda County Transportation
Commission
- Comment Letter #8 Al D. Bunyi, Union Sanitary District
- Comment Letter #9 Hilda Lafebre, San Mateo County Transit District
- Comment Letter #10 Timothy Doherty, Bay Conservation and Development
Commission
- Comment Letter #11 Irina P. Torrey, San Francisco Public Utilities Commission

9.4.2 GENERAL PUBLIC

- Comment Letter #12 Benny Dehghi, Honeywell International, Inc.
- Comment Letter #13 Michael Patrick Durkee, Allen Matkins Leck Gamble
Mallory & Natsis, LLP
- Comment Letter #14 Margaret Lewis
- Comment Letter #15 Dean Lewis
- Comment Letter #16 Carin High, Citizens Committee to Complete the Refuge

9.5 RESPONSES TO INDIVIDUAL COMMENTS

Each of the comment letters submitted on the Draft EIR and responses to the comments in the letters are provided on the following pages. Each comment is identified with a two part numbering system. The first number corresponds to the number assigned to the comment letter. The second number corresponds to the order of the comment within the letter identified. For example, Comment 7-5 refers to the seventh comment letter received and the fifth comment identified in the letter.

Comment Letter #1

U.S. Department of Homeland Security
FEMA Region IX
1111 Broadway, Suite 1200
Oakland, CA 94607-4652



May 25, 2011

Terrance Grindall, Community Development Director
City of Newark
37101 Newark Boulevard
Newark, California 94560

Dear Mr. Grindall:

This is in response to your request for comments on the Notice of Completion and Availability of Draft Environmental Impact Report for the Dumbarton Transit Oriented Development (TOD) Specific Plan.

Please review the current effective countywide Flood Insurance Rate Maps (FIRMs) for the County of Alameda (Community Number 060001) and City of Newark (Community Number 060009), Maps revised August 3, 2009. Please note that the City of Newark, Alameda County, California is a participant in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

1-1

A summary of these NFIP floodplain management building requirements are as follows:

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.
- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any *development* must not increase base flood elevation levels. **The term *development* means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed *prior* to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.

1-2

1-3

www.fema.gov

Terrance Grindall, Community Development Director
Page 2
May 25, 2011

- All buildings constructed within a coastal high hazard area, (any of the "V" Flood Zones as delineated on the FIRM), must be elevated on pilings and columns, so that the lowest horizontal structural member, (excluding the pilings and columns), is elevated to or above the base flood elevation level. In addition, the posts and pilings foundation and the structure attached thereto, is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. 1-4
- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at <http://www.fema.gov/business/nfip/forms.shtml>. 1-5

Please Note:

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The City of Newark floodplain manager can be reached by calling Ray Collier, Chief Building Official, at (510) 578-4261. The Alameda County floodplain manager can be reached by calling Hank Ackerman, Department of Public Works/Engineering and Construction, at (510) 670-5553. 1-6

If you have any questions or concerns, please do not hesitate to call Sarah Owen of the Mitigation staff at (510) 627-7050.

Sincerely,



Gregor Blackburn, CFM, Branch Chief
Floodplain Management and Insurance Branch

cc:

Ray Collier, Chief Building Official, City of Newark
Hank Ackerman, Department of Public Works/Engineering and Construction, Alameda County
Ray Lee, State of California, Department of Water Resources, North Central Region Office
Sarah Owen, Floodplanner, CFM, DHS/FEMA Region IX
Alessandro Amaglio, Environmental Officer, DHS/FEMA Region IX

www.fema.gov

Response to Comment Letter #1, Gregor Blackburn, U.S. Department of Homeland Security, Federal Emergency Management Agency

- 1-1 This comment addresses the Flood Insurance Rate Map (FIRM) for the Specific Plan area. The commentor references FIRM map number 060001060009. However, the correct FIRM map number for the Specific Plan area is 06001C0443G as referenced on page 4.8-25 of the Draft EIR.

As noted on page 4.8-25, according to the FIRM map, the Specific Plan area is partially located within a 100-year tidal flood zone; portions of the Cargill property are classified as Zone AE, as is some of the western portion of FMC's property. The remaining properties are classified as Zone X, which indicates that the area has 0.2 percent annual chance of flooding or is in an area of one percent annual flood with average depths of less than one foot or within drainage areas less than one square mile.

- 1-2 This comment states that buildings constructed in a riverine floodplain must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective FIRM map. The proposed project would be required to comply with Section 15.40.51 of the City's Municipal Code, which has flood improvement standards for lands within special hazard flood areas as defined by the Federal Emergency Management Agency (FEMA). As noted on page 4.8-25, the proposed project includes the import of approximately 500,000 to 1,000,000 cubic yards of fill material to elevate future structures within a 100-year flood hazard area. Therefore, the proposed project would ensure that the lowest floor elevation of future structures within the Specific Plan area is at or above the Base Flood Elevation level in accordance with the effective FIRM map.
- 1-3 Comment noted. The Specific Plan area is not located within a Regulatory Floodway.
- 1-4 This comment addresses buildings constructed within a coastal high hazard area. As noted on page 4.8-25 of the Draft EIR, portions of the Specific Plan area are located within a 100-year tidal flood zone. However, the Specific Plan area is not located within a coastal high hazard area.
- 1-5 Comment noted. If future development within the Specific Plan area modifies existing special flood hazard areas, data will be submitted to FEMA for a FIRM revision.

- 1-6 This comment states that many communities have adopted floodplain management building requirements that are more restrictive than the minimum federal standards. The proposed project would be required to comply with Section 15.40.51 of the City's Municipal Code, which provides flood improvement standards for lands within special hazard flood areas as defined by FEMA.

Comment Letter #2



United States Department of the Interior

FISH AND WILDLIFE SERVICE
San Francisco Bay National Wildlife Refuge Complex
9500 Thornton Avenue
Newark, California 94560



In Reply Refer To:

July 1, 2011

Terrence Grindall
Community Development Director
City of Newark
Newark, California 94560-3796

Subject: Comments on the Dumbarton Transit-Oriented Development Draft
Environmental Impact Report (DEIR)

Dear Mr. Grindall:

The U.S. Fish and Wildlife Service (Service) would like to comment on the Dumbarton
Transit-Oriented Development Draft Environmental Impact Report.

The Project site is located near the Don Edwards San Francisco Bay National Wildlife
Refuge (Refuge). As a nearby landowner, we have concerns that the Project may affect
listed species, migratory birds, and their habitats despite what is indicated in the
environmental analysis in the DEIR. At issue are the potential effects of the Project on
the endangered salt marsh harvest mouse (*Reithrodontomys raviventris*), California
clapper rail (*Rallus longirostris obsoletus*), and listed vernal pool species, as identified
under the authority of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*).
We are also very troubled about the fill of waters of the United States and loss of
potential vernal pool habitat. Below are some specific areas of concern.

2-1

Effects to Migratory Birds.

The Project is located near salt ponds and the Mowry Ponds of the Refuge. These
ponds provide habitat for waterfowl and shorebirds which are protected under the
Migratory Bird Treaty Act. Constructing a trail, dense housing, and associated
infrastructure (e.g., lighting, roads) adjacent to these ponds will result in significant
disturbance to migratory birds. Nearby housing would likely increase disturbance
and predation of migratory birds by nuisance species and house pets.

2-2

Effects to Listed Species.

Given the Project site's proximity to the San Francisco Bay, there may be high
potential for this area to have wetland and vernal pool habitats. The DEIR notes that

2-3

USFWS

2

7.2 acres of waters of the United States/State will be filled. The DEIR also reports that no formal wetland delineation has been conducted, nor have biological surveys for the salt marsh harvest mouse and California clapper rail. We are concerned that more wetlands will be lost than known. We recommend that you coordinate with the Service's Sacramento Fish and Wildlife Office during your formal review of the Project site. We also recommend that you conduct a formal assessment of potential vernal pool habitat in the area. Vernal pools around the southern San Francisco Bay are extremely rare, virtually destroyed by human development. The Baylands Ecosystem Habitat Goals Report (1999) indicates that this area has opportunities to restore historic tidal marsh/upland transitional habitat and associated vernal pool habitat. Due to the potential to impact to a variety of listed species, we suggest the analysis include all direct and indirect effects including, but not limited to, construction of the Proposed Project and increased presence of predators (e.g., Norway rats, California gulls, feral cats, red foxes, raccoons, skunks) that prey on California clapper rails and salt marsh harvest mice; and the construction of buildings, lighting, and roads adjacent to the salt marsh that may create artificial perches for raptors that prey on these species. Furthermore, the Project site essentially isolates the Plummer Creek restoration area between development and salt ponds, leaving little buffer for listed species and other wildlife in the restored area. We recommend that the trails and development be moved east of Hickory Street to provide buffer for the Plummer Creek property and the salt ponds.

2-3
Cont'd

Effects from Noise, Lighting and Vibration.

We recommend evaluating construction noise, lighting and vibration that may displace these species temporarily and/or permanently from the area. Construction activities should be timed not to occur during sensitive breeding and nesting periods for these species. In addition, lighting and noise impacts could also affect species after construction is complete. Construction within the project area could affect individuals through increased noise and vibrations from equipment and construction activities. Operation of construction equipment could result in displacement of species from protective cover and their territories. These disturbances likely would disrupt normal behavior patterns of breeding, foraging, sheltering, and dispersal, and likely result in the displacement of species from their territory in the areas where their habitat is disturbed. Displaced species may have to compete for resources in already occupied habitat, and may be more vulnerable to predators. Disturbance could cause short-term effects such as failure to breed, nest abandonment, lower numbers of eggs/young, juvenile abandonment, and overall lower juvenile survivorship. Buffers such as fencing, walls, and slopes should be placed between developed areas and wildlife habitat.

2-4

Effects Due to Sea Level Rise.

We recommend you evaluate the potential for the project to preclude the landward advance of the marsh in the face of sea level rise which may result in the eventual elimination of the existing salt marsh and the loss of an important buffer to coastal flooding. The San Francisco Bay Conservation and Development Commission has developed sea-level rise maps that indicate the Project site could be flooded or underwater based in a mid-century sea level rise of 16 inches scenario. The Project should consider building farther away from the baylands or analyze the potential need for additional flood protection due to sea level rise scenarios.

2-5

This page intentionally left blank.

**Response to Comment Letter #2, Eric Mruz, U.S. Department of Interior,
Fish and Wildlife Service**

- 2-1 This comment summarizes the concerns of the U.S. Fish and Wildlife Service (USFWS) that follow in the letter and are responded to below.
- 2-2 This comment addresses the effects of the proposed project on migratory birds. Most birds, including waterfowl, shorebirds, passerine birds (e.g., warblers, flycatchers, swallows) and raptors are protected under the Federal Migratory Bird Treaty Act of 1918 (16 U.S.C. §§ 703-712, July 3, 1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989). The Migratory Bird Treaty Act makes it unlawful to “take” (kill, harm, harass, shoot, etc.) any migratory bird listed in Title 50 of the Code of Federal Regulations, Section 10.13, including their nests, eggs or young. Because birds are able to, in almost all cases, fly away or avoid being injured from construction-related activities, take is most unlikely to occur from construction-related activities. However, nesting birds including incubating birds, their eggs and young are susceptible to being injured from undue disturbance and those actions that could physically harm the nest and its occupants. Thus, from a practical standpoint with respect to construction-related impacts, take associated with nesting birds could occur in the absence of protective measures to ensure that nesting birds are not impacted. In California, all nesting birds are also protected under the California Fish and Game Code (Sections 3503, 3503.5, 3800 and 3513). In order to prevent take of migratory birds, and similarly to ensure that no impacts to nesting birds occur that would be violation of the California Fish and Game Code, preconstruction surveys would be conducted prior to any earth-moving, construction, or other project-related activities that occur during the nesting season (March 1 through September 1). If active nests are identified during these surveys, appropriate protective nesting buffers would be erected in accordance with Mitigation Measure 4.3-2 identified in the Draft EIR.
- 2-3 The commentor is concerned about the project’s effect on waters of the U.S./State, including vernal pool habitats, and the federally listed salt marsh harvest mouse (*Reithrodontomys raviventris*) and California clapper rail (*Rallus longirostris obsoletus*). Below is a discussion of the mitigation measures that are included in the Draft EIR to ensure that impacts to sensitive resources are minimized and/or mitigated to less than significant levels.

Since the project area is composed of 19 parcels with many different land owners, many of whom may not have immediate development plans, the Draft EIR was prepared at a program-level and site-specific biological studies have not been conducted for this phase of the project (with the exception of the Torian properties). Therefore, regarding waters of the U.S./State, the Draft EIR specifies in Mitigation Measure 4.3-6 that prior to any development or parcel-specific site planning that a formal wetland delineation be conducted according to the 1987 U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual and the Regional Supplement to the USACE Wetland Delineation Manual: Coast Region (2008) prior to City approval of any specific development proposal. During the wetland delineation, if vernal pools are identified, they would be noted as areas requiring further study and/or consideration for protection from potential project impacts. This text has been added to Mitigation Measure 4.3-6. Refer to Chapter 10 (Revisions to Draft EIR) of this Final EIR. Similar to impacts to wetlands, mitigation for impacts to vernal pools may include the purchase of mitigation credits from an approved mitigation bank, onsite creation of vernal pool habitat, or offsite creation of habitat.

Similarly, surveys for special-status plants would be necessary in any vernal pool or wetland habitats prior to impacting such habitats. These surveys are included in Mitigation Measure 4.3-5 in the Draft EIR.

Based on July and October surveys of the project area, it is the biological consultants' opinion that with the exception of Parcel E, which may support a fresh water wetland, that other areas within the project site supporting wetland vegetation are too brackish or saline to support special-status vernal pool invertebrates or special-status vernal pool plants.

The Draft EIR includes mitigation requirements for impacts to waters of the U.S./State. Permits would be required from the USACE and the California Regional Water Quality Control Board (RWQCB) prior to filling or otherwise impacting waters of the U.S./State, respectively (waters include wetlands). These two agencies would also require mitigation for such impacts that would include replacement of any impacted feature such that there is no net loss of wetland functions and services. Typically, such mitigation includes replacing impacted wetlands at a minimum 1:1 (replacement to impacts) ratio. Refer to Mitigation Measure 4.3-6 in the Draft EIR for a full description of the mitigation requirements.

The Torian property has been studied by several salt marsh harvest mouse biologists over the years and a determination was made that it does not provide the habitat components suitable for the species because it is not a historic salt marsh and does not provide the contiguous salt marsh habitat necessary to support the species. However, in an abundance of caution and to meet the standards of care required by CEQA, the Torian property would be required to implement protective measures prior to development to ensure that impacts to the salt marsh harvest mouse would not occur should it enter the project site. These protective measures would include hand removal of pickleweed onsite under the supervision of a permitted salt marsh harvest mouse biologist and installation of mouse-proof fencing around any potentially suitable salt marsh harvest mouse habitat (refer to "Preconstruction Measures" specified in Mitigation Measure 4.3-1). Although it is unlikely that the remaining properties within the project area provide the necessary habitat components to support the salt marsh harvest mouse, the Draft EIR includes mitigation (Mitigation Measure 4.3-1) requiring that a "Habitat Assessment" for the salt marsh harvest mouse be conducted prior to any site-specific development (with the exception of the Torian property as referenced above). If during the Habitat Assessment it is determined that the salt marsh harvest mouse could reside on a site within the project area, a protective cat-proof fence would be established separating the developed project site from any suitable salt marsh harvest mouse habitat that would be preserved as part of the project.

The project site does not provide suitable habitat for the California clapper rail. Monk & Associates' biologists made this determination because there are no tidal channels within the project area for clapper rails to forage. Additionally, pickleweed (*Salicornia virginica*) and other marsh vegetation is very limited in distribution within the project area, is short statured, and does not provide the concealment that clapper rails need to move unobtrusively through the project area. Also, there is no cordgrass (*Spartina* spp.) within the project area which is another preferred clapper rail cover type. Accordingly, there is no "escape cover" provided by the project area. Therefore, clapper rails, which are secretive by nature and typically associated heavy cover (i.e., escape cover), are not expected to occur on or use the project area. While there is an offsite tidal channel northwest of/adjacent to the project area that may provide habitat for the clapper rail, it is Monk & Associates' experience and expectation that if clapper rails used this tidal channel they would not venture out of the safety of the tidal channel's dense vegetative cover. During periods of flooding and/or high

tide the clapper rail could be expected to use the top of the channel's bank but would not venture far from escape cover.

Monk & Associates' clapper rail studies (for example, Gallinas Creek in Marin County) have found that California clapper rail distribution is typically restricted to areas dominated by marsh vegetation. Other studies of other closely related rail species, while not completely germane, are nonetheless helpful in shedding light on where rails spend their time. A close niche equivalent to the California clapper rail that lives in southern California is the light-footed clapper rail (*Rallus longirostris levipes*). The light-footed clapper rail has been studied to an extent that its distribution within the marsh system is well understood. Telemetry data of light-footed clapper rail distribution found that they spend ≥ 90 percent of a day in cordgrass (*Spartina foliosa*), and used the upland fringe at the edge of the marsh for roosting during the highest tides (Zemba et. al. 1989).¹ Monk & Associates understands that this comparison may or may not be reflective of California clapper rail distribution, but believes it is likely that such distributional data are reflective of California clapper rail use of marshes. In conclusion, Monk & Associates believes that California clapper rails will seek refuge in uplands, but typically those uplands located immediately adjacent to their preferred marsh habitats.

The project area, which is a non-tidal site that provides low quality, short stature marsh vegetation, would not provide the escape cover (concealment) clapper rails need. Nor does the project area vegetation provide nesting opportunities. At most, the vegetation onsite provides only limited foraging habitat for the extremely rare occurrence that clapper rails would need to venture out of the adjacent tidal channel – should they be present in this channel to begin with. It is unknown whether or not clapper rails even reside in this offsite channel. Therefore, based on all of these factors it is unlikely that clapper rails are onsite and would be impacted by the project.

Finally, the commentator states that the proposed project “essentially isolates the Plummer Creek restoration area between development and salt ponds, leaving little buffer for listed species and other wildlife in the restored area.” The commentator, therefore, recommends moving all

¹ Richard Zemba, Barbara W. Massey, and Jack M. Fancher 1989. The Journal of Wildlife Management, Vo. 53, no. 1 (Jan. 1989). pp. 39-42

proposed trails and development to east of Hickory Street. However, as noted above and below in Response 2-4, the Draft EIR includes mitigation measures to reduce the impacts of the project to listed species and other wildlife, including from construction noise and lighting from permanent structures, and the Specific Plan for the project includes standards to ensure that impacts to sensitive species would be minimized.

- 2-4 The commentor recommends evaluating construction noise, lighting and vibration that may displace sensitive species temporarily and/or permanently from the area.

It should be noted that the project area is not located in a remote, rural area removed from urban noise. The project area is located in an industrial area where some industrial operations currently take place and noise associated with these facilities occurs. A police shooting range also occurs within the boundaries of the project area. Thus, wildlife currently present within the project area is acclimated to high levels of existing ambient noise disturbances. It should also be noted that the discharge of firearms can be particularly disturbing to wildlife, particularly birds. Owing to existing ambient industrial and shooting range noise, wildlife now found in the area would be acclimated to this noise. As the project area builds out over an extended number of years, wildlife would continue to acclimate to this disturbance. Acclimation by wildlife to consistent ambient noise is a well-recognized behavioral response by wildlife to continual and consistent forms of disturbance. Species that would acclimate poorly to high levels of ambient noise would be unlikely to use the area now or in the future.

The additional ambient noise levels generated by a developed project area would be unlikely to result in disturbance that would discourage wildlife use of adjacent wildlife habitats any more than occurs today. In light of the amount, type and extent of existing disturbance, most birds and mammals that reside in the area today have a high tolerance for noise related disturbance. Regardless, mitigation measures have been included in the Draft EIR to protect nesting birds from the effects of noise and vibration. Preconstruction nesting bird surveys would be conducted prior to any earth-moving or construction activities associated with the project. The nesting period for birds (March 1 through September 1) also corresponds with the mating/breeding season for many mammal species; therefore, restrictions on construction times would benefit both nesting birds and some breeding mammal species. Refer also to Response 2-2.

With regard to lighting, the Specific Plan proposes lighting standards “to ensure that lighting . . . does not create excessive “spillover” light and glare into adjacent residential areas and habitat areas, including the adjacent Refuge.” Thus, the Specific Plan includes standards to ensure that impacts to sensitive species are minimized. In addition, as noted above, the project area is not located in a remote, rural area removed from urban lighting. The project area is located in an industrial area where some industrial operations currently take place and lighting associated with these facilities occurs.

- 2-5 This comment suggests that the project consider building farther away from the baylands or analyze the potential need for additional flood protection due to sea level rise. Sea level rise is addressed on page 4.6-27 of the Draft EIR. Minor revisions have been made to the Draft EIR to acknowledge the sea level rise mapping that has been completed by the Bay Conservation and Development Commission (BCDC) (refer to Chapter 10 of this Final EIR).

Based on the mapping conducted by BCDC and acknowledged in the Draft EIR, a portion of the Specific Plan area could be affected by sea level rise. As addressed in the Draft EIR, the forecasted sea level rise could increase flood related impacts, especially from storm-surge induced flood events. Section 15.40.51 of the City’s Municipal Code has flood elevation standards for lands within special flood hazard areas as defined by FEMA. If sea level rise was determined to be a significant threat, protective measures such as levees installed by regional and local governments would be available to protect urbanized areas.

The BCDC forecast expressly notes that it does not account for existing shoreline protection or wave activity and that, where necessary, future levees are an appropriate mechanism for protecting against flood damage from rises in sea levels. Ultimately, the National Oceanic and Atmospheric Agency, FEMA, the USACE, cities, counties and flood control districts are responsible for protecting the public and the San Francisco Bay ecosystem from flood hazards. The City’s Municipal Code flood elevation standards would protect the Specific Plan area based upon flood risks as determined by FEMA, the City and these other regional and local agencies.

The Draft EIR provides a reasonable range of alternatives, and includes alternatives to the proposed project that would preserve open space adjacent to the baylands. Alternatives 2 and 3 would concentrate development

adjacent to the City, preserving the western portion of the Specific Plan area in open space. The project, as well as the alternatives, will be considered by the City Council prior to taking action on the Specific Plan.

- 2-6 This comment states that it is unclear how the area would be affected by the Dumbarton Rail Service and expresses concern regarding the capacity of Thornton Avenue to handle increased traffic volumes. Thornton Avenue is projected to carry increased levels of traffic with the project. The potential impact of additional traffic on Thornton Avenue was analyzed in the Draft EIR. Table 4.14-13 (Future Year 2035, Plus Project Conditions with Mitigation) of the Draft EIR indicates that three segments of Thornton Avenue would be impacted by project traffic. The Level of Service (LOS) at the intersections of Thornton Avenue with Cherry Street, Newark Boulevard and Cedar Boulevard would degrade to LOS D, E or F in the future regardless of the project, although the project would increase the delay at these intersections by approximately five to 15 seconds. The potential mitigation measures would include widening Thornton Avenue to accommodate the additional volumes. However, due to the built out nature of the City, limited right-of-way is available to widen Thornton Avenue. Widening this roadway to reduce levels of congestion would also have potential secondary impacts to bicycle and pedestrian travel by creating longer crossing distances and a less-comfortable environment for walking or bicycling. As a result, impacts to the three intersections are identified in the Draft EIR as significant and unavoidable. The project goals support managing congestion and reducing automobile trips by orienting uses around the future transit station.

It should also be noted that, as stated in the Draft EIR on pages 3-1 and 3-19, implementation of the proposed Specific Plan would not be dependent in any way upon the proposed Dumbarton Rail Corridor (DRC) transit service (or the transit station), which is a separate project undergoing separate environmental review by other public agencies. Moreover, due to the uncertain timeline and funding status of the DRC Project, it would be speculative to include the project in the cumulative context of this environmental analysis. The DRC and the transit station are not reasonably foreseeable future activities of the project that must be studied by this EIR at this time.

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Comment Letter #3

Sent By: CALTRANS TRANSPORTATIO PLANNING; 510 266 5560; Jun-30-11 3:45PM; Page 1/2

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN JR., Governor

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 288-5541
FAX (510) 286-6569
TTY 711



Flex your power.
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July 1, 2011

ALAVAR008
SCH#2010042012

Mr. Terrence Grindall
City of Newark
37101 Newark Boulevard
Newark, CA 94569

Dear Mr. Grindall:

Dumbarton Transit-Oriented Development Specific Plan – Draft Environmental Impact Report

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the Dumbarton Transit-Oriented Development project. The following comments are based on the Draft Environmental Impact Report.

Forecasting

In Table 4.14-6 Dumbarton TOD Specific Plan Generation Estimates on page 4.14-37 uses AM and PM peak hour trip rates for Townhouse/Condo use of 0.29 and 0.35 respectively. However, based on the Institute of Transportation Engineer Trip Generation 3rd edition, AM and PM peak hour trip rates for this use are 0.44 and 0.52 respectively. As a result, the peak hour traffic volumes have been underestimated. Please revise the analysis accordingly.

3-1

In Figure 4.14-6, Project Trip Distribution, please use distinctively different symbols to differentiate the Residential trip Distribution and Neighborhood Commercial Distribution.

3-2

Operations

Please show queue lengths for all study locations and scenarios. In particular, left and right turn storage lengths should be reviewed for any possible impacts onto mainline operations.

3-3

Under the Future Year 2035 Plus Project condition, there are significant impacts to the Interstate (I) 880 Northbound ramps/Mowry Avenue. Please provide mitigation measures to reduce these impacts.

3-4

Also, under the Future Year 2035 Plus Project condition, there is significant impact to Jarvis Avenue/Newark Boulevard intersection. The Department believes this impact may impact adjacent intersections. Therefore, please include State Route 84 Westbound and Eastbound ramps/Newark Boulevard in the analysis.

3-5

"Caltrans improves mobility across California"

Mr. Terrance Grindall/City of Newark
July 1, 2011
Page 2

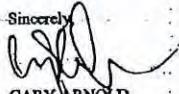
Transportation Demand Management

In addition to the Transportation Demand Management (TDM) measures proposed, the Department recommends providing additional measures due to the high availability of transit within the area of the proposed project. Some of these measures can include, lower parking ratios, unbundling parking spaces, car-sharing programs, transit subsidies, private shuttle services, etc. to reduce the number of vehicles miles traveling on local roadways and State facilities. To start, we also recommend that the City of Newark refer to, "Reforming Parking Policies to Support Smart Growth," a Metropolitan Transportation Commission study funded by the Department, for sample parking ratios and strategies that support compact growth and Transit Oriented Development.

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Should you have any questions regarding this letter, please call Yatsun Kwan of my staff at (510) 622-1670.

Sincerely,



GARY ARNOLD
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Response to Comment Letter #3, Gary Arnold, California Department of Transportation

- 3-1 This comment states that peak hour traffic volumes have been underestimated and peak hour trips for townhouse/condo use should be based on the Institute of Transportation Engineers (ITE) *Trip Generation* 8th Edition. The ITE *Trip Generation* 8th Edition was used to calculate trip generation estimates for the Specific Plan. Fitted curve equations were used for townhouse/condo uses rather than the average rate and are more appropriate according to the criteria provided in ITE's *Trip Generation Manual*.
- 3-2 The commentor requests that different symbols to differentiate the residential trip generation and neighborhood trip generation be used. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 3-3 The commentor requests that queue lengths be shown for all study intersections and scenarios. Traffic-related impacts are typically assessed in terms of qualitative measures that describe operational conditions within a traffic stream. The intersection analysis used in the Draft EIR is based on the operational analysis methodology outlined in the Highway Capacity Manual (HCM) 2000 Transportation Research Board Special Report 209, Chapter 16. The HCM methodology defines intersection Level of Service (LOS) as a function of delay in terms of seconds per vehicle (sec/veh). Although traffic-related impacts can also be assessed in terms of vehicle queue lengths, this level of detail extends beyond the requirements for a program-level EIR.
- 3-4 Mitigation language has been added to the Draft EIR explaining how impacts at the intersection of Interstate 880 (I-880) Northbound Ramps/Mowry Avenue would be reduced to less than significant levels as requested by the commentor. Refer to Chapter 10 (Revisions to Draft EIR) of this Final EIR.
- 3-5 The commentor requests that the Draft EIR analyze the intersections of State Route 84 (SR-84) Westbound and Eastbound Ramps/Newark Boulevard. The Draft EIR included an analysis of intersections determined the most likely to be impacted by additional traffic in the project area.

Based on the professional judgment applied by the City and EIR consultant team, the intersections of the SR-84 Westbound and Eastbound Ramps/Newark Boulevard were not determined to have a significant increase in traffic requiring their inclusion as study intersections in the Draft EIR. Based on Figure 4.14-6 (Project Trip Generation) in the Draft EIR, these intersections would only carry one percent of the total traffic generated by the project. As a result, they were not included in the analysis.

The future year conditions at the intersection of Jarvis Avenue/Newark Boulevard without the project would operate at LOS F in the AM and LOS E in the PM with moderate vehicle queues. Because the Jarvis Avenue/Newark Boulevard intersection is over 740 feet from the intersection with the SR-84 Eastbound Ramps, it is not anticipated that the queues would impact operations of the on and off-ramp intersections. Implementation of the proposed project would not degrade the LOS at the Jarvis Avenue/Newark Boulevard intersection and would increase the delay by a few seconds. Therefore, the project would not result in a significant impact compared to future no project conditions.

- 3-6 This comment recommends providing Transportation Demand Management (TDM) measures beyond those proposed in the Specific Plan. The comment is noted. The City will consider these additional measures, including lower parking ratios, unbundling parking spaces, car sharing programs, transit subsidies, private shuttle services, etc., in coordination with relevant agencies.

Comment Letter #4

STATE OF CALIFORNIA

Edmund G. Brown Jr., Governor

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-2299



July 1, 2011

Terrance Grindall
City of Newark
37101 Newark Boulevard
Newark, CA 94560

Re: Notice of Completion, Draft Environmental Impact Report (DEIR)
Dumbarton Transit Oriented Development (TOD) Specific Plan
SCH# 2010042012

Dear Mr. Grindall:

As the state agency responsible for rail safety within California, the California Public Utilities Commission (CPUC or Commission) recommends that development projects proposed near rail corridors be planned with the safety of these corridors in mind. New developments and improvements to existing facilities may increase vehicular traffic volumes, not only on streets and at intersections, but also at at-grade highway-rail crossings. In addition, projects may increase pedestrian traffic at crossings, and elsewhere along rail corridor rights-of-way. Working with CPUC staff early in project planning will help project proponents, agency staff, and other reviewers to identify potential project impacts and appropriate mitigation measures, and thereby improve the safety of motorists, pedestrians, railroad personnel, and railroad passengers.

The Transportation/Circulation section of the DEIR *failed* to evaluate traffic safety issues to numerous at-grade railroad crossings located within the proposed project boundaries. Any increase in traffic or pedestrians to the at-grade crossings by this project need to be evaluated for potential impacts to safety and hazards.

In general, the major types of impacts to consider are collisions between trains and vehicles, and between trains and pedestrians. Measures to reduce adverse impacts to rail safety need to be considered in the DEIR. General categories of such measures include:

- Installation of grade separations at crossings, i.e., physically separating roads and railroad track by constructing overpasses or underpasses
- Improvements to warning devices at existing highway-rail crossings
- Installation of additional warning devices
- Improvements to traffic signaling at intersections adjacent to crossings, e.g., traffic preemption
- Installation of median separation to prevent vehicles from driving around railroad crossing gates

4-1

Terrance Grindall
SC#11 # 2010042012
July 1, 2011
Page 2 of 2

- Prohibition of parking within 100 feet of crossings to improve the visibility of warning devices and approaching trains
- Installation of pedestrian-specific warning devices, channelization and sidewalks
- Construction of pull out lanes for buses and vehicles transporting hazardous materials
- Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- Elimination of driveways near crossings
- Increased enforcement of traffic laws at crossings
- Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings

4-1
Conf

Commission approval is required to modify an existing highway-rail crossing or to construct a new crossing.

4-2

Please forward the *revised* Traffic Impact Study to ensure that the at-grade railroad crossings adjacent and in near proximity to the project site are included in the analysis. This will allow us to complete our review of the DEIR; otherwise the *level of significance* can not be determined without such an analysis specific to the at-grade railroad crossings.

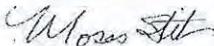
4-3

Please add the CPUC as a Responsible Agency for this project to the noted list of agencies in the DEIR.

4-4

Thank you for your consideration of these comments. If you have any questions, please contact me at (415) 713-0092 or email at ms2@cpuc.ca.gov.

Sincerely,



Moses Stites
Rail Corridor Safety Specialist
Consumer Protection and Safety Division
Rail Transit and Crossings Branch
180 Promenade Circle, Suite 115
Sacramento, CA 95834-2939

Response to Comment Letter #4, Moses Stites, California Public Utilities Commission

- 4-1 This comment states that the Draft EIR fails to evaluate traffic safety issues associated with numerous at-grade railroad crossings located within the project area. At-grade railroad crossing safety is important to the City of Newark. As a program-level EIR, the Draft EIR for the proposed Dumbarton TOD Specific Plan has been prepared for project area land use changes and the planning document that would guide future development within the area. Site-specific plans to develop individual properties within the Specific Plan area and improvement plans to construct required infrastructure to support the development have not been prepared, but would be at a later time. Once sufficient detail is known about a project such as the land use type, amount, and site access locations, it would be possible to estimate the volume of traffic generated by the project, the effect of that traffic on nearby rail crossings, and the likely pattern of pedestrian and bicycle activity at nearby rail crossings. The City will consider the California Public Utilities Commission's (CPUC's) recommendations for rail crossings for project-level analyses and coordinate with the CPUC in regard to the specific types of data and analyses to be provided.
- 4-2 This comment states that CPUC approval is required to modify an existing highway-rail crossing or to construct a new crossing. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 4-3 The commentor requests a copy of the revised Traffic Impact Study to ensure that the at-grade railroad crossings adjacent and in near proximity to the project area are included in the analysis. Refer to Response 4-1.
- 4-4 The commentor requests that the CPUC be included on the list of responsible agencies included in the Draft EIR. Chapter 3 (Project Description) of the Draft EIR has been revised to include this request and is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.

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Comment Letter #5

Page 1 of 2

Kristie Wheeler - Fwd: Water Board comments on Draft EIR for Dumbarton Transit Oriented Development Specific Plan

From: "TERRENCE GRINDALL" <TERRENCE.GRINDALL@newark.org>
To: "Kristie Wheeler" <KWHEELER@rbf.com>
Date: 6/30/2011 6:56 PM
Subject: Fwd: Water Board comments on Draft EIR for Dumbarton Transit Oriented Development Specific Plan
Attachments: Dumbarton NOP comments 4-30-10.pdf; CH2MHill_Fig2-4.pdf; CH2MHill_Fig2-3.pdf

Terrence

Begin forwarded message:

From: "Mary Rose Cassa" <MCassa@waterboards.ca.gov>
To: "TERRENCE.GRINDALL@newark.org" <TERRENCE.GRINDALL@newark.org>
Cc: "rangarajan.sampath@acwd.com" <rangarajan.sampath@acwd.com>, "Steven Inn" <steven.inn@acwd.com>, "mmetcalfe@ashland.com" <mmetcalfe@ashland.com>, "penny.streff@carell.com" <penny.streff@carell.com>, "pete@discoversolutions.com" <pete@discoversolutions.com>, "Shawn.tollin@fmc.com" <Shawn.tollin@fmc.com>, "johno@gvakm.com" <johno@gvakm.com>, "benny.dehghi@honeywell.com" <benny.dehghi@honeywell.com>, "rhahn@jones-hamilton.com" <rhahn@jones-hamilton.com>, "jroseman@trumark-co.com" <jroseman@trumark-co.com>, "Cherie MCcaulou" <CMccaulou@waterboards.ca.gov>
Subject: Water Board comments on Draft EIR for Dumbarton Transit Oriented Development Specific Plan

Terrence,

Regional Water Board staff have reviewed primarily Sections 4.7 and 4.8 of the Draft EIR (May 2011). We find that it is lacking in addressing the issues we raised on the Notice of Preparation listed below (see our comments on the NOP attached).

- Potential threat to human health, water quality, and the environment from disturbance of soil and groundwater pollution during project construction
• Potential threat to human health, water quality, and the environment from residual soil and groundwater pollution during project operation (occupancy and use, based on a changed land use)
• Potential impact on deeper aquifers (Newark Aquifer and deeper) from soil and groundwater pollution as a result of construction and changed land use

5-1

The descriptions of the contaminated sites are inconsistent, lack necessary details, and do not provide an overview of contamination in the area. The potential human health risks, ecological risks and degradation of state waters are understated (see attached Figures 2-3 and 2-4 from a report by CH2M HILL). The EIR should include an assessment of the impacts attributed by volatile organic compounds

5-2

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associated with excavation and construction. As an example, the San Francisco PUC's recent pipeline replacement project encountered volatile organic compounds, arsenic and other chemicals of concern during trench work and dewatering.

5-2
Cont'd

We recommend revising "Mitigation Measure 4.7-1a as follows:

From (existing):

"Prior to the issuance of a building permit for an individual property within the Specific Plan area with residual environmental contamination, the agency with primary regulatory oversight of environmental conditions at such property ("Oversight Agency") shall have determined that the proposed land use for that property, including proposed development features and design, does not present an unacceptable risk to human health,..."

To (revised):

"Prior to the issuance of grading or building permit for an individual property within the Specific Plan area with known, suspected, or potential residual environmental contamination, the property owner shall contract a qualified, environmental consultant to 1) summarize available information regarding the magnitude and extent of soil and groundwater contamination at the subject property; 2) summarize potential risks to human health and the environment posed by the contamination with respect to the proposed redevelopment; 3) propose additional investigation as needed to fill data gaps; 4) develop remedial options to address the identified risks and tentatively select the most appropriate option, as well as procedures for proper management (e.g., reuse and/or disposal) of contamination soil and groundwater that may be encountered during redevelopment; and 5) submit a report to the overseeing agency for review and regulatory approval."

5-3

We are available to meet with you and discuss our comments. If you have questions, please contact Cherie McCaulou at (510) 622-2342 (email address cmccaulou@waterboards.ca.gov).

Regards,

Mary Rose Cassa

Mary Rose Cassa, PG
Senior Engineering Geologist
Toxics Cleanup Division
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612
510-622-2447

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California Regional Water Quality Control Board
San Francisco Bay Region

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Date: April 30, 2010
File Nos. 01S0024, 01S00294,
01S0157, 1S0131, 01S010038 (ccm)

Terrence Grindall (terrence.grindall@newark.org)
Community Development Director
City of Newark
37101 Newark Boulevard
Newark, CA, 94560

SUBJECT: Comments on the Notice of Preparation of an Environmental Impact Report for the Dumbarton Transit-Oriented Development (TOD) Specific Plan, Newark, Alameda County

Dear Mr. Grindall:

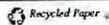
Thank you for the opportunity to comment on the Notice of Preparation that we received on April 1, 2010, for the proposed Dumbarton TOD Specific Plan. Regional Water Board staff oversee the investigation and cleanup of five sites (listed below) in the proposed project area, pursuant to California Water Code Section 13304, where hazardous substances have been discharged and deposited into waters of the State and have created a condition of pollution and nuisance. Additionally, the Alameda County Water District oversees numerous other cleanup sites in the TOD area (see the State's GeoTracker database <https://geotracker.waterboards.ca.gov>).

We are submitting comments to ensure that the environmental documentation under the California Environmental Quality Act (CEQA) adequately addresses the soil and groundwater pollution, and to ensure that appropriate mitigation measures pertaining to releases of hazardous substances at the Dumbarton TOD project are implemented.

Environmental Conditions and Regulatory Oversight of Cleanup Sites in Project Area. Contaminated soil and groundwater exist within the proposed TOD, and include high concentrations of chlorinated solvents, metals, flammable materials (i.e., elemental phosphorous), phenols (pentachlorophenol), dioxins/furans, poly aromatic hydrocarbons (PAHs) and petroleum hydrocarbons. Soil and groundwater remediation are required at the sites (listed below), pursuant to Site Cleanup Requirements (SCR) Orders issued by our agency.

- FMC Corporation, 8787 Enterprise Drive, SCR Order R2-2002-0060
- Ashland Inc., 8610 Enterprise Drive, SCR Order R2-2005-0038
- SHH, LLC, 37445 Willow Street, SCR Order R2-2008-0081
- Jones-Hamilton, 8400 Enterprise Drive, SCR Order R2-2001-0054,

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years



Terrence Grindall
Comments on NOP

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- Former Baron-Blakeslee, 8333 Enterprise, SCR Order R2-2005-0004

Investigation and cleanup of the sites have been conducted independently by individual property owners rather than a collaborated joint effort. The cleanup standards approved for these sites were based on continued industrial/ commercial land and not residential use. If the land use changes, revised cleanup standards will have to be developed and amended SCR Orders will have to be adopted by the Water Board. The majority of the property proposed for the TOD is currently vacant.

Implications of Proposed Change in Land Use

While the Regional Water Board does not approve or disapprove specific development projects, we are often asked if a proposed future use is compatible with residual site contamination. Based upon the known residual concentrations remaining at these sites, we recommend the following:

1. Environmental risk assessment for the entire project area, conducted prior to development: Information on the preparation of environmental risk assessments can be found in several documents, including the Regional Water Board's interim final ESLs ("Application of Environmental Screening Levels and Decision Making at Sites With Impacted Soil and Groundwater" – May 2008 and updates). This document can be accessed from our website at www.waterboards.ca.gov/sanfranciscobay/esl.shtml.
2. Additional remediation for future sensitive land uses such as residential: To be suitable for future sensitive land use, the property needs (1) remediation to a level that allows unrestricted use or (2) risk management to assure that the future residents will not be exposed to unhealthy levels of contamination. Regarding the second option, we are generally reluctant to approve a risk management approach at residential sites, particularly single-family residential, and would only do so if the residual contamination was modest, the project design minimized potential exposure, and the local agency (City of Newark) played an active role in tracking and enforcing risk management measures. Special considerations may be needed for placement of underground structures and utility corridors in areas of soil and groundwater pollution exists, ability to incorporate groundwater remediation into new underground structures for enhancement of groundwater remediation, and location and design of above-ground treatment systems.
3. Capped areas: Currently, two capped areas exist at FMC's property: the elemental phosphorous pit area in Parcel A, and the ethylene dibromide and 1,2-dichloroethane (1,2-DCA) area in Parcels B and I. Neither area is suitable for development at this time. Active source removal should be seriously considered. Additionally, a capped area exists at the Jones-Hamilton site that contains elevated pentachlorophenol, 1,2-DCA, and dioxins. In a letter dated February 26, 2008, we approved a Feasibility Study/Corrective Action Plan dated November 12, 2007, for cap removal, soil excavation (10,500 yd³) to a depth of ten feet

Terrence Grindall
Comments on NOP

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below grade, and groundwater pumping around well P-1 to remove a 1,2-DCA hot spot at the northwest corner of the former waste water impoundment. This work is currently on hold, pending the outcome of the City of Newark's Dumbarton TOD Specific Plan.

4. Protection of groundwater: Residual pollution left in place must be adequately managed to ensure that the impacted groundwater does not further deteriorate. The proposed project must incorporate mitigation measures to prevent further migration of pollutants from soil to groundwater and also prevent further migration to deeper aquifers in the project area, such as the Newark Aquifer. These deeper aquifers are actively managed by the Alameda County Water District as part of its water supply system.
5. Risk and construction management plans: To manage any significant residual pollution, a Risk Management Plan and a Construction Management Plan would be essential. Possible elements of a risk management plan include: a deed restriction prohibiting supply wells or sensitive site uses (e.g. residential use), requirement for vapor barriers and passive ventilation systems to mitigate possible vapor migration into new buildings (generally not allowed for residential use), special procedures and precautions for handling and transporting contaminated materials, a health and safety plan for construction workers who will be doing subsurface work at the site; notification and protection of existing residents in the area.
6. Mitigation measures: Pre- and post-development mitigation measures may be required to reduce exposure to pollutants in soil, vapors, dusts, groundwater during grading, construction, dewatering etc.; address potential vapor intrusion of pollutants to indoor air; and prevent further migration of pollutants.
7. Long-term monitoring and ongoing cleanup: The residual pollution will require continued monitoring long after the project is built out. In addition, ongoing compliance with cleanup orders, existing land use covenants, etc. will be required.

Given this context, the EIR should address the following issues:

- Potential threat to human health, water quality, and the environment from disturbance of soil and groundwater pollution during project construction
- Potential threat to human health, water quality, and the environment from residual soil and groundwater pollution during project operation (occupancy and use, based on a changed land use)
- Potential impact on deeper aquifers (Newark Aquifer and deeper) from soil and groundwater pollution as a result of construction and changed land use

Terrence Grindall
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The Regional Water Board staff looks forward to working with the City of Newark and other stakeholders to address the existing soil and groundwater pollution and move the redevelopment project forward. We would very much appreciate being kept up to date on the progress of your project in order that we can budget adequate staff time for your project.

If you have questions, please contact Cherie McCaulou of my staff at (510) 622-2342 (email address cmccaulou@waterboards.ca.gov).

Sincerely,

Bruce H. Wolfe
Executive Officer

cc:

Ashland, Inc., Attn: Mark Metcalf (mmetcalf@ashland.com)
SHH LLC, Attn: Peter Schneider (pete@discoversolutions.com)
FMC Corporation, Attn: Shawn Tollin (shawn.tollin@fmc.com)
Henry Khatchaturian, c/o John Olenchak (john@gvakm.com)
Cargill, Inc., Attn: Penny Streff (penny_streff@cargill.com)
Jones-Hamilton Co., Attn: Ray Hahn (rhahn@jones-hamilton.com)
Trumark Commercial, Attn: Jessica Roseman (jroseman@trumark-co.com)
Honeywell International Inc., Attn: Benny DeHigh (benny.dehigh@honeywell.com)
Alameda County Water District, Attn: Steven Inn (steven.inn@acwd.com)



Response to Comment Letter #5, Mary Rose Cassa, San Francisco Bay Regional Water Quality Control Board

- 5-1 The commentor states that the Draft EIR is lacking in addressing potential threats to human health, water quality and the environment during project construction and operation, and potential impacts on deep aquifers from soil and groundwater pollution as a result of construction and changed land use. Section 4.7 (Hazards and Hazardous Materials) of the Draft EIR provides a discussion of the existing environmental conditions within the Specific Plan area and descriptions of the properties within the area that are subject to contamination at a level of detail necessary for the general public and decision makers to gain an understanding of the significant impacts of the proposed project. It acknowledges the extent of past contamination of properties within the Specific Plan area and remedial activities that have taken place or that are ongoing. It further identifies the potential impacts of the project consistent with the CEQA thresholds of significance, including hazards to the public and the environment, and recommends mitigation to reduce these impacts to a less than significant level.
- 5-2 The commentor states that the descriptions of the contaminated sites are inconsistent, lack necessary detail and do not provide an overview of contamination in the area, without presenting any evidence or other support for those assertions. This comment also states that the potential health risks, ecological risks and degradation of state waters are understated. Again, no substantiation of that assertion is provided. The commentor states that the Draft EIR should include an assessment of impacts attributed by volatile organic compounds (VOCs) associated with excavation and construction. In response, as noted above in Response 5-1, the Draft EIR provides an accurate discussion of existing conditions with the Specific Plan area and descriptions of the contaminated properties at a level of detail that informs the general public and decisions makers about the potential significant environmental effects of proposed activities consistent with the requirements of CEQA. With regard to VOCs, the Draft EIR properly identifies the presence of this substance in groundwater and soils within the Specific Plan area and concludes that it would create a significant hazard to the public or the environment. This impact would be potentially significant but mitigable with implementation of specific measures identified in the Draft EIR.

- 5-3 This comment recommends revising Mitigation Measure 4.7.1a to provide greater detail. Mitigation Measure 4.7-1 has been revised accordingly and is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.

Comment Letter #6



DIRECTORS 43885 SOUTH GRIMMER BOULEVARD • P.O. BOX 5110, FREMONT, CALIFORNIA 94537-5110
 (510) 668-4200 • FAX (510) 770-1793 • www.acwd.org

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 Manager of Administrative Services

June 29, 2011

Terrence Grindall
 Community Development Director
 City of Newark
 37101 Newark Boulevard
 Newark CA 94560-3796

Dear Mr. Grindall:

Subject: Draft Environmental Impact Report for the Dumbarton Transit-Oriented Development Specific Plan

The Alameda County Water District (ACWD) wishes to thank you for the opportunity to comment on the "Draft Environmental Impact Report (DEIR) for the Dumbarton Transit-Oriented Development Specific Plan."

ACWD has reviewed the DEIR and would appreciate your consideration of the following comments:

1. Groundwater:

- a. Drilling Permit Requirement: As required by ACWD's Well Ordinance No. 2010-01, drilling permits are required prior to the start of any subsurface drilling activities for wells, exploratory holes, and other excavations. Application for a permit may be obtained from ACWD's Engineering Department, at 43885 South Grimmer Boulevard, Fremont or online at http://www.acwd.org/engineering/drilling_permit.php5. Before a permit is issued, a cash or check deposit is required in a sufficient sum to cover the fee for issuance of the permit or charges for field investigation and inspection. All permitted work requires scheduling for inspection; therefore, all drilling activities must be coordinated with ACWD prior to the start of any field work. 6-1
- b. Geotechnical Investigation: Reference is made to Mitigation Measure 4.5-1 (page 4.5-11). The mitigation measure requires future developers to have a design-level geotechnical investigation performed. As previously mentioned, ACWD regulates the construction, repair, and destruction of wells, exploratory holes, and other excavations located within the City of Newark under ACWD Ordinance No. 2010-01. 6-2



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- c. Soil Improvements: Reference is made to Mitigation Measure 4.5-1 (pages 4.5-11 to 4.5-12). The mitigation measure lists a number of possible soil improvement techniques that may be employed depending on recommendations of the design-level geotechnical engineering investigation. Some of the techniques include supporting structures on deep foundations, such as piles or piers, installing wick drains, and injecting grout.

Piers, piles, and grout are frequently installed similar to wells and exploratory holes. If the annular space between the excavation or borehole wall and the support pier or pile is not properly sealed, it can act as a vertical conduit and may create preferential pathways that allow pollutants to rapidly infiltrate the subsurface and impact groundwater. Wick drains can also create preferential pathways that can impact groundwater since they remain in place after the dewatering activities are completed.

6-3

Soil improvement techniques that intersect an aquifer or may impact the integrity of any aquitard located directly above an aquifer are regulated as other excavations under ACWD's Ordinance No. 2010-01. Therefore, ACWD requests that the project geotechnical engineer(s) coordinate with ACWD prior to beginning any soil improvement measures to ensure compliance with ACWD Ordinance No. 2010-01.

- d. Cleanup Sites: Reference is made to section 4.7.12, Hazards and Hazardous Materials, Existing Conditions (pages 4.7-1 to 4.7-22). The project area includes properties where at least seven (7) known major Spills, Leaks, Investigation, and Cleanup sites exist. To date, the risk posed to human health and the environment from the contamination at these sites is not fully assessed and work is in progress. ACWD provides assistance and local oversight for the cleanup and restoration of these sites in coordination with the Regional Water Quality Control Board – San Francisco Bay Region under a Cooperative Agreement. Therefore, any proposed development in the vicinity of these sites should be coordinated with ACWD and the Regional Board. Accordingly, we request that Mitigation Measure 4.7-1a in the DEIR be modified to recognize ACWD's involvement in the investigation and cleanup of these sites.

6-4

- e. Grading Permit: Reference is made to Mitigation Measure 4.7-1b (page 4.7-29). ACWD's records indicate the existence of over 150 wells located within the project area. Therefore, ACWD requests a mitigation measure that requires project proponents to develop a plan for the protection of wells that must be reviewed and approved by ACWD prior to issuance of demolition and grading permits to ensure compliance with ACWD Ordinance No. 2010-01.

6-5

- f. Dewatering: Reference is made to Section 4.8, Hydrology, Drainage and Water Quality (pages 4.8-1 to 4.8-28). The DEIR acknowledges that groundwater is very shallow within the project area; however, the DEIR does not address any temporary or permanent dewatering activities that may be required. ACWD requests that the following potentially significant impacts related to dewatering activities be addressed by the EIR:

6-6

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- 1) The project area includes areas where known Spills, Leaks, Investigation, and Cleanup sites exist. The EIR should address the potential impacts that dewatering activities and construction may have on the investigation and cleanup of those sites.
- 2) Since groundwater is an important component of ACWD's water resources, it is critical that the amount of water that may be extracted by dewatering be estimated and documented in the EIR. Alternative designs should be evaluated that would minimize the amount of dewatering required during and subsequent to construction. Groundwater losses due to dewatering should be measured and may be subject to a replenishment assessment fee. Mitigation measures should be proposed to replace all significant losses of ACWD's water supplies.
- 3) ACWD regulates the installation and destruction of dewatering wells under ACWD's Ordinance No. 2010-01. ACWD permits are required for dewatering well installations and destructions.

6-6
 Cont'd

g. Groundwater Quality: Reference is made to section 4.8.1.4, Water Quality, Groundwater Quality (pages 4.8-4 to 4.8-5). The DEIR should be updated to reflect that production from the Newark Desalination Facility has been increased to approximately 12.5 million gallons per day beginning on August 24, 2010. Also, review of water quality data by ACWD in this area indicates that groundwater in the proposed redevelopment area has a potential beneficial use, contrary to what is stated in the DEIR. The DEIR should recognize that protecting the shallow water bearing zone is also critical for protecting the Newark Aquifer, in which ACWD operates high capacity production wells for potable water supply and aquifer reclamation. This increased use of groundwater for a beneficial use further emphasizes the need to restore impacted groundwater at cleanup sites.

6-7

h. Well Protection/Destruction: Reference is made to section 4.8.1.4, Water Quality, Groundwater Quality (page 4.8-4). The DEIR states that groundwater is "currently monitored by 32 wells" in the specific plan area. ACWD records indicate there are over 150 wells in the project area. Therefore, ACWD requests a mitigation measure that requires project proponents to develop a plan for the protection of wells that must be reviewed and approved by ACWD prior to issuance of demolition and grading permits to ensure compliance with ACWD Ordinance No. 2010-01.

6-8

In order to protect the groundwater basin, each well located within the property must be in compliance with ACWD Ordinance No. 2010-01. If the well(s) are to remain, a letter so indicating must be sent to ACWD and will require a permit for inactive classification if the wells will not be used for a period of twelve (12) months. If the well(s) are: 1) no longer required by any regulatory agency; 2) no longer monitored on a regular basis; or 3) damaged, lost, or the surface seal is jeopardized in any way during the construction process, the well must be destroyed in compliance with ACWD Ordinance No. 2010-01. In addition, any abandoned wells located within the project area must be properly destroyed prior to construction activities.

6-9

Terrence Grindall
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June 29, 2011

2. Recycled Water: Reference is made to the draft Dumbarton TOD Specific Plan, Recycled Water (pages 128 to 131). As the proposed project is within the area that could be served by a future recycled water project in accordance with a joint ACWD and Union Sanitary District Recycled Water Master Plan, the Specific Plan correctly includes provisions for use of recycled water for non-potable uses such as irrigation of large landscape areas. However, the Specific Plan should also state that the installation of recycled water distribution system ("purple pipe"), designed to accommodate a future recycled water supply, within existing and new streets within the project area may be a condition of water service to the project. Such recycled water infrastructure, if required, shall be installed at the time of the development of the project site, and in the interim period before recycled water supply becomes available, this separate recycled water distribution system may be supplied using potable water via connections to ACWD's distribution system. The EIR should also address any potential environmental impacts, if any, which may result from the installation of the recycled water infrastructure along with the project.

6-10

3. Potable Water:

a. Water System Infrastructure: Reference is made to the draft Dumbarton TOD Specific Plan, Potable Water (pages 126 to 127). In order to extend the public water distribution system to meet project water service requirements and adequately integrate the project into ACWD's water system, significant offsite improvements will be required. While the draft Specific Plan indicates a water transmission main connection of the existing railroad right-of-way may be required, ACWD has stated that at least one additional water main connection between the North side of the existing railroad right-of-way and the project site at either Willow Street or Hickory Street will be required. Based on the information provided in the draft Specific Plan, it appears that a connection within Willow Street is most likely. In addition, one or more new water mains will need to be constructed across the existing San Francisco Public Utilities Commission (SFPUC) right-of-way. The construction of such railroad and SFPUC crossings may result in impacts to the environment. The EIR should include this required connection and address any associated environmental impacts that may arise from its construction. Other onsite and offsite water system extensions and/or improvements may similarly be required in order to meet fire flow requirements or other ACWD standards and requirements. The City and project proponents should coordinate closely with ACWD throughout the planning and development of the project.

6-11

Also on page 127, the draft Specific Plan identifies specific diameter sizes for water mains to be installed within the project's "backbone streets" and local streets. However, ACWD shall determine the water main sizing at the time of improvement plan review. In general, well-grided "backbone streets" typically would be provided with 12-inch diameter distribution mains, while well-grided residential streets typically would be provided with 8-inch diameter distribution mains.

6-12

Terrence Grindall
Page 5
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b. Hazards and Hazardous Materials: The DEIR identifies several hazards and hazardous materials sites within the project area. The ability to install a public water system within the project area would be conditioned upon confirmation that the soil or groundwater does not pose a risk to health and safety either during installation of the public water system or during long-term operation and maintenance of such a system. Any mitigations required to eliminate such hazards or potential hazards, such as clean fill corridors or other mitigations, need to be identified and described in the EIR.

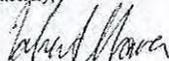
6-13

4. ACWD Contacts: The following ACWD contacts are provided so that the City can coordinate with ACWD as needed during the CEQA process:

- Eric Cartwright, Water Resources Planning, at (510) 668-4206, or by e-mail at eric.cartwright@acwd.com, for coordination regarding water supply issues.
- Steven Inn, Groundwater Resources Manager at (510) 668-4441, or by e-mail at steven.inn@acwd.com, for coordination regarding ACWD's groundwater resources.
- Rangarajan Sampath, Groundwater Resources Engineer at (510) 668-4411, or by e-mail at rangarajan.sampath@acwd.com for coordination regarding cleanup sites.
- Michelle Myers, Well Ordinance Supervisor, at (510) 668-4454, or by e-mail at michelle.myers@acwd.com for coordination regarding groundwater wells and drilling permits.
- Ed Stevenson, Development Services Manager, at (510) 668-4472, or by e-mail at ed.stevenson@acwd.com, for coordination regarding public water systems and water services.

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Dumbarton Transit-Oriented Development Specific Plan at this time.

Sincerely,



Robert Shaver
Assistant General Manager - Engineering

rs/uf
By PDF

cc: Steven Inn, ACWD
Eric Cartwright, ACWD
Ed Stevenson, ACWD
Michelle Myers, ACWD
Rangarajan Sampath, ACWD

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Response to Comment Letter #6, Robert Shaver, Alameda County Water District

- 6-1 This comment states that a drilling permit is required in accordance with the Alameda County Water District's (ACWD's) Well Ordinance prior to any subsurface drilling activities for wells, exploratory holes and other excavations. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 6-2 This comment references Mitigation Measure 4.5-1, which requires design-level geotechnical investigations for individual properties when development is proposed, and states that ACWD regulates the construction, repair and destruction of wells, exploratory holes and other excavations. Mitigation Measure 4.5-1 has been amended to note this and is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.
- 6-3 This comment identifies concerns with soil improvement techniques that might be required pursuant to Mitigation Measure 4.5-1 and the potential for such techniques to intersect an aquifer or impact the integrity of any aquitard located directly above an aquifer. Mitigation Measure 4.5-2 has been added to require the project geotechnical engineer(s) to coordinate with the ACWD to ensure compliance with ACWD Ordinance No. 2010-01." Refer to Chapter 10 of this Final EIR.
- 6-4 This comment references pages 4.7-1 through 4.7-22 of the Draft EIR regarding existing conditions relative to hazardous materials within the Specific Plan area. The comment states that ACWD provides assistance and local oversight for the cleanup and restoration of contaminated sites in coordination with the San Francisco Bay Regional Water Quality Control Board (SFRWQCB) and requests a revision to Mitigation Measure 4.7-1a to recognize ACWD's involvement in the investigation and cleanup of these sites. Mitigation Measure 4.7-1a has been revised accordingly and is provided in Chapter 10 of this Final EIR.
- 6-5 This comment references Mitigation Measure 4.7-1b and states that ACWD records indicate that there are over 150 existing wells within the Specific Plan area. While there is no evidence provided regarding the exact number of wells within the Specific Plan area, nevertheless, any existing wells, whatever the number, should be protected as required by law. The

comment requests a mitigation measure that requires project applicants to develop a plan for the protection of wells subject to the review and approval of the ACWD prior to issuance of demolition and/or grading permits. Mitigation Measure 4.5-3 has been added accordingly and is included in Chapter 10 of the Final EIR.

- 6-6 This comment requests that proposed dewatering activities be addressed in the Draft EIR. As a program-level EIR, the Draft EIR for the proposed Dumbarton TOD Specific Plan has been prepared for project area land use changes and the planning document that would guide future development within the area. Site-specific plans to develop individual properties within the Specific Plan area and improvement plans to construct required infrastructure to support the development have not been prepared. Thus, the extent of dewatering activities needed for the proposed project have not been determined. However, implementation of Mitigation Measure 4.3-2 would ensure compliance with ACWD Ordinance No. 2010-01, which includes regulations pertaining to the installation and destruction of dewatering wells.
- 6-7 This comment references pages 4.8-4 and 4.8-5 of the Draft EIR and suggests that information in the Draft EIR be updated to reflect that production from the Newark Desalination Facility has increased to approximately 12.5 million gallons per day beginning in August 2010. The comment also states that a review of water quality data by ACWD indicates that groundwater within the Specific Plan area has a potential beneficial use contrary to the Draft EIR. It also requests that the Draft EIR recognize that protecting the shallow water bearing zone is critical for protecting the Newark Aquifer. The Draft EIR notes, based upon substantial evidence, the increasing salinity of the Newark Aquifer within the Specific Plan area due to tidal intrusion and the brackish nature of the shallow water bearing zone that the shallow water zone is not itself usable as a potential drinking water source. With that said, revisions to information provided in Section 4.8 (Hydrology, Drainage, and Water Quality) of the Draft EIR regarding groundwater quality have been made and are provided in Chapter 10 of this Final EIR.
- 6-8 This comment states that there are over 150 wells within the Specific Plan area. Refer to Response 6-5, above.
- 6-9 This comment states that in order to protect the groundwater basin, each

well within the Specific Plan area must be in compliance with ACWD Ordinance 2010-01. If wells are to remain, a letter indicating this must be submitted to ACWD. A permit would be required for inactive classification if the wells would not be used for a period of 12 months. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

- 6-10 This comment references the Recycled Water section of the Dumbarton TOD Specific Plan and requests reference in the Specific Plan that the installation of a recycled water distribution system may be made a condition of providing water service to future, specific projects within the Specific Plan area. This reference will be added to the Specific Plan as requested. The comment also states that the Draft EIR should address any potential impacts that may result from installation of recycled water infrastructure. Unless and until such infrastructure is required, and the details known regarding its location and design, any such impacts would be too speculative and uncertain to be analyzed at this time. As a program-level EIR, the Draft EIR for the proposed Dumbarton TOD Specific Plan has been prepared for project area land use changes and the planning document that would guide future development within the area. Site-specific plans to develop individual properties within the Specific Plan area and improvement plans to construct required infrastructure to support the development have not been prepared. Thus, consistent with CEQA Guidelines Section 15168(c), the Draft EIR recognizes that subsequent activities undertaken pursuant to the Specific Plan would be examined in light of the program EIR to determine if additional environmental review would be required.
- 6-11 This comment states that at least one additional water main connection would be required for the project, most likely within Willow Street. The comment also states that one or more new water mains would need to be constructed across the existing San Francisco Public Utilities Commission (SFPUC) right-of-way. The commentor states that the Draft EIR should include the required connection and address any associated impacts that may arise from its connection. Potential impacts associated with crossing the SFPUC right-of-way for required storm drainage lines are identified in the Draft EIR. Mitigation Measure 4.8-4b would reduce this impact to less than significant and has been revised to include new water mains. Refer to Chapter 10 of this Final EIR.

- 6-12 This comment states that ACWD would determine water main sizing at the time of improvement plan review. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 6-13 This comment states that the ability to install a public water system within the project area would be conditioned upon confirmation that the soil or groundwater does not pose a risk to health or safety during installation of the system or during long-term operation and maintenance of such a system. It also states that any mitigation measures required to eliminate hazards need to be identified in the Draft EIR. Section 4.7 (Hazards and Hazardous Materials) addresses the project's potential impacts associated with existing contamination within the project area and identifies mitigation to reduce impacts to the public and environment to a less than significant level.

Comment Letter #7



1333 Broadway, Suites 220 & 300

Oakland, CA 94612

PH: (510) 208-7400

www.AlamedaCTC.org

July 1, 2011

Commission Chair
Mark Green, Mayor - Union City
Commission Vice Chair
Scott Haggerty, Supervisor - District 1
AC Transit
Greg Harper, Director

Mr. Terrance Grindall
City of Newark
3700 Newark Blvd.
Newark, CA 94560

Alameda County
Supervisors
Nedra Lodgey - District 2
Wilma Chan - District 3
Nate Wiley - District 4
Keith Carson - District 5

Subject: Comments on the Draft Environmental Impact Report (DEIR)
for the Dumbarton Transit Oriented Development (TOD)
Specific Plan

BART
Thomas Blalock, Director

Dear Mr. Grindall:
Terrence

City of Alameda
Rob Bonta, Vice Mayor

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the proposed Dumbarton Transit Oriented Development (TOD) Specific Plan. The Dumbarton TOD would provide a comprehensive policy and regulatory framework to guide future development and redevelopment within an approximately 205-acre Dumbarton TOD Specific Plan area. The proposed Specific Plan is intended to establish the allowable land uses, development regulations, design guidelines, necessary infrastructure improvements and an implementation plan to direct future development and redevelopment of the Dumbarton TOD Specific Plan area. Implementation of the proposed Specific Plan would allow a mix of residential, office, retail, public/quasi-public, and park and open space uses to develop in close proximity to planned regional public transit. Additionally, the Dumbarton TOS Specific Plan is an identified Priority Development Area (PDA) and is consistent with the Countywide Transportation Plan identification of PDAs and transit oriented development.

City of Albany
Farid Javandel, Mayor

City of Berkeley
Laurie Capetelli, Councilmember

City of Dublin
Tim Soriano, Mayor

City of Emeryville
Ruth Adair, Councilmember

City of Fremont
Suzanne Chan, Vice Mayor

City of Hayward
Olson Hanson, Councilmember

City of Livermore
Marshall Kamona, Mayor

City of Newark
Luis Freitas, Vice Mayor

City of Oakland
Councilmembers
Larry Reid
Rebecca Kaplan

City of Piedmont
John Chiang, Vice Mayor

City of Pleasanton
Jennifer Hoseman, Mayor

City of San Leandro
Joyce B. Saravack, Councilmember

Executive Director
Arthur L. Oza

Many of the roadway impacts are identified as significant and unavoidable, because of limited right-of-way for widening and other constraints. This means that ways of encouraging non-auto modes of travel need to be planned for and implemented through the Specific Plan. In this regard, the Alameda County Transportation Commission (Alameda CTC) respectfully submits the following comments:

- The Alameda CTC encourages cities to consider a comprehensive Transit Oriented Development (TOD) Program, which would include environmentally clearing all access improvements necessary to support the TOD land use development as part of the environmental document. This includes any identified additional transit service and bicycle and pedestrian improvements.

7-1

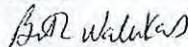
-
- Pages 4.14-51 through 4.14-53 state that there will be an increase in demand for public transit due to the Dumbarton TOD project. While the Alameda Countywide Transportation Plan and the DEIR both identify Dumbarton Rail service as a potential solution to accommodate transit in the study area, the timeframe for the actual implementation of the rail service is not known and is at best a long term solution. The DEIR also states that transit service through AC Transit is assumed as an alternative solution, but states that the suggested improvements would be outside the City of Newark's jurisdiction and would require AC Transit approvals, causing the improvements to not be feasible and therefore significant and unavoidable. Given the overall size and importance of this project to the region and its need for transportation options, it is requested that the City collaborate with AC Transit as early as possible in the development process to identify appropriate mitigation measures and a plan for providing transit to the project site. In today's current funding environment, it cannot be assumed that AC Transit will be able to assume the full burden of implementing additional service to the project site and that the project should be encouraged to contribute its fair share. Also, Alameda CTC is in the process of updating the Countywide Transportation Plan and developing a Transportation Expenditure Plan, which potentially could help fund transit service in the County. 7-2

- Pages 4.14-53 through 4.14-55, which address the Pedestrian and Bicycle aspects of the project, should also identify pedestrian and bicycle routes documented in the Alameda Countywide Bicycle and Pedestrian Plans. Both Plans are currently being updated and are defining bicycle and pedestrian access to Transit Priority Zones and PDAs. 7-3

- The DEIR should consider the use of TDM measures, in conjunction with roadway and transit improvements, as a means of attaining acceptable levels of service. Whenever possible, mechanisms that encourage ridesharing, flextime, transit, bicycling, telecommuting and other means of reducing peak hour traffic trips should be considered. 7-4

Once again, thank you for the opportunity to comment on the DEIR for the Dumbarton TOD Specific Plan. Should you have any questions or require any additional information, please do not hesitate to contact me at (510) 208-7405.

Sincerely,



Beth Walukas
Deputy Director of Planning

Cc: Laurel Poeton, Assistant Transportation Planner
File: CMP- Environmental Review Opinions - Responses - 2011

Response to Comment Letter #7, Beth Walukas, Alameda County Transportation Commission

- 7-1 This comment states that the Alameda County Transportation Commission (ACTC) encourages cities to consider a comprehensive Transit Oriented Development (TOD) Program, which would include environmentally clearing all access improvements necessary to support the TOD land use development as part of the environmental document. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers. It should also be noted that the proposed project location could take advantage of the proposed Dumbarton Rail Corridor (DRC) Project and encourage transit as an alternative to automobile use, and that the Specific Plan includes a number of elements designed to reduce depending upon automobiles, including trails, bicycle facilities and the placement of housing within walking distance of employment, transit and entertainment. However, it should also be noted, as stated in the Draft EIR on pages 3-1 and 3-19, the project is not dependent in any way upon proposed DRC transit service (or the transit station), which is a separate project undergoing separate environmental review by other public agencies. Moreover, due to the uncertain timeline and funding status of the DRC Project, it would be speculative to include the project in the cumulative context of this environmental analysis. The DRC and the transit station are not reasonably foreseeable future activities of the project that must be studied by this EIR at this time. As a result, at this time alternative transit service would need to be provided to accommodate the demand generated by the site.
- 7-2 The commentor requests that the City collaborate with Alameda County Transit (AC Transit) as early as possible in the development process to identify appropriate mitigation measures and a plan for providing transit to the project area. Mitigation Measure 4.14-2 requires the City to coordinate with AC Transit to improve bus service to the Specific Plan area, which would reduce impacts related to transit to less than significant. However, ultimate implementation would be under AC Transit's jurisdiction and cannot be guaranteed. As a result, the impact would remain significant and unavoidable.

Comments regarding the importance of the Dumbarton Rail Project and coordination among agencies are noted.

- 7-3 This comment requests that pedestrian and bicycle routes documented in the Alameda Countywide Bicycle and Pedestrian Plans be identified in the Draft EIR. The Countywide Bicycle and Pedestrian Plans were adopted in 2006 and are currently being updated. The 2006 Bicycle Plan contains a proposed Countywide Class III bicycle route that extends from Thornton Avenue southbound across SR-84 to the intersection with Willow Street. The route then travels on Willow Street south to Central Avenue and runs east until it intersects with the railroad tracks where a proposed section of the Bay Trail parallel to the tracks would continue the route. Other planned Countywide routes in the vicinity include a proposed Class III route that continues east on Central Avenue and a proposed north-south Class II route that runs along Newark Boulevard, Brittany Avenue and Cherry Street. Alameda County also adopted a Pedestrian Master Plan in 2006 that identifies areas of Countywide significance for capital pedestrian projects. Thornton Avenue, Cherry Avenue and Willow Street are all part of the proposed Bay Trail spine and, therefore, corridors of Countywide significance for pedestrian projects.

Chapter 4.14 (Traffic) of the Draft EIR has been revised to include additional language describing these plans. Refer to Chapter 10 (Revisions to Draft EIR) of this Final EIR.

- 7-4 This comment states that the Draft EIR should consider the use of Transportation Demand Management (TDM) measures. The City will consider additional measures beyond those proposed in the Specific Plan, including mechanisms that encourage ridesharing, flextime, transit, bicycling, telecommuting and other means to reduce peak hour traffic trips.

Comment Letter #8



July 1, 2011

City of Newark
Economic Development and Planning
37101 Newark Blvd.
Newark, CA 94560-3796

Attention: Mr. Terrence Grindall

RE: Draft Environmental Impact Report (DEIR)
Dumbarton Transit Oriented Development

Dear Mr. Grindall:

Thank you for notifying and giving Union Sanitary District (USD) the opportunity to review the Draft Environmental Impact Report for the Dumbarton Transit Oriented Development (TOD) Specific Plan. The proposed development of approximately 206.7-acre Dumbarton TOD Specific Plan Area includes a maximum of 2,500 residential units on 149 acres, 35,000 square feet of retail on 5 acres, 195,000 square feet of commercial on 7.2 acres, transit station on 6.1 acre, 16.3 acres of parks and open space and 23.1 acres of miscellaneous development. The development area is located in Union Sanitary District's Newark Basin.

Based on our review, it appears that our meetings and conversations with you and your consultant(s) before and during the preparation of the DEIR have been very productive. The issues and concerns that we anticipate together with the proposed mitigation measures were all included and discussed in the DEIR. While USD's Alvarado Treatment Plant in Union City has enough capacity to treat the wastewater discharge from the proposed project, a major concern was the anticipated capacity deficiency of the sanitary sewer lines adjacent to the project area including USD's twin 33-inch forcemains that transmit wastewater from the Newark and Irvington Basins to our treatment plant in Union City. We do have some minor comments and/or corrections on the DEIR pages 3-12, 3-38, 4.12-18 and 4.12-19. Please refer to the attached.

8-1

The Newark Basin Master Plan Update is currently in progress and will reflect the anticipated wastewater discharge from the proposed TOD development. The updated master plan will identify collection capacity deficiencies and will contain recommendation on what sanitary sewer system improvements will be necessary to accommodate the project. The work on the

8-2

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P.O. Box 5050, Union City, CA 94587-8550
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Terrence Grindall
July 1, 2011
Page 2

updated master plan started last year as planned but completion and the release of the final report is now anticipated in summer of 2012 instead of June this year.

8-2
Cont'd

A review of our current boundaries and the TOD project area reveals that some portions of the Cargill and FMC properties located west of the development are outside USD boundary. These areas will need to be annexed to USD for us to be able to legally serve the future residential units on the properties. Annexation of these areas may be deferred until development plans are submitted to the City and USD. It should be noted that annexation process may take anywhere from six months to a year.

8-3

Again, we thank you for the opportunity to review and comment on the TOD DEIR. We look forward to working with the City on this project. If you have any questions or if I can be of further help, you may call me at (510) 477-7617.

Truly yours,


Al D. Banyl, P.E.
Associate Engineer

Cc: Rollie Arbolante
Sami Ghossain
Jesse Gill
File

Attachment

ADB:adb

Project Description Chapter 3

interspersed non-native trees consisting of ornamental fig (*Ficus* sp.), Mexican fan palm (*Washingtonia robusta*), London plane (*Platanus aurifolia*), eucalyptus (*Eucalyptus* sp.), Peruvian pepper (*Schinus molle*), and pine (*Pinus* sp.). Common animal species expected to inhabit the ruderal habitat within the Specific Plan area include western scrub jay (*Aphelocoma californica*), American crow (*Corvus brachyrhynchos*), common raven (*Corvus corax*), American robin (*Turdus migratorius*), European starling (*Sturnus vulgaris*) and Brewer's blackbird (*Euphagus cyanocephalus*). The biological resources of the Plan area are described in detail in Chapter 4.3.

Rights-of-Way and Utility Easements

The Specific Plan area contains several rights-of-way and transportation and utilities easements. The northern portion of the Specific Plan area is underlain by the Hetch Hetchy Pipeline, which travels from east to west. The City and County of San Francisco owns the Hetch Hetchy Pipeline, and the San Francisco Public Utilities Commission (SFPUC) maintains a 110 foot right-of-way and tight control over crossings and other uses within this right-of-way. The DRC runs in an east/west direction generally along the northern edge of the Specific Plan area, almost parallel to the Hetch Hetchy Pipeline. The DRC has a 100-foot wide right-of-way owned by the San Mateo County Transit District. The East Bay Discharge Authority (EBDA) owns and operates two 36-inch sanitary sewer force mains serving the City of Newark that run through the Specific Plan area within a 30-foot wide easement, partially within the Hickory Street right-of-way. The Alameda County Flood Control F-1 Canal flows from east to west along the Specific Plan area's southern boundary, providing the main drainage outlet to the San Francisco Bay for a large part of the City of Newark. A tributary to this canal, the F-6 ditch generally flows from north to south along the Specific Plan area's easterly boundary and runs north along the west side of Willow Street for a distance of about 1,300 feet. Pacific Gas and Electric (PG&E) transmission lines traverse the Specific Plan area from north to south and PG&E maintains a 25-foot wide easement underneath the lines and surrounding the towers that support the high-voltage lines.

Union Sanitary District (USD)

ASHLAND INC. PROPERTY

The Ashland Inc. property occupies approximately 10.29 acres located southeast of the terminus of Enterprise Drive (8610 Enterprise Drive). The Ashland property is generally flat and has a gentle slope downward toward the southern east portion of the property. The surface elevation ranges from approximately nine to 11 feet above MSL. Ashland operated a chemical packaging and distribution facility on the property from 1973 until 2000. Currently, the property is vacant, enclosed by

Project Description Chapter 3

portion of Newark, north through the Specific Plan area, across (beneath) the Hetch Hetchy Pipeline and Southern Pacific Railroad (SPRR) and into parallel 36-inch and 42-inch trunk gravity mains that flow to the west in the SPRR right-of-way (SPRR Mains). The SPRR Mains combine into a single 48-inch gravity sewer main that continues to the Newark Pump Station near the northwest corner of the Specific Plan area. Wastewater is pumped from the station through twin 33-inch force mains to the Alvarado Treatment Plant, approximately five miles to the north. In addition to the Willow Street 36-inch, there is a 14-inch gravity line in Enterprise Drive (Enterprise Drive 14-inch) that flows from east to west before turning to the northwest to run diagonally across the FMC property. This line is in disrepair, is shallow and only serves as a redundant line to the Willow Street 36-inch and the SPRR Mains, in the event of excessive surcharging in those lines.

Dual 33-inch force mains owned and operated by the ~~East Bay Discharge Authority (EBDA)~~ ^{U.S.P.} traverse the Specific Plan area generally from south to north and at a depth of approximately five feet within the existing right-of-way for Hickory Street between the Torian and Ashland properties to the east and Cargill property to the west, then follow FMC's property southern boundary before heading northerly again ~~(EBDA Mains)~~ ^{U.S.P. Force}. The ~~EBDA~~ ^{U.S.P.} Mains do not serve the Specific Plan area but carry wastewater from the Irvington Pump Station near the Fremont Boulevard Interchange at Interstate 880 to the Newark Pump Station. These pipes may be sensitive to movement and subject to failure should heavy construction occur over or in the vicinity of the pipelines. Mitigation measures may therefore be necessary as part of the implementation of the Specific Plan to protect the ~~EBDA~~ ^{U.S.P.} Mains or project proponents may consider the option of replacing the ~~EBDA~~ ^{U.S.P.} Mains within the Hickory Street right-of-way working closely with the USD. ^{USD Force}

In general, most new connections to the existing wastewater collection system are anticipated to be made to the Willow Street 36-inch gravity main. A new 12-inch gravity sewer main may be required to the areas located west of the ~~EBDA~~ ^{U.S.P.} Mains to avoid potential conflicts with those pipelines. There is no particular limit to the number of connections that can be made. However, it is anticipated that improvements may be required to both the 36-inch gravity trunk sewer in Willow Street and possibly the 42-inch gravity trunk sewer in the SPRR due to future development associated with the Dumbarton TOD Specific Plan and deficiencies in these lines identified by the USD.

The Newark Pump Station recently underwent an 11 million dollar upgrade and it is anticipated that no further upgrades would be needed to serve the proposed Dumbarton TOD Specific Plan area. However, the force mains that convey flow

Public Services and Utilities Section 4.12

A 14-inch gravity line in Enterprise Drive ultimately flows to the Newark Pump Station after crossing the FMC property and the Hetch Hetchy Pipeline. This line is in disrepair, is shallow, and only serves as a redundant line to the mains in Willow Street and the SPRK in the event of excessive surcharging in those lines. The Enterprise Drive line and the Willow Street main are the only two sewer lines near the project area to cross the Hetch Hetchy Pipeline.

Dual 33-inch force mains, operated by ~~East Bay Dischargers Authority (EBDA)~~ ^{USD}, traverse the site generally from south to north. These mains carry wastewater from the Irvington Pump Station (near the Fremont Boulevard and Interstate 880 interchange) to the Newark Pump Station, but do not serve the project area. These pipes are sensitive to movement and their joints are subject to failure should heavy construction or intense uses occur over or in the vicinity of the pipeline. In general, additional structural mitigation measures may need to be installed at selected locations or, as an alternative, these lines could be replaced in a new alignment within Hickory Street. The nature of the structural mitigation measures or replacement mains would be determined in conjunction with USD.

No additional improvements to the Newark Pump Station are anticipated, however, force mains conveying flow from the station to the Alvarado Treatment Plant may be underized for buildout of the Specific Plan. An additional line or an equalization basin near the station would be needed. ~~Required improvements~~ ^{newer} ~~schedules for their implementation, and funding options will be addressed in the~~ USD Sewer Master Plan, which is scheduled for publication in ~~June, 2010~~ ^{Summer of 2012}. In general, most new connections to the existing wastewater collection service would be provided along the 36-inch Willow Street gravity main. A new 12-inch gravity sewer main may be required to provide service to the areas located west of the EBDA mains to avoid a potential conflict with new mains crossing EBDA mains.

The following policies will be included as a part of the General Plan Amendment for the Dumbarton TOD Specific Plan project.

- ◆ Expand the wastewater collection system such that it is adequate to serve the new development in the project area.
- ◆ Amend sewer fees and/or other financing mechanisms if necessary such that project area project sponsors pay their fair share of the costs for ~~sewer main~~ ^{or pipe main} improvements.
- ◆ The USD ~~was~~ ^{is} scheduled to begin updating their Sewer Master Plan in the fall of 2010, with a document available by ~~June of 2011~~ ^{Summer of 2012} as part of the updating ^{and anticipate completion}

4.12-18

Dumbarton TOD Specific Plan Draft EIR
City of Newark

Public Services and Utilities Section 4.12

process, USD will gather information on planning activities at each city within its boundaries (Fremont, Newark and Union City) to help guide the Master Plan. It is important that the City of Newark continues to engage in this process and is forthright with respect to the Specific Plan, so that the Sewer Master Plan can provide concrete documentation of the upgrades required to implement the Specific Plan.

Implementation of Mitigation Measure 4.12-2 would reduce impacts to the wastewater system to less than significant.

Mitigation Measure

4.12-2 Prior to approval of any tentative map within the Dumbarton TOD Specific Plan area, additional necessary improvements, if any, beyond those already included in the USD Master Plan and updated fee program, shall be determined regarding proposed new connections (from such tentative map development) and then-existing or proposed wastewater facilities. Such improvements shall be installed prior to issuance of a building permit. Improvements shall be consistent with requirements in the Sewer Master Plan (anticipated to be available in June 2011). The City and USD shall verify that any necessary improvements will be available prior to occupation of those new residential dwelling units for which such improvements are necessary.

Level of Significance After Mitigation: Less Than Significant.

WATER SUPPLY

4.12-3 Sufficient water supplies are available to serve the proposed project from existing entitlements and resources. No new or expanded entitlements would be required.

Level of Significance Before Mitigation: Less Than Significant

Impact Analysis

The Dumbarton TOD Specific Plan area is located within the water service area of ACWC. Pursuant to SB 610, a WSA was prepared for the proposed project. The WSA relies on the 2010 Draft Urban Water Management Plan (UWMP) data to analyze and report water supply reliability and the 2005 UWMP to document

Response to Comment Letter #8, Al D. Bunyi, Union Sanitary District

- 8-1 This comment suggests revisions to Section 4.12 (Public Services and Utilities) of the Draft EIR to replace references to the East Bay Dischargers Authority with Union Sanitary District (USD), as well as modifications to the date of completion of the USD Sewer Master Plan. These revisions are included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.
- 8-2 This comment addresses the Newark Basin Master Plan Update and corrects the anticipated completion date on pages 4.12-18 and 4.12-19 of the Draft EIR. Refer to Chapter 10 of this Final EIR.
- 8-3 Comment noted regarding the Cargill and FMC properties requiring annexation to USD prior to development. Clarification has been provided in Chapter 3 (Project Description) of the Draft EIR to describe the process. Refer to Chapter 10 of this Final EIR.

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Comment Letter #9



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July 1, 2011

Mr. Terrence Grindall
Community Development Director
City of Newark
37101 Newark Blvd
Newark, CA 94560

RE: Notice of Completion and Availability of Draft Environmental Impact Report for the Dumbarton Transit Oriented Development (TOD) Specific Plan

Dear Mr. Grindall:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Dumbarton TOD Specific Plan. SamTrans is the owner of the railroad right of way north of the project limits and is currently in the process of planning a commuter rail service on these railroad tracks, the Dumbarton Rail Corridor (DRC) Project.

SamTrans supports the Newark City TOD program and looks forward to working together with the City of Newark in the planning and implementation of our respective projects. As one of the proposed DRC station locations is in Newark City, we would like to offer the following comments:

1. The Dumbarton TOD Program DEIR indicates that "The DRC Project is not a part of the Dumbarton TOD Specific Plan and the Specific Plan is not dependent in any way upon implementation of the DRC Project." However, we recommend that traffic and transportation effects of the implementation of the DRC rail service as well as the indirect land use effect be discussed in the final EIR.

9-1

Traffic impacts could be substantially different with and without the DRC project. It might be reasonable for the Final EIR to analyze the implications of this difference in terms of traffic impacts and projected transit mode share for the TOD area. Intuitively, the TOD area would be more attractive to residents and businesses with the DRC project completed. The Final EIR should address the relationship between the provision of transit service and land development and consider how the development of the TOD area could be different with and without the DRC project.

2. Since the Specific Plan and the DRC Project are interrelated, the inclusion of each project into the No-Build condition for the other should be considered.

9-2

SAN MATEO COUNTY TRANSIT DISTRICT
1250 San Carlos Ave. - P.O. Box 3006
San Carlos, CA 94070-1306 (650)508-6200

Mr. Terrence Grindall
July 1, 2011
Page 2 of 2

Many elements of the Specific Plan would affect ridership of the DRC and/or traffic conditions near the station. In addition, if they are deemed reasonable and foreseeable, they should be considered in the station area planning included in the DRC Project. These elements to be considered include:

- According to the Specific Plan, the Newark transit station is planned to have 500 parking spaces at full build (phased over time) and a shared parking agreement between the station and future adjacent uses is encouraged. How would this affect DRC ridership?
- The majority of new residential units within the Specific Station are within 1/2 mile (ten minute) walking distance of proposed transit station platform location. The Plan also includes a bus station hub in overall planning of the Station. These elements should be considered in the DRC planning, design, and ridership analysis.
- The Specific Plan contains street improvements - Willow St, Hickory St, Central Ave, and Enterprise Dr. - which comprise the backbone circulation plan. The Specific Plan also contains street upgrades and intersection improvements per City of Newark's General Plan Circulation Element (1989, updated 2007). The inclusion of these improvements in the traffic model would affect the DRC traffic analysis.

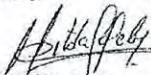
9-2
Cont'd

Additionally, it may be warranted that the DRC Project be included in the evaluation of cumulative impacts. Specifically for noise, cumulative impacts scenario is based on roadway traffic noise only and uses FHWA's Traffic Noise Model (TNM). The cumulative scenario may need to be revised to include the combined effect of traffic noise and the DRC train noise. Freight and commuter rail operations at or near the Dumbarton Rail Transit Station may generate levels of ground vibration that would expose residential dwellings and other receptors on the Specific Plan site to levels that exceed applicable thresholds. This issue should be discussed even if brief.

9-3

We want to reiterate our support to the City of Newark on its TOD initiative and remain available for coordinating very closely our mutual planning efforts for the Dumbarton TOD and the Dumbarton Rail Corridor projects. Please feel free to contact me at 650-622-7842 if you have any questions.

Sincerely,



Hilda LaFebre, DBIA
Manager, Capital Project & Environmental Planning

cc: Aidan Hughes, Interim Executive Officer- Planning & Development
William Hurrell, WSA
Cathy LaFata, LBG
Larry Pesesky, LBG

SAN MATEO COUNTY TRANSIT DISTRICT
1250 San Carlos Ave. - P.O. Box 3006
San Carlos, CA 94070-1306 (650)508-6200

Response to Comment Letter #9, Hilda Lafebre, San Mateo County Transit District

9-1 The comment requests discussion of the impacts of the Dumbarton Rail Corridor (DRC) Project in the Draft EIR for the Dumbarton TOD Specific Plan. As stated in the Draft EIR on pages 3-1 and 3-19, implementation of the proposed Specific Plan would allow a mix of residential, office, retail, park and recreational open space uses in close proximity to planned future transit service along the DRC. At the same time, the project is not dependent in any way upon proposed DRC transit service (or the transit station), which is a separate project undergoing separate environmental review by other public agencies. Moreover, due to the uncertain timeline and funding status of the DRC Project, it would be speculative to include the project in the cumulative context of this environmental analysis. The DRC and the transit station are not reasonably foreseeable future activities of the project that must be studied by this EIR at this time.

Comments regarding the attractiveness of development within the Specific Plan area to residents and businesses with the DRC project completed are noted.

9-2 This comment states that since the Dumbarton TOD Specific Plan and DRC Project are interrelated, the inclusion of each project in the no-build condition for the other should be considered. As described in Response 9-1, the DRC and the transit station are not reasonably foreseeable future activities of the project that must be studied by this EIR at this time.

9-3 This comment suggests that it may be warranted that the DRC Project be included in the evaluation of cumulative impacts, specifically for noise. Noise analysis associated with future rail use are included in Chapter 4.10 (Noise) of the Draft EIR and mitigation measures are included to address potential impacts.

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Comment Letter #10



Making San Francisco Bay Better

July 1, 2011

Terrence Grindall
Community Development Director
City of Newark
37101 Newark Boulevard
Newark, California, 94560

SUBJECT: Draft Environmental Impact Report on Dumbarton Transit Oriented
Development Specific Plan, BCDC Inquiry File No.AL.FT.7025.1
SCH# 2010042012

Dear Mr. Grindall:

The San Francisco Bay Conservation and Development Commission (BCDC) appreciates the opportunity to review and comment on the *Draft Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan* (DEIR), dated May 2011. Although our Commission has not had the opportunity to review the DEIR, these staff comments are based on BCDC's law, the McAteer-Petris Act and the provisions of its *San Francisco Bay Plan* (Bay Plan).

Jurisdiction and Authority. As a permitting authority along the San Francisco Bay shoreline, BCDC is responsible for granting or denying permits for any proposed fill (earth or any other substance or material, including pilings or structures placed on pilings, and floating structures moored for extended periods), extraction of materials or change in use of any water, land or structure within the Commission's jurisdiction. Generally, BCDC's jurisdiction over San Francisco Bay extends from the Golden Gate to the Sacramento River and includes tidal areas up to the mean high tide level, including all sloughs, and in marshlands up to five feet above mean sea level; a shoreline band consisting of territory located between the shoreline of the Bay and 100 feet landward and parallel to the shoreline; salt ponds; managed wetlands (areas diked from the Bay and managed as duck clubs); and certain waterways tributary to the Bay. The Commission can grant a permit for a project if it finds that the project is either (1) necessary to the health, safety or welfare of the public in the entire Bay Area, or (2) is consistent with the provisions of the McAteer-Petris Act and the Bay Plan. The McAteer-Petris Act provides for fill in the Bay for water-oriented uses where there is no alternative upland location and requires that any fill that is placed in the Bay is the minimum that is necessary for the project. The McAteer-Petris Act also requires that proposed projects include the maximum feasible public access consistent with the project to the Bay and its shoreline.

10-1

Since our initial letter, dated May 4, 2010, indicating that the project is outside of the Commission's jurisdiction staff has conducted a more detailed analysis of the extent of BCDC jurisdiction in the project vicinity. As stated in the McAteer-Petris Act, BCDC jurisdiction extends to certain waterways tributary to the Bay, "consisting of all areas that are subject to tidal action, including submerged lands, tidelands, and marshlands up to five feet above mean sea level, or, or tributary to, the listed portions of the following waterways: Plummer Creek in Alameda County, to the eastern limits of the saltponds...." In addition to the stretches of Plummer Creek located along the southern and southeastern portion of the project there are areas, located at the northwestern corner of the project site, that may be within BCDC's "bay jurisdiction. Staff recommends that the EIR clarify the extent of the project site, as depicted in Figure 3-2, that may be within BCDC's jurisdiction.

10-2

Public Access. Section 66602 of the McAteer-Petris Act states, in part, that "existing public access to the shoreline and waters of the San Francisco Bay is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided." Furthermore, the McAteer-Petris Act authorizes the placement of fill in the Bay only for water-oriented uses or minor fill for improving shoreline appearance or public access.

10-3

State of California • SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION • Edmund G. Brown Jr., Governor
50 California Street, Suite 2600 • San Francisco, California 94111 • (415) 352-3600 • Fax (415) 352-3606 • info@bcdc.ca.gov • www.bcdc.ca.gov

Terrance Grindall
July 1, 2011
Page 2

If any projects identified in the DEIR are within BCDC's jurisdiction, then the EIR should consider that BCDC's public access requirements include, "maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline."

Transportation and Land Use. The general goals described for the area defined in the DEIR are goals that, if met in a way that protects the ecological resources along the shoreline, BCDC supports. These goals include, the development of transit-oriented development that "allows for a mixed of residential, office, retail, public/quasi public, and park and open space uses to develop in close proximity to planned regional public transit." In pursuit of these goals, the City of Newark should continue coordinating with the Association of Bay Area Government's (ABAG) Focus program, a joint effort of ABAG, the Bay Area Air Quality Management District (BAAQMD), the Metropolitan Transportation Commission (MTC) and BCDC.

10-4

Sea Level Rise and Safety of Fills. It appears that some areas within the plan area and along the adjacent shoreline may be vulnerable to projected sea level rise. BCDC has conducted an assessment of the region's exposure to sea level rise which is based on a projected 16-inch sea level rise at mid century (2050) and 55-inch sea level rise at the end of the century (2100). However, on page 4.6-27 the DEIR indicates that BCDC expects climate change to raise sea level between 12 and 36 inches by the year 2100. Therefore, the EIR should clarify the source of the 12 and 36 inch sea level rise projections.

10-5

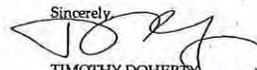
Bay Plan findings and policies anticipate the need for planning associated with safety of fills and sea level rise. The safety of fills findings state, in part, "structures on fill or near the shoreline should be above the highest expected water level during the expected life of the project... Bay water levels are likely to increase in the future because of a relative rise in sea level... Relative rise in sea level is the sum of: (1) a rise in global sea level and (2) land elevation change (lifting and subsidence) around the Bay." Bay Plan policies on safety of fills state, in part, "local governments and special districts with responsibilities for flood protection should assure that their requirements and criteria reflect future relative sea level rise and should assure that new structures and uses attracting people are not approved in flood prone areas or in areas that will become flood prone in the future, and that structures and uses that are approvable will be built at stable elevations to assure long-term protection from flood hazards." Projects in BCDC jurisdiction that involve bay fill must be consistent with the Bay Plan policies on the safety of fill and sea level rise.

10-6

The DEIR process is an opportunity to design the future project so that it can be more resilient to sea level rise related impacts. Therefore, the EIR should discuss the potential for inundation and its impacts on land use, transportation, hydrology, water quality, hazards, infrastructure and utilities and public services. Please see the attached maps that identify areas that may be exposed to sea level rise in the vicinity of the plan area. These maps are part of a draft BCDC staff report that analyzes vulnerabilities to climate change in the Bay and along the shoreline.

10-7

Thank you again for the opportunity to review and comment on the *Draft Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan*. If you have any questions please contact me directly at (415) 352-3667.

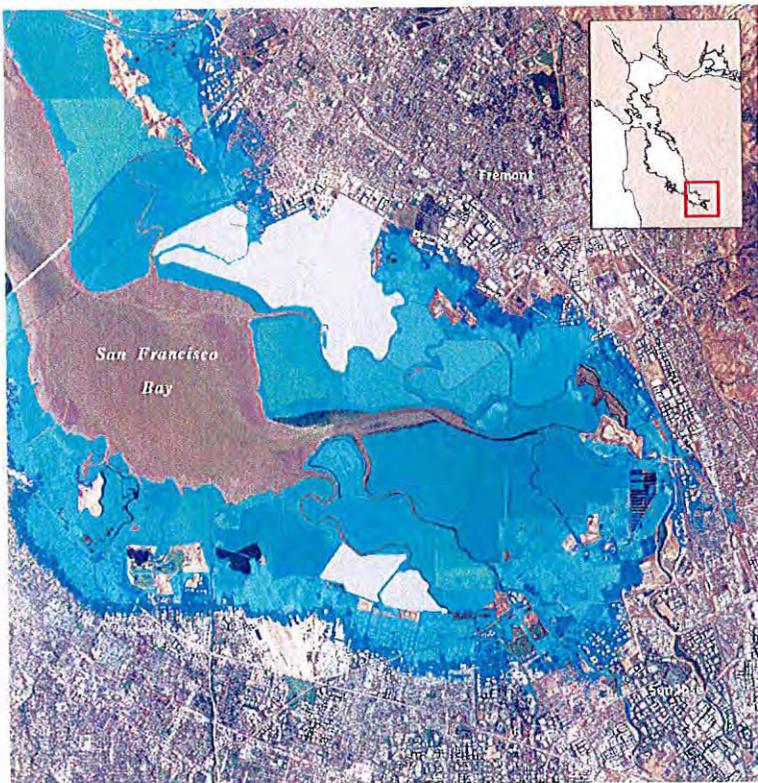
Sincerely

TIMOTHY DOHERTY
Coastal Planner

TD/emc



SHORELINE AREAS VULNERABLE TO SEA LEVEL RISE: SOUTH BAY

- Area vulnerable to an approximate 16 inch sea level rise
- Area vulnerable to an approximate 55 inch sea level rise
- No Data



SOURCE: Inundation data from Knowles, 2008. Additional sea pond elevation data by Siegel and Bachand, 2002. Aerial imagery is NAIP 2008 data.
DISCLAIMER: Inundation data does not account for existing shoreline protection or wave activity. These maps are for informational purposes only. Users, by their use, agree to hold harmless and release the State of California and its representatives and its agents for any liability associated with its use in any form. The maps and data shall not be used to assess actual coastal hazards, insurance requirements, or property values or be used in lieu of Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA).

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Response to Comment Letter #10, Timothy Doherty, Bay Conservation and Development District

- 10-1 This comment summarizes the Bay Conservation Development Commission's (BCDC's) jurisdiction and authority along the San Francisco shoreline. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 10-2 This comment states that since providing the City with an initial letter regarding BCDC's jurisdiction over the project area in May 2010, they have conducted further analysis of the extent of their jurisdiction over the area. Following receipt of Comment Letter #10, City staff requested additional clarification regarding BCDC jurisdiction. BCDC staff confirmed that the waterway in the northwest portion of the project area, referred to as the barge canal, is considered part of the Bay and BCDC has jurisdiction over a shoreline band located between the shoreline and 100 feet landward and parallel to the shoreline for public access purposes. Plummer Creek is not considered part of the Bay but is referred to as "Certain Waterways," which cannot be filled without a BCDC permit. The project does not propose any fill of these waters. Page 4.9-23 of the Draft EIR has been revised to clarify this and is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.
- 10-3 Comment noted regarding the McAteer-Petris Act and placement of fill in the Bay. As noted on page 3-25 of the Draft EIR, the proposed project includes a perimeter trail surrounding the Specific Plan area, as well as the construction of a 6.5-acre park that would be located adjacent to this area, which would preserve public access and views of the shoreline. Furthermore, the project does not propose to place fill within the Bay.
- 10-4 Comment acknowledged regarding BCDC's support of transit-oriented development that "allows for a mix of residential, office, retail, public/quasi public, and park and open space uses in close proximity to planned regional public transit." The City will continue to coordinate with the Association of Bay Area Governments (ABAG) Focus program.
- 10-5 This comment asks for clarification regarding the source of sea level rise projections. The projections for sea level rise within the project area in the Draft EIR were derived from the San Francisco Bay Plan and the BCDC's

Shoreline Areas Vulnerable to Sea Level Rise Central Bay South Inundation Map and were included in Section 4.6 (Greenhouse Gas Emissions) of the Draft EIR. However, according to the BCDC staff report, *Living with a Rising Bay: Vulnerability and Adaptation in San Francisco Bay and on the Shoreline*, released in April 2009, climate projections for the Bay Area suggest that sea level may rise between 15 to 55 inches by the year 2100. Page 4.6-27 of the Draft EIR has been revised to correct the sea level rise projection and is included in Chapter 10 of this Final EIR.

- 10-6 This comment states that the Bay Plan findings and policies anticipate the need for planning associated with safety of fills and sea level rise. As noted in Response 2-5, sea level rise is addressed on page 4.6-27 of the Draft EIR. Minor revisions have been made to the Draft EIR to acknowledge the sea level rise mapping that has been completed by the BCDC (refer to Chapter 10 of this Final EIR). Based on the mapping conducted by BCDC and acknowledged in the Draft EIR, a portion of the western area of Specific Plan could be affected by sea level rise. As addressed in the Draft EIR, the forecasted sea level rise could increase flood related impacts, especially from storm-surge induced flood events. Section 15.40.51 of the City's Municipal Code has flood elevation standards for lands within special flood hazard areas as defined by FEMA. If sea level rise was determined to be a significant threat, protective measures such as levees installed by regional and local governments would be available to protect urbanized areas.

The BCDC forecast expressly notes that it does not account for existing shoreline protection or wave activity and that, where necessary, future levees are an appropriate mechanism for protecting against flood damage from rises in sea levels. Ultimately, the National Oceanic and Atmospheric Agency, FEMA, USACE, cities, counties and flood control districts are responsible for protecting the public and the San Francisco Bay ecosystem from flood hazards. The City's Municipal Code flood elevation standards would protect the Specific Plan area based upon flood risks as determined by FEMA, the City and these other regional and local agencies.

As addressed in Response to Comment 10-2, any future development within 100 feet of barge canal would be required to comply with the BCDC's San Francisco Bay Plan.

- 10-7 This comment suggests that the Draft EIR discuss the potential for inundation and its impacts on land use, transportation, hydrology, water

quality, hazards, infrastructure, and utilities and public services. As noted in Responses 2-5 and 10-6, sea level rise is addressed on page 4.6-27 of the Draft EIR and considers the potential for inundation within the Specific Plan area as a result of sea level rise. The Draft EIR provides a reasonable range of alternatives, and includes alternatives to the proposed project that would preserve open space adjacent to the baylands. Alternatives 2 and 3 would concentrate development adjacent to the City, preserving the western portion of the Specific Plan area in open space. The project, as well as the alternatives, will be considered by the City Council prior to taking action on the Specific Plan.

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Comment Letter #11



San Francisco Water Power Sewer
Operator of the Hatch Hatch Regional Water System

Bureau of Environmental Management
1145 Market Street Suite 500
San Francisco, CA 94103
T 415.934.57
F 415.934.57

July 1, 2011

By Electronic Mail

Terrence Grindall, Community Development Director
City of Newark
37101 Newark Boulevard
Newark, CA 94560

RE: Dumbarton Transit Oriented Development Specific Plan;
Draft Environmental Impact Report May 2011

Dear Mr. Grindall,

Under the provisions of Section 15082 of the CEQA Guidelines, the San Francisco Public Utilities Commission (SFPUC) hereby submits comments on the May 2011 Draft Environmental Impact Report (DEIR) for the Dumbarton Transit Oriented Development Specific Plan.

The Dumbarton Transit Oriented Development Specific Plan, as currently proposed, conflicts with the SFPUC right-of-way and pipelines, specifically at the Newark Valve Lot location. Parkland along the right-of-way can be created as long as it does not interfere with SFPUC operations or affect SFPUC pipelines. However, such use of SFPUC is only permitted upon issuance of a lease by the SFPUC. The SFPUC has leased parking lots in other locations; however the Newark Valve Lot is not available for such use. Any fill over SFPUC pipelines is not allowed.

11-1

On page 4.3-33 the DEIR states "Accordingly, this site is not likely to support CTS [California tiger salamander]." This conclusion is not valid. The SFPUC was issued a U.S. Fish and Wildlife Service (USFWS) Biological Opinion which covered portions of the Newark Valve Lot as part of the larger Water System Improvement Program (WSIP) Bay Division Pipeline Number 5 Project. The Biological Opinion assumes presence of CTS and the SFPUC has incurred agency-required mitigation related to this impact. Please contact the SFPUC if you would like to receive a copy of this Biological Opinion. Additionally, the City of Newark was on the distribution list for the Bay Division Pipeline Number 5 Project CEQA documents throughout all phases of Environmental Review process including the DEIR and RTC. The CEQA documents are available on-line at: <http://goo.gl/bAaui>. Refer to the site-specific biological impacts for further details on the presence of CTS.

11-2

The SFPUC appreciates the opportunity to comment on the DEIR for the Dumbarton Transit Oriented Development Specific Plan. Please contact me at 415.554.3232 if you have any questions about the above comments.

Sincerely,

Bary Pearl
for Irina P. Torres, AICP, Manager
Bureau of Environmental Management
San Francisco Public Utilities Commission

- Edwin M. Lee
Mayor
- Francesca Villar
President
- Anson Moran
Vice President
- Ann Muller Chen
Commissioner
- Art Torres
Commissioner
- Vince Courtney
Commissioner
- Ed Harrington
General Manager



Services of the San Francisco Public Utilities Commission

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Response to Comment Letter #11, Irina P. Torrey, San Francisco Public Utilities Commission

- 11-1 This comment states that the Dumbarton TOD Specific Plan currently conflicts with the San Francisco Public Utility Commission's (SFPUC's) right-of-way and pipelines, specifically the Newark Valve Lot location. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 11-2 The commentor states that the Draft EIR's conclusion that the project area is not likely to support California tiger salamander (CTS) is not valid. The commentor is basing this on a Biological Opinion the U.S. Fish and Wildlife Service (USFWS) issued the SFPUC for their Bay Division Pipeline Number 5 Project.

Monk & Associates has multiple staff members that are both USFWS and California Department of Fish and Game (CDFG) permitted CTS biologists. They routinely conduct surveys for all distinct populations of the CTS, have located many previously unidentified CTS breeding sites and have an extensive reporting history for CTS both with CDFG and USFWS. The closest known CTS population to the project area is in Fremont (i.e., the former the Pacific Commons project site) and was originally discovered and reported to CDFG and USFWS by Monk & Associates in March 1997. Two of Monk & Associates' permitted CTS biologists surveyed the project area for the Draft EIR and assessed the suitability of the project area for CTS. One of these biologists worked with the known CTS population in Fremont. It is Monk & Associates' professional opinion that the project area does not provide suitable aestivation (over-summering) or breeding habitat for the CTS.

For almost a century, the project area has been a site for industrial production. It is located in between residential and industrial lands on the eastern project boundary and Cargill bittern basins on the western project boundary. Wildlands, Inc. Plummer Creek Wetland Mitigation Project, a restored area of tidal wetlands and associated uplands, is located at the project site's southwestern corner. CTS are not known to occur at the Plummer Creek Wetland Mitigation Project Site (personal communication between S. Lynch, Monk & Associates, and C. Tambini, Wildlands, Inc., July 5, 2011). The extensive surrounding developments and the brackish to salt

water habitats provide an effective barrier to CTS immigration into the project area.

There are no fresh water habitats onsite that are of the size or depth to remain inundated long enough for CTS larvae to metamorphose. Pool value for reproduction is positively correlated with depth. Breeding is typically not observed in pools with a maximum depth of less than 22 centimeters (Trenham et. al 2008). Research has shown that CTS larvae need ponded water through the month of May (minimum) to allow larvae time to fully metamorphose.² CTS larvae first start to emerge from breeding pools as early as May, but if the water in the pool persists, CTS larvae will remain in the pools in their aquatic phase (with gills) through June or early July (Monk & Associates personal observations).

Due to the absence of suitable breeding habitat within the project area, the distance of the project area from known CTS populations (3.8 miles is the closest known recorded population), and all the barriers to migration in this industrialized area of Newark, there is no possibility that CTS occur within the project area. Therefore, development of the proposed project would not impact CTS.

² USFWS (U.S. Fish and Wildlife Service), 2005. Endangered and threatened wildlife and plants; designation of critical habitat for the California tiger salamander, central population; final rule (50 CFR Part 17, August 23, 2005).

Comment Letter #12

honeywell

Honeywell
2525 West 190th Street
Torrance, CA 90505
310-512-2296

July 1, 2011

Terrence Grindall
Community Development Director
City of Newark Community Development Department
37101 Newark Boulevard
Newark, CA 94560

Subject: Comments on the Draft Environmental Impact Report (SCH#2010042012)
Dumbarton Transit-Oriented Development Specific Plan
Newark, California

Dear Mr. Grindall:

This letter is in response to the Draft Environmental Impact Report (EIR) for the Dumbarton Transit Oriented Development Specific Plan (SCH #2010042012). Honeywell International Inc. (Honeywell) has reviewed the document and provides the following comments as allowed under the provisions of the California Environmental Quality Act (CEQA) and accompanying Guidelines.

Project Understanding

The proposed Dumbarton Transit Oriented Development (TOD) Specific Plan (project) would provide a comprehensive policy and regulatory framework to guide future development and redevelopment within the approximately 205-acre Dumbarton TOD Specific Plan area. The proposed Specific Plan would establish the allowable land uses, development regulations, design guidelines, necessary infrastructure improvements, and an implementation plan to direct future development and redevelopment of the Dumbarton TOD Specific Plan area. Implementation of the proposed Specific Plan would allow a mix of residential, office, retail, public/quasi-public, and park and open space uses to be developed in close proximity to planned regional public transit.

The Draft EIR analyzes the potential effects that may occur on the environment as a result of the adoption and implementation of the proposed Dumbarton TOD Specific Plan. The information contained within this Draft EIR will be reviewed and considered by the City of Newark prior to its action to approve, disapprove, or modify the proposed project.

Comments

Comment No. 1: *General Comments on the Draft EIR.*

- (a) The specific issues and recommendation outlined in the California Regional Water Quality Control Board, San Francisco Bay Region's *Comments on the Notice of Preparation of an Environmental Impact Report for the Dumbarton Transit-Oriented Development (TOD) Specific Plan, Newark, Alameda County* issued on April 30, 2010 should be

12.1

Mr. Terrence Grindall
 Page 2
 July 1, 2011

identified and addressed within the Draft EIR. This would include requiring the following items prior to development: an environmental risk assessment for the entire project area, evaluation of additional remediation for future sensitive land uses such as residential, protection of groundwater, risk and construction management plans, and mitigation measures as well as addressing long-term monitoring and ongoing cleanup requirements after development.

12-1
 Cont'd

(b) Honeywell has ongoing groundwater and soil vapor monitoring and groundwater and soil cleanup efforts pursuant to Final Site Cleanup Requirements (SCR) Order R2-2007-0005 issued by the California Regional Water Quality Control Board (RWQCB) that affects portions of the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001).

12-2

(c) The 2008 Newark Area Two Concept Plan, the 2010 Conceptual Land Use Plan, and the 2011 Dumbarton TOD Specific Plan identifies the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001) for medium or high density residential development or park space. Honeywell would like to confirm that, due to the presence of shallow impacted groundwater, buildings constructed on these properties will adhere to the 2008 Newark Area Two Concept Plan description of medium density residential buildings within a half-mile of the station as townhomes that are attached at the sides with a separate garage for each unit tucked under the living spaces and higher-density residential buildings are described as having ground-floor retail development.

12-3

(d) The Draft EIR contains the traditionally separate discussion of hazardous materials and water quality. While these are generally addressed as separate resource areas, the area associated with the Dumbarton TOD Specific Plan is unique in its history of contamination and cleanup efforts. A literal reading of the setting sections appears to suggest that soil and groundwater remediation efforts are concluded or not necessary. We suggest a more detailed general discussion of the current ongoing cleanup efforts and cross-reference between Sections 4.7, Hazardous Materials, and 4.8, Hydrology, Drainage, and Water Quality, for continuity of information.

12-4

(e) The Draft EIR should fully disclose current and future conditions in the area to meet its obligations under CEQA for determining potential environmental impacts associated with the City of Newark's approval of the Dumbarton TOD Specific Plan Draft EIR.

12-5

Comment No. 2: Page 2-5, Executive Summary, Section 2.4 Significant Impacts, 8th Bullet, states the following:

- Hazards and Hazardous Materials – The public and/or environment could accidentally be exposed to hazardous materials during construction and operation of future development allowed by the Specific Plan.

Mr. Terrence Grindall
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Honeywell's Comment: Please add the following language to this bullet item:

As outlined in the California Regional Water Quality Control Board, San Francisco Bay Region's *Comments on the Notice of Preparation of an Environmental Impact Report for the Dumbarton Transit-Oriented Development (TOD) Specific Plan, Newark, Alameda County* issued on April 30, 2010, "contaminated soil and groundwater exist within the proposed TOD, and include high concentrations of chlorinated solvents, metals, flammable materials (i.e., elemental phosphorous), phenols (pentachlorophenol), dioxins/furans, poly aromatic hydrocarbons (PAHs) and petroleum hydrocarbons. Soil and groundwater remediation are required at the sites (listed below), pursuant to Site Cleanup Requirements (SCR) Orders issued by the California Regional Water Quality Control Board, San Francisco Bay Region:

12-6

- FMC Corporation, 8787 Enterprise Drive, SCR Order R2-2002-0060
- Ashland Inc., 8610 Enterprise Drive, SCR Order R2-2005-0038
- SHH, LLC, 37445 Willow Street, SCR Order R2-2008-0081
- Jones-Hamilton, 8400 Enterprise Drive, SCR Order R2-2001-0054
- Former Baron-Blakeslee, 8333 Enterprise, SCR Order R2-2005-0004"

Ongoing groundwater and soil vapor monitoring and groundwater and soil cleanup efforts are occurring pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB that affects portions of the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001).

Comment No. 3: Page 3-11, Section 3.3.3. *Site Characteristics, Overview, Paragraph 1*, states the following:

The approximately 205-acre Dumbarton TOD Specific Plan area is currently primarily vacant and unused with the exception of a chemical blending and distribution facility located in the northeastern corner, a storage area for base-rock and tractor trailers used in construction projects located in the northeastern portion, and a dog training facility and a police firing range located in the south central portion.

Honeywell's Comment: Please replace this paragraph with the following revised paragraph and additional verbiage:

The approximately 205-acre Dumbarton TOD Specific Plan area is currently primarily vacant and unused with the exception of a virgin chemical storing, repackaging, and distribution facility located in the northeastern corner, a storage area for base-rock and tractor trailers used in construction projects located in the northeastern portion, and a dog training facility and a police firing range located in the south central portion.

12-7

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July 1, 2011

As outlined in the California Regional Water Quality Control Board, San Francisco Bay Region's *Comments on the Notice of Preparation of an Environmental Impact Report for the Dumbarton Transit-Oriented Development (TOD) Specific Plan, Newark, Alameda County* issued on April 30, 2010, "contaminated soil and groundwater exist within the proposed TOD, and include high concentrations of chlorinated solvents, metals, flammable materials (i.e., elemental phosphorous), phenols (pentachlorophenol), dioxins/furans, poly aromatic hydrocarbons (PAHs) and petroleum hydrocarbons. Soil and groundwater remediation are required at the sites (listed below), pursuant to Site Cleanup Requirements (SCR) Orders issued by the California Regional Water Quality Control Board, San Francisco Bay Region:

- FMC Corporation, 8787 Enterprise Drive, SCR Order R2-2002-0060
- Ashland Inc., 8610 Enterprise Drive, SCR Order R2-2005-0038
- SHH, LLC, 37445 Willow Street, SCR Order R2-2008-0081
- Jones-Hamilton, 8400 Enterprise Drive, SCR Order R2-2001-0054
- Former Baron-Blakeslee, 8333 Enterprise, SCR Order R2-2005-0004"

Ongoing groundwater and soil vapor monitoring and cleanup efforts are occurring pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB that affects portions of the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001).

12-7
Cont'd

Comment No. 4: Page 3-14, Section 3.3.3, *Enterprise Drive LLC (Trumark Commercial) Property* states the following:

The approximately 2.14-acre Enterprise Drive LLC (Trumark Commercial) property is located at 8375 Enterprise Drive in the northeastern portion of the Specific Plan area. The Enterprise Drive LLC property is a level, vacant lot with ruderal vegetation that is enclosed by fencing. It is approximately ten to 15 feet above MSL with a gentle slope to the southwest towards San Francisco Bay. There is a Hetch Hetchy Pipeline with a 110-foot right-of-way owned by the SFPUC in southern portion of property. The chemical blending and distribution facility located on the adjacent Gallade property uses a portion of the Enterprise Drive LLC property for parking and storage. Groundwater underneath the property and site soils have been impacted with COCs from past uses associated with the adjacent Gallade property. There is a groundwater monitoring well on the property and current activities consist of groundwater monitoring.

Honeywell's Comment: Please replace the following three sentences:

The chemical blending and distribution facility located on the adjacent Gallade property uses a portion of the Enterprise Drive LLC property for parking and storage. Groundwater underneath the property and site soils have been impacted with COCs from past uses associated with the adjacent Gallade property. There is a

12-8

Mr. Terrence Grindall
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groundwater monitoring well on the property and current activities consist of groundwater monitoring.

With the following:

Past uses associated with the adjacent Gallade property have impacted groundwater underneath the central and northern portions of the property and site soils in the northeast portion of the property with COCs. There are several groundwater monitoring wells on the property and soil and groundwater monitoring and remediation activities are ongoing pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB.

12-8
Cont'd

Comment No. 5: Page 3-15, Section 3.3.3, *Gallade Enterprises LLC Property states the following:*

The approximately 2.3-acre Gallade property is located at 8333 Enterprise Drive in the northeast corner of the Specific Plan area. The level Gallade property has an elevation of approximately 11 feet above MSL. The property is currently developed with three structures (an office and two warehouses) and a parking area. The majority of the site is either covered by buildings or paving, although a small portion contains ruderal habitat. A portion of the Hetch Hetchy Pipeline located underneath the property adjacent to the southern boundary. Gallade Chemical, Inc. currently uses the site for the storage, blending, packaging, and distribution of virgin chemical products. Past uses contaminated onsite soils and groundwater, as well as groundwater downgradient (westward) of the property with COCs. Groundwater, soil-vapor, and ambient air monitoring is conducted semiannually onsite and at nearby properties.

Honeywell's Comment: Please replace the following three sentences:

Gallade Chemical, Inc. currently uses the site for the storage, blending, packaging, and distribution of virgin chemical products. Past uses caused contamination of onsite soils and groundwater, as well as groundwater downgradient (westward) of the property with COCs. Groundwater, soil-vapor, and ambient air monitoring is conducted semiannually onsite and at nearby properties.

With the following:

Gallade Chemical, Inc. currently uses the site for the storage, repackaging, and distribution of virgin chemical products. Historical operations at the site caused contamination of onsite soils and groundwater, as well as groundwater downgradient (westward) of the property, with COCs. These contamination affects portions of the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001). This property is currently undergoing groundwater and soil vapor monitoring and cleanup activities pursuant to the Final SCR Order R2-2007-0005 issued by the RWQCB and monitoring and reporting pursuant to the

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Department of Toxic Substances Control (DTSC) Hazardous Waste Post Closure
Facility Permit, Facility EPA ID Number CAD07464459.

12-9
Cont'd

Comment No. 6: *Page 3-30, Section 3.6.1, Permitted Land Uses states the following:*

Land uses within the Dumbarton TOD Specific Plan would be regulated by the application of permitted, conditionally permitted, and/or administratively permitted uses designated by the zoning district applied to each parcel (i.e., LDR, POS and C). Except as otherwise provided in the Dumbarton TOD Specific Plan, permitted uses, development standards, processing requirements, and other regulations are as specified by the City of Newark Zoning Ordinance.

Honeywell's Comment: As required by the DTSC Hazardous Waste Post Closure Facility Permit, Facility EPA ID Number CAD07464459, a Covenant to Restrict Use of Property, Environmental Restriction was issued for the Former Baron-Blakeslee Facility located at 8333 Enterprise Drive in Newark, California. The covenant prohibits the following uses of the property: residence, including any mobile home or factory-built housing, constructed or installed for use as residential human habitation; a hospital for humans; a public or private school for persons under 21 years of age; and a day care center for children. These provisions, and any other restrictions identified in the Covenant to Restrict Use of Property, should be included in the discussion of land use regulation as well as the requirements for the termination or partial termination of the covenant.

12-10

Comment No. 7: *Page 3-40, Section 3.7, Intended Uses of the EIR, Second Paragraph states the following:*

Other agencies with jurisdiction over approvals necessary or desirable to the project include, without limitation, the following:

- ♦ U.S. Army Corps of Engineers
- ♦ U.S. Fish and Wildlife Service
- ♦ California Department of Fish and Game
- ♦ California Department of Toxic Substances Control
- ♦ California Regional Water Quality Control Board
- ♦ Bay Area Air Quality Management District
- ♦ Alameda County Water District
- ♦ Alameda County Flood Control and Water Conservation District
- ♦ East Bay Dischargers Authority
- ♦ Union Sanitary District
- ♦ San Francisco Public Utilities Commission
- ♦ San Francisco Water Department
- ♦ San Mateo County Transit District
- ♦ San Mateo County Transportation Authority

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Honeywell's Comment: Please add Alameda County Department of Environmental Health and the U.S. Environmental Protection Agency (EPA) to the list of agencies that may provide approval for the project.

12-11

Comment No. 8: Pages 4.7-11 through -14, Section 4.7.1.2, Existing Conditions, Hazardous Materials Sites, FMC Corporation (8787 Enterprise Drive).

Honeywell's Comment: Portions of the FMC property, APNs 092-0100-004-02 and 092-0101-001, have been contaminated from historical operations that occurred at the former Baron Blakeslee, Inc. facility, located at 8333 Enterprise Drive (now owned by Gallade Chemical). These properties, APNs 092-0100-004-02 and 092-0101-001, are undergoing groundwater and soil vapor monitoring and cleanup efforts pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB. The Final SCR Order R2-2007-0005 requires semiannual groundwater and soil vapor monitoring for a network of wells located on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001) and railroad properties, as well as north, west and east of the Gallade property in residential and public properties. Remediation consists of the following three tasks: in situ thermal remediation for the former tank farm area located on the northern portion of the Gallade and Trumark properties; in situ treatment for the shallow groundwater on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001) a, and railroad properties; and soil excavation in the former process building area of the Gallade property. The in situ thermal remediation activities were completed from March 2010 to January 2011 and the final remediation completion report will be submitted in August 2011. The in situ chemical oxidation remediation activities began in the fall of 2010 and are ongoing. Soil excavation in the former process building area of the Gallade property will begin upon completion of building demolition and slab removal.

12-12

Comment No. 9: Pages 4.7-14 through -16, Section 4.7.1.2, Existing Conditions, Hazardous Materials Sites, Gallade Property (Barron-Blakeslee; 8333 Enterprise Drive), paragraphs three, four, five and six, state the following:

Due to known soil and groundwater contamination and the risks associated with potential exposure to contaminants onsite, remedial action for soils, soil vapor, and groundwater was warranted. Order No. R2-2007-0005 specified that the Gallade property would have to be remediated in accordance with the cleanup plan discussed in finding 11 of the Order. Like the FMC Corporation property, the Gallade property water areas also consist of the shallow groundwater zone and the Newark Aquifer. The Revised Feasibility Study and Remedial Action Plan (RAP) were submitted to RWQCB on January 31, 2006, and has been implemented consistent with the Order described above. Soil excavation and in situ thermal treatment of shallow soil and groundwater were proposed as the preferred remediation technologies for the site. The RAP also contained a risk management plan.

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A semi-annual status report was submitted in December 2006, and again in August 2007. In the July 2008-December 2008 semi-annual status report, it was concluded that the VOC plume in the shallow zone groundwater appeared to be stable. VOC concentrations at the monitoring wells onsite remained consistent with previously observed concentrations, which were still above standards set forth in finding 11 of the RWQCB Order.

Soil-vapor monitoring revealed that industrial and/or residential environmental screening level criteria were exceeded for vinyl chloride at non-residential soil vapor wells onsite.

The report recommended continuation of the semiannual groundwater monitoring per the site cleanup requirements detailed in the Order, and to continue semiannual soil-vapor monitoring at all residential and non-residential soil-vapor wells to define long-term trends and evaluate potential concerns of vapor intrusion in adjacent residential properties.

Honeywell's Comment: Please replace the abovementioned four paragraphs with the following:

This property is currently undergoing groundwater and soil vapor monitoring and groundwater and soil cleanup activities pursuant to the Final SCR Order R2-2007-0005 issued by the RWQCB and monitoring and reporting pursuant to the DTSC Waste Post Closure Facility Permit, Facility EPA ID Number CAD07464459. The Final SCR Order R2-2007-0005 was based on a Revised Feasibility Study and Remedial Action Plan that was submitted to RWQCB on January 31, 2006, which also included a risk management plan.

The Final SCR Order R2-2007-0005 requires semiannual groundwater and soil vapor monitoring for a network of groundwater and soil vapor monitoring wells located on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001) and railroad properties, as well as north, west and east of the Gallade property in residential and public properties. Groundwater and/or soil vapor plumes have been detected on or about these properties. Remediation consists of the following three tasks: in situ thermal remediation for the former tank farm area located on the northern portion of the Gallade and Trumark properties; in situ treatment for the shallow groundwater on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001), and railroad properties; and soil excavation in the former process building area of the Gallade property upon completion of building demolition and slab removal.

The current semiannual status report, the 2010 Second Semiannual Status Report, was submitted in January 2011 and concluded that the VOC plume in the shallow zone groundwater appeared to be stable and soil-vapor monitoring revealed that industrial and/or residential environmental screening level criteria were exceeded for TCE, PCE, vinyl chloride, and cis-1,2-DCE at soil vapor wells located outside residential areas. The report recommended continuation of the semiannual

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groundwater monitoring per the site cleanup requirements detailed in the Order, and to continue semiannual soil-vapor monitoring at all residential and non-residential soil-vapor wells to define long-term trends and evaluate potential concerns of vapor intrusion in adjacent residential properties.

The in situ thermal remediation activities were completed from March 2010 to January 2011 and the final remediation completion report will be submitted in August 2011. The in situ chemical oxidation remediation activities began in the fall of 2010 and are ongoing. The soil excavation beneath the former process building will occur upon completion of building demolition and slab removal.

12-13
Cont'd

Comment No. 10: Pages 4.7-22 and -23, Section 4.7.1.2 Existing Conditions, Hazardous Materials Sites, Trumark (8375 Enterprise Drive) states the following:

A Phase I was prepared for the Trumark site on July 20, 1998, by Lowney Associates. According to the Phase I, the Trumark site was owned between 1961 and 1971 by the Barr Manufacturing Corporation. The type of manufacturing performed by the corporation is not clear.

The Phase I Report identified onsite soil and groundwater concerns. It should be noted that the Phase I states that the Gallade facility (discussed above) is located adjacent to the Trumark site, and that groundwater beneath the Trumark site has been significantly impacted from VOCs generated by from the Gallade facility. The VOC concentrations are consistent with the offsite source at the Gallade facility. The Phase I indicates that VOCs are also present in on-site soils. No organochlorine pesticides, PCBs or petroleum fuels were detected in soil samples collected from the site. Concentrations of arsenic, chromium and lead appeared to be consistent with background levels found in Bay Area soils. Two VOCs, TCE and PCE, were detected in the soil samples. Contaminants such as TPH, MTBE, arsenic, chromium and lead were also detected in soil samples discussed in the Phase I report.

The Phase I indicates that the Health Risk Assessment (HRA) performed for the Gallade facility indicated that there is no significant risk to human health at the Trumark site to future workers who may be exposed through VOCs that volatilize from ground water, migrate through the soil, and accumulate in future buildings that might be constructed onsite. The HRA concluded that there is no significant risk to human health at the site as a result of the releases at the adjacent Gallade facility. In addition, the RWQCB and the Newark Fire Department indicated that there would not be any development restrictions at the site as a result of the impacted ground water.

However, it should be noted that the general conclusions drawn in the Phase I indicate that the site might only be developed with industrial or commercial use.

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The Phase I indicates that more remediation would be necessary if significant soil contamination is detected during construction; all contamination materials would need to be handled appropriately. The Phase I also suggested that an onsite monitoring well may need to be relocated to accommodate future development. It would be the responsibility of the property owner to destroy and replace the well.

Honeywell's Comment:

The central and northern portion of the Trumark property are currently undergoing groundwater and soil vapor monitoring and groundwater and soil cleanup efforts pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB. The monitoring and cleanup efforts are addressing soil and groundwater contamination from the former Baron Blakeslee Facility operation. An additional site investigation should be conducted to determine if any sources are contributing to soil and/or groundwater from the historical land uses and ownership.

To address the soil and groundwater contamination from the former Baron Blakeslee, Inc. facility operations, an in situ thermal remediation was conducted from March 2010 through January 2011 for the former tank farm area located on the northern portion of the Gallade and Trumark properties and an in situ chemical remediation began in the fall of 2010 for the shallow groundwater on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001), and railroad properties and treatment is ongoing. These activities are conducted under the oversight of the RWQCB.

Please provide the reference for the HRA identified in the Phase I, as well as the approval from the RWQCB. Based on the information presented, it appears that the conclusions of the HRA were for development with industrial or commercial use and the conclusions may not be reliable for residential development. A Human Health Risk Assessment was conducted for the former Baron Blakeslee, Inc. facility as part of the revised Feasibility Study and Remedial Action Plan under SCR Order No R2-2005-0004, dated March 16, 2005, issued by the RWQCB. In summary, soil, soil vapor and groundwater at some locations in the onsite area are recommended for remediation and/or risk management prior to redevelopment of the Site for commercial or residential uses. Concentrations of VOCs in soil and soil vapor in offsite areas do not appear to exceed acceptable risk and hazard levels for human health for future residential or commercial uses, under existing soil and site conditions. Since groundwater was evaluated only at a screening level for the vapor intrusion pathway, the vapor intrusion environmental screening levels (ESLs) are proposed as cleanup goals for this pathway. If construction and excavation workers are exposed to study area soils, soil vapor, or groundwater (both onsite and offsite) under current or future conditions, they should be adequately protected under an appropriate site-specific Health and Safety Plan.

We request that a copy of the preliminary final EIR to be sent to our office for review and comment to ensure that no confusion exists over the intent and purpose of these comments. Additionally, we look forward to receiving your response to our comments at least ten days prior to your certification of the EIR.

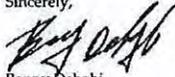
12-14

Response to Comments Chapter 9

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Thank you for the opportunity to review and comment. Please feel free to call the undersigned at (310) 512-2296, should you have any questions about this submittal.

Sincerely,



Benny Dehghi
Honeywell Remediation Manager
Honeywell International Inc.

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Response to Comment Letter #12, Benny Dehghi, Honeywell International, Inc.

- 12-1 This comment suggests additional mitigation to address specific issues and recommendation outlined in comments provided to the City in response to the Notice of Preparation from the San Francisco Bay Regional Water Quality Control Board (SFRWQCB). Refer to Mitigation Measure 4.7-1a, which is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.
- 12-2 Comment noted regarding Honeywell's ongoing groundwater and soil vapor monitoring and groundwater and soil cleanup efforts pursuant to Final Site Cleanup Requirements that affects portions of the Gallade property, the Trumark property and several of FMC's parcels.
- 12-3 Comment noted regarding previous planning for the project site and the limitations associated with residential development on the Gallade, Trumark and FMC properties. The Specific Plan's development standards for Medium Density Residential, Park and Recreational Open Space and Restricted Use would govern these properties and supercede previous planning efforts.
- 12-4 This comment suggests that more detailed general discussion of current ongoing cleanup efforts and cross reference Section 4.7 (Hazards and Hazardous Materials) and Section 4.8 (Hydrology, Drainage, and Water Quality). The comment is noted and additional detail is provided regarding cleanup efforts in response to specific comments in the letter. Refer to Responses 12-7 through 12-14.
- 12-5 This comment states that the Draft EIR should fully disclose current and future conditions in the area to meet the requirements of CEQA. The City has provided full disclosure, to the best of its knowledge, of existing conditions within the Specific Plan area, identified potential environmental impacts that might result from development within the area, and identified measures that would mitigate any potential environmental impacts to a less than significant level.
- 12-6 This comment suggests a more detailed description of hazards and hazardous materials impacts associated with the proposed project provided in the Executive Summary on page 2-5. As the list provided on this page is a summary of impacts in a variety of environmental topics, it would not be

appropriate to add the detail suggested. Furthermore, the language suggested summarizes current cleanup efforts within the Specific Plan area not project impacts.

- 12-7 This comment requests the replacement of a paragraph in Chapter 3 (Project Description) of the Draft EIR on page 3-11 with a revised paragraph and additional language regarding current cleanup efforts within the Specific Plan area. Chapter 10 of this Final EIR includes the suggested revision.
- 12-8 This comment requests the replacement of language in Chapter 3 on page 3-14 describing the Trumark property. Chapter 10 of this Final EIR includes the suggested revision.
- 12-9 This comment requests the replacement of language in Chapter 3 on page 3-15 describing the Gallade property. Chapter 10 of this Final EIR includes the suggested revision.
- 12-10 This comment addresses the summary of permitted land uses within the Specific Plan area in Chapter 3 on page 3-30. The comment states that, as required by the Department of Toxic Substance Control Hazardous Waste Post Closure Facility Permit, a Covenant to Restrict Use of Property was issued for the former Baron-Blakeslee Facility. The covenant prohibits residential uses, hospital for humans, public or private schools for persons under 21, and day care facilities for children. This covenant would take precedence over land uses included in the City's Zoning Ordinance and the proposed Specific Plan. However, the covenant includes a provision that would allow it to be modified should it be demonstrated that other uses would be safe.
- 12-11 This comment requests that the Alameda County Department of Environmental Health and the U.S. Environmental Protection Agency be added to the list of responsible agencies in Chapter 3 on page 3-40. Chapter 10 of this Final EIR includes the requested revision.
- 12-12 This comment provides an update on the status of current cleanup efforts on the Gallade property that have affected the FMC property at 8787 Enterprise Drive. The update is further addressed in Response 12-13.

- 12-13 This comment requests replacement of four paragraphs beginning on page 4.7-15 with four new paragraphs addressing existing conditions on the Gallade property and updating the status of current cleanup efforts. Chapter 10 of this Final EIR includes the requested revision.
- 12-14 This comment provides information regarding the Trumark property. The comment requests that a reference be provided for the Health Risk Assessment discussed in the Phase I ESA. The Phase I ESA was prepared prior to the Final SCR Order R2-2007-0005 and prior to residential uses being contemplated on the site. Therefore, the Health Risk Assessment is not relevant to the proposed project. Contamination on the Trumark property is currently undergoing cleanup efforts in accordance with Final SCR Order R2-2007-0005.

Allen Matkins Leck Gamble Mallory & Natisis LLP
Attorneys at Law

Mr. Terrence Grindall
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This Project presents an opportunity to re-purpose that land in a manner that benefits the City in many ways, including without limitation each of the following:

a. This Project provides unique "smart growth" planning opportunities. It creates diverse, connected, safe, and walkable neighborhoods with convenient access to public transportation (in particular the planned Dumbarton Rail Corridor and transit center), to existing employment centers, to parks and open space, and to commercial services. This Project will create a new community with a distinct identity, architectural style and sense of place, while preserving a connection to and compatibility with existing neighborhoods. These Project characteristics implement the General Plan's goals of "maintaining a desirable quality of life in the community through preservation of the small town neighborhood atmosphere," and "high quality development that establishes the City's character as distinctive from that of other cities in the Bay area." (General Plan Goals 1 and 2, p. 2-3.)

b. This Project provides for a rich and vibrant mix of housing types and densities, ranging from single-family detached to multi-family housing (in numbers (quantities) that help the City meet its state-mandated housing needs), and in doing so effectuates key General Plan goals and policies. For example, Housing Element Goal 2 provides as follows: "Provide housing opportunities for households with a wide range of incomes." (General Plan Housing Element, p. 62.) Land Use Element Goal 3, Program 9 provides: "Provide zoning districts that provide standards for multi-use development as well as for unique combinations of similar uses, such as single- with multi-family uses." (General Plan Land Use Element, p. 3-8.) This Project's mix of housing types and densities is key not only to meeting the varied housing needs of the community, but also to creating a vibrant and sustainable community in which a wider range of income levels have similar access to the community's unique character and significant amenities.

c. This Project provides the planning foresight and preparation to effectuate a transit-oriented community. The trend towards transit-oriented development throughout the Bay Area, and the State, is inevitable and laudable. Recent legislation from Sacramento, such as AB 32 and SB 375, strongly encourages transit-oriented development in order to create more sustainable and environmentally-friendly communities. The market is responding. More and more people are choosing to live in new developments that move away from the automobile and toward public transit. (See, "Transit-Oriented Development – New Places, New Choices in the San Francisco Bay Area," A Study by the Metropolitan Transportation Commission (attached).) Well-planned communities – like this Project – can provide greater convenience and affordability, while reducing dependence on the automobile for routine travel needs. Developers, transit agencies, community organizations, cities and counties are collaborating on scores of transit-oriented development projects throughout California in recognition of this market demand, including the Contra Costa Centre Transit Village in Pleasant Hill, the transit village in Richmond, and the downtowns in Hayward, Santa Rosa, and Redwood City.

13-1
Cont'd

Allen Matkins Leck Gamble Mallory & Natis LLP
Attorneys at Law

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For all of these reasons, we respectfully submit that the Project has outstanding benefits and will be a source of pride for the entire community.

2. The Project's Alternatives

Appropriate to the environmental analysis that must take place in the DEIR, the City has provided a reasonable range of alternatives that allow for a comparative review of the Project with other development scenarios in an effort to reduce environmental impacts while still effectuating the goals of the Project. The DEIR's alternatives provide a useful comparison to the Project and help to bring into focus the comparative value of the Project with other potential development options. Ultimately, this discipline leads to a decision of the City in which it must use all of this information and choose that one development that the City determines best meets the demands of CEQA, while attaining the goals of the Project.

As set forth above, this Project provides a unique combination of a mix of housing types and densities essential to a balanced and vibrant community, while also providing the sheer numbers of potential transit riders essential to a successful public transit system. The Project's goals and objectives relative to the desired mix of housing types and densities reflects and effectuates key General Plan goals and policies. Housing Element Goal 2 provides as follows: "Provide housing opportunities for households with a wide range of incomes." (General Plan Housing Element, p. 62.) Land Use Element Goal 3, Program 9 provides: "Provide zoning districts that provide standards for multi-use development as well as for unique combinations of similar uses, such as single- with multi-family uses." (General Plan Land Use Element, p. 3-8.) Upon final inspection, the DEIR's alternatives fall short in meeting these key Project and General Plan goals.

13-2

Alternative 1, the "no project/no build" alternative, fails all of the Project's goals because there would be no Project. Alternative 2, the "high density" alternative, allows for the same overall number of residential units as the Project (2,500), but all of the units would be high density in nature, thereby failing to provide the mix of housing types and densities sought by the General Plan and needed to make the development successful and sustainable. Alternative 3, the "medium density" alternative, also allows for the same overall number of residential units as the Project, but limits all of the units to medium density. Again, this Alternative does not provide for the needed mix of residential types and densities.

For these reasons, we respectfully submit that only the Project best meets the demands of CEQA while attaining the goals of the Project.

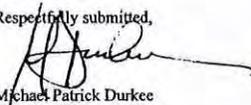
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Allen Matkins Leck Gamble Mallory & Natisis LLP
Attorneys at Law

Mr. Terrence Grindall
July 1, 2011
Page 4

Again, we commend the City and City Staff for a very well-prepared document. Thank you for this opportunity to comment on the DEIR.

Respectfully submitted,


Michael Patrick Durkee

MPD:kem
Attachment

cc: Integral Communities
Property Owners

**Response to Comment Letter #13, Michal Patrick Durkee, Allen Matkins
Leck Gamble Mallory & Natis, LLP**

- 13-1 This comment summarizes the benefits of the proposed project. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

Included as an attachment to the comment letter and referenced in this comment was "Transit-Oriented Development – New Places, New Choices in the San Francisco Bay Area, A Study by the Metropolitan Transportation Commission." This document is included in the Appendices of this Final EIR.

- 13-2 This comment states that the Draft EIR provided analysis of a reasonable range of alternatives and only the proposed project would meet the demands of CEQA while attaining the goals of the project. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

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Comment Letter #14

30 June 2011

Terrence Grindall
Community Development Director
City of Newark
37101 Newark Blvd.
Newark CA 94560

RECEIVED
JUN 30 2011
CITY CLERK

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JUL - 1 2011
COMMUNITY DEVELOPMENT

Re: Comments to the DEIR Newark TOD Area 2

Dear Mr. Grindall:

A number of items in this DEIR were missing, misleading, confusing and downright headache-inducing to the point of causing nightmares and searching for monsters under the bed.

14-1

Is the Area 2 TOD a joint project with all landowners in accordance? Do they all agree to have their private property rezoned/planned for residential? Will each property owner be required to cleanup their property to meet residential standards? Is there a city regulation that requires this? Will Area 2 be developed as one project? What is the timeline? Who is paying the upfront costs for the DEIR and other studies?

14-2

The DEIR states that between 500,000 and a million cubic yards of fill will be needed to raise the site above the 100 year flood hazard done. Will this be done by individual landowners? Will the project be funded using redevelopment? Part of Area 2 is under the 2001 redevelopment plan area. What does the city envision for redevelopment on Area 2 in light of state government crackdown on redevelopment?

14-3

What form of transit does the city envision for Area 2 TOD? Area 2 is isolated from services no matter what the city promises will come to their little development. Will Newark force grocery stores or other services to locate in Area 2? The DEIR states that development may take years or even decades. Commercial development will not come until there is enough population to support it. Does this mean it may be decades before businesses and services come to Area 2?

14-4

Who owns the rail line to the Union City intermodal station? Does SamTrans have rights over this segment or only as far as the Newark wye? How would riders from a proposed Area 2 train station connect with Amtrak or the Capitol Corridor or other passenger trains? Are they expected to bicycle to Fremont or Union City to catch a train? Would Amtrak, the Capitol Corridor or the ACE train go out of their way to run to the proposed Area 2 station?

14-5

The DEIR consultants neglected to mention the vernal pool habitat on Willow near Thornton. I believe this is an historic vernal pool complex. It contains a beautiful field of Downingia that last time I checked a few weeks ago was very lush. If the consultants only visited the site in the summer months they missed the flowers. I have photos in case you need them.

14-6

The DEIR consultants did not discuss impacts to the Plummer Creek mitigation site which is part of Area 2. What will be the impacts to this important mitigation site from construction activities on Area 2? What are future plans for the Plummer Creek mitigation site as far as ownership/management? Is the current owner, Wildlands aware of the Area 2 TOD proposal? If so, what was their response?

14-7

By what criteria is the barge canal an area of visual significance as the DEIR claims? What is the plant and wildlife community? Does the City envision the barge canal as a tourist attraction or a photographic destination?

14-8

When will a wetland delineation map be prepared for Area 2 TOD? Who will pay for it? The DEIR states that wetland credits could be obtained from an approved mitigation bank. Where is an approved mitigation bank near Area 2? Explain what is meant by "an approved in-lieu mitigation entity". What kind of wetlands would be considered out-of-kind? Where could wetlands be created on site and where off site? All these different combinations are mentioned in the DEIR but there is no explanation as to what they mean or how they would be applied.

14-9

What studies were used to determine the distance construction equipment needed to avoid nesting birds? Did the consultants consider birds and other wildlife and plant communities on the Wildlands site? Did the consultants consider or advocate a development buffer on the north and eastern sides of the Plummer Creek mitigation site where housing is planned? Is a trail planned to include the Plummer Creek levees or any part of the mitigation site?

14-10

What criteria were used to determine sea level rise is speculation as stated in the DEIR? What proof can the city provide that regional and local governments would be available to protect urbanized areas? How would Newark protect its own residents and property? Who would bear the cost?

14-11

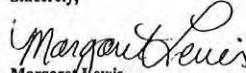
Alternate sites exist in the city where housing can be built. There is no need to select a contaminated site within the 100 year flood hazard zone which will need hundreds of thousands of cubic yards of fill on unstable soils. A site where residents will be warned against digging too deep in their yards due to contaminated soils or groundwater.

14-12

Area 2 should remain zoned as general industrial. It is surrounded by industrial uses. It is far from shopping and other services residents need. There is no public transportation available save the occasional bus. Area 2 is not suitable for housing or public parks. The city would be ill-served by continued push for residential in this location.

14-13

Sincerely,


Margaret Lewis
36102 Spruce St.
Newark, CA 94560

Response to Comment Letter #14, Margaret Lewis

- 14-1 This comment states the opinion that the Draft EIR is missing information and misleading but does not raise specific issues. Therefore, it is noted and included in the record for review by the public and decision makers.
- 14-2 This comment asks questions regarding the project's property owners, timing for development and the payment of costs associated with the Draft EIR. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 14-3 This comment asks about the fill needed to raise the project area above the 100-year flood hazard elevation and whether the project would be funded by redevelopment money. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 14-4 This comment asks what type of transit the City envisions for the project area and states that it is isolated from services. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 14-5 This comment asks who owns the rail right-of-way to the Union City intermodal station and questions other aspects of future rail service. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 14-6 The commentor states that the Draft EIR neglected to mention the vernal pool habitat on Willow Street near Thornton Avenue. Refer to Responses 2-3 and 16-3, which address vernal pool habitat.
- 14-7 The commentor asks what would be the project impacts to the Plummer Creek Mitigation Site, which is part of Area 2. The Plummer Creek Mitigation Site is located outside of the Specific Plan area. The commentor may be confusing the City's General Plan Area 2 with the Specific Plan area, which are different.

The owner of the Plummer Creek Mitigation Site, Wildlands, Inc., is aware of the project since they are an adjacent landowner and have been notified of the proposed Specific Plan.

14-8 This comment asks about the barge canal. The Newark General Plan refers to the barge canal – a man-made canal – as an area of visual significance. The Draft EIR simply references this designation of the General Plan. The barge canal is not within the Specific Plan and there is no proposal for its use or development as part of the project.

14-9 The commentor asks “when will a wetland delineation map be prepared for Area 2 TOD? Who will pay for it?” A wetland delineation has been prepared for the Torian property. Wetland delineations for the remaining properties within the Specific Plan area will be prepared on a parcel by parcel basis as development plans are prepared. The individual landowners would be responsible for paying for the wetland delineation on his/her property. Refer also to Response 16-10.

The commentor also asks: “where is an approved mitigation bank?” It is premature to identify a mitigation bank as credits in a particular bank could be sold out at the time it is necessary for a project applicant (landowner) to purchase credits. A mitigation bank would be found when it is necessary to mitigate for future impacts to waters of the U.S./State. An approved “in-lieu mitigation entity” is a mitigation bank or an approved mitigation site with a designated conservator that will manage the site in perpetuity.

Out-of-kind wetlands are mitigation wetlands (that are created or preserved) that are of a different type than the wetland impacted. For example, if a seasonal freshwater wetland would be impacted by a project and it was mitigated for by preserving tidal wetland habitat that would be “out-of-kind” mitigation.

It is premature to determine where wetlands would be created at this time. It would be determined at the time a landowner applies for permits to fill wetlands on his/her property.

14-10 Refer to Responses 2-2, 16-7 and 16-8, regarding the commentor’s question, “What studies were used to determine the distance construction equipment needed to avoid nesting birds?”

The commentor asks “Did the consultants consider birds and other wildlife and plant communities on the Wildlands’ site?” Yes, they were considered and the proposed Specific Plan would not impact sensitive communities, special-status species, or nesting birds on the Wildlands’ site. Refer to Response 2-4.

The commentor also asks “Did the consultants consider or advocate a development buffer on the north and eastern sides of the Plummer Creek mitigation site where housing is planned?” There are no specific site development plans at this time so it is not known whether there will be a buffer or not. Furthermore, no buffer would be necessary to mitigated impacts.

Regarding the question whether a trail is planned that would include the Plummer Creek levees or any part of the mitigation site, there is not a trail planned as part of the proposed Specific Plan. There may be trail developed as required public access on the perimeter of Plummer Creek mitigation site, but it is not a part of the proposed project. The project does propose a perimeter trail around the Specific Plan area, but not adjacent to the Plummer Creek mitigation site.

- 14-11 This comment asks what criteria were used to determine that sea level rise is speculation as stated in the Draft EIR. Sea level rise is addressed on page 4.6-27 of the Draft EIR, and it is acknowledged that a portion of the western Specific Plan area may be affected by sea level rise. Refer to Response 10-5 and 10-6.
- 14-12 This comment states that sites exist in the City where housing can be built. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 14-13 This comment states the opinion that the project area should remain zoned for industrial use. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

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Comment Letter #15

30 June 2011

Terrence Grindall
Community Development Director
City of Newark
37101 Newark Blvd.
Newark CA 94560

RECEIVED
JUN 30 2011

CITY CLERK
RECEIVED
JUL - 1 2011
COMMUNITY DEVELOPMENT

Re: Comments to the DEIR Newark TOD Area 2

Dear Mr. Grindall,

My comments will be short. Area 2 is highly polluted with chemical residues from the chemical plants that existed in that area. Some of the parcels, you show as housing, have deed restrictions that would prevent their use for housing. Clean-up of these restricted sites would be prohibitive and perhaps impossible to meet requirements for housing use. Even to clean most of the area in Area 2 to commercial or industrial standards would be very costly. This is the wrong place for housing, with the parks, train station, etc., that are proposed in the DEIR.

15-1

As regards the "train station": I will quote from the Federal Register, November 1, 2006, Volume 71, Number 211, pages 64332-643334.

"Service will consist of six daily trains originating from Union City in the morning peak period and traveling westward across the Dumbarton Rail Corridor. The trains converge with the existing Caltrain line in the West Bay. From the Caltrain line, three of the trains will travel north to San Francisco while the other three trains will travel south to San Jose. During the afternoon peak period, all trains will travel eastbound back to Union City. The three new stations plus the Centerville Station in Fremont would be directly served by DRC trains; *the Capitol Corridor trains would also be served by the Union City Intermodal, Newark and Centerville stations.*"

15-2

I added the italics to the last sentence. Federal Funding has already said that the station be multi-use. Placing the station in Area 2 does not meet the criteria of serving the Capitol Corridor trains. Placing the station on a site such as the pallet company grounds on Central Avenue, or other close site, would be an ideal spot for a station that could serve not only the DRC trains, but the Capitol Corridor trains, the ACE trains and even the Amtrak trains.

It is a waste of money and resources to build the station in Area 2. It is doubtful that it would ever generate enough income to even come close to covering expenses. This area should be used for industrial purposes. Move some of the businesses from the Central Avenue sites to Area 2 and put housing around a station in the Central Avenue area.

15-3

Sincerely yours,

Dean Lewis
36102 Spruce St.
Newark, CA 94560

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Response to Comment Letter #15, Dean Lewis

- 15-1 This comment states that Area 2 is polluted with chemical residue, some properties have deed restriction preventing residential uses, clean up of the restricted sites would be prohibitive, and this is the wrong place for housing, parks and a train station. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 15-2 This comment addresses the proposed transit station and states that locating the station within Area 2 does not meet the criteria of serving Capitol Corridor trains. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.
- 15-3 This comment states that it would be a waste of money to building the transit station in Area 2. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

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Comment Letter #16



CITIZENS COMMITTEE TO COMPLETE THE REFUGE

453 Tennessee Lane, Palo Alto CA 94306 Tel 650 493-5540 Fax 650 494-7640 Florence@refuge.org

Terrence Grindall, Community Development Director
City of Newark
37101 Newark Boulevard
Newark, CA 94560

July 1, 2011

Re: Dumbarton Transit Oriented Development Specific Plan (TOD) Draft Environmental Impact Report (DEIR)

Dear Mr. Grindall,

This responds to the Dumbarton TOD DEIR dated May 2011. The Citizens Committee to Complete the Refuge (CCCR) thanks you for the opportunity to provide comments. Based just upon our review of the DEIR it is evident the DEIR does not adequately describe the baseline biological conditions or fully disclose potential significant impacts to biological resources and does not provide adequate mitigation measures. We urge the City of Newark to correct the flaws of this DEIR and re-circulate a more thorough document. Our comments are as follows:

The DEIR states that the "intention of this Draft EIR is to inform decision makers, public agencies, and the general public about the proposed Dumbarton TOD Specific Plan and its potential effects on the environment" and that the DEIR identifies possible measures to mitigate or avoid potentially significant environmental effects associated with the project." CCCR is concerned that the DEIR is so general in its description of the biological resources that exist within the project boundaries that it is impossible for decision makers, public agencies or the public to fully understand the impacts that may occur to biological resources or whether the mitigation measures proposed are adequate.

16-1

The consultant for the biological resources section of the DEIR was on site only in the months of July and October 2009. These are inappropriate times to assess the flora of seasonal wetland habitats or to determine the areal extent of wetlands. Why weren't the biological consultants on site in the winter and spring months?

16-2

The DEIR p.4.3-4 states "At this cursory level of site examination it was not possible to conclusively determine whether or not federally or state listed plant or animal species or "waters of the U.S.," which includes wetlands, are present on the project site parcels. Hence, further site specific biological studies would be necessary prior to any future development proposal."

16-3

This is exemplified by at least one error in, Figure 4.3-1 "Vegetation Communities" that depicts parcel E as "Anthropogenic ruderal" when in fact a portion this site supports *Downingia pulchella* and is ponded for more than two weeks in normal rainfall years. There have been documented accounts of the occurrence of *Downingia* as well as that of *Myosurus minimus*. Both species are California natives and both are often associated with vernal pool habitats. [Please see attached photos and California records.] Clearly a portion of parcel E may potentially be jurisdictional wetlands under Section 404 of the Clean

Water Act and is definitely a water of the state. Had the consultant been to the project site during the appropriate time of year this would have been obvious. 16-3
Contd

This is further confirmed by the consultant's statement on page 4.3-15 "in order to substantiate this premise [special status plants species are unlikely to occur], special-status plant surveys would need to be conducted at the appropriate time of year (when target species are flowering) in order to determine if these species are present or absent. It is recommended that such surveys be conducted well before any development is planned on a specific parcel so that the results of the surveys can be incorporated into the project plan." If the purpose of the specific plan DEIR is to disclose to decision makers, public agencies, and the public potential impacts of the specific plan, and to propose measures that would avoid or mitigate those impacts, why wasn't baseline information provided in this DEIR? The proposal to assess each parcel as projects come forward is a very piece-meal approach to planning and defeats the purpose of a specific area plan. A more responsible and appropriate approach would be to identify and avoid areas of significant biological resources early in the process while flexibility still exists rather than attempting to do it later when other surrounding parcels have already been developed. 16-4

Page 4.3-20 – Point Reyes Bird's Beak has been identified in the vicinity of the project in the LaRiviere Marsh of the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge). 16-5

Page 4.3-21 – Contra Costa Goldfields – there has been a 2004 documented report of *Lasthenia* near the project location – please see attached Calflora report. 16-6

Page 4.326 – Northern Harrier – The DEIR should establish a default buffer for nesting birds. The U.S. Fish and Wildlife USFWS recommended a buffer distance of 600' in their comment letter to the SFPUC DEIR for the Hetch Hetchy pipeline replacement project. Any buffer distance should be approved by the California Department of Fish and Game (CDFG) as well as the U.S. Fish and Wildlife USFWS (USFWS). 16-7

Page 4.3-26 – Red-tailed Hawk – Rather than focusing on the "minimal area necessary to protect the nest site" and "minimal avoidance requirements" the DEIR should be focused on implementing measures that will avoid "take" i.e. abandonment of active nests. 16-8

Page 4.3-33 – Wildlife Movement Corridors – The DEIR accurately states the "project site functions as a local wildlife corridor," but fails to consider that vacant lands adjacent to the Refuge or tidal sloughs may provide important escape habitat for tidal marsh species as sea level rises. 16-8

Page 4.3-36 – "The exception would be the Torian property since it has been studied by several salt marsh harvest mouse biologists over the years and a determination has been made that this property does not provide the habitat components suitable for the salt marsh harvest mouse." We question this assumption in light of the fact that the Plummer Creek Mitigation Bank has successfully established tidal marsh habitat nearby. 16-9

Page 4.3-37 – Clean Water Act – The DEIR will piece-meal impacts to waters of the U.S. Rather than identifying and disclosing the extent of waters of the U.S. and State and providing a over-arching program of avoidance and minimization, the City proposes to review each site individually and require each applicant to avoid (or not) or mitigate for impacts to wetlands and waters. At best this could result in a patch-work of preserved and fragmented habitats, at worst none of the wetlands or waters will be preserved on-site. Exhibit 2.1 of the Specific Plan depicts the latter situation. Figure 4.3-1 of the DEIR identifies areas of wetlands that could be enhanced or restored that would have connectivity with 16-10

off-site wetlands. Why wasn't an alternative conceptual specific plan developed that could incorporate habitat preservation into the Specific Area provided in the DEIR?

16-10
Cont'd

Mitigation Measure 4.3-1 – Is it not possible that the salt marsh harvest mouse (SMHM) could migrate onto the Torian property? What would prohibit their movement onto the site?

It must be required that CDFG and the USFWS confirm no impacts to the salt marsh harvest mouse would occur from development of any given project site.

16-11

We fully concur that mitigation for impacts to SMHM should occur at a ratio required by CDFG and USFWS.

A permitted CDFG/USFWS SMHM biologist should be onsite to perform vegetation clearing to ensure no mice are harmed.

The integrity of any SMHM fencing should be inspected on a weekly basis by a qualified biologist.

Mitigation Measure – 4.3-2 – Nesting raptors – In their 2009 comments regarding the Bay Division Pipeline Reliability Upgrade Project DEIR, the USFWS recommended that a buffer of 600' be provided to avoid wildlife disturbance - that is the distance we propose for the Dumbarton TOD.

16-12

The DEIR is flawed in its disclosure of potential adverse impacts of short-term and long-term impacts on wildlife within the project area. The DEIR fails to adequately discuss the impacts of glare, noise, vibration, and human disturbance on wildlife species or how those impacts might disrupt nesting, roosting, and foraging activities.

Light pollution is documented to have serious adverse impacts for a wide range of wildlife ranging from invertebrates to mammals. It disrupts migratory patterns, foraging capabilities, predation, nesting, breeding, etc. (Longcore and Rich, "Ecological Light Pollution" *Front Ecol Environ* 2004, 2(4): 191-198). Longcore and Rich report the findings of Buchanan (1998 "Low-illumination prey detection by squirrel treefrogs," *J Herpetology* 32: 270-74) in which three different species of amphibians forage at different illumination intensities. As an example the squirrel treefrog (*Hyla squirrela*) forages only between 10^{-5} lux and 10^{-3} lux under natural conditions, while the western toad (*Bufo boreas*) only forages at illuminations between 10^{-1} and 10^{-3} lux.

16-13

Evidence suggests light pollution affects the choice of nesting sites in the black-tailed godwit, with choice locations being the farther away from roadway lighting (De Molenaar et al 2000, in Longcore and Rich). Buchanan found frogs he was studying stopped their mating calls when the lights of a nearby stadium were turned on.

Sufficient evidence exists that demonstrates artificial lights have adverse impacts on wildlife. The project as proposed may locate night lighting right next to the Plummer Creek Mitigation Bank that may be turned over to the Refuge and other areas currently within the Refuge boundaries. How will be adverse impacts of street and residential lighting and window glare be mitigated?

Noise impacts to wintering, migratory, and breeding birds are not adequately mitigated. The focus of the noise impact analysis is the noise generated by construction related activities and not on the on-going, daily increases in noise levels that will result once the project has been constructed. This is a significant flaw in the EIR and must be rectified and fully mitigated.

16-14

Studies of the impacts of the effects of anthropogenic noise suggest the noise interferes with territorial vocalization (i.e. impacts to birds in breeding season) and the density of passerines occupying suitable habitat. These studies provide evidence that anthropogenic impacts on wildlife are not speculative, can be significant, and should be analyzed and avoided or fully mitigated. (Fuller, Warren, and Gaston. 2007. "Daytime noise predicts nocturnal singing in urban robins." *Biol Lett* 2007 August 22: 368-370 and Bayne, Habib, and Boutin, October 2008. "Impacts of Chronic Anthropogenic Noise from Energy-Sector Activity on Abundance of Songbirds in the Boreal Forest." *Conservation Biology* 22 (5): 1186-1193)

The DEIR proposes as a possible mitigation for seismic hazards dynamic deep compaction and deep foundations such as piles. The DEIR does not discuss the adverse impacts of vibration on wildlife species.

16-15

Page 4.3-58 – Mitigation sites should be managed in perpetuity and a funding mechanism should be provided to ensure long-term management of mitigation sites.

16-16

Mitigation Measure 4.3-4 – See mitigation measure 4.3-3 above.

16-17

Mitigation Measure 4.3-5 – Mitigation measures for special status species must be developed before any ground altering activities and special-status plant reports should be reviewed and approved by CDFG.

16-18

Mitigation Measure 4.3-6 – The individual project proponent must first demonstrate that the non-water dependent activity has avoided, then minimized impacts to waters of the U.S. The final acreage of any mitigation required will be determined by CDFG, the Corps of Engineers and the Regional Water Quality Control Board.

16-19

Page 4.3-69 – Proposals to plant trees adjacent to the Refuge should first be coordinated with the Refuge to avoid the introduction of perching sites for predatory species.

16-20

The DEIR does not consider the adverse impacts of the specific area plan on plant and wildlife habitat immediately adjacent to the Specific Area. Impacts must be identified and mitigated.

16-21

Other comments:

Sea Level Rise: We are extremely disappointed with the City's treatment of the issue of sea level rise:

16-22

According to the San Francisco Bay Conservation and Development Commission (BCDC) climate change is expected to raise sea levels between 12 and 36 inches by the year 2100. The Specific Plan area is approximately two miles east of the San Francisco Bay and a portion of the site is within a Federal Emergency Management Agency (FEMA) 100-year flood zone. The BCDC forecasted rise in sea level could increase flood related impacts, especially from storm surge-induced flood events. Section 15.40.51 of the City's Municipal Code has flood elevation standards for lands within special flood hazard areas as defined by FEMA. Among other things, these standards require building pads of all occupied structures to be a minimum of 11.25-feet above sea level with the finished floor being a minimum of six inches above the building pad. In addition, the City requires that the top of curb grades for residential streets must be no less than ten-feet above sea level throughout the City (Section 16.08.06 Newark Municipal Code). Additionally, the effects related to sea level rise are speculative at this time, the Specific Plan does not lie within BCDC's jurisdiction, and the BCDC forecast and any related policies are intended as guidance regarding potential, future flood risks and are not directly applicable to the Specific Plan area. If sea level rise was determined to be a significant threat, protective measures such as levees installed by regional and local governments would be available to protect urbanized areas.

16-22
Cont'd

The BCDC forecast expressly notes that it does not account for existing shoreline protection or wave activity and that, where necessary, future levees are an appropriate mechanism for protecting against flood damage from rises in sea levels. Ultimately, the National Oceanic and Atmospheric Agency, FEMA, the United States Corps of Engineers, cities, counties and flood control districts are responsible for protecting the public and the Bay ecosystem from flood hazards. The City's Municipal Code flood elevation standards would protect against flood risks to the Specific Plan area based upon flood risks as determined by FEMA, the City and these other regional and local agencies.

The threat of sea level rise is not speculative. Areas of the Dumbarton TOD would be inundated should the levees of the salt ponds fail. Those levees are not built to flood control standards and could fail in a seismic event as indicated in the geotechnical section of the DEIR. It would be in the public interest for the City to plan for sea level rise at a local level. The Shoreline Study in the south bay has taken much longer than originally anticipated, funding for flood protection is currently hard to come by, and it isn't clear how soon the planning process for shoreline protection in southern Alameda County will take place. The City of Newark should not place additional residents in harms' way on the hope that regional shoreline protection will occur.

Stockpiling of fill – The DEIR states some 500,000 cubic yards of fill will be necessary to implement the Specific Area Plan. Where will this material be stockpiled? How long will the material be stockpiled? Will this be done at the individual project level? What impacts will occur to City streets and who will bear the responsibility of repair to City streets should that become necessary?

16-23

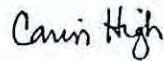
Wind turbines – We support renewable energy in concept, but the siting of any proposed wind turbine should be coordinated with the Refuge to avoid adverse impacts to avian species and bats. [16-24]

Who bears the responsibility of monitoring and enforcing air quality mitigation measures? If the City, is there staff and funding available to ensure mitigation measures are implemented and complied with? [16-25]

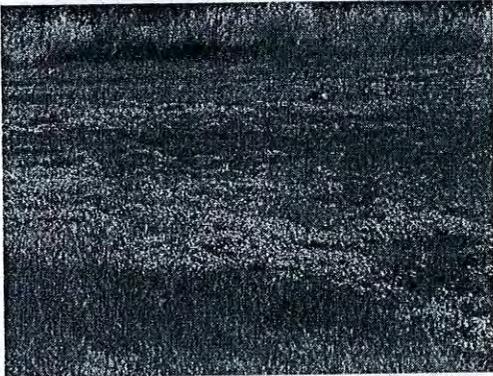
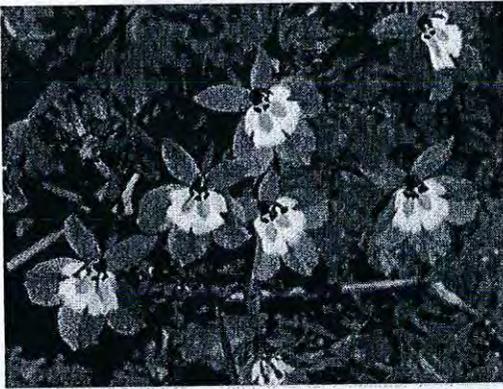
The DEIR does not adequately disclose baseline conditions, potential significant impacts, or mitigation measure. The inadequacies of this DEIR must be corrected and re-circulated. [16-26]

Thank you for the opportunity to provide comment. We wish to receive copies of comment letters to this DEIR, a copy of the corrected DEIR, and final EIR.

Sincerely,



Carin High
Vice Chairperson





Photos taken Spring 2010 by Jana Sokale

California		OBSERVATION DETAIL		About Calflora	
ABOUT THIS RECORD					
California ID	eb15440				
Date(s)	sbnpd				
Address	2010-07-20				
Source	East Bay CNPS Rare and Unusual Plants Database				
Source's Unique ID	49725				
OBSERVATION DATA					
Observer	Downing, Julia	Observer	Downing, Julia		
Contributor's Collection	Newark	Contributor	Dianna Laka, Barbara Erner, Lee Ellis et al.		
Date	2004-04-10				
County	Alameda				
Field Location	37 51303, +122 02333	Map	49725 Data		
Natural Status	wild				
LOCATION INFORMATION					
Location Name	Nick				
Location Description	Nearby: Vicinity on Willow near Thornton, N of RR tracks				
Notes	Local Rarity: B				
Photos	No photos available				
INTERPRETATION PARAMETERS					
How and Why this Observation was Made	secondary source of compiled records				
Documentation	Documented. There is a voucher for this observation or evidence of an expert confirmation				
Please address questions about this record to the source. East Bay CNPS Rare and Unusual Plants Database.					
Note that Calflora presents observation data from diverse sources. Some records may be multiple observations of the same plant populations or duplicate reports from different sources. Please carefully and critically review data for your particular application.					
Citation: California Rare and Unusual Plants Database (web application) 2011. Berkeley, California: The California Rare and Unusual Plants Database (a non-profit organization). Available: http://www.calflora.org/ (Accessed Jun 30, 2011).					
Please acknowledge sources, institutions and individual contributors (mentioned in the table above).					



California

OBSERVATION DETAIL

[About Calflora](#)

ABOUT THIS RECORD

Calflora ID: eb15144

Database: ssnsp

Address: California

Address: California 2010-07-20

Source: East Bay CNPS Rare and Unusual Plants Database

Source: Calflora ID: 49729

OBSERVATION DATA

Taxon Name: [Myosurus minimus ssp. minimus](#) [Rifle mouse tail](#)

Observer: [Dianne Lake](#), [Barbara Emmer](#), [Lee Ellis et al.](#) ([Go to this collection](#))

Contributor: [Calflora](#), [Newark](#)

Date: 2010-04-10

County: [Alameda](#)

Point Location: 37.51303, -122.02333 [NAD83 Datum](#)

Natural Status: wild

LOCATION INFORMATION

Location Name: Newark

Location Description: Newark, Vicinity on Willow near Thomson, N. of RR tracks

Notes: Local Rarity: B

Photos: No photos available

INTERPRETATION PARAMETERS

How are you using this observation? [MyRARE](#) secondary source of compiled records

Documentation: Documented There is a voucher for this observation or evidence of an expert confirmation.

Please address questions about this record to the source: [East Bay CNPS Rare and Unusual Plants Database](#).

View this record on the Observation Entry Page with map

All records from this observer

All records in this Collection

What Grows Here? (see what else grows in this area on a map)

Note that Calflora presents observation data from diverse sources. Some records may be multiple observations of the same plant population or duplicate reports from different sources. Please carefully and critically review data for your particular application.

Calflora: Innovative or California plants for education, research and conservation (web application), 2011. Berkeley, California: The Calflora Database is a non-profit organization. Available: [http://www.calflora.org/](#) (Accessed: July 30, 2011).

Source: [http://www.calflora.org/](#) (Accessed: July 30, 2011).



Calflora

Alouaf Calflora

OBSERVATION DETAIL

ABOUT THIS RECORD

Calflora ID	rh15445
Dataset	ebnpdp
Added to Calflora	2010-07-20
Source	East Bay CNPS Rare and Unusual Plants Database
Species/Unique ID	49730

View this record on the Observation Entry page, with map

OBSERVATION DATA

Taxon Name	3 <i>Lespedeza confertiflora</i> Quintar Costa (goldfields)
Observer	Dieme Lake, Barbara Ermer, Lee Ellis et al. (ocallil)
Collector's Collection	Newark
Date	2004-04-10
Site	Alameda
Point Location	37° 5' 33.3", -122° 02' 33.3" NAD83 Datum
Natural Status	wild

All records from this observer
All records in this Collection

LOCATION INFORMATION

Location Name	Newk
Location Description	Newark
Notes	Local Rarity: 'A1'
Photos	No photos available.

What Clones Here? (see what else grows in this area on a map)

INTERPRETATION PARAMETERS

How and Why this Observation was Made	secondary source of compiled records
Documentation	Documented. There is a voucher for this observation or evidence of an expert confirmation.

Please address questions about this record to the source. East Bay CNPS Rare and Unusual Plants Database.

Note that Calflora presents observation data from diverse sources. Some records may be multiple observations of the same plant populations or duplicate reports from different sources. Please carefully and critically review data for your particular application.

Calflora information or California plants for education, research and conservation (see application). 2011. Berkeley, California: The Calflora Database is non-profit organization. Available: <http://www.calflora.org/> (Accessed Jun 30, 2011).

Please cite the source and individual observer(s) mentioned in the table above.

100%

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Response to Comment Letter #16, Carin High, Citizens Committee to Complete the Refuge

- 16-1 This comment expresses concern that the Draft EIR is so general in its description of existing biological resources within the Specific Plan area that it is impossible for decision makers, public agencies or the public to fully understand the impacts that may occur or whether mitigation measures identified would be adequate. While the Draft EIR has a broad brush approach to describing the plant communities and wildlife habitats within the Specific Plan area, the background research completed for the Draft EIR provided a thorough understanding of the special-status species (i.e., threatened, endangered, rare) issues in the Newark area and what special-status species and sensitive resources (e.g., wetlands) would need to be addressed for any future development proposal. It is standard practice for program-level EIRs to provide general baseline biological conditions and require site-specific surveys for individual parcels (project sites) as development proposals arise. Since it may be many years before the project site is at complete build-out, it is logical to wait to conduct site-specific focused surveys until the time development is proposed so that the biological studies are not outdated and need to be repeated.
- 16-2 This comment addresses the time of year the biological consultants surveyed the project area. The biological consultants conducted surveys to record baseline biological conditions as required by the CEQA Guidelines. Since the biological surveys were general in nature and were not to focus on blooming periods or to conduct a wetland delineation it was not necessary to be on the project site during the winter or spring months. Since the Draft EIR was prepared at a program-level with many different parcels that would be developed at different time over many years, site-specific and species-specific focused surveys were not conducted and are not necessary at this stage in the project. Rather such surveys would be conducted in the future prior to the development of the individual parcels as detailed in mitigation measures identified in the Draft EIR.
- 16-3 The commentor mentions that Figure 4.3-1 (Vegetation Communities) in the Draft EIR does not show an area of wetland vegetation on Parcel E. This is a mapping error. The biological consultants did identify this area of wetland vegetation during their October 2009 field studies and located it on the field maps; however, this information did not get transferred onto the final graphic prepared for the Draft EIR. Figure 4.3-1 has been updated and

is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR. At the time Monk & Associates' biologists were on the project site, Parcel E supported an area of cracked soils that was partially vegetated with Bermuda grass (*Cynodon dactylon*), pigweed (*Chenopodium* sp.), and English plantain (*Plantago lanceolata*). This most likely is the area the commentor is referring to.

- 16-4 The commentor asks why baseline information was not provided in the Draft EIR and states that more detailed analysis is required. However, the analysis in a program-level EIR should be tailored to the first tier of the planning process, with the understanding that additional detail may be needed and if so would be provided when specific second-tier development proposals are under consideration. The detailed evaluation of environmental impacts and mitigation measures may be properly deferred until later in time when environmental review is conducted for such specific second-tier development proposals that would implement the program. Also refer to Response 16-1.
- 16-5 This comment states that the Point Reyes Bird's Beak (*Cordylanthus maritimus palustris*) has been identified in the vicinity of the site. Table 4.3-1 (Special-Status Species Known to Occur Near Dumbarton TOD Specific Plan Area) contained in the Draft EIR confirms this statement. Furthermore, on page 4.3-18, the Draft EIR concludes that there is marginally suitable habitat for the species within the project area.
- 16-6 This comment states that there is a 2004 documented report of Contra Costa goldfields (*Lasthenia conjugens*) near the project area. This sighting has not been reported to California Department of Fish and Game's Natural Diversity Database (CNDDDB); thus, the EIR's biological consultants, Monk & Associates, were not aware of this sighting. After the commentor brought this sighting to Monk & Associates attention, the reported observer, a botanist known to them and someone that they frequently work with, was contacted and confirmed the 2004 sighting on a vacant lot north of the railroad tracks near Willow Street (personal communication between S. Lynch of Monk & Associates and D. Lake, July 5, 2011). Since the portion of Parcel E that Monk & Associates identified as supporting wetland vegetation is also known to support *Downingia pulchella*, a seasonal wetland plant, this habitat may also provide suitable habitat for Contra Costa goldfields. Therefore, the Draft EIR description of Contra Costa goldfields has been modified as has Table 3 contained in Appendix B of the Draft EIR to show that potential habitat is present within the project site boundaries.

The impacts and mitigation measures presented in the Draft EIR for special-status plants already address impacts to state and federally listed threatened and endangered plant species should they be found on the project site. Thus, if Contra Costa goldfields were found on the project site, avoidance and mitigation measures as presented in the Draft EIR would be implemented. Refer to Chapter 10 of this Final EIR for revisions noted above.

- 16-7 The commentor states that the Draft EIR should establish a default buffer for nesting birds. The commentor also states that rather than focusing on the minimal area necessary to protect the nest site and minimal avoidance requirements, the Draft EIR should focus on implementing measures that would avoid "take." It is the biological consultant's experience that certain birds become adapted to noise and adapt better to disturbance than others. Therefore, in urbanized areas such as the project site, a 300-foot non-disturbance buffer would be all that is warranted for non-listed, nesting raptors. Even then, if monitoring during construction indicates that nesting raptors appear well acclimated to disturbance (for example, red-tailed hawks that routinely nest near freeways, factories, or in the case of the project site, gun ranges) and can tolerate a smaller nesting buffer, a qualified raptor biologist may make a recommendation to reduce the buffer size and through continued monitoring of adult raptor nesting behavior would be able to ensure that disturbance does not result in nest site inattentiveness, or in the extreme, nest abandonment. In this fashion, site-specific nesting buffers can be established that ensure that construction related activities do not result in take of the nesting birds, their eggs or young. As the commentor notes, the U.S. Fish and Wildlife Service (USFWS) recommended a buffer distance of 600 feet for the Hetch Hetchy pipeline replacement project, however, it should be noted that the area of concern at Hetch Hetchy was far less disturbed than the project site and does not have the same urbanized setting. Regardless, buffers must be established that would protect the nest site and nesting attempt such that there is no take of the nesting birds. Such buffers are routinely established by qualified raptor biologists with demonstrated experience working with nesting raptors. It is Monk & Associates' experience that USFWS and CDFG typically allow qualified raptor biologists to set site-specific nest site buffers that are tailored to site conditions for non-listed raptor species provided that ongoing monitoring continues to demonstrate that the nesting raptors are not being unduly disturbed by a proposed project.

- 16-8 The commentor states that the Draft EIR fails to consider that vacant lands adjacent to the Refuge or tidal sloughs may provide important escape habitat for tidal marsh species as sea level rises. What the commentor does not consider; however, is that if the sea level rises and floods the project site it would also flood these adjacent habitats.
- 16-9 The commentor questions the Draft EIR's conclusion that the Torian property does not provide habitat for the salt marsh harvest mouse "in light of the fact that the Plummer Creek Mitigation Bank [sic] has successfully established tidal marsh habitat nearby." To confirm that tidal marsh habitat has been successfully constructed on the nearby Plummer Creek Wetland Mitigation Project (it is not a "mitigation bank" but rather a mitigation "project" that was built in 2000-2001 as mitigation for several Alameda County projects), Monk & Associates contacted Wildlands, Inc. and received confirmation that 8.85 acres of tidal wetlands has been constructed on the Plummer Creek Wetland Mitigation property (personal communication between S. Lynch of Monk & Associates, Inc. and C. Tambini, July 5, 2011). However, there is no evidence that these wetlands provide salt marsh harvest mouse habitat. Notwithstanding, if salt marsh harvest mice are present on the Plummer Creek Wetland Mitigation Project property, they could move to the Cargill and/or Torian properties, although they likely would not survive there. Accordingly, mitigation identified in the Draft EIR for the salt marsh harvest mouse has been revised to reflect this and is included in Chapter 10 of this Final EIR.
- 16-10 The commentor states that the Draft EIR would piece-meal impacts to waters of the U.S./State. The Draft EIR does not piece-meal impacts but rather looks at the project at a program-level since complete site buildout would not occur for many years and not all the parcels would be developed at the same time. It would not be practical to require a wetland delineation at this stage of the development review process because the U.S. Army Corps of Engineers' (USACE) jurisdictional map has a validity period of only five years and after the five year period a new wetland delineation would be required. By requiring individual land owners to complete a wetland delineation of their property prior to site development ensures that this step in the environmental review process is completed.

The commentor asks, "why wasn't an alternative conceptual specific plan developed that could incorporate habitat preservation into the Specific Area provided in the Draft EIR?" The Draft EIR provides a reasonable range of

alternative, and includes alternatives to the proposed project that would preserve open space adjacent to the baylands. Alternatives 2 and 3 would concentrate development adjacent to the City, preserving the western portion of the Specific Plan area in open space. The project, as well as the alternatives, will be considered by the City Council prior to taking action on the Specific Plan.

- 16-11 The commenter asks, “is it not possible that the salt marsh harvest mouse could migrate onto the Torian property? What would prohibit their movement onto the site?” It is possible for the salt marsh harvest mouse to migrate onto the Torian property, if it is present in the area. However, the habitat on the Torian property in its existing condition is not suitable for the salt marsh harvest mouse and it would likely not survive there. There is not enough cover to protect this mouse from aerial predators such as the red-tailed hawk (which is known from the area) and there is not enough pickleweed for food and cover. However, in an abundance of caution and to meet the standards of care required by CEQA, the Torian property would be required to implement protective measures prior to development to ensure that impacts to the salt marsh harvest mouse would not occur should it enter the project site (refer “Preconstruction Measures” specified in Mitigation Measure 4.3-1).

The commenter states: “it must be required that CDFG and the USFWS confirm no impacts to the salt marsh harvest mouse would occur from development of any given project site.” Mitigation Measure 4.3-1 in the Draft EIR does not require confirmation from CDFG and USFWS for the “Habitat Assessment” results if the study is completed by a permitted salt marsh harvest mouse biologist. The biologist conducting the Habitat Assessment is required by Mitigation Measure 4.3-1 to hold both a federal Recovery Permit and a State MOU authorizing work with the salt marsh harvest mouse because these are the biologists authorized by CDFG and USFWS that have direct experience evaluating the species’ habitats and would be able to use their best judgment in determining what site conditions constitute suitable salt marsh harvest mouse habitat.

The commenter states that the following language should be added to the EIR: “A *permitted CDFG/USFWS SMHM* biologist should be onsite to perform vegetation clearing to ensure no mice are harmed.” Also, “The integrity of any SMHM fencing should be inspected on a weekly basis by a

qualified biologist.” Both of these items have been added to Mitigation Measure 4.3-1. Refer to Chapter 10 of this Final EIR.

16-12 Refer to Response 16-7, which discusses buffers for nesting raptors.

16-13 This comment states that the Draft EIR is flawed in its disclosure of impacts on wildlife in the project area. No impacts are expected to occur to specially protected wildlife species; however, measures are required to protect nesting birds. Refer to Responses 2-2 and 2-4 that address nesting birds, construction, noise and vibrations.

To minimize potential impacts to wildlife from increased artificial lighting, all street and building lights adjacent to the Plummer Creek Mitigation Project would meet the “full-cutoff” classification defined by the Illuminating Engineering Society of North America (IESNA). A full-cutoff lighting fixture is one in which “the luminous intensity (measured in candelas) at or above an angle of 90° above nadir (i.e., the angle that points directly downward, or 0°, from the lamp) is zero, and the luminous intensity (measured in lumens) at or above a vertical angle of 80° above nadir does not exceed 10 percent of the luminous flux (measured in lumens) of the lamp or lamps in the lighting fixture.”³ Such fixtures minimize “light trespass” onto adjacent areas, ensuring that light is focused onto the area requiring illumination (i.e., ground) and not into adjacent natural areas. This would ensure that there are minimal if any lighting impacts to adjacent areas.

The project does propose lighting along the trail near the Plummer Creek Mitigation site, however, the Specific Plan proposes lighting standards “to ensure that lighting . . . does not create excessive ‘spillover’ light and glare into adjacent residential areas and habitat areas, including the adjacent Refuge.” Thus, the Specific Plan includes standards to ensure that impacts to sensitive species are minimized. Finally, the Draft EIR has been prepared at a program-level and the future development of a trail may be subject to further environmental review and future studies.

16-14 This comment addresses noise impacts to birds. Refer to Response 2-4.

³ NLRIP (National Lighting Product Information Program). 2003 (revised February 2007). NLRIP Lighting Answers. Volume 7, Issue 2.

- 16-15 The commentor states that the Draft EIR does not discuss the adverse impacts of vibration on wildlife species. The commentor references the possibility of dynamic deep compaction as a possible mitigation for seismic hazards. While common species could be disturbed by dynamic deep compaction, the project site does not provide habitat for special-status wildlife species and nesting birds would not be impacted because compaction and pile driving would not be conducted during the nesting season.
- 16-16 This comment states that mitigation sites should be managed in perpetuity and funding mechanisms should be provided to ensure long-term management. Mitigation Measure 4.3-6 has been revised accordingly and is included in Chapter 10 of this Final EIR.
- 16-17 The commentor references Mitigation Measure 4.3-4 and states see Mitigation Measure 4.3-3, above. It is unclear what is meant by this comment and, therefore, it is noted.
- 16-18 This comment references Mitigation Measure 4.3-5. This measure provides detailed mitigation for special-status plant species recommendations for submitting survey reports to CDFG (and/or USFWS).
- 16-19 This comment references Mitigation Measure 4.3-6. Project applicants would be required to avoid jurisdictional areas to the extent practicable while otherwise meeting the project objectives. The Draft EIR states that impacts to waters of the U.S./State would be mitigated at a minimum 1:1 ratio (impacts:replacement), but the final acreage of any mitigation required for impacts to waters of the U.S./State would be determined by USACE and the Regional Water Quality Control Board at the time permits are issued for the project. Impacts to drainages/tributaries regulated pursuant to Section 1602 of California Fish and Game Code would be subject to regulation by CDFG. If there would be impacts to CDFG regulated areas, mitigation would be prescribed as approved by CDFG at the time a 1602 Agreement is issued.
- 16-20 The commentor requests that proposals to plant trees adjacent to the Refuge should first be coordinated with the Refuge to avoid the introduction of perching sites for predatory species. This requirement has been added to Mitigation Measure 4.3-8 in the Draft EIR and is included in Chapter 10 of this Final EIR.

- 16-21 The commentor states that the Draft EIR does not consider the adverse impacts of the Specific Plan on plant and wildlife habitat immediately adjacent to the Specific [Plan] area. Impacts on adjacent properties were considered and are not anticipated. Refer also to Response 2-3 regarding fencing of sensitive habitats.
- 16-22 This comment expresses disappointment regarding the City's treatment of the issue of sea level rise. Refer to Responses 2-5, 10-5 and 10-6.
- 16-23 This comment asks about stockpiling fill material necessary to implement the proposed project, how long the material would be stockpiled and would fill be done at the individual project-level. The comment also asks what impacts would occur to City streets and who will bear the responsibility to repair streets if necessary. Given that City streets are designed to carry legal loads, no damage or impact is expected. If damage were to occur as a result of overloads, the transporter would be responsible for the damage.
- 16-24 The commentor states that renewable energy is supported in concept but the siting of any proposed wind turbine should be coordinated with the Refuge to avoid adverse impacts to avian species and bats. This comment is noted.
- 16-25 This comment asks who is responsible for monitoring and enforcing air quality mitigation. If the City, is there staff and funding available to ensure mitigation measures are implemented? The City would be responsible to ensure mitigation measures identified in the Draft EIR are implemented. If staffing is unavailable, the project applicant would be responsible to pay the cost of contract staff to perform mitigation monitoring.
- 16-26 This comment summarizes that the Draft EIR does not adequately disclose baseline conditions, potentially significant impacts, or mitigation measures. Responses 16-1 through 16-25 respond to the comments regarding the inadequacy of the Draft EIR.

Revisions to Draft EIR

10 REVISIONS TO DRAFT EIR

Subsequent to the public release of the Draft EIR, revisions have been made to the EIR as a result of staff initiated changes and comments received. Those pages with revisions are identified below and follow this list of errata pages. It is important to note that none of the revisions are significant new information that would result in any new significant environmental impacts (including without limitation new environmental impacts from a new mitigation measure) or a substantial increase in the severity of any environmental impacts, nor do any of the revisions propose a new mitigation that the project applicants have declined to implement or adopt. Instead, they merely provide clarification or make minor modifications to an adequate EIR. Therefore, recirculation of the Draft EIR is not required pursuant to CEQA Guidelines Section 15088.5 (b).

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| Page 3-11 | Text amended to update current cleanup efforts within the Specific Plan area. |
| Page 3-13 | Text amended to replace references to East Bay Dischargers Authority with the Union Sanitary District (USD) and change the reference to a 36-inch sanitary sewer main to a 38-inch sanitary sewer main. |
| Pages 3-14 – 3-16 | Text amended to update descriptions of Trumark and Gallade properties. |
| Pages 3-38 & 3-39 | Text amended to replace references to the East Bay Dischargers Authority with the USD. |
| Page 3-40 | Text amended to reference that portions of the Cargill and FMC properties within the Specific Plan area are outside of the USD boundaries and would have to be annexed prior to development. |
| Pages 3-41 & 3-42 | Text amended to strikeout the East Bay Dischargers Authority as an agency with jurisdiction over the proposed project and add U.S. Environmental Protection Agency, California Public Utilities Commission (CPUC), Alameda County Department of Environmental Health and Bay Conservation and Development Commission (BCDC). |
| Page 4.3-5 | Figure 4.3-1 revised to show location of an area of wetland vegetation on Parcel E. |
| Page 4.3-22 | Text amended to update information about the Contra Costa goldfields. |

Pages 4.3-50 – 4.3-53	Mitigation Measure 4.3-1 amended to clarify requirements to mitigated potential impact to the salt marsh harvest mouse.
Page 4.3-60	Text amended to reference Contra Costa goldfields as one of several special-status plant species for which the project site may have suitable habitat.
Pages 4.3-65 – 4.3-67	Mitigation Measure 4.3-6 amended to reference protection of vernal pools and add language regarding long-term protection of wetlands not impacted by the project and/or new wetlands created.
Page 4.3-69	Mitigation Measure 4.3-8 amended to require coordination of tree replacement with the Don Edwards San Francisco Bay National Wildlife Refuge.
Pages 4.5-11 & 12	Mitigation Measure 4.5-1 amended to note that the Alameda County Water District (ACWD) regulates the construction, repair and destruction of wells, exploratory holes and other excavations and add Mitigation Measures 4.5-2 and 4.5-3 to address coordination with ACWD and require well protection plan.
Page 4.6-27	Text amended to address a revision to the estimate of sea level rise by climate change.
Pages 4.7-15 – 4.7-17	Text amended to update current cleanup efforts associated with the Gallade property.
Pages 4.7-30 & 4.7-31	Mitigation Measure 4.7-1a amended to include additional mitigation language.
Page 4.8-4	Text amended to update the amount of water treated at the Newark Desalination Facility and note beneficial use of groundwater.
Page 4.8-23	Mitigation Measure 4.8-4b amended to add reference to new water mains that may cross over the Hetch Hetchy Pipeline.

Revisions to Draft EIR Chapter 10

Page 4.8-25	Text was amended to reference Section 15.40.51 of the City's Municipal Code, which includes the City's flood improvement standards.
Page 4.9-23	Text amended to clarify BCDC jurisdiction over development on within the project area.
Pages 4.12-18 & 19	Text amended to replace references to the East Bay Dischargers Authority with the Union Sanitary District (USD) and update the anticipated completion date of the Sewer Master Plan by USD. Mitigation Measure 4.12-2 amended to update the anticipated completion date of the Sewer Master Plan by USD.
Pages 4.14-19 & 20	Text amended to reference the Alameda County Bicycle and Pedestrian Plans.
Page 4.14-71	Mitigation Measure 4.14-1b amended to add mitigation for the intersection of I-880 NB Ramps/Mowry Avenue.
Appendices	Page 2 of Table 3 contained in Appendix B updated to show potential habitat present for Contra Costa goldfields.

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3.3.3 SITE CHARACTERISTICS

OVERVIEW

The approximately 205-acre Dumbarton TOD Specific Plan area is currently primarily vacant and unused with the exception of a virgin chemical blending, storing, repackaging and distribution facility located in the northeastern corner, a storage area for base-rock and tractor trailers used in construction projects located in the northeastern portion, and a dog training facility and a police firing range located in the south central portion.

As outlined in the California Regional Water Quality Control Board, San Francisco Bay Region's (RWQCB's) Comments on the Notice of Preparation of an Environmental Impact Report for the Dumbarton Transit Oriented Development (TOD) Specific Plan, Newark, Alameda County issued on April 30, 2010, "contaminated soil and groundwater exist within the proposed TOD, and include high concentrations of chlorinated solvents, metals, flammable materials (i.e., elemental phosphorous), phenols (pentachlorophenol) doxins/furans, poly aromatic hydrocarbons (PAHs) and petroleum hydrocarbons. Soil and groundwater remediation are required at the sites (listed below), pursuant to Site Cleanup Requirements (SCR) Orders issued by the California Regional Water Quality Control Board, San Francisco Bay Region:

- ◆ FMC Corporation, 8787 Enterprise Drive, SCR Order R2-2002-0060
- ◆ Ashland Inc., 8610 Enterprise Drive, SCR Order R2-2005-0038
- ◆ SHH, LLC, 37445 Willow Street, SCR Order R2-2008-0081
- ◆ Jones-Hamilton, 8400 Enterprise Drive, SCR Order R2-2001-0054
- ◆ Former Baron-Blakeslee, 8333 Enterprise Drive, SCR Order R2-2005-0004"

Ongoing groundwater and soil vapor monitoring and cleanup efforts are occurring pursuant to Final SCR Order R2-2007-0005 issued by RWQCB that affects portions of the Gallade property, Trumark property and FMC's properties.

In general, the Specific Plan area is characterized by large, open, expansive, weedy fields that contain remnants of the former industrial development that previously existed in the area. Most of the Specific Plan area is enclosed by fencing and access is restricted. Within the Specific Plan area, Hickory Street, which runs north to south, is currently an unpaved, unimproved public right-of-way. Central Avenue currently terminates at Willow Street from the east and does not yet further extend into the Specific Plan Area. Enterprise Drive, which runs east to west between

of-way owned by the San Mateo County Transit District. The ~~East Bay Dischargers Authority (EBDA)~~ Union Sanitary District (USD) owns and operates two 368-inch sanitary sewer force mains serving the City of Newark that run through the Specific Plan area within a 30-foot wide easement, partially within the Hickory Street right-of-way. The Alameda County Flood Control F-1 Canal flows from east to west along the Specific Plan area's southern boundary, providing the main drainage outlet to the San Francisco Bay for a large part of the City of Newark. A tributary to this canal, the F-6 ditch generally flows from north to south along the Specific Plan area's easterly boundary and runs north along the west side of Willow Street for a distance of about 1,300 feet. Pacific Gas and Electric (PG&E) transmission lines traverse the Specific Plan area from north to south and PG&E maintains a 25-foot wide easement underneath the lines and surrounding the towers that the support the high-voltage lines.

ASHLAND INC. PROPERTY

The Ashland Inc. property occupies approximately 10.29 acres located southeast of the terminus of Enterprise Drive (8610 Enterprise Drive). The Ashland property is generally flat and has a gentle slope downward toward the southern rear portion of the property. The surface elevation ranges from approximately nine to 11 feet above MSL. Ashland operated a chemical packaging and distribution facility on the property from 1973 until 2000. Currently, the property is vacant, enclosed by fencing and predominantly covered with concrete and asphalt paving. Soil and shallow groundwater under the property have been impacted with chemicals of concern (COCs) and groundwater monitoring wells are located on the property. Current activities consist of site risk assessments, quarterly groundwater level measuring, and semi-annual groundwater sampling.

CARGILL PROPERTY

Cargill's approximately 54.5-acre property is located on the western portion of the Specific Plan area. Although the property is predominantly flat with surface elevations ranging from about eight to ten feet above MSL, it has two relatively small bedrock outcroppings approximately 30 to 35 feet above MSL. Historically, the property has mostly been undeveloped, however, some portions of the property have been in use for years.

From 1929 to approximately 1969, FMC and its predecessor Westvaco, leased a portion of the property from Leslie Salt (Cargill purchased Leslie Salt in 1979). This portion, formerly known as the Leslie Salt/FMC Magnesia Waste Pile site, was remediated pursuant to a Department of Toxic Substance Control (DTSC)

Project Description Chapter 3

Remedial Action Order. In 1991, the Department of Health Services (DHS), the predecessor of DTSC, issued a Certification of Completion of remediation. The City issued case closure for the site in 2002.

Between 1969 and 1995, the Newark Sportsman's Club leased approximately 18 acres of land to operate a recreational outdoor shooting range. That use, which left surficial and shallow deposits of lead shot and clay pigeon debris, was voluntarily cleaned up beginning in 1994, under Regional Water Quality Control Board (RWQCB) Order #94-096. The RWQCB certified case closure in 2004.

In addition, from 1975 to the present, the City Police Department has leased a portion of property to operate a pistol range. A Phase II Soil and Groundwater investigation performed for the City indicated lead concentrations in shallow soils in the berm area. Given the shallow nature of the materials, excavation and removal of the upper three feet of soil (approximately 405 tons) was identified as the most effective and economical remedial method. Upon cessation of use as a pistol range, the City will be responsible for remedial actions at this site.

One of two hills on the western side of the property is an outcropping of serpentine bedrock that contains naturally occurring asbestos (NOA). These naturally occurring materials are not regulated as a hazard if left in place. However, at such time as the site is to be modified or developed, all earthmoving and trenching in the area of the rock outcrop should be performed in compliance with regulatory requirements then in effect.

ENTERPRISE DRIVE LLC (TRUMARK COMMERCIAL) PROPERTY

The approximately 2.14-acre Enterprise Drive LLC (Trumark Commercial) property is located at 8375 Enterprise Drive in the northeastern portion of the Specific Plan area. The Enterprise Drive LLC property is a level, vacant lot with ruderal vegetation that is enclosed by fencing. It is approximately ten to 15 feet above MSL with a gentle slope to the southwest towards San Francisco Bay. There is a Hetch Hetchy Pipeline with a 110-foot right-of-way owned by the SFPUC in southern portion of property. ~~The chemical blending and distribution facility located on the adjacent Gallade property uses a portion of the Enterprise Drive LLC property for parking and storage. Groundwater underneath the property and site soils have been impacted with COCs from past uses associated with the adjacent Gallade property. There is a groundwater monitoring well on the property and current activities consist of groundwater monitoring. Past use associated with the adjacent Gallade property have impacted groundwater underneath the central and northern portions of the property and site soils in the north northeastern~~

portion of the property with COCs. There are several groundwater monitoring wells on the property and soil and groundwater monitoring and remediation activities are ongoing pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB.

FMC CORPORATION PROPERTY

FMC's property consists of approximately 47.3 acres of land generally located south of the railroad tracks bordering the northern portion of the Specific Plan area at 8787 Enterprise Drive. The relatively flat FMC property is approximately 11 feet above MSL. The majority of site is enclosed by fencing.

Chemical manufacturing related industrial uses occurred at the FMC property from 1929 through 2002. However, approximately eight acres of the property located near the intersection of Willow Street and Enterprise Drive have never been developed or actively used. This land consists of APNs 092-0100-004-02, 092-0101-001, and 92-0115-011 (refer to Figure 3-3). Features left-over from past industrial uses on the site consist of storage, office, and warehouse buildings, fencing, and paved parking areas. Other site features consist of asphalt caps over impacted soil and a groundwater extraction and treatment system. PG&E towers and high voltage power lines and an associated 25-foot wide easement traverse the western portion of the property from north to south. A portion of the Hetch Hetchy Pipeline is underneath the northeastern portion of the property and has a 110-foot right-of-way owned by the SFPUC. Currently, there are limited personnel stationed onsite in the office building to provide security. Other current onsite activities consist of semi-annual groundwater monitoring and operation and maintenance of the groundwater extraction and treatment system

GALLADE ENTERPRISES LLC PROPERTY

The approximately 2.3-acre Gallade property is located at 8333 Enterprise Drive in the northeast corner of the Specific Plan area. The level Gallade property has an elevation of approximately 11 feet above MSL. The property is currently developed with three structures (an office and two warehouses) and a parking area. The majority of the site is either covered by buildings or paving, although a small portion contains ruderal habitat. A portion of the Hetch Hetchy Pipeline located underneath the property adjacent to the southern boundary. ~~Gallade Chemical, Inc. currently uses the site for the storage, blending, packaging, and distribution of virgin chemical products. Past uses contaminated onsite soils and groundwater, as well as groundwater downgradient (westward) of the property with COCs. Groundwater, soil vapor, and ambient air monitoring is conducted semiannually~~

onsite and at nearby properties. Gallade Chemical, Inc. currently uses the site for the storage, repackaging and distribution of virgin chemical products. Historical operations at the site caused contamination of onsite soils and groundwater, as well as groundwater downgradient (westward) of the property, with COCs. This contamination affects portions of the Gallade property, the Trumark property and the FMC Corporation's properties. This property is currently undergoing groundwater and soil vapor monitoring and cleanup activities pursuant to Final SCR Order R2-2007-0005 issued by RWQCB and monitoring and reporting pursuant to the Department of Toxic Substance Control (DTSC) Hazardous Waste Post Closure Facility Permit, Facility EPA ID Number CAD07464459.

JONES-HAMILTON COMPANY PROPERTY

The approximately 21.27-acre Jones-Hamilton property is located at 8400 Enterprise Drive in the northeastern portion of the Specific Plan area, southeast of the intersection of Enterprise Drive and Willow Street. From 1956 to 2001, Jones-Hamilton operated a chemical manufacturing, blending and packaging facility at the property. Currently, the eastern half of the property is undeveloped and the western half is paved with either asphalt or concrete. Onsite soils and groundwater beneath the property have been impacted with COCs. A slurry wall and an asphalt cap encapsulate onsite impacted soils located on the southwestern portion of the site. In addition, extraction wells are present to create an inward gradient. Current onsite activities consist of groundwater monitoring.

SHH LLC PROPERTY

The SHH LLC property covers approximately 6.11 acres in the northeastern portion of the Specific Plan area at 37445 Willow Street. The SHH LLC property is level with a surface elevation of approximately nine to 11 feet above MSL. Foster Chemical Company manufactured, packaged and distributed chemicals at the site from 1975 to 1987. Prior to that time, the land had been leased for a period of time by the E.J. Lavino Brick Company for the storage of bricks. Currently, the site consists of predominantly vacant unpaved land although a 6,000-square-foot warehouse is onsite. Current activities consist of the storage of reclaimed asphalt, concrete debris, and gravel used to manufacture base-rock for construction projects and empty tractor trailers. In addition, groundwater monitoring is currently conducted on a semi-annual basis. Onsite soils and shallow zone groundwater have been impacted with COCs.

Water

The Alameda County Water District (ACWD) supplies water to the Specific Plan area. Due to the amount of development proposed by Dumbarton TOD Specific Plan, it is subject to the requirements of Senate Bills 610 (SB 610) and 221 (SB 221), which require the preparation of a Water Supply Assessment (WSA). The ACWD prepared a WSA for the proposed Dumbarton TOD Specific Plan and determined that demand associated with development proposed by the Dumbarton TOD Specific Plan would be consistent with planning assumptions and is included in ACWD's forecast and water supply planning.

Water is delivered to the Specific Plan area through a 16-inch transmission main in Central Avenue at the south end of the site that creates a loop by extending up Willow Street and connecting to an existing 12-inch main in Enterprise Drive. There are also 16-inch transmission mains stubbed at the south end of Hickory Street and at Willow Street, just north of the DRC tracks. The existing looped system in Central Avenue and Enterprise Drive would be extended westerly to include Hickory Street. In order to serve the Specific Plan area, a 16-inch connection between the transmission mains south and north of the tracks may be required to maintain adequate pressure and redundancy in the system.

Within the Specific Plan area, future development would be required to install distribution mains within the street network to serve fire and domestic water needs. It is anticipated that new distribution mains in "backbone" streets would be ten inch or 12-inch in diameter and distribution mains in local streets would be eight inch or ten inch in diameter. A water model would need to be performed based on final land plans, building types, water demands, fire flow requirement, and phasing, to establish final, actual line sizes in each street, and to determine whether the 16-inch connection between mains south and north of the railroad tracks described above would be required.

Sanitary Sewer

The City, including and the majority of the Specific Plan area, is within the service boundaries of the Union Sanitary District (USD), which also serves the cities of Fremont and Union City. The District owns and maintains a system that consists of gravity and pressure pipes, pumping facilities, detention facilities and the Alvarado Treatment Plant, which is located in Union City, north of the Specific Plan area.

The Specific Plan area is primarily served by a 36-inch trunk gravity main in Willow Street (Willow Street 36-inch), which carries wastewater flows from the southwest

portion of Newark, north through the Specific Plan area, across (beneath) the Hetch Hetchy Pipeline and Southern Pacific Railroad (SPRR) and into parallel 36-inch and 42-inch trunk gravity mains that flow to the west in the SPRR right-of-way (SPRR Mains). The SPRR Mains combine into a single 48-inch gravity sewer main that continues to the Newark Pump Station near the northwest corner of the Specific Plan area. Wastewater is pumped from the station through twin 33-inch force mains to the Alvarado Treatment Plant, approximately five miles to the north. In addition to the Willow Street 36-inch, there is a 14-inch gravity line in Enterprise Drive (Enterprise Drive 14-inch) that flows from east to west before turning to the northwest to run diagonally across the FMC property. This line is in disrepair, is shallow and only serves as a redundant line to the Willow Street 36-inch and the SPRR Mains, in the event of excessive surcharging in those lines.

Dual 33-inch force mains owned and operated by the ~~USD East Bay Dischargers Authority (EBDA)~~ traverse the Specific Plan area generally from south to north and at a depth of approximately five feet within the existing right-of-way for Hickory Street between the Torian and Ashland properties to the east and Cargill property to the west, then follow FMC's property southern boundary before heading northerly again (~~EBDA-USD Force Mains~~). The ~~EBDA-USD Force Mains~~ do not serve the Specific Plan area but carry wastewater from the Irvington Pump Station near the Fremont Boulevard Interchange at Interstate 880 to the Newark Pump Station. These pipes may be sensitive to movement and subject to failure should heavy construction occur over or in the vicinity of the pipelines. Mitigation measures may therefore be necessary as part of the implementation of the Specific Plan to protect the EBDA Mains or project proponents may consider the option of replacing the EBDA Mains within the Hickory Street right-of-way working closely with the USD.

In general, most new connections to the existing wastewater collection system are anticipated to be made to the Willow Street 36-inch gravity main. A new 12-inch gravity sewer main may be required to the areas located west of the EBDA Mains to avoid potential conflicts with those pipelines. There is no particular limit to the number of connections that can be made. However, it is anticipated that improvements may be required to both the 36-inch gravity trunk sewer in Willow Street and possibly the 42-inch gravity trunk sewer in the SPRR due to future development associated with the Dumbarton TOD Specific Plan and deficiencies in these lines identified by the USD.

The Newark Pump Station recently underwent an 11 million dollar upgrade and it is anticipated that no further upgrades would be needed to serve the proposed

Dumbarton TOD Specific Plan area. However, the force mains that convey flow from the station to the Alvarado Treatment Plant may be undersized for the buildout conditions associated with the Union Sanitary District Master Plan. An additional line may be needed or, alternatively, an equalization basin near the pump station may be constructed and utilized to detain wastewater during peak times. The District has land near the Newark Pump Station for this purpose, but has not constructed a basin.

Portions of the Cargill and FMC properties within the Specific Plan area are not currently located within the boundaries of the USD and, therefore, they would need to be annexed to the USD when development proceeds within these properties. The annexation process could take between six months and a year.

IMPLEMENTATION

The Dumbarton TOD Specific Plan identifies the necessary infrastructure improvements to support the proposed land uses, as well as the funding options for the improvements and the phasing of the improvements. Necessary infrastructure improvements include, but are not limited to: roadways/sidewalks and utility systems (i.e., water supply/distribution, sewer, storm drainage). Funding options include, but are not limited to: special districts and fees, community facilities districts (CFDs), redevelopment funds, special assessment districts, area of benefit fees, infrastructure financing districts, and landscaping and lighting districts.

PHASING

The Specific Plan is intended to be built over time and in various phases. At the same time, there are no requirements within the Specific Plan for parcels to be developed in any particular order so long as supporting infrastructure is available or made available to accommodate new development. The ultimate phasing of the Specific Plan buildout would be highly dependent upon the timing of available land, the market demand for various product types and the availability of financing and funds for the installation of infrastructure.

3.7 INTENDED USES OF THE EIR

This EIR has been prepared at the program-level under CEQA Guidelines Section 15168 to assess and document the environmental impacts of the Dumbarton TOD Specific Plan. Wherever possible, however, additional development-level information has been produced so that this EIR can be used on specific development proposals. Therefore, subsequent activities undertaken pursuant to

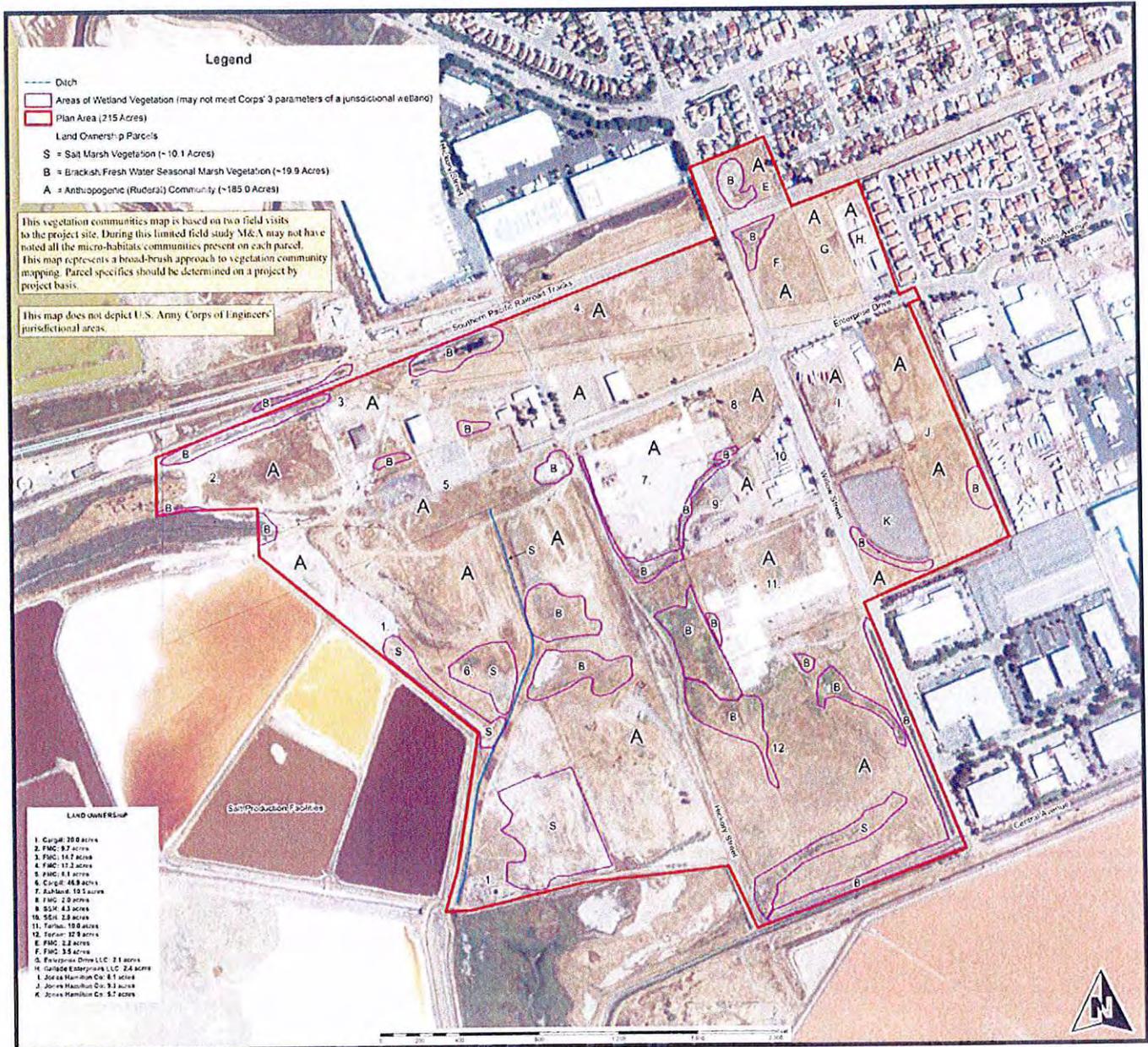
the Specific Plan would be examined in the light of this EIR to determine whether any additional environmental document must be prepared. (14 CCR § 15168(c)) Under Government Code Section 65457, any residential development project, including any subdivision or zoning change, that is undertaken to implement and is consistent with the Dumbarton TOD Specific Plan is exempt from further CEQA analysis, unless an event specified in Public Resources Code Section 21166 occurs, in which case a Supplemental EIR or other CEQA document may be required. As a program-level EIR, the EIR serves as the primary environmental document for the proposed land use designations, zoning districts, and future development that would be undertaken in the Dumbarton TOD Specific Plan area. Development that does not require discretionary review would not be subject to further environmental documentation.

This EIR provides the environmental information and evaluation necessary for the range of development evaluated in this EIR. This EIR provides the foundational CEQA compliance documentation upon which the City's, responsible agencies', and all other applicable agencies' consideration of and action on all necessary and/or desirous permits, approvals and other grants of authority (collectively, "approvals") shall be based. This includes without limitation all those approvals set forth in this EIR, as well as any additional approvals necessary and/or desirous to such project planning, development, construction, operation and maintenance (e.g., any development plans, construction approvals, grading permits, building permits, architectural review, certificates of occupancy and any other development related approvals). Other agencies with jurisdiction over approvals necessary or desirous to the project include, without limitation, the following:

- ◆ U.S. Army Corps of Engineers
- ◆ U.S. Fish and Wildlife Service
- ◆ U.S. Environmental Protection Agency
- ◆ California Department of Fish and Game
- ◆ California Department of Toxic Substances Control
- ◆ California Regional Water Quality Control Board
- ◆ California Public Utilities Commission
- ◆ Bay Conservation and Development Commission
- ◆ Bay Area Air Quality Management District
- ◆ Alameda County Water District
- ◆ Alameda County Flood Control and Water Conservation District
- ◆ Alameda County Department of Environmental Health

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- ◆ ~~East Bay Dischargers Authority~~
- ◆ Union Sanitary District
- ◆ San Francisco Public Utilities Commission
- ◆ San Francisco Water Department
- ◆ San Mateo County Transit District
- ◆ San Mateo County Transportation Authority



Source: Monk & Associates, 2011

Biological Resources Section 4.3

Contra Costa goldfields is known from only 20 extant occurrences. Eleven of these occurrences are from areas east and south of the City of Fairfield in Contra Costa County. The species has also been recorded in Alameda, Napa, and Solano Counties and has been extirpated from Santa Barbara, Santa Clara, and Mendocino Counties (CDFG 2007). Monk & Associates biologists have also found it on a property in Sonoma County. The species is found in vernal pools (Northern Basalt Flow, Northern Claypan, and Northern Volcanic Ashflow), swales, and moist depressions and flats in cismontane woodland and valley and foothill grassland between 0 and 470 meters elevation in clay or loam soils. Historical observations included many occurrences in the transition zone between vernal pools and tidal marshes on the eastern side of the San Francisco Bay. Development, agriculture land conversion, overgrazing, non-native invasive plants, and creek channelizing threaten nearly all remaining populations of this species (CNPS 2007). Critical habitat for this species was declared in August 2003.

A total of three occurrences within five miles of the project site are noted on the CNDDDB. Two of these are located in vernal pool complexes approximately five miles to the southeast and one is located within one-mile north of the project. However, the nearer occurrence is historic (1895) and is presumed extirpated as that area is now near the center of the City. Another known occurrence of this plant in Alameda County (not reported to the CNDDDB as of this writing) is a 2004 reported occurrence within 0.5-mile of the project site on a vacant lot north of the railroad tracks near Willow Street (personal communication between S. Lynch of Monk & Associates and D. Lake, July 5, 2011). Because (This species requires vernal pool habitat. While most of the project site does not provide suitable habitat conditions for this special-status plant species, one small area of wetland vegetation in the northern portion of the project site (Parcel E; refer to Figure 4.3-1) may provide suitable habitat for this species. Prior to impacting the wetland vegetation areas on Parcel E, surveys would be necessary to determine the presence or absence of this plant species. Surveys would need to be conducted during this plant's flowering period in order for the surveys to follow CDFG and CNPS specified survey guidelines.

that is not found on the project site, this species is not likely to occur within the confines of the project boundaries.

Prostrate (Vernal Pool) Navarretia

Vernal pool navarretia (*Navarretia prostrata*) is a CNPS List 1B.1 species. It has no state or federal status. Like all navarretia species, the prostrate navarretia is a

Biological Resources Section 4.3

biologists hold permits/authorizations from the USFWS and CDFG allowing them to work with the salt marsh harvest mouse; Monk & Associates biologists have over 15 years of experience working with this endangered mammal.

Based on Monk & Associates' field survey, it is unlikely that the project site parcels provide the necessary habitat components to support a salt marsh harvest mouse population (that is, one hundred percent cover or, at a minimum, 60 percent pickleweed cover; a cover depth of 30 to 50 centimeters at summer maximum; complexity in the form of fat hen and alkali heath or other halophytes [salt-tolerant plants]). However, since the field survey was general, at the time specific development proposals are developed for parcels within the project site that support salt marsh vegetation, specifically, pickleweed, these parcels shall be evaluated further as to their suitability for the salt marsh harvest mouse. It may be possible that some of the pickleweed dominated areas could support the salt marsh harvest mouse. Hence, development of such parcels could constitute a potentially significant adverse impact on the salt marsh harvest mouse. ~~The Torian property is an exception to this impact. The Torian property has been studied by several salt marsh harvest mouse biologists over the years (Live Oak Associates biologists, Zentner and Zentner biologists and Monk & Associates) and a determination has been made that this property does not provide the habitat components suitable for the salt marsh harvest mouse (that is, the Torian property is not a historic salt marsh, and does not provide the contiguous salt marsh habitat necessary to support this species). This impact could be mitigated to a less than significant level with Mitigation Measure 4.3-1.~~

Mitigation Measure

4.3-1 In order to avoid potentially impacting the salt marsh harvest mouse, prior to any site grading or development of properties within the Specific Plan area, a federal and state permitted salt marsh harvest mouse biologist shall conduct a "Habitat Assessment" to determine if the parcel where work is proposed provides suitable habitat for the salt marsh harvest mouse. The exception to this requirement would be the Torian property since two Habitat Assessments have been prepared for the property (by Live Oak Associates and Zentner and Zentner), which concluded that the property does not provide suitable habitat for the salt marsh harvest mouse. However, the Torian property shall implement protective measures, such as hand removal of pickleweed onsite and installation of mouse-proof exclusion fencing, prior to site development as further described below under "preconstruction measures." where this would be

Biological Resources Section 4.3

California species that are native to the Newark area (for example, redwood trees are native to California but not to Newark).

Replacement trees planted adjacent to the Don Edwards San Francisco Bay National Wildlife Refuge should first be coordinated with the Refuge to avoid the introduction of perching sites for predatory species.

A Tree Management Plan shall be prepared for any project on any project site parcel where tree removal occurs. Preparation of this plan and subsequent planting and monitoring shall be a condition of project approval and shall be tied to a security bond or cash deposit posted by the developer with the City. This plan shall include a planting detail that specifies where all trees would be planted on the subject parcel. The methods used to plant trees shall also be specified. Adequate measures shall be established to minimize predation of planted trees by rodents including, but not limited to, pocket gophers (*Thomomys bottae*) and/or California ground squirrels (*Spermophilus beecheyi*).

All planted trees shall be provided with a buried, irrigation system that shall be maintained over a minimum three-year establishment period. The irrigation system shall be placed on automatic electric or battery operated timers so that trees are automatically watered during the dry months of the establishment period. At the end of the three-year establishment period, the irrigation system could be removed, if necessary. The planted trees' health shall be monitored annually for five years by a qualified biologist or arborist. Annual monitoring reports shall be submitted to the City.

At the end of a five-year monitoring period, at least 80 percent of planted trees shall be in good health. If the numbers of planted trees falls below an 80 percent survival rate, additional trees shall be planted to bring the total number of planted trees up to 100 percent of the original number of trees planted. Irrigation and follow-up monitoring shall be established over an additional three year period after any replanting occurs. Any replanting and follow-up monitoring shall be reported in annual reports prepared for the City, Community Development Department. A performance bond, letter of credit, or other financial instrument shall be established to pay for any remedial work that might need to occur, if the prior effort fails.

structures and safety of people present at the time of the earthquakes. Moreover, ground motion has the potential to initiate secondary events such as liquefaction or landslides, which could also threaten the integrity of structures placed on the site and the safety of people present at the time of the earthquakes. There is a low potential for liquefaction at the Enterprise Drive LLC (Trumark Properties) property. However, Torian, Cargill, and possibly other properties within the Specific Plan area are underlain by potentially liquefiable soils. Landslides are a possibility at the northern rock outcrop on Cargill's property and also along levees.

The likelihood of ground shaking and seismic-related liquefaction and landslide impacts can be reduced if future development is constructed in accordance with the recommendations of a geotechnical engineering report and the CBC. Using standard construction techniques and following the recommendations of a site-specific geotechnical investigation and applicable codes and requirements, structures can be designed and built to withstand the geologic hazards listed above. Although some structural damage is not typically avoidable, building codes and local construction requirements help to protect against building collapse and personal injury during seismic events. Future development would be required to comply with applicable regulations, such as the CBC, and the requirements of the Newark General Plan Environmental Safety Element. The following mitigation measure requires a design-level geotechnical investigation for all future development in the Dumbarton TOD Specific Plan area to further reduce potential ground shaking and seismic-related liquefaction and landslide hazards to less than significant.

Mitigation Measure

- 4.5-1 The ACWD regulates the construction, repair, and destruction of wells, exploratory holes, and other excavations located within the City of Newark under ACWD Ordinance No. 2010.01. Future developers within the Specific Plan area shall have a design-level geotechnical engineering investigation performed for their individual property or properties prior to its (their) development. The mitigation measures specified by the design-level geotechnical engineering investigations shall become conditions to the issuance of grading permits for such individual property. The design-level geotechnical engineering investigations shall only address each specific individual property proposing construction, unless future developers mutually agree to include more than one property in a single investigation.

Geology and Soils Section 4.5

The design-level geotechnical engineering investigations shall take into consideration the specific locations and types of development, as well as specific soil and rock conditions identified by subsurface investigation and laboratory testing. The likely mitigation measure recommendations of the design-level geotechnical engineering investigations regarding the design and construction of project-related development are regularly employed, have known and proven efficacy, and could include without limitation, one or more of the following:

- ◆ Removing the soft/loose soil by excavating the soil and backfilling the excavation with compacted soil, thus densifying the soft/loose soil;
- ◆ Supporting structures on deep foundations, such as piles or piers;
- ◆ Improving the soft/loose soils by various methods, such as dynamic deep compaction, constructing surcharge fills, installing wick drains, grouting, and other methods;
- ◆ Strengthening structures to withstand seismic shaking and differential ground settlement; and/or,
- ◆ Other methods as determined by the geotechnical engineer in the geotechnical report to be prepared for the sites.

4.5-2 Prior to any soil improvement measures and/or dewatering activities, the project geotechnical engineer(s) shall coordinate with the ACWD to ensure compliance with ACWD Ordinance No. 2010-01.

4.5-3 Prior to construction, the project applicant shall develop a plan, reviewed and approved by ACWD, for the protection of wells prior to issuance of demolition and grading permits to ensure compliance with ACWD Ordinance No. 2010-01.

Level of Significance After Mitigation: Less Than Significant.

SOIL EROSION

4.5-2 Future development of the project site allowed by the Dumbarton TOD Specific Plan could result in substantial soil erosion or the loss of topsoil.

4.5-12

Dumbarton TOD Specific Plan Draft EIR
City of Newark

While there is broad agreement on the causative role of GHGs to climate change, there is considerably less information or consensus on how climate change would affect any particular location, operation, or activity. The IPCC has published numerous reports on potential impacts of climate change on the human environment. These reports provide a comprehensive and up-to-date assessment of the current state of knowledge on climate change. Despite the extensive peer review of reports and literature on the impacts of global climate change, the IPCC notes the fact that there is little consensus as to the ultimate impact of human interference with the climate system and its causal connection to global warming trends.

The following climate change effects could affect the proposed project. However, the type and degree of the impacts that climate change would have on humans and the environment is difficult to predict at the local scale.

- ◆ Sea Level Rise. According to the San Francisco Bay Conservation and Development Commission (BCDC) climate change is expected to raise sea levels between ~~12 and 36 inches~~ 15 to 55 inches by the year 2100. The Specific Plan area is approximately two miles east of the San Francisco Bay and a portion of the site is within a Federal Emergency Management Agency (FEMA) 100-year flood zone. According to the Shoreline Areas Vulnerable to Sea Level Rise Central Bay South Inundation Map (BCDC 2008), ~~the BCDC forecasted rise in sea level in the western portion of the Specific Plan area and could increase flood related impacts, especially from storm surge-induced flood events.~~ Section 15.40.51 of the City's Municipal Code has flood elevation standards for lands within special flood hazard areas as defined by FEMA. Among other things, these standards require building pads of all occupied structures to be a minimum of 11.25-feet above sea level with the finished floor being a minimum of six-inches above the building pad. In addition, the City requires that the top of curb grades for residential streets must be no less than ten-feet above sea level throughout the City (Section 16.08.06 Newark Municipal Code). Additionally, the effects related to sea level rise are speculative at this time, the majority of the Specific Plan area does not lie within BCDC's jurisdiction, and the BCDC forecast and any related policies are intended as guidance regarding potential, future flood risks ~~and are not directly applicable to the Specific Plan area.~~ If sea level rise was determined to be a significant threat, protective measures such as levees installed by regional and local governments would be available to protect urbanized areas.

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closed according to DTSC requirements.⁶ As of 2007, Gallade Enterprises LLC owned and operated a virgin-chemical-product storage and distribution facility at the site.

Since 1993, several phases of environmental characterization have been conducted at the site. Previous investigations have indicated that soil and groundwater at the site and groundwater downgradient (westward) from the site have been impacted by VOCs. Chemicals of potential concern (COPCs) include trichloroethene (TCE), tetrachloroethene (PCE), cis-1,2-dichloroethene (cis-1,2-DCE), 1,1,1-trichloroethane, (1,1,1-TCA), 1,1-dichloroethene (1,1-DCE), methylene chloride, and Freon-113. Based on the frequency of detection, the concentrations detected, and the toxicity, PCE and TCE are considered the primary COPCs in soil, and TCE is considered the primary COPC in groundwater.⁷

This property is currently undergoing groundwater and soil vapor monitoring and groundwater and soil cleanup activities pursuant to the Final SCR Order R2-2007-0005 issued by the RWQCB and monitoring and reporting pursuant to the DTSC Waste Post Closure Facility Permit, Facility EPA ID Number CAD07464459. The Final SCR Order R2-2007-0005 was based on a Revised Feasibility Study and Remedial Action Plan that was submitted to RWQCB on January 31, 2006, which also included a risk management plan.

The Final SCR Order R2-2007-0005 requires semiannual groundwater and soil vapor monitoring for a network of groundwater and soil vapor monitoring wells located on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001) and railroad properties, as well as north, west and east of the Gallade property in residential and public properties. Groundwater and/or soil vapor plumes have been detected on or about these properties. Remediation consists of the following three tasks: in situ thermal remediation for the former tank farm area located on the northern portion of the Gallade and on a portion of the Trumark properties; in situ treatment for the shallow groundwater on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001), and railroad properties; and soil excavation in the former process building area of the Gallade property upon completion of building demolition and slab removal.

⁶ Final Site Cleanup Requirements Order No. R2-2007-0005, January 29, 2007

⁷ Ibid

The current semiannual status report, the 2010 Second Semiannual Status Report, was submitted in January 2011 and concluded that the VOC plume in the shallow zone groundwater appeared to be stable and soil-vapor monitoring revealed that industrial and/or residential environmental screening level criteria were exceeded for TCE, PCE, vinyl chloride, and cis-1,2-DCE at soil vapor wells located outside residential areas. The report recommended continuation of the semiannual groundwater monitoring per the site cleanup requirements detailed in the Order, and to continue semiannual soil-vapor monitoring at all residential and non-residential soil-vapor wells to define long-term trends and evaluate potential concerns of vapor intrusion in adjacent residential properties.

The in situ thermal remediation activities were completed from March 2010 to January 2011 and the final remediation completion report will be submitted in August 2011. The in situ chemical oxidation remediation activities began in the fall of 2010 and are ongoing. The soil excavation beneath the former process building will occur upon completion of building demolition and slab removal.

~~Due to known soil and groundwater contamination and the risks associated with potential exposure to contaminants onsite, remedial action for soils, soil-vapor, and groundwater was warranted. Order No. R2-2007-0005 specified that the Gallade property would have to be remediated in accordance with the cleanup plan discussed in finding 11 of the Order. Like the FMC Corporation property, the Gallade property water areas also consist of the shallow groundwater zone and the Newark Aquifer. The Revised Feasibility Study and Remedial Action Plan (RAP) were submitted to RWQCB on January 31, 2006, and has been implemented consistent with the Order described above. Soil excavation and In situ thermal treatment of shallow soil and groundwater were proposed as the preferred remediation technologies for the site. The RAP also contained a risk management plan:~~

~~A semi-annual status report was submitted in December 2006, and again in August 2007. In the July 2008-December 2008 semi-annual status report, it was concluded that the VOC plume in the shallow zone groundwater appeared to be stable. VOC concentrations at the monitoring wells onsite remained consistent with previously-observed concentrations, which were still above standards set fourth in finding 11 of the RWQCB order.~~

~~Soil-vapor monitoring revealed that industrial and/or residential environmental screening level criteria were exceeded for vinyl chloride at non-residential soil-vapor wells onsite.~~

~~The report recommended continuation of the semiannual groundwater monitoring per the site cleanup requirements detailed in the Order, and to continue semiannual soil vapor monitoring at all residential and non-residential soil vapor wells to define long-term trends and evaluate potential concerns of vapor intrusion in adjacent residential properties.~~

Jones-Hamilton (8400 Enterprise Drive)⁸

Based on RWQCB Order No. 98-067, the Jones-Hamilton Company operated a chemical blending and packaging facility that handled and stored various chemical compounds at the site since 1956. These chemical compounds included gasoline, sodium bisulfate, hydrochloric acid, arsenic acid, chromic acid, cupric acid, formaldehyde, triethanolamine, pentachlorophenol, a variety of surfactants, and a variety of hydrocarbon-based solvents. Previous activities include the operation of two hazardous waste management units (surface impoundments), the loading and unloading of a variety of raw waste liquids and recovered chlorinated chemical products, and the storage and distribution of these chemicals onsite. Unauthorized releases of some of these chemicals reportedly occurred during the past years of operation.

The site is located within the Niles Cone groundwater basin and the Shallow Zone. Onsite and offsite investigations of the site confirmed that significant shallow groundwater pollution has occurred below the site. Pentachlorophenol (PCP) and 1,2-DCA were found in the shallow groundwater zone (0-20 feet) beneath the site at concentrations of up to 1,000 ppb and 2,000 ppb, respectively. The main source of the PCP was the impoundment areas onsite. Additional chemical compounds, such as 1,1,1-trichloroethane, 1,1-dichloroethane, benzene, chloroform, ethylbenzene, methylene chloride, 1,2-dichlorobenzene, naphthalene, toluene, 2-butanone, trichlorotrifluoroethane, xylene, 4-methylphenol, and benzoic acid were found at low concentrations.

The RWQCB order states that polluted soil has been excavated in the vicinity of the two surface impoundments. The two surface impoundments were closed October 1, 1988. Closure involved encapsulation by a slurry wall followed by a synthetic liner, clay, and an asphalt cover, with groundwater extraction wells to create an inward gradient. However, VOCs are still present in soils onsite.

⁸ RWQCB Order No. 98-067, July 1998

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multiple property owners, and as such, properties within the Specific Plan area with any residual contamination would be remediated and developed on a case-by-case basis with regulatory oversight.

In addition to meeting applicable Federal, State, and local standards, the following mitigation measures, would reduce impacts to a less than significant level.

Mitigation Measures -

4.7-1a Prior to the issuance of grading or building permit for an individual property within the Specific Plan area with known, suspected, or potential residual environmental contamination, the property owner shall, to the extent such activities have not previously been performed by the property owner pursuant to the requirements of the San Francisco Bay Regional Water Quality Control Board (RWQCB) or other overseeing agency under applicable environmental laws (Oversight Agency), do all of the following: 1) summarize available information regarding the magnitude and extent of soil and groundwater contamination at the subject property; 2) perform a data gap analysis; 3) based on the results of the data gap analysis, determine whether any additional investigation is needed to fill data gaps and, if so, propose and perform such investigation with the approval of the Oversight Agency; 4) provide either a Health Risk Assessment (HRA) or Feasibility Study (FS) containing an HRA to summarize potential risks to human health and the environment posed by the contamination with respect to the proposed development; 5) based on the HRA or as set forth in the FS, develop remedial options to address the identified risks based upon the proposed development, which remedial option may include engineering or institutional controls, and tentatively select the most appropriate remedial option to ensure that the proposed development will not present an unacceptable risk to human health or the environment as required by applicable environmental laws, as well as procedures for proper management of contaminated soil and groundwater that may be encountered during development; and 6) submit a report to the Oversight Agency for review and regulatory approval of the proposed remedial plan, including engineering and/or institutional controls, under applicable environmental laws.

~~Prior to the issuance of a building permit for an individual property within the Specific Plan area with residual environmental contamination, the agency with primary regulatory oversight of environmental conditions at such property~~

~~("Oversight Agency") shall have determined that the proposed land use for that property, including proposed development features and design, does not present an unacceptable risk to human health, including, if applicable, through the use of institutional controls, site-specific mitigation measures, a risk management plan and deed restrictions based upon applicable risk-based cleanup standards. Remedial action plans, risk management plans and health and safety plans shall be required as determined by the Oversight Agency for a given property under applicable environmental laws, if not already completed, to prevent an unacceptable risk to human health, including workers during and after construction, from exposure to residual contamination in soil and groundwater in connection with remediation and site development activities and the proposed land use.~~

- 4.7-1b Prior to grading permit issuance, areas to be graded shall be cleared of debris, significant vegetation, pre-existing abandoned utilities, buried structures, and asphalt concrete.
- 4.7-1c Prior to the import of a soil to a particular property within the Specific Plan area as part of that property's site development, such soils shall be sampled for toxic or hazardous materials exceeding applicable Environmental Screening Levels for the proposed land use at such a property as required by the Oversight Agency prior to importing to such a property.
- 4.7-1d Areas containing Naturally Occurring Asbestos (NOA) within the Dumbarton TOD Specific Plan area shall be confirmed prior to grading permit issuance. Prior to grading or construction of a particular property containing NOA, an application from the Bay Area Air Quality Management District shall be required for projects over one-acre in size. Dust control and an NOA air monitoring program shall be required. Additionally, the following general construction practices shall be adhered to for those properties containing NOA:
- ◆ The site shall be maintained in a wet condition to prevent airborne dust. Onsite soil shall be wetted during grading and trenching operations.
 - ◆ Over excavation and removal of NOA material to one foot below utility is recommended for utility corridors.

Materials) for a description of the various COCs associated with past onsite uses within the Specific Plan area.

GROUNDWATER QUALITY

The Basin is characterized by fresh groundwater in eastern portion that transitions into brackish groundwater in the western portion, including the Specific Plan area. This is the result of past over drafting of the Newark Aquifer and other deeper aquifers, which caused an easterly flow and seawater intrusion from the San Francisco Bay toward inland areas.

Both the shallow zone and the Newark Aquifer groundwater are brackish to saline due to saltwater intrusion from the San Francisco Bay. Since the 1960s, ACWD has managed the Basin to prevent any additional seawater intrusion and has an ongoing program to pump trapped brackish groundwater back to San Francisco Bay through the District's Aquifer Reclamation Program (ARP) wells. Since September 2003, much of the water pumped from the ARP wells is treated at the Newark Desalination Facility. This facility treats up to ~~five~~ 12.5 million gallons per day utilizing reverse osmosis to remove salts and other impurities from the brackish groundwater. Treated water is blended with untreated local water and provided as a supply for the water distribution system.

As described in Section 4.7, groundwater in the shallow zone and to a much more limited extent the Newark Aquifer under a portion of the Specific Plan area has been impacted with chemicals of concern (COCs) ~~as discussed further in Section 4.7. However, as noted previously, both the shallow zone and Newark Aquifer within the immediate vicinity of the Specific Plan area do not have a current beneficial use due to high salinity from saltwater intrusion from the Bay and in the shallow zone, low yields. However, water quality data from ACWD in this area indicates that groundwater has a potential beneficial use. The shallow water bearing zone is critical for protecting the Newark Aquifer, in which ACWD operates high capacity wells for potable water supply and aquifer reclamation.~~ Extensive soil and groundwater remediation has taken place at various properties within the Specific Plan area and groundwater is currently monitored by ~~32~~ approximately 150 wells. Pump and treat groundwater activities have also been terminated at certain properties, in lieu of in-situ and natural attenuation remedies, as the pumping activity could potentially create a downward gradient from the Shallow Zone to the underlying Newark Aquifer and result in downward migration of COCs within the Newark Aquifer.

outfall into the Line F-1 channel, the existing human-created tidal channel that is tributary to Newark Slough, and existing City facilities in Willow Street). The hydrology reports shall be subject to review and approval by the City Engineer.

If the hydrology reports determine that the existing facilities do not have adequate stormwater conveyance and capacity to serve the proposed development, then the project applicant shall develop a detailed stormwater detention plan for the retention/detention of stormwater runoff on the project site. The stormwater detention facilities shall be designed with adequate capacity to ensure that that stormwater generated on the project site during a peak storm event is retained at a rate that would ensure that discharges from the site do not exceed pre-construction levels. All detention facilities shall be developed in conformance with the City's standards and the standards of the Alameda County Flood Control and Water Conservation District. The plans and specifications of the proposed detention facilities shall meet the standards of the City Engineering Department as an adequate engineering product. The construction of stormwater detention facilities may be phased to correspond with development of the project site over time, provided that adequate detention is provided at all times to ensure that runoff from the site does not exceed pre-construction levels.

- 4.8-4b Plans submitted for grading permits for future projects requiring storm drainage lines and water mains that cross the Hetch Hetchy Pipeline shall include measures to ensure that there is sufficient room for ~~future storm drainage lines~~ these infrastructure improvements to pass over Hetch Hetchy Pipeline (i.e., placement of additional fill).

Level of Significance After Mitigation: Less Than Significant

FLOOD HAZARD

- 4.8-6 The proposed project could place housing within a 100-year flood hazard area, or place within a 100-year flood hazard area structures which could impede or redirect flood flows.

Level of Significance Before Mitigation: Less Than Significant

Impact Analysis

The FIRM map panel that covers the project area (06001C0443G) shows that a portion of the Specific Plan area is located within a 100-year tidal flood zone. A portion of the Cargill property is classified as Zone AE, as are some of the western portions of FMC's property. In the event of 100-year flooding conditions, water up to an elevation of 8.24 (29 NGVD) feet above sea level would flood the area. The remaining properties are classified as Zone X, indicating that this area has 0.2 percent annual chance of flooding, or is an area of one percent annual chance flood with average depths of less than one foot or with drainage areas less than one square mile. It also indicates areas protected by levees from one percent annual chance flood.

Flooding could damage property and structures within the Specific Plan area, and pose a severe hazard to public safety. According to the Specific Plan, approximately 500,000 to one million cubic yards of fill material would be imported to the site to elevate future structures above the 100-year flood hazard area in compliance with FEMA, ACFC, and City requirements. The proposed project would be required to comply with Section 15.40.51 of the City's Municipal Code, which has flood improvement standards for lands within special hazard flood areas as defined by FEMA. Therefore, while the proposed Specific Plan would place housing and other structures within a 100-year flood hazard area, the proposed placement of fill to raise the site elevation would reduce the impact to a less than significant level.

Due to the significant quantity of fill material required to raise elevations across the site, a long-term staged import fill operation may be needed which may include the need for interim rough grading and stockpiling plans. Additionally, because portions of the Specific Plan area are underlain with Bay Mud, surcharging may be required to create viable sites. Nonetheless, impacts would remain less than significant.

the Bay.” In the immediate vicinity, the existing Bay Trail Plan calls for it to be extended along Thornton Avenue, down Willow Street, and continue along Central Avenue to the east.

SAN FRANCISCO BAY PLAN

The San Francisco Bay Plan was completed and adopted by the San Francisco Bay Conservation and Development Commission (BCDC) in 1968 and was transmitted to the California Legislature and Governor in 1969. In those actions the Commission completed the original charge given to it in the provisions of the McAteer-Petris Act of 1965. The Act created the Commission and mandated its study of the Bay and the preparation and submittal of a final report to the California Legislature in 1969.

The San Francisco Bay Plan includes policies to guide future uses of the Bay and shoreline and maps that apply these policies to the present Bay and shoreline. Portions of the City are located under within the jurisdiction of BCDC and are within the San Francisco Bay Plan, including areas north, west and south of the project area. The Specific Plan area is not located within the San Francisco Bay Plan jurisdiction. A waterway in the northwestern portion of the Specific Plan area, referred to as the barge canal, is considered part of the Bay and BCDC has jurisdiction over a shoreline band located between the shoreline and 100 feet landward and parallel to the shoreline for public access purposes. Plummer Creek is not considered part of the Bay but is referred to as “other waters,” which cannot be filled without a BCDC permit.

4.9.3 ENVIRONMENTAL ANALYSIS

4.9.3.1 THRESHOLDS OF SIGNIFICANCE

According to the Appendix G of the CEQA Guidelines, the Dumbarton TOD Specific Plan would have a significant impact on land use if it would:

- ◆ Physically divide an established community;
- ◆ Conflict with any applicable plan, policy, or regulation of a government agency with jurisdiction over land within the City of Newark that has been adopted for the purpose of avoiding or mitigating an environmental effect; and/or
- ◆ Conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan.

A 14-inch gravity line in Enterprise Drive ultimately flows to the Newark Pump Station after crossing the FMC property and the Hetch Hetchy Pipeline. This line is in disrepair, is shallow, and only serves as a redundant line to the mains in Willow Street and the SPRR in the event of excessive surcharging in those lines. The Enterprise Drive line and the Willow Street main are the only two sewer lines near the project area to cross the Hetch Hetchy Pipeline.

Dual 33-inch force mains, operated by ~~East Bay Dischargers Authority (EBDA)~~, USD traverse the site generally from south to north. These mains carry wastewater from the Irvington Pump Station (near the Fremont Boulevard and Interstate 880 interchange) to the Newark Pump Station, but do not serve the project area. These pipes are sensitive to movement and their joints are subject to failure should heavy construction or intense uses occur over or in the vicinity of the pipeline. In general, additional structural mitigation measures may need to be installed at selected locations or, as an alternative, these lines could be replaced in a new alignment within Hickory Street. The nature of the structural mitigation measures or replacement mains would be determined in conjunction with USD.

No additional improvements to the Newark Pump Station are anticipated; however, force mains conveying flow from the station to the Alvarado Treatment Plant may be undersized for buildout of the Specific Plan. An additional line or an equalization basin near the station would be needed. Required sanitary sewer improvements, ~~schedules for their implementation, and funding options~~ will be addressed in the USD Sewer Master Plan, which is scheduled for publication in ~~June, 2014~~ the summer of 2014~~2012~~. In general, most new connections to the existing wastewater collection service would be provided along the 36-inch Willow Street gravity main. A new 12-inch gravity sewer main may be required to provide service to the areas located west of the EBDA mains to avoid a potential conflict with new mains crossing EBDA mains.

The following polices will be included as a part of the General Plan Amendment for the Dumbarton TOD Specific Plan project.

- ◆ Expand the wastewater collection system such that it is adequate to serve the new development in the project area.
- ◆ Amend sewer fees and/or other financing mechanisms if necessary such that project area project sponsors pay their fair share of the costs for sewer on force main improvements.

- ◆ The USD ~~was is~~ scheduled to begin updating their Sewer Master Plan in the fall of 2010 ~~and anticipate completion~~, with a document available by ~~June of the summer of 2011~~ 2012. As part of the updating process, USD will gather information on planning activities at each city within its boundaries (Fremont, Newark and Union City) to help guide the Master Plan. It is important that the City of Newark continues to engage in this process and is forthright with respect to the Specific Plan, so that the Sewer Master Plan can provide concrete documentation of the upgrades required to implement the Specific Plan.

Implementation of Mitigation Measure 4.12-2 would reduce impacts to the wastewater system to less than significant.

Mitigation Measure

- 4.12-2 Prior to approval of any tentative map within the Dumbarton TOD Specific Plan area, additional necessary improvements, if any, beyond those already included in the USD Master Plan and updated fee program, shall be determined regarding proposed new connections (from such tentative map development) and then-existing or proposed wastewater facilities. Such improvements shall be installed prior to issuance of a building permit. Improvements shall be consistent with requirements in the Sewer Master Plan (anticipated to be available ~~in June the Summer of 2012~~). The City and USD shall verify that any necessary improvements will be available prior to occupation of those new residential dwelling units for which such improvements are necessary.

Level of Significance After Mitigation: Less Than Significant.

WATER SUPPLY

- 4.12-3 Sufficient water supplies are available to serve the proposed project from existing entitlements and resources. No new or expanded entitlements would be required.

Level of Significance Before Mitigation: Less Than Significant

Impact Analysis

The Dumbarton TOD Specific Plan area is located within the water service area of ACWC. Pursuant to SB 610, a WSA was prepared for the proposed project. The

4.14.2.3 EXISTING BICYCLE AND PEDESTRIAN FACILITIES

PEDESTRIAN FACILITIES

The Specific Plan Area currently has minimal pedestrian connections and amenities. Sidewalks currently exist along Willow Street south of the Willow Street/Thornton Avenue intersection, along Enterprise Drive approximately 280 feet west of the Allepo Drive/Enterprise Drive intersection to the eastern City limit, and along Central Avenue east of Willow Street. Sidewalks do not exist along Willow Street on either side of the project frontage. The Specific Plan includes pedestrian improvements that are further discussed in ~~Section 4.14.5.3~~ under Impact 4.14-3, below.

The County of Alameda has developed Countywide Bicycle and Pedestrian plans that were adopted in 2006 and are currently being updated. The Countywide Pedestrian Plan identifies areas of Countywide significance for capital pedestrian projects. Thornton Avenue, Cherry Avenue and Willow Street are all part of the proposed Bay Trail spine and, therefore, areas of Countywide significance for pedestrian projects.

BICYCLE FACILITIES

Bicycle facilities include bike paths (Class I), bike lanes (Class II) and bike routes (Class III) (*Highway Design Manual*, Caltrans). Bike paths are paved trails that are separated from roadways. Bike lanes are lanes on roadways designated for use by bicycles. These lanes are designated by pavement striping, pavement legends and signage. Bike routes are roadways that are designated for bicycle use by signs only and may or may not include additional pavement width for cyclists. Class II bike lanes currently exist along Thornton Avenue between the northern City limit and Hickory Street and a Class III bike route between Hickory Street and Willow Street. Class III bike routes currently exist along Willow Street from Cedar Boulevard to Hickory Street and along Enterprise Drive between Willow Street and Filbert Street. Figure 4.14-4 (Existing Bicycle Facilities) displays the existing bicycle facilities. The Specific Plan includes bicycle improvements that are further discussed in ~~Section 4.14.5.4~~ under Impact 4.3-4, below.

The 2006 Countywide Bicycle Plan contains a proposed Countywide Class III bicycle route that extends from Thornton Avenue southbound across SR-84 to the intersection with Willow Street. The route then travels on Willow Street south to Central Avenue and runs east until it intersects with the railroad tracks where a

proposed section of the Bay Trail parallel to the tracks would continue the route. Other planned Countywide routes in the vicinity include a proposed Class III route that continues east on Central Avenue and a proposed north-south Class II route that runs along Newark Boulevard, Brittany Avenue and Cherry Street.

4.14.2.4 EXISTING ROADWAY VOLUMES

Figure 4.14-5 (Existing Peak-Hour Intersection Volumes) illustrates the existing AM/PM peak-hour traffic volumes for the study area intersections. Where available, intersection counts were obtained from the City. These counts were conducted in 2006 and 2007. New traffic data at selected intersections was obtained in May 2010, where prior information was not available. The intersection of Cedar Boulevard/Newark Boulevard was counted in both data sets as a control location, which showed minimal change in peak-hour volumes between 2006 and 2010. New traffic counts are provided in Appendix G (Traffic Data).

Avenue. However, due to the built out nature of the City, limited right-of-way is available at the intersection. The City would need to exercise eminent domain to obtain the right-of-way, resulting in impacts to the land owner on the southwest corner of the intersection. Additionally, potential secondary impacts (such as increased pedestrian crossing distances and impacts to bicyclists in the corridor) would occur with the improvement. Therefore, this improvement is not feasible and the impact is considered significant and unavoidable.

Cherry Street/Mowry Avenue: Mitigation measures were identified at this intersection as part of the Area 3 and 4 Environmental Impact Report. The measures proposed included the addition of a second left-turn lane on the westbound approach, and resulting in realignment of the east and westbound approaches and modification to the traffic signal. The operations of the intersection were tested with these mitigation measures; these improvements are not sufficient to mitigate the project's impact; additionally, right-of-way to widen this approach may be needed. Therefore, other mitigation measures were identified, as described below.

The westbound approach at the intersection of Cherry Street/Mowry Avenue shall be restriped to include a right turn and a through-right turn lane. The proposed mitigation measures would allow the intersection to operate at LOS E during the AM peak-hour and LOS F with improved delay during the PM peak-hour.

I-880 NB Ramps/Mowry Avenue: The intersection of I-880 NB Ramps/Mowry Avenue shall be restripe to include a left/right share lane resulting the northbound approach having a final lane configuration of a left-turn lane, a left and right shared lane, and dual right-turn lanes. The proposed mitigation measures would allow the intersection to operate at an acceptable LOS B during the AM peak-hour and LOS C during the PM peak-hour.

Table 4.14-13 illustrates intersection LOS and average vehicle delay results under Future Year 2035 Plus Project (Buildout) conditions. LOS calculation worksheets are provided in Appendix G.

Table 3

Special-Status Plants with Potential to Occur in the City of Newark Concept Plan Area Two

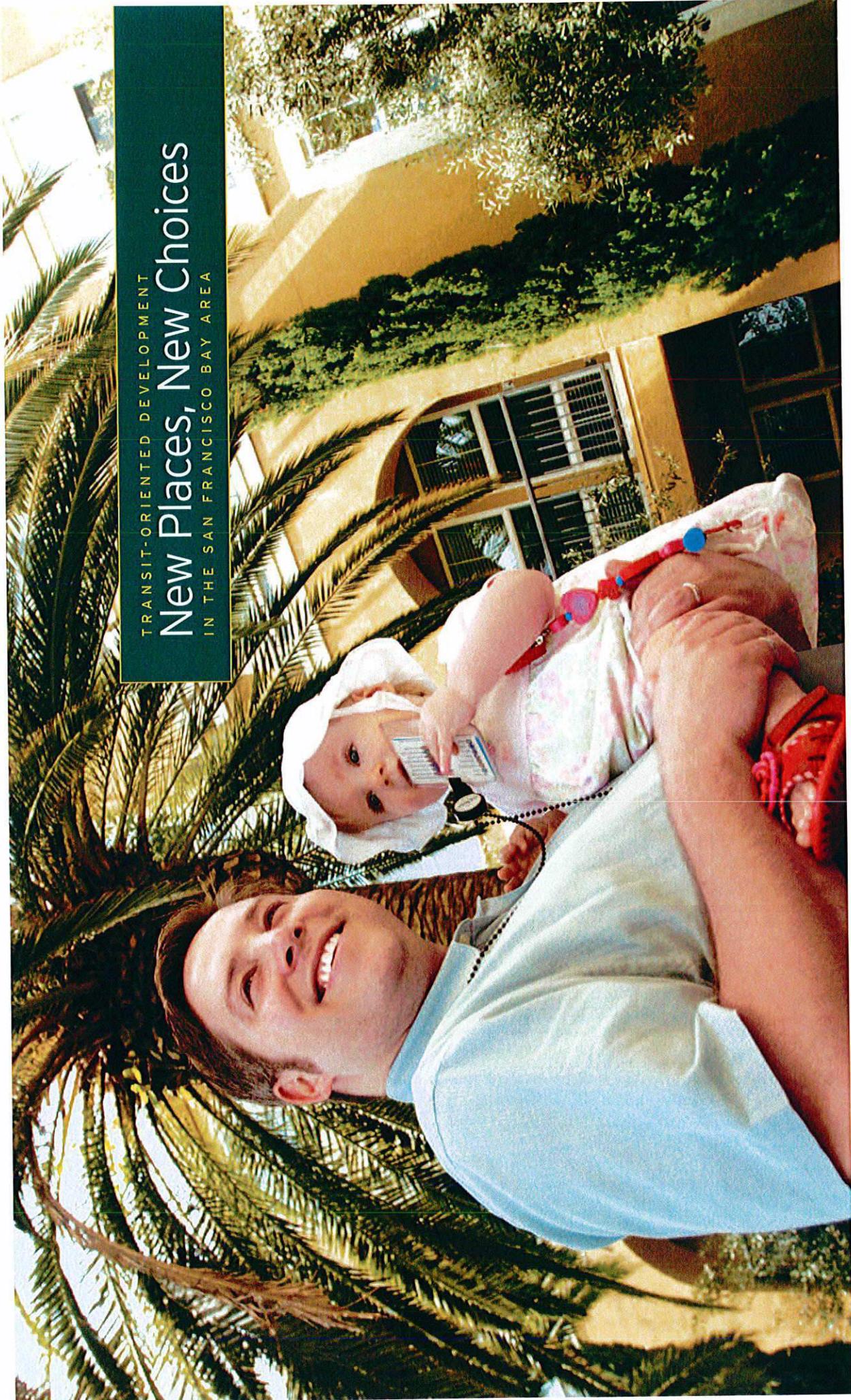
Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
<i>Cirsium fontinale fontinale</i> Fountain thistle	Fed: FE State: CE CNPS: List 1B.1	May-October	Serpentine seeps and streams in chaparral openings, cismontane woodland or valley and foothill grassland. Elevation 46-175 meters.	On CNPS 9-quad search.	None. No suitable habitat on properties in project area. No impacts expected.
<i>Helianthella castanea</i> Diablo helianthella	Fed: - State: - CNPS: List 1B.2	March-June	Broadleaved upland forest; chaparral; cismontane woodland; coastal scrub; riparian woodland; valley and foothill grassland. Elevation 60-1300 meters.	On CNPS 9-quad search.	None. No suitable habitat on properties in project area. No impacts expected.
<i>Holocarpus macradenia</i> Santa Cruz tarplant	Fed: FT State: CE CNPS: List 1B.1	June-October	Coastal prairie; coastal scrub, valley and foothill grassland; [often clay, sandy]. Elevation 10-220 meters.	On CNPS 9-quad search.	None. No suitable habitat on properties in project area. No impacts expected.
<i>Lasthenia conjugens</i> Contra Costa goldfields	Fed: FE State: - CNPS: List 1B.1	March-June	Valley and foothill grassland (mesic); vernal pools; cismontane woodlands; playas. Elevation 0-470 meters.	Only source of information for this site is from a collection made in 1895 (Occurrence No. 13) in "Newark."	Low. Very little seasonal wetland habitat onsite. Surveys would be necessary to determine plant's presence/absence. See text.
<i>Lessingia hololeuca</i> Woolly-headed lessingia	Fed: - State: - CNPS: List 3	June-October	Broad-leaved upland forest; coastal scrub; lower montane coniferous forest; valley and foothill grassland; [clay, serpentinite]. Elevation 15-305 meters.	On CNPS 9-quad search.	None. No suitable habitat on properties in project area. No impacts expected.
<i>Micropus amphibolus</i> Mount Diablo cottonweed	Fed: - State: - CNPS: List 3.2	March-May	Broad-leaf upland forest; chaparral; cismontane woodland; valley and foothill grassland. Elevation 45-825 meters.	On CNPS 9-quad search.	None. No suitable habitat on properties in project area. No impacts expected.

Appendices

Appendix H

Transit-Oriented Development – New Places, New Choices in
the San Francisco Bay Area, A Study by the Metropolitan
Transportation Commission

TRANSIT-ORIENTED DEVELOPMENT
New Places, New Choices
IN THE SAN FRANCISCO BAY AREA



*New Places, New Choices:
Transit-Oriented Development
in the San Francisco Bay Area*
November 2006

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TRANSIT-ORIENTED DEVELOPMENT
New Places, New Choices
IN THE SAN FRANCISCO BAY AREA

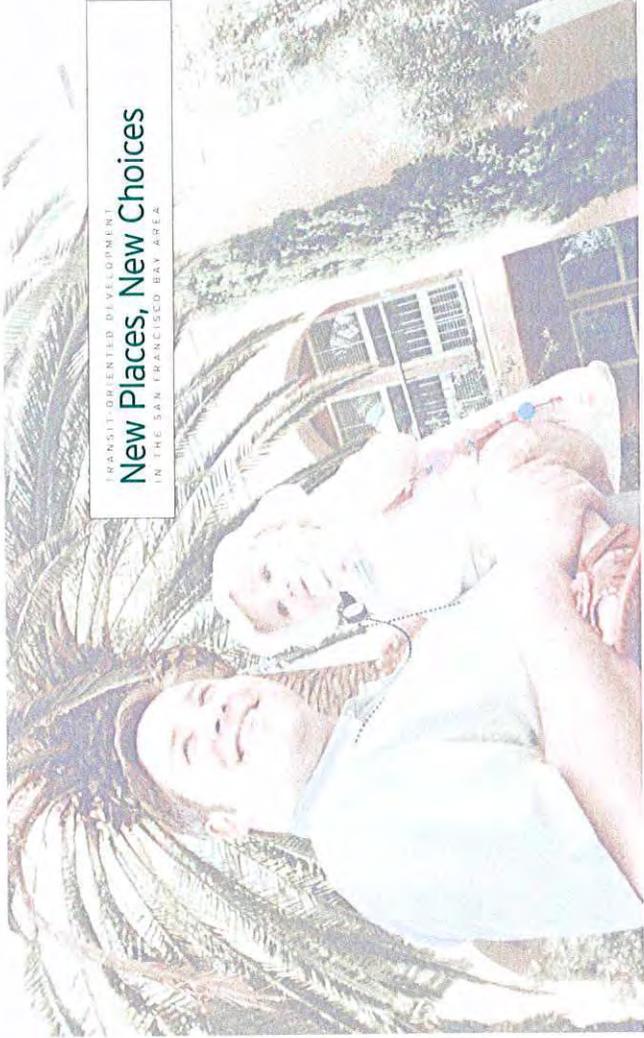


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New Places, New Choices

"Now available for sale or rent in the San Francisco Bay Area: Attractive, affordable homes with modern amenities in **vibrant neighborhoods**. All units offer **excellent public transit access** for gridlock-free commutes to employment centers. Convenience is key, with shops, restaurants and retail services just steps away, and walking and biking opportunities galore. **Autos are optional**, and any savings in gasoline, parking, maintenance and insurance costs are yours to keep. Experience the **benefits of a transit-oriented lifestyle** at one of the exciting new developments taking shape in Redwood City, San Jose, Pleasant Hill, Jack London Square in Oakland, Richmond, San Francisco, Santa Rosa, Vallejo, Hayward, the San Pablo Avenue Corridor in the East Bay... and in many other locations throughout the region. Come see if this **new style of living** is the right choice for you."

Introduction



From the early days of the 19th century, when the first railroads were built, transit has been a key part of our lives. It has helped us move people and goods from one place to another, and it has been a major part of our economy. Today, transit is still an important part of our lives, and it is becoming even more important as we move into the 21st century. This is because of the many benefits that transit offers, such as reducing traffic congestion, reducing air pollution, and providing a safe and reliable mode of transportation. In this report, we will explore the many benefits of transit and how we can make the most of it.

TOD: One Strategy, Many Benefits

What is Transit-Oriented Development?

Transit-oriented development (TOD) is a strategy for creating vibrant, walkable communities around transit stations. It involves a mix of residential, commercial, and public uses that are designed to be easily accessed by transit. TOD is a key strategy for creating sustainable, livable communities that are resilient to the challenges of the future.

TOD offers many benefits, including:
• **Reduced traffic congestion:** TOD encourages walking, biking, and using transit, which reduces the number of cars on the road.
• **Increased economic activity:** TOD creates jobs and attracts investment, leading to economic growth.
• **Improved public health:** TOD encourages walking and biking, which are healthy activities.
• **Increased social equity:** TOD provides access to transit for all, including low-income and elderly residents.
• **Increased environmental sustainability:** TOD reduces greenhouse gas emissions and promotes the use of renewable energy.



Transit-oriented development (TOD) is a strategy for creating vibrant, walkable communities around transit stations. It involves a mix of residential, commercial, and public uses that are designed to be easily accessed by transit. TOD is a key strategy for creating sustainable, livable communities that are resilient to the challenges of the future.

What Does TOD Offer the Bay Area?

The Bay Area is a region of high population density and high economic activity. It is also a region with a high concentration of transit users. TOD offers many benefits to the Bay Area, including:
• **Reduced traffic congestion:** TOD encourages walking, biking, and using transit, which reduces the number of cars on the road.
• **Increased economic activity:** TOD creates jobs and attracts investment, leading to economic growth.
• **Improved public health:** TOD encourages walking and biking, which are healthy activities.
• **Increased social equity:** TOD provides access to transit for all, including low-income and elderly residents.
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• **Increased social equity:** TOD provides access to transit for all, including low-income and elderly residents.
• **Increased environmental sustainability:** TOD reduces greenhouse gas emissions and promotes the use of renewable energy.

TOD Benefits: Housing

For Many, TOD Is Right Size, Right Place, Right Price

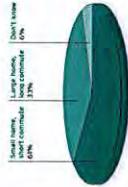
Home ownership is a top priority for many Americans, and the American dream of owning a home is a key goal for many. However, the high cost of housing in many areas is making it difficult for many to achieve this goal. TOD offers a solution by providing a mix of housing types, including single-family homes, townhomes, and multi-family units, which can be more affordable and accessible to a wider range of income levels. Additionally, TOD often includes amenities like parks, walkways, and public transit, which can increase the desirability and value of the housing. This makes TOD a more attractive option for many people looking to buy a home in a desirable location.



Demand for the TOD Lifestyle

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- Would you choose to live in a small home with a large backyard, even if it means you would have a long commute to work?
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In a survey of 1,000 Americans, 40% chose to live in a small home with a large backyard, even if it means a long commute to work. 50% chose to live in a large home with a small backyard, even if it means a long commute to work. 10% of respondents did not know.

TOD Benefits: Mobility

Enhancing Transit Access, Maximizing Transit Assets

Transit is a key component of TOD, and enhancing transit access is a key goal for many. TOD offers a variety of transit options, including walking, biking, and public transit, which can make it easier for people to get to work, school, and other destinations. Additionally, TOD often includes amenities like bike racks, bike repair stations, and transit shelters, which can further enhance the transit experience. This makes TOD a more attractive option for many people looking to live in a desirable location.

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Demand for Housing and Jobs Near Transit

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TOD Benefits: Environment

Living and Traveling Lighter on the Land

Smart, high-density, walkable development is the key to a more sustainable future. TODs are a key element of this strategy, as they encourage a mix of uses, including residential, commercial, and public uses, which reduces the need for long-distance travel and parking. TODs also encourage a mix of housing types, including single-family homes, townhomes, and multi-family units, which helps to reduce the need for long-distance travel and parking. TODs also encourage a mix of transportation modes, including walking, cycling, and public transit, which helps to reduce the need for long-distance travel and parking.



By encouraging a mix of uses, TODs help to reduce the need for long-distance travel and parking. TODs also encourage a mix of housing types, including single-family homes, townhomes, and multi-family units, which helps to reduce the need for long-distance travel and parking. TODs also encourage a mix of transportation modes, including walking, cycling, and public transit, which helps to reduce the need for long-distance travel and parking.

Keys to Success for TODs

- Distance** - TODs should be located within a walking distance of a transit station.
- Density** - TODs should have a higher density of uses and housing than surrounding areas.
- Diversity** - TODs should include a mix of uses, including residential, commercial, and public uses.
- Design** - TODs should be designed to be walkable, bikeable, and transit-oriented.

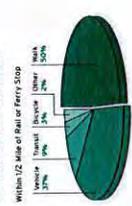
TOD Benefits: Healthier Living



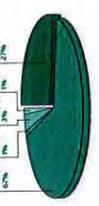
Walking and Cycling Your Way to Better Health

Walking and cycling are important components of a healthy lifestyle. TODs encourage walking and cycling by providing a mix of uses and housing types that are within a walking distance of a transit station. TODs also encourage walking and cycling by providing a mix of transportation modes, including walking, cycling, and public transit, which helps to reduce the need for long-distance travel and parking.

People who live close to transit walk for more of their short trips*



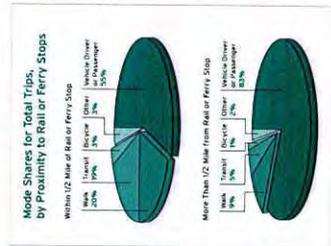
More Than 1/2 Mile from Rail or Ferry Stop



*Source: U.S. Census Bureau, Census of the United States, 2000.

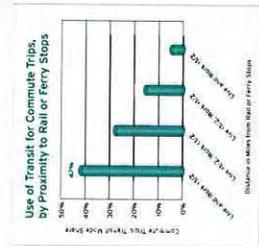
Measuring the Benefits of TOD

From their address from 2001 to 2002, the population "benefit" or "catchment" for the TOD is 100% of the population living within 1/2 mile of the station. This is the "catchment" for the TOD. The population living within 1/2 mile of the station is 100% of the population living within 1/2 mile of the station. This is the "catchment" for the TOD. The population living within 1/2 mile of the station is 100% of the population living within 1/2 mile of the station. This is the "catchment" for the TOD.



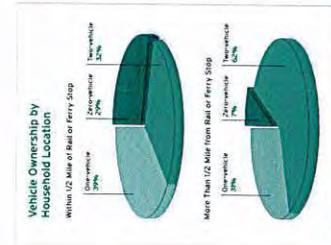
Proximity Matters

Mode shares for transit are significantly higher for those living within 1/2 mile of a rail or ferry stop. This is because transit is a more convenient mode of transportation for those living close to transit stops. The closer you live to a transit stop, the more likely you are to use transit. This is why transit mode shares are higher for those living within 1/2 mile of a rail or ferry stop.



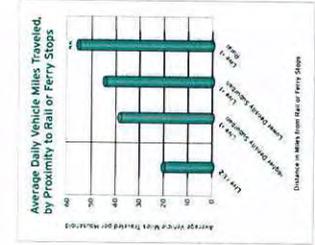
Transit Favored for Commute

Transit is used for a significantly higher percentage of commute trips for those living within 1/2 mile of a rail or ferry stop. This is because transit is a more convenient mode of transportation for those living close to transit stops. The closer you live to a transit stop, the more likely you are to use transit. This is why transit mode shares are higher for those living within 1/2 mile of a rail or ferry stop.



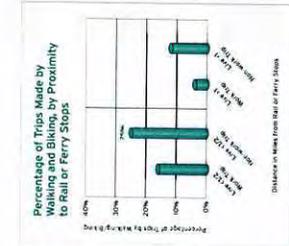
Fewer Cars Owned

Households living within 1/2 mile of a rail or ferry stop own fewer cars on average than households living further away. This is because transit is a more convenient mode of transportation for those living close to transit stops. The closer you live to a transit stop, the more likely you are to use transit. This is why transit mode shares are higher for those living within 1/2 mile of a rail or ferry stop.



Less Driving

Households living within 1/2 mile of a rail or ferry stop travel fewer vehicle miles on average than households living further away. This is because transit is a more convenient mode of transportation for those living close to transit stops. The closer you live to a transit stop, the more likely you are to use transit. This is why transit mode shares are higher for those living within 1/2 mile of a rail or ferry stop.



More Walking and Biking

Households living within 1/2 mile of a rail or ferry stop make a higher percentage of their trips by walking and biking than households living further away. This is because transit is a more convenient mode of transportation for those living close to transit stops. The closer you live to a transit stop, the more likely you are to use transit. This is why transit mode shares are higher for those living within 1/2 mile of a rail or ferry stop.

The Challenges for TOD



Fulfilling TOD's Promise Will Take Careful Planning

While TODs have the potential to provide many benefits, they also come with challenges and opportunities. To ensure that TODs live up to their promise, careful planning is essential. This includes addressing the following challenges:

- Addressing the needs of all users:** TODs should be designed to serve a diverse range of users, including pedestrians, cyclists, transit riders, and motorists. This requires a mix of amenities and services that meet the needs of all users.
- Ensuring high-quality transit service:** TODs should be located near high-quality transit service, including frequent, reliable, and accessible transit options. This requires a commitment to high-quality transit service from transit agencies.
- Providing a mix of housing and commercial uses:** TODs should provide a mix of housing and commercial uses, including affordable housing, market-rate housing, and a variety of commercial and retail uses. This helps to create a vibrant, walkable community.
- Ensuring a safe and secure environment:** TODs should be designed to be safe and secure for all users. This includes measures such as good lighting, clear sightlines, and active surveillance.
- Addressing the needs of the surrounding community:** TODs should be designed to complement and enhance the surrounding community. This includes addressing issues such as traffic, noise, and parking.

Moving Forward

Supporting TOD at the Regional Level

Supporting TOD at the regional level involves a range of strategies and policies. These include:

- Developing regional transportation plans:** Regional transportation plans should identify and prioritize TOD opportunities across the region. This includes identifying key transit corridors and potential TOD locations.
- Establishing regional land use policies:** Regional land use policies should encourage TOD development and discourage sprawl. This includes promoting higher-density, walkable land uses near transit stations.
- Investing in regional transit infrastructure:** Regional transit infrastructure investments should focus on improving transit service and expanding transit coverage. This includes investments in transit vehicles, stations, and infrastructure.
- Encouraging regional collaboration:** Regional collaboration is essential for supporting TOD. This includes working with transit agencies, local governments, and private industry to develop and implement TOD strategies.

By implementing these strategies and policies, regional leaders can create a supportive environment for TOD development. This will help to create vibrant, walkable communities that are accessible to all and contribute to the region's economic and social well-being.



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Taking TOD to the Next Level: How You Fit In

Individuals and organizations can play a key role in supporting TOD. This includes:

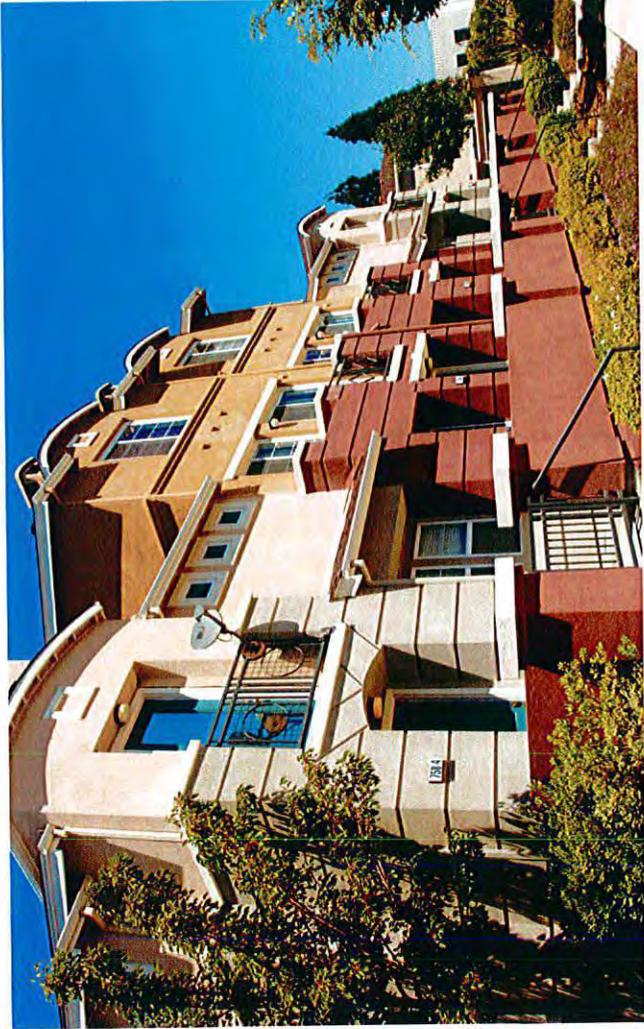
- Advocating for TOD:** Individuals and organizations can advocate for TOD by contacting local government officials and participating in public meetings.
- Supporting transit service:** Individuals and organizations can support transit service by using transit and encouraging others to do so.
- Engaging in community development:** Individuals and organizations can engage in community development activities that support TOD, such as creating walkable neighborhoods and supporting local businesses.

Profiles of 10 Bay Area TOD Projects

- 15 Hayward – Downtown
- 17 Oakland – Jack London Square
- 19 Pleasant Hill – Contra Costa Centre Transit Village
- 21 Redwood City – Downtown
- 23 Richmond – Transit Village
- 25 San Francisco – Third Street Corridor
- 27 San Jose – Downtown
- 29 San Pablo Avenue – Rapid Bus Corridor
- 31 Santa Rosa – Downtown
- 33 Vallejo – Downtown/Waterfront

The Appeal and Diversity of Bay Area TOD

In pockets around the region, TOD is leaping off the pages of planning textbooks and manifesting in the real world. From Vallejo and Santa Rosa in the North Bay to San Jose in the South Bay, and San Francisco in the West Bay to Oakland and Pleasant Hill in the East Bay, **TOD is combating long commutes** and traffic, **revitalizing neighborhoods**, and fostering a more convenient lifestyle while also addressing the region's chronic housing shortage, particularly in the realm of **affordable housing**. In this section we profile **10 Bay Area projects** that illustrate the variety – and the appeal – of the TOD development pattern. Using words, maps and photos, we spotlight a few of the many **new places** offering **new choices** to the region's residents.



Hayward



Downtown Hayward has achieved a good balance of commercial and residential civic development - all transit-oriented

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Hayward – Downtown

Transit:

- Hayward BART Station: BART; AC Transit
- Hayward Amtrak Station: Capitol Corridor rail service; AC Transit

Development highlights:

- Atherton Place: 83 units (Sares-Regis Homes, 1995)
- Pinnacle City Centre Apartments: 192 units (Legacy Partners, 2000)
- City Walk: 77 townhomes (The Olson Company, 2003)
- Renaissance Walk: 46 condos (22 affordable) (The Olson Company, 2004)
- Studio Walk: 70 lofts (Ryland Homes)
- Grand Terrace Apartments: 235 townhouses (Pulte Homes)

Amenities:

- New streetlights, signalized crosswalks, sidewalk landscaping and street furniture on B Street retail corridor linking BART to the downtown core
- New city hall and public plaza (1998)
- New Albertson's supermarket/Sav-On drugstore (2002)
- Hayward Ace Hardware store
- Newman Park and Giuliani Plaza
- Saturday Farmers' Market at B Street and Main

Planning:

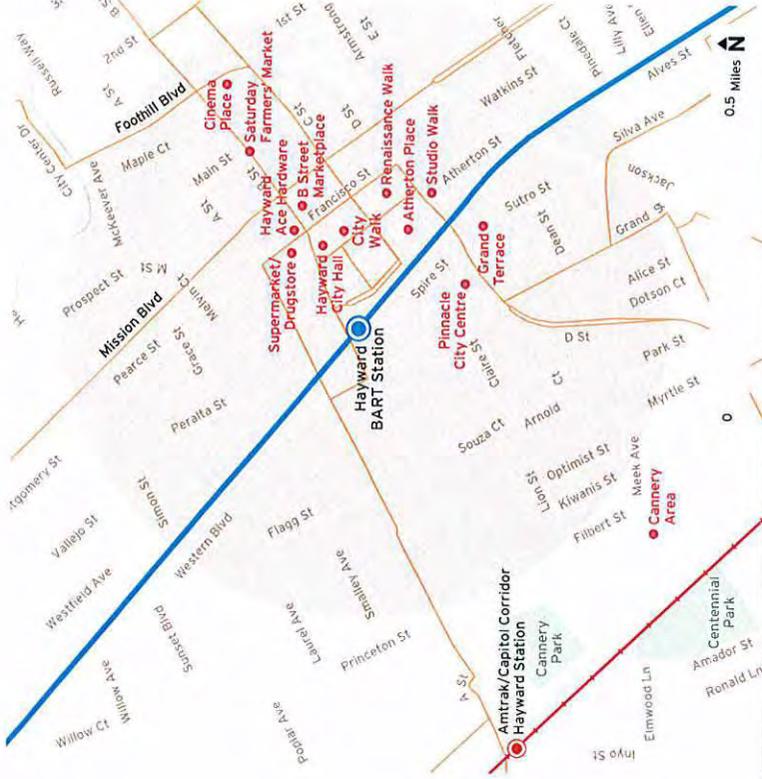
- *Hayward Core Area Plan* (1992)
- *The Cannery Area Design Plan* (2001)
- *Hayward General Plan* (2002)

Innovations:

- City provides rebates for facade improvements on B Street and other pedestrian corridors
- Shared parking structure for city hall and downtown retail, lined with ground-floor retail on B Street

Future development:

- Cinema Place: Entertainment complex (2007)
- Cannery Area: Mixed-use development with 850 residential units (127 affordable); planning entitlements have been approved for 735 of these units
- New Burbank Elementary School (2008)
- Expanded Cannery Park (2008)
- Offices planned for 0.75 acre parcel west of city hall
- Senior housing complex with 60 units combined with new offices for nonprofit developer Eden Housing



DOWNTOWN Hayward

Legend

-  BART Line and Station
-  Amtrak/Capitol Line and Station
-  Bus Line
-  Project/Amenity

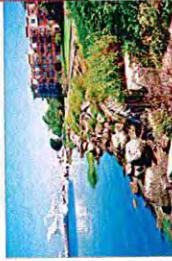




JACK, LONDON SQUARE
Oakland



RENTALBOAT provides a range of options, from 10 to 100 sq ft, with a variety of amenities, including a kitchen, sink, and refrigerator.



Jack, London Square is evolving into a transit-accessible, 24-hour, urban residential neighborhood.

With 100% job, 24-hour access, transit access, and a variety of amenities, Jack, London Square is a new kind of urban residential neighborhood. The building is a mix of brick and light-colored panels, and it features a variety of amenities, including a kitchen, sink, and refrigerator. The building is also transit-accessible, with a 24-hour, urban residential neighborhood.

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Oakland – Jack London Square

Transit:

- C.L. Dellums Amtrak Station: Capitol Corridor rail service; Amtrak Coast Starlight & San Joaquins; AC Transit
- Oakland Ferry Terminal: Alameda/Oakland Ferry; AC Transit
- Lake Merritt BART Station: BART; AC Transit

Development highlights:

- Fourth Street Lofts: 37-unit warehouse conversion (1992)
- Brick House Lofts: Warehouse converted to 13 for-sale live/work units and ground-floor retail/office (Horizon Pacific, 1999).
- New Market Lofts: Former Safeway headquarters and warehouse building converted to 46 live/work units and four office condos (Urban Bay Properties, 2001)
- Aqua Via: 100 apartments in nine-story Art Deco building (Embarcadero Pacific and Urban Development, 2006)
- The Sierra: 229 residential units and two levels of retail and live/work space in a 12-story building (Crescent Heights, 2003)
- The Landing: 282 apartments in a multiple-building site at Alice Street and Embarcadero (Legacy Partners, 2001)
- The Allegro: Five-story, 312-unit rental project at 240 Third Street (SNK Development, 2001)

Amenities:

- Sunday Jack London Square Farmers' Market
- Jack London Cinema
- Waterfront restaurants and cafes
- Nightclubs including Yoshi's at Jack London Square
- Proximity to downtown Oakland offices and retail

Planning:

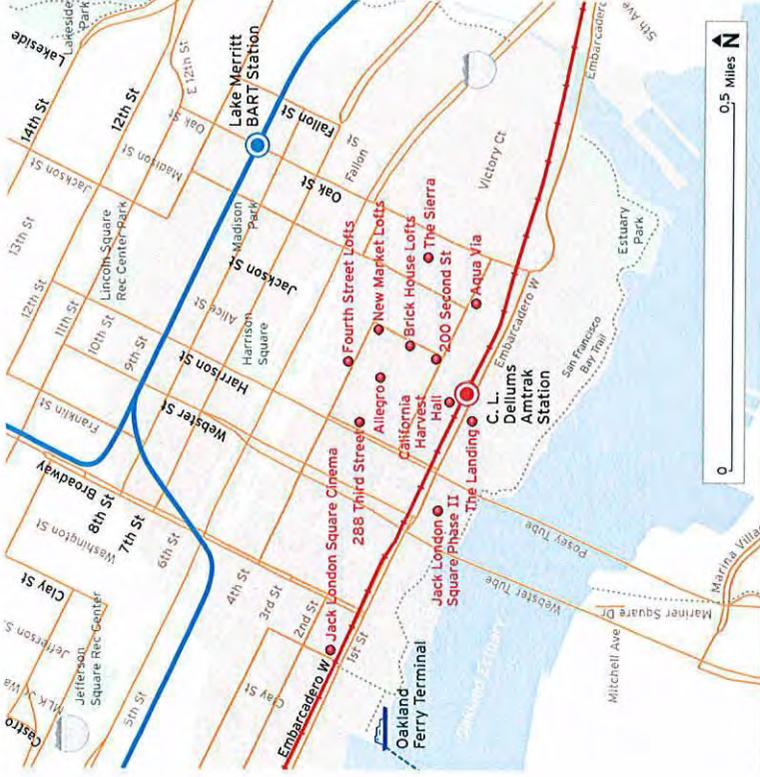
- *Land Use and Transportation Element, Oakland General Plan* (adopted 1998)
- *Oakland Estuary Policy Plan* (adopted 1999)

Innovations:

- Adaptive reuse of light industrial and warehouse buildings for residential and live/work purposes

Future development:

- 200 Second Street: 74 condos and live/work units, retail space in six-story structure (Metrovation, 2006)
- 288 Third Street: 91 for-sale units in new six-story warehouse-type building under construction (Signature Properties, 2007)
- Jack London Square Phase II: New office building, multi-theater cinema, hotel/conference center and California Harvest Hall – a new public market, culinary school and chefs' hall of fame (Jack London Square Partners, LLC)



JACK LONDON SQUARE Oakland

Legend

-  BART Line and Station
-  Amtrak/Capitol Line and Station
-  Ferry Terminal and Route
-  Bus Line
-  Trail
-  Project/Amenity



Pleasant Hill – Contra Costa Centre Transit Village

Transit:

- Pleasant Hill BART Station: BART; Benicia Breeze; County Connection; Fairfield-Suisun Transit; Livermore Amador Valley Transit (Wheels)

Development highlights:

- Vodafone Plaza: 200,000-square foot office building with ground-floor restaurant (Taylor Widrow, 1991)
- Iron Horse Lofts: 54 market-rate townhouses (Holiday Development, 2001)
- Coggin Square: 87 units of affordable housing adjacent to Iron Horse Lofts (Bridge Housing, 2001)

Amenities:

- The Iron Horse Trail: Bicycle/pedestrian path connects to Martinez, Concord, Walnut Creek and San Ramon
- Major employers: Bank of the West, John Muir/Mt. Diablo Health, Nextel Communications, Vodafone
- Embassy Suites Hotel

Planning:

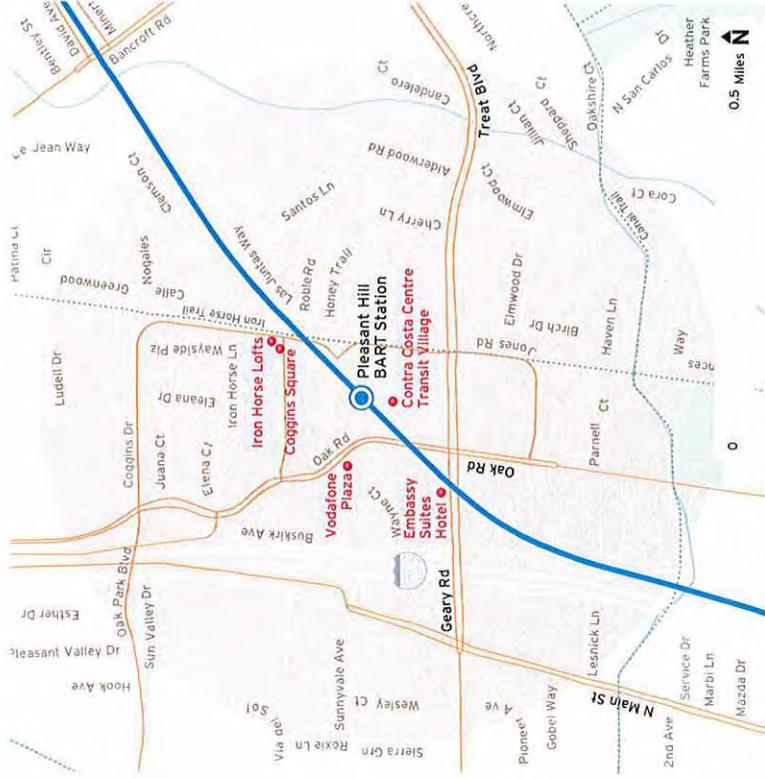
- Pleasant Hill BART Station Area Specific Plan (1983)
- Pleasant Hill BART Redevelopment Plan (1984)
- Pleasant Hill BART Specific Plan (as amended in 1998)
- Pleasant Hill BART Station Property Regulating Plan (2002)
- Pleasant Hill BART Final Development Plan (2005)

Innovations:

- Formation of a Joint Powers Authority (Pleasant Hill Leasing Authority) by BART, the Contra Costa County Redevelopment Agency and Contra Costa County to manage negotiations with private developers
- Innovative land lease: BART property leased to developers for 100-year term
- Collaborative charrette planning process used to involve stakeholders and develop consensus plan

Future development:

- Contra Costa Centre Transit Village will include 209,000 square feet of offices, a 20,000-square foot convention center, over 35,000 square feet of retail space and over 550 housing units (20 percent affordable). (Pleasant Hill Transit Village, LLC, a consortium of Millennium Partners and Avalon Bay Communities)
- Affordable housing on Las Juntas Swim Club parking lot, east of BART station (Contra Costa Co. Redevelopment Agency)

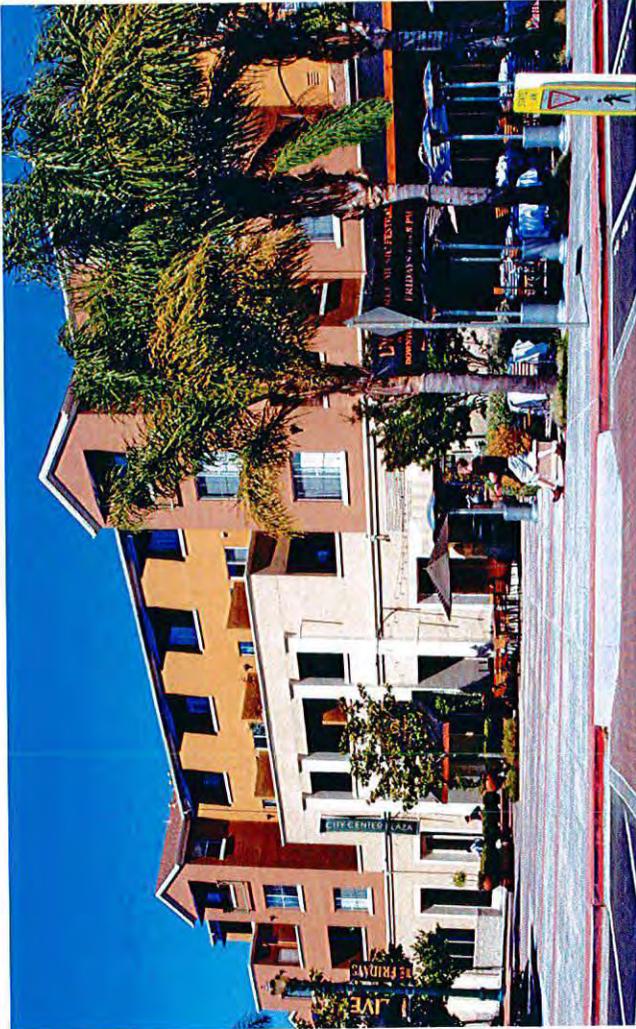


CONTRA COSTA CENTRE Pleasant Hill TRANSIT VILLAGE

Legend

- BART Line and Station
- Bus Line
- Trail
- Project/Amenity





Redwood City



Planners in Redwood City are helping to attract more jobs and concert-goers from all over the Bay Area.

The city is working to create a vibrant, walkable community that attracts jobs and talent from all over the Bay Area. This includes creating a mix of housing, commercial, and recreational uses that can support a diverse economy and provide a high quality of life for residents. The city is also working to improve its infrastructure, including its transportation system, to make it easier for people to get around and enjoy the city.

City of Redwood City
Sustainable

City of Redwood City
Sustainable

Redwood City – Downtown

Transit:

- Redwood City Caltrain Station: Caltrain; SamTrans
- El Camino Real: SamTrans

Development highlights:

- City Center Plaza Apartments: 139 affordable units with ground-floor restaurants (Mid-Peninsula Housing Coalition)
- Franklin Street Apartments: 206 units (30 affordable) above retail space (Irvine Apartment Communities, 2002)
- Montgomery Village: Apartments under construction (First Community Housing)
- On Broadway: 20-screen movie theater with 85,000 square feet of ground-floor restaurant and retail space (John Anagnostou/Broadway Entertainment, LLC, 2006)
- Le Coeur de la Ville (formerly Tuscan Towers): 21 affordable townhomes; another 88 units proposed (Habitat for Humanity)

Amenities:

- City Center Plaza just east of city hall
- Theatre Way: new pedestrian-priority promenade
- Courthouse Square
- Post Office Paseo linking surface public parking with the new cinema block, and expanding outdoor dining venue
- Fox and Little Fox Theaters on Broadway
- Whole Foods Market
- Sequoia Station retail center includes supermarket, café, drugstore and other conveniences

Planning:

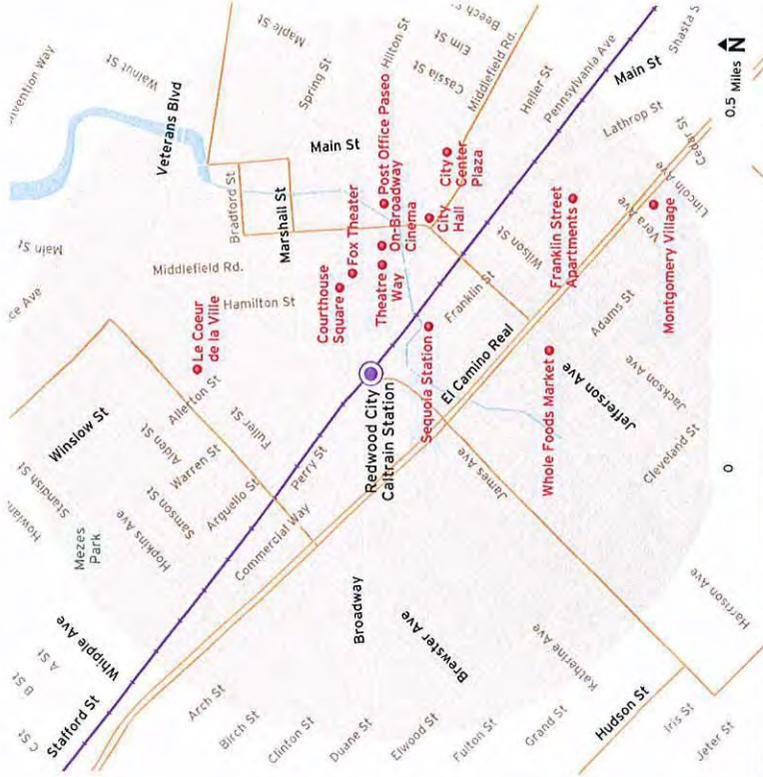
- Redwood City General Plan (2001, update in progress)
- Downtown Area Plan (introduced 2001)
- Redwood City Downtown Precise Plan and Program EIR (due for adoption in early 2007)

Innovations:

- Parking management strategy with on-street and off-street parking rates that vary by location and time of day
- Tax credits for rehabilitation of landmarks in Main Street Historic District
- Sidewalk Café Design Guidelines encourage outdoor dining, adding vitality to downtown streets.

Future development:

- Downtown Precise Plan proposes higher density with 8- to 12-story residential and mixed-use development considered in downtown core and east side of El Camino Real between Brewster and Maple.



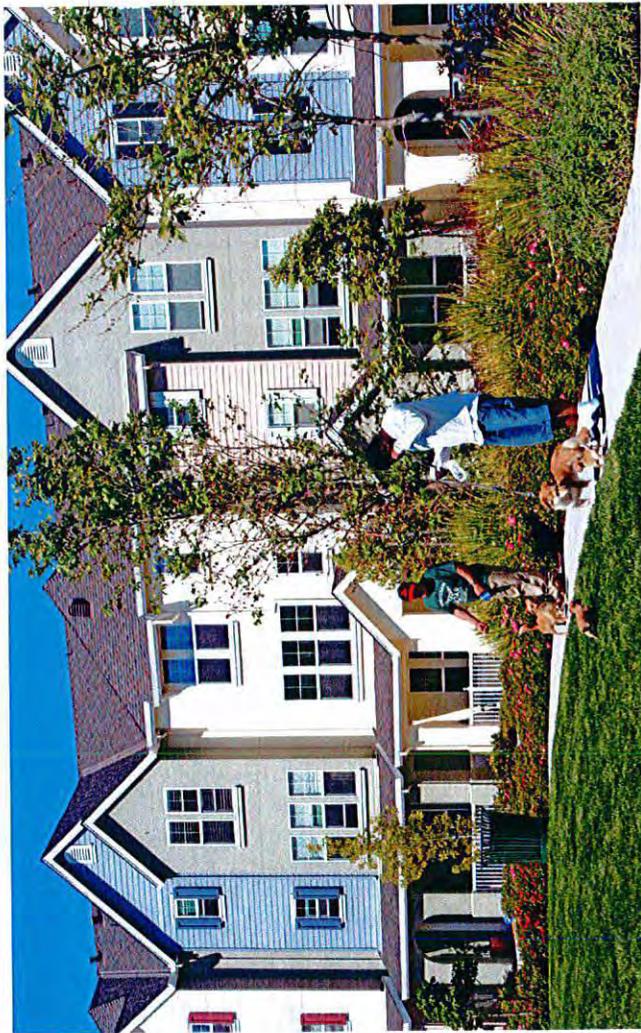
DOWNTOWN

Redwood City

Legend

- Caltrain Line and Station
- Bus Line
- Project/Amenity





The Richmond Area is a strategic asset in this economically disadvantaged East Bay location.

Richmond is a strategically important area and will serve as a major hub for the region's economic development. The area's strategic importance is highlighted by the fact that it is the only area in the region that is both a major transportation hub and a major economic center.



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Transit accessibility is a strategic asset in this economically disadvantaged East Bay location.

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Richmond – Transit Village

Transit:

- Richmond Station: BART; Amtrak/Capitol Corridor; AC Transit; Golden Gate Transit

Development highlights:

- Metro Walk: Phase I of the Richmond Transit Village; includes 132 owner-occupied townhouses (The Olson Company, 2004)

Amenities:

- Station upgrades: New elevators, platforms, canopies and bus transfer center (under construction)
- Neighborhood park at center of Metro Walk complex
- Nevin Plaza and walkway links station to Metro Walk and the rest of downtown Richmond
- Nearby offices of Kaiser Permanente

Planning:

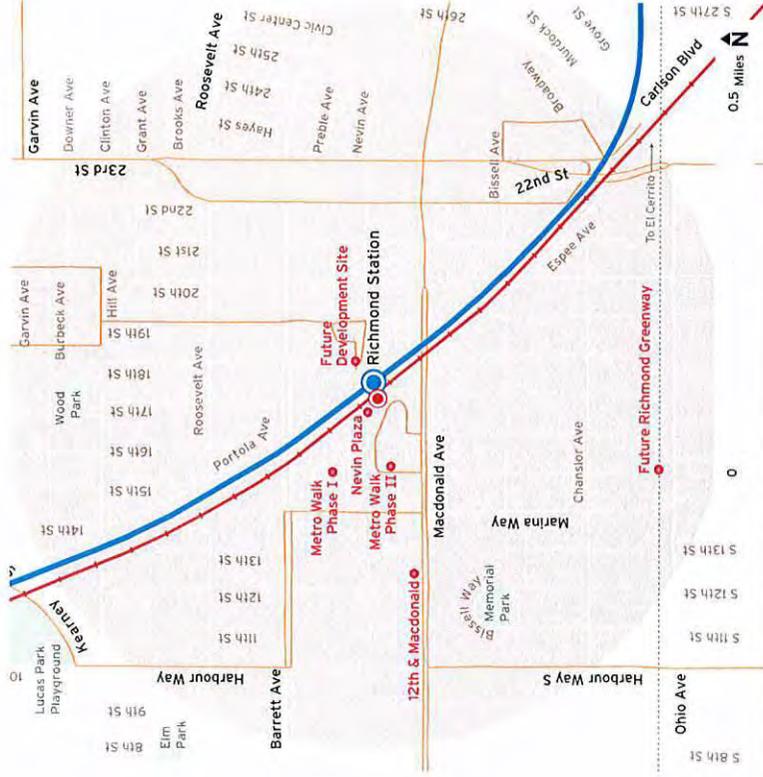
- Calthorpe Associates' plan for the Richmond Transit Village won a design competition sponsored by BART and the Richmond Redevelopment Agency.

Innovations:

- Development on transit agency property (BART parking lots)
- Use of design competition to develop site plan

Future development:

- Phase II of Metro Walk at the Richmond Transit Village will include an additional 100 units and will bring 27,000 square feet of commercial retail space to the site, with 6,000 square feet fronting on the historic Macdonald Avenue commercial corridor.
- 12th and Macdonald: A new mixed-use project (under development by AF Evans) one block west of the transit village will have 238 condominiums and 20,000 square feet of ground-floor retail space.
- Richmond Greenway bike path (under development) will link downtown Richmond with the Ohlone and Bay Trails.



TRANSIT VILLAGE Richmond

Legend

- BART Line and Station
- Antrak/Capitol Line and Station
- Bus Line
- Trail
- Project/Amenity





THIRD STREET CORRIDOR
San Francisco

AT&T PARK

The 100th Street Corridor (100th Street) is a key project in the city's urban development plan. It is a multi-use development that includes a mix of residential, commercial, and recreational uses. The project is located in the city's downtown area and is expected to be completed in 2015.

Joe Lutz, Director, Executive Director
San Francisco County Transportation Authority



Muni's new 5.4-mile-long light-rail city corridor connects and revitalizes a key corridor in San Francisco. The project is a key part of the city's urban development plan and is expected to be completed in 2015. The project is located in the city's downtown area and is expected to be completed in 2015.

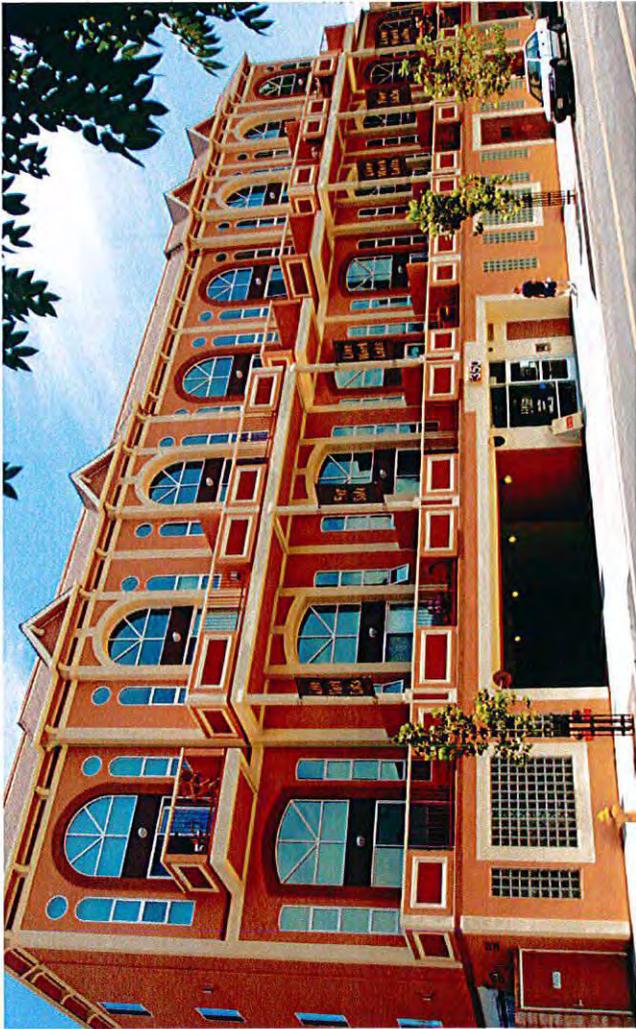
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GOBI

Car



San Jose



Long known as a sprawling, car-dependent city, San Jose is remaking its center into the urban heart of Silicon Valley

Since the 1970s, San Jose has been widely regarded as a sprawling, car-dependent city. In the 1980s, a major effort was made to redevelop the city center into a more walkable, transit-oriented urban core. This effort was led by the city government and private developers. The result was a more compact, walkable urban core that is now the heart of Silicon Valley.

San Jose is a city of many faces, with a mix of old and new architecture.

San Jose is a city of many faces, with a mix of old and new architecture. The city has a rich history and a vibrant culture. It is a city that is constantly evolving and growing. The city is a mix of old and new, and it is a city that is always changing.

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San Jose – Downtown

Transit:

- VTA Light Rail
- San Jose Diridon Station: Caltrain; Altamont Commuter Express; Amtrak/Capitol Corridor

Development highlights:

- Legacy Fountain Plaza: 433 apartments (2003)
- Paseo Plaza Apartments: 210 apartments with ground-floor retail, near Paseo de San Antonio Station (Goldrich & Kest)
- 101 San Fernando Apartments: 323 apartments and 10,000 square feet of retail located one block from Santa Clara Station
- Villa Torino Apartments: 198 apartments (40 percent affordable) one block north of St. James Park and light rail station
- Ryland Mews: 171 for-sale townhouses (25 percent affordable) near Japantown/Ayer Station (Barry Swenson Builder)
- Park Townsend: Condominiums at Julian and Market streets, near the St. James Station (Goldrich & Kest)
- Vendome Place: Recently completed high-rise development with 106 rental units (Barry Swenson Builder)

Amenities:

- Paseo de San Antonio pedestrian walkway
- San Jose Museum of Art; Tech Museum of Innovation
- Parks: St. James Park, Guadalupe River Park, Plaza Chavez
- Theaters: California Theatre; San Jose Repertory Theatre

Planning:

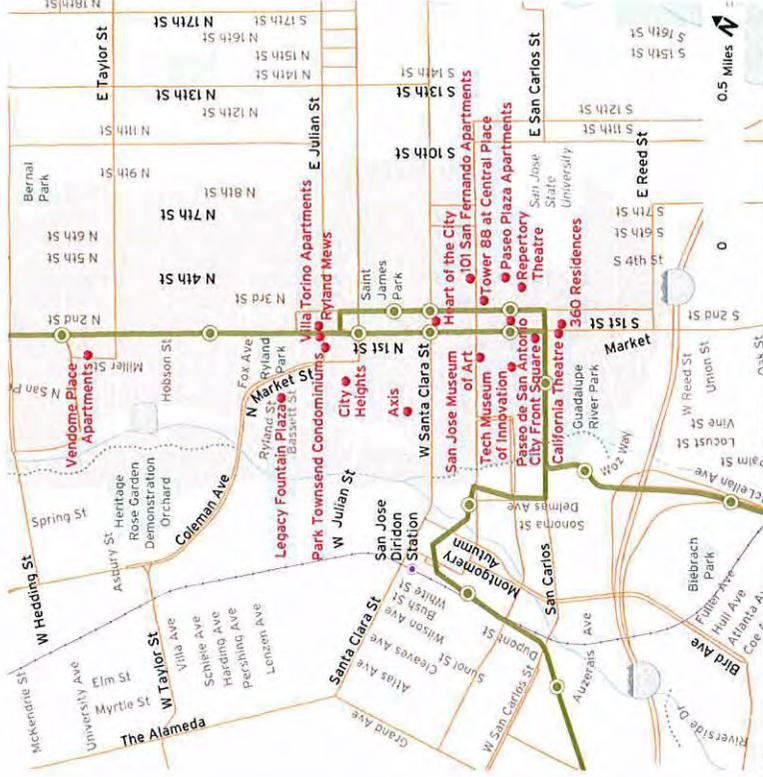
- *San Jose 2020 General Plan* (as amended in 2006)
- *Redevelopment Agency 5-Year Implementation Plan (2005-09)*

Innovations:

- 1989 Housing Initiative Program encouraged TOD
- Zoning amended to allow 55 units per acre near transit

Future development:

- Tower 88 at Central Place: 197 condos, gym and 32,000 square feet of retail space (WMS/CIM Group; opening 2009)
- City Front Square: Three 25-story condo towers with 659 units (Urban West/Preservation Partners)
- 360 Residences: High-rise tower with 203 condominiums and 11,000 square feet of retail (Mesa)
- Axis: High-rise project with 329 condominiums (Spring Capital Group; opening in 2008)
- City Heights: High-rise apartment complex under construction near St. James Station (Barry Swenson Builder)
- Heart of the City: 76 units in mixed-use buildings under construction at 2nd and Santa Clara streets

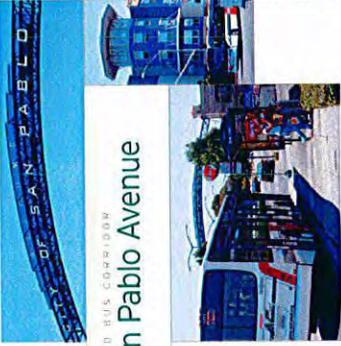
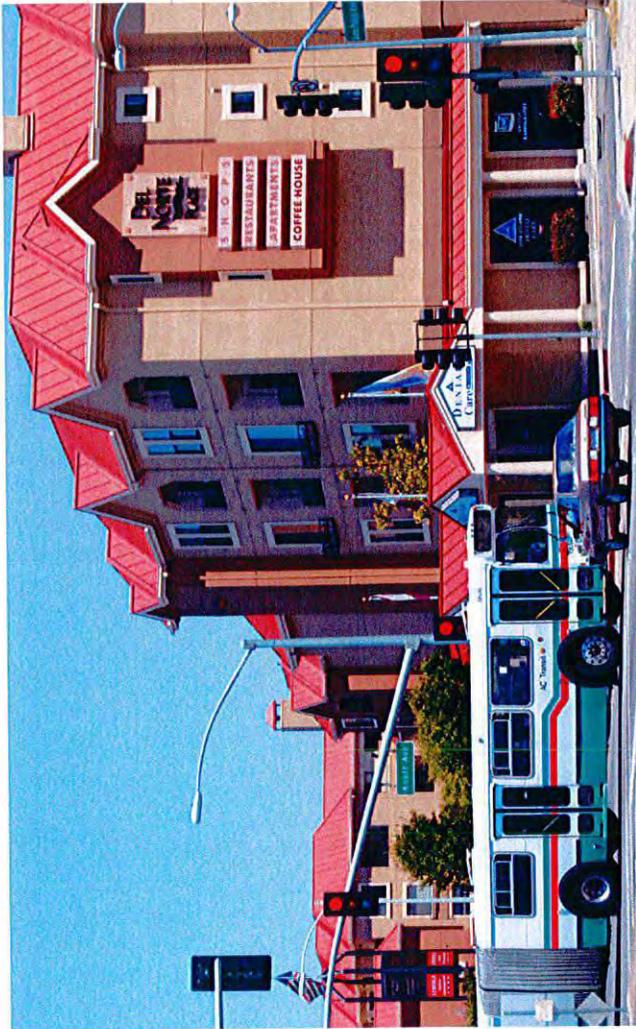


DOWNTOWN San Jose

Legend

- VTA Light-Rail Line and Station
- Caltrain Line and Station
- Bus Line
- Trail
- Project/Amenity





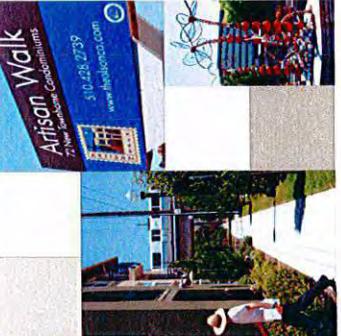
RAPID BUS CORRIDOR
San Pablo Avenue

New "Rapid Bus" service is helping to reinvigorate neighborhoods along the San Pablo Avenue corridor

Starting in 2013, the city of Berkeley is helping to reinvigorate neighborhoods along the San Pablo Avenue corridor with a new "Rapid Bus" service. The service is designed to provide a faster, more reliable mode of public transportation for commuters and visitors alike. The service is designed to provide a faster, more reliable mode of public transportation for commuters and visitors alike. The service is designed to provide a faster, more reliable mode of public transportation for commuters and visitors alike.



Some of the parks, or new outdoor or pedestrian amenities, have been developed along the corridor.



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San Pablo Avenue – Rapid Bus Corridor

Transit

- San Pablo Avenue Rapid Bus Corridor: AC Transit; BART
- Uptown Transit Center: New transit hub under development near 19th St. BART will provide increased passenger amenities.

Development highlights:

- Sylvester Rutledge Manor: 65 affordable apartments for seniors (Oakland Community Housing, Inc., 2003)
- Andante Condominiums: 125 condos (25 affordable) in mixed-use building in Emeryville (SNK Development, 2006)
- Key Route Lofts: 22 live/work lofts and three commercial units at 40th Street and Adeline in Emeryville (Urban Bay)
- Artisan Walk Condominiums: 72 condos (six below market rate) in Oakland (The Olson Company, 2006)
- Margaret Breland Homes: 28 senior housing units in Berkeley (Resources for Community Development, 2006)
- Creekside Apartments: 16 affordable rental units in converted motel in Albany (Resources for Community Development, 2001)
- Albany Commons: 22 condos in mixed-use project at Solano Avenue (Alexander Development Co., 2005)
- The Village at Town Center: 158 units in mixed-use development on former lumberyard in El Cerrito (Legacy Homes, 2005)
- Del Norte Place: 135 apartments (21 percent for seniors) and retail near BART station (John Stewart Co., 1993)
- Monte Vista Senior Apartments: 82 rental units in San Pablo (Simpson Housing Solutions, 2003)

Amenities:

- Ohlone Greenway (Berkeley, Albany, El Cerrito)
- International Marketplace retail district (Berkeley)
- Richmond Greenway (under development)

Planning:

- San Pablo Avenue SMART Corridor Project (multi-agency)

Innovations:

- First rapid bus corridor and first bus-transit-oriented development site in the Bay Area

Future development:

- Uptown Oakland: 1,300-unit mixed-use development in downtown Oakland (Forest City, 2006)
- Creekside at El Cerrito Plaza: 128 condos (Forest Plaza Partners/Bill Garlock & Assoc.)
- Vitale Mixed-Use Project: 31 condos in El Cerrito
- Mayfair site: 58 condos near El Cerrito del Norte BART (The Olson Company)

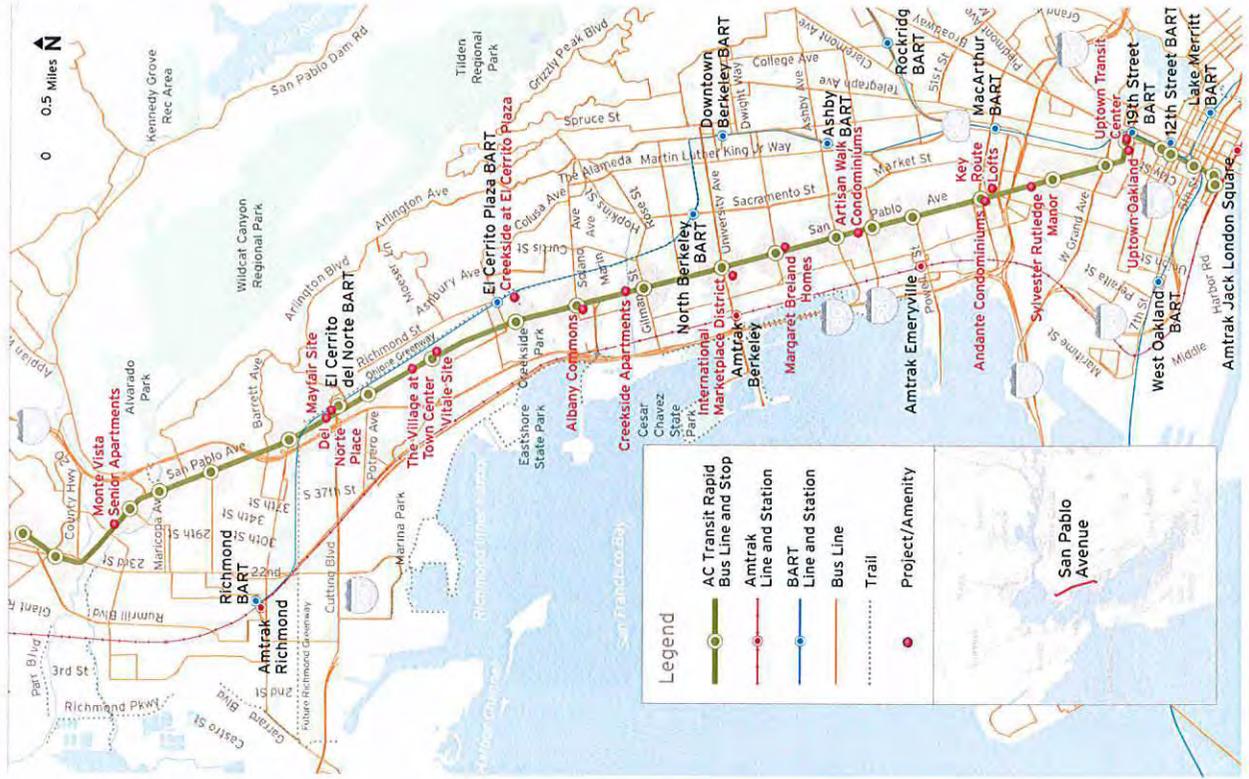




PHOTO BY JEFF WILK

Santa Rosa



Santa Rosa's Midtown Square is set to become one of the district's newest and most exciting shopping centers. Photo: David M. Brown



New development and expanded services are animating Santa Rosa's urban allure

From new office buildings to a new farmers market, Santa Rosa is experiencing a renaissance of urban life. The city's downtown is becoming a vibrant hub of activity, with new developments and services that are attracting residents and visitors alike.

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Midtown Square is set to become one of the district's newest and most exciting shopping centers

Santa Rosa's Midtown Square is set to become one of the district's newest and most exciting shopping centers. The project, located in the heart of downtown, will feature a mix of retail, dining, and entertainment options.

The project, located in the heart of downtown, will feature a mix of retail, dining, and entertainment options. The city is excited about the potential of this new development to revitalize the area and create a vibrant urban environment.

City Bus is expanding its routes and services

The City of Santa Rosa is expanding its bus routes and services to better serve the community. The new routes will provide more convenient and reliable transportation options for residents and visitors.

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7. Review of the TOD Policy
 The TOD Policy is a key component of the City's transportation plan. It provides a framework for developing transit-oriented development (TOD) projects. The policy is designed to encourage high-density, walkable, and transit-accessible development in areas near transit stations. The policy is being reviewed to ensure it remains current and effective in light of changing transportation needs and urban development patterns.

For More Information
 Contact: Planning Department
 Phone: (503) 838-2222
 Email: planning@cityofportland.gov

6. Corridor Working Groups
 The Corridor Working Groups are a key component of the City's transportation plan. They are responsible for developing and implementing transportation plans for specific corridors. The groups are made up of representatives from the City, local businesses, and community organizations. They work together to identify transportation needs and develop solutions that improve the corridor's functionality and safety.

Table 1
 Summary of Corridor Working Group Findings

5. Station Area Plans
 Station Area Plans (SAPs) are a key component of the City's transportation plan. They provide a detailed framework for developing and implementing transportation plans for specific station areas. The plans are developed in collaboration with the City, local businesses, and community organizations. They address transportation needs, land use, and other factors that affect the station area's functionality and safety.

Table 2
 Summary of Station Area Plan Findings

4. Transit-Oriented Development (TOD)
 Transit-Oriented Development (TOD) is a key component of the City's transportation plan. It refers to high-density, walkable, and transit-accessible development in areas near transit stations. TOD projects are designed to encourage public transit use and reduce reliance on private vehicles. The City is working to create a supportive environment for TOD projects by providing incentives and streamlining the development process.

Table 3
 Summary of TOD Project Findings

3. Urban Design Guidelines
 Urban Design Guidelines (UDGs) are a key component of the City's transportation plan. They provide a framework for developing and implementing transportation plans for specific urban areas. The guidelines address transportation needs, land use, and other factors that affect the urban area's functionality and safety. The City is working to create a supportive environment for UDG projects by providing incentives and streamlining the development process.

Table 4
 Summary of UDG Project Findings

2. Transportation Planning
 Transportation planning is a key component of the City's transportation plan. It involves developing and implementing transportation plans that address the needs of the community. The City is working to create a supportive environment for transportation planning projects by providing incentives and streamlining the development process.

Table 5
 Summary of Transportation Planning Project Findings

1. Transportation Infrastructure
 Transportation infrastructure is a key component of the City's transportation plan. It refers to the physical infrastructure that supports transportation, such as roads, bridges, and transit systems. The City is working to create a supportive environment for transportation infrastructure projects by providing incentives and streamlining the development process.

Table 6
 Summary of Transportation Infrastructure Project Findings

